



COUNTRY OF ORIGIN INFORMATION KEY DOCUMENTS

REPUBLIC OF KOREA (SOUTH KOREA)

20 JUNE 2008

UK BORDER AGENCY
COUNTRY OF ORIGIN INFORMATION SERVICE

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Preface

- i This Country of Origin Information Key Documents (COI Key Documents) on the Republic of Korea has been produced by COI Service, UK Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. It provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The COI Key Documents includes information available up to 20 June 2008.
- ii The COI Key Documents is an indexed list of key reports, papers and articles produced by a wide range of recognised external information sources. It does not contain any UKBA opinion or policy.
- iii For UK Border Agency users, the COI Key Documents provides direct electronic access to each source referred to in the document, via a link on the source numbers in the index and list of sources. For the benefit of external users, the relevant web link has also been included, together with the date that the link was accessed.
- iv As noted above, the documents identified concentrate mainly on human rights issues. By way of introduction, brief background information on the Republic of Korea is also provided. Please note, this background material is not intended to provide a summary of the material contained in the documents listed.
- v This COI Key Documents and the documents listed are publicly disclosable.
- vi Any comments regarding this COI Key Documents or suggestions for additional source material are very welcome and should be submitted to COI Service as below.

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Website: http://www.homeoffice.gov.uk/rds/country_reports.html

ADVISORY PANEL ON COUNTRY INFORMATION

- vii The independent Advisory Panel on Country Information (APCI) was established in 2003 to make recommendations to the Home Secretary about the content of the UK Border Agency's country of origin information material. The APCI welcomes all feedback on UKBA's COI Key Documents, COI Reports and other country of origin information material. Information about the Panel's work can be found on its website at www.apci.org.uk

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- viii In the course of its work, the APCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. The APCI may or may not have reviewed this particular document. At the following link is a list of the COI Key Documents, COI Reports and other documents which have, to date, been reviewed by the APCI: www.apci.org.uk/reviewed-documents.html
- ix Please note: It is not the function of the APCI to endorse any UKBA material or procedures. Some of the material examined by the Panel relates to countries designated or proposed for designation for the Non-Suspensive Appeals (NSA) list. In such cases, the Panel's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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2. Background information about the Republic of Korea (South Korea)

- 2.01 **Area:** 99,222 sq km (45% of the peninsula)
Population: 48.3 million (2005 estimate)
Capital City: Seoul (population: 10m)
People: Korean with a small Chinese minority
Language: Korean
Religions: Wide range of religions from Shamanism, the oldest, to Buddhism, Confucianism, Chondogyo, Catholicism, and Protestantism.
Currency: ROK Won (KRW)
Major political parties: United New Democratic Party; Grand National Party (GNP); Democratic Labour Party (DLP); Democratic Party (DP).
Government: Presidential system backed by unicameral National Assembly of 299 members elected for 4 years.
President: Lee Myung-bak (elected December 2007).
Prime Minister: Han Seung-soo (since 29 February 2008)
Foreign Affairs and Trade Minister: Yu Myung-hwan (since 29 February 2008) (All information from the Foreign and Commonwealth Office (FCO), 12 June 2008) [1]

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GEOGRAPHY

- 2.02 "The Republic of Korea (ROK) forms the southern half of the Korean peninsula, that lies between China and Japan, and so is often referred to as South Korea. Its capital city, Seoul, is in the north-west. The ROK has a land area about the same size as Wales and Scotland combined. The Demilitarised Zone (DMZ), that separates the ROK from the Democratic People's Republic of Korea (DPRK) to the north, is a 250-mile long strip of land, running from west to east, close to the 38th Parallel." (FCO, 12 June 2008) [1]

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MAP
2.03



OCHA Regional Office for Asia Pacific
REPUBLIC OF KOREA
Issued: 3 January 2008



The names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations

Map Ref: OCHA_KOR_Country_v2_080103

(Reliefweb, released 18 February 2008) [32a]

ECONOMY

- 2.04 **GDP:** US\$1.207 trillion (2007 est.)
GDP per head (at purchasing power parity): US\$24,800 (2007 est.)
Annual Growth: 5% (2007 est.)
Inflation: 2.5% (2007 est.)
Population below poverty line: 15% (2003 est.)
Major Industries: electronics, telecommunications, automobile production, chemicals, shipbuilding, steel
Major trading partners: Exports: China 21.3%, US 13.3%, Japan 8.1%, Hong Kong 5.9% (2006); Imports: Japan 16.8%, China 15.7%, US 11%, Saudi Arabia 6.7%, UAE 4.2% (2006) (CIA Factbook, 10 June 2008) [2]
Exchange rate: £1 = 1,855.54 KRW (January 2008) (FCO, 12 June 2008) [1]

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RECENT HISTORY

- 2.05 The CIA Factbook, updated 10 June 2008, stated
- “An independent Korean state or collection of states has existed almost continuously for several millennia. Between its initial unification in the 7th century - from three predecessor Korean states - until the 20th century, Korea existed as a single independent country. In 1905, following the Russo-Japanese War, Korea became a protectorate of imperial Japan, and in 1910 it was annexed as a colony. Korea regained its independence following Japan's surrender to the United States in 1945. After World War II, a Republic of Korea (ROK) was set up in the southern half of the Korean Peninsula while a Communist-style government was installed in the north (the DPRK).” [2]
- 2.06 The US State Department (USSD) Background Note on Korea, updated in March 2008, noted
- “On June 25, 1950, North Korean forces invaded South Korea. Led by the U.S., a 16-member coalition undertook the first collective action under United Nations Command (UNC). Following China's entry on behalf of North Korea later that year, a stalemate ensued for the final two years of the conflict. Armistice negotiations, initiated in July 1951, were ultimately concluded on July 27, 1953 at Panmunjom, in what is now the Demilitarized Zone (DMZ). The Armistice Agreement was signed by representatives of the Korean People's Army, the Chinese People's Volunteers, and the U.S.-led United Nations Command (UNC). Though the R.O.K. supported the UNC, it refused to sign the Armistice Agreement. A peace treaty has never been signed. The war left almost three million Koreans dead or wounded and millions of others homeless and separated from their families.
- “In the following decades, South Korea experienced political turmoil under autocratic leadership...[developing] a vocal civil society that led to strong protests against authoritarian rule. Composed primarily of students and labor union activists, protest movements reached a climax after Chun's 1979 coup and declaration of martial law. A confrontation in Gwangju in 1980 left at least 200 civilians dead. Thereafter, pro-democracy activities intensified even more, ultimately forcing political concessions by the government in 1987, including the restoration of direct presidential elections.

“In 1987, Roh Tae-woo, a former general, was elected president, but additional democratic advances during his tenure resulted in the 1992 election of a long-time pro-democracy activist, Kim Young-sam. Kim became Korea’s first civilian elected president in 32 years. The 1997 presidential election and peaceful transition of power marked another step forward in Korea’s democratization when Kim Dae-jung, a life-long democracy and human rights activist, was elected from a major opposition party. The transition to an open, democratic system was further consolidated in 2002, when self-educated human rights lawyer, Roh Moo-hyun, won the presidential election on a ‘participatory government’ platform. “ [3a]

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RECENT EVENTS AND POLITICAL DEVELOPMENTS

Events in 2007

2.07 **February:** South and North Korea agree to restart high-level talks suspended since July 2006 in wake of North’s nuclear test... South Korea agreed with US to assume operational control of its own military forces, in the event of war, from 2012.

April: South Korea and the US agreed on a free-trade deal after 10 months of talks.

May: Passenger trains crossed the North-South border for the first time in 56 years.

October: The presidents of North and South Korea pledged at a summit to seek talks to formally end the Korean War.

November: Prime ministers from North and South Korea met for the first time in 15 years.

December: Presidential elections. Lee Myung-bak claimed victory. (BBC Timeline, 10 April 2008) [4a]

Events in 2008

February: Lee Myung-bak is cleared of fraud allegations four days before he is inaugurated as President. (BBC News, 21 February 2008) [4c]

On 25 February Lee Myung-bak is sworn in as President (BBC News, 25 February 2008) [4d]

April - North Korea warned that President Lee Myung-bak’s tough stance towards the north could lead to "catastrophic consequences".

President Lee’s the Grand National Party won a slim majority in parliament. (BBC Timeline, 10 April 2008) [4a]

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POLITICAL AND JUDICIAL SYSTEM

2.08 The USSD Background Note updated March 2008 noted

“The Republic of Korea (commonly known as ‘South Korea’) is a republic with powers nominally shared among the presidency, the legislature, and the judiciary, but traditionally dominated by the president. The president is chief of state and is elected for a single term of 5 years. The 299 members of the unicameral National Assembly are elected to 4-year terms - 243 members are from single-seat districts and 56 members are chosen by proportional representation. South Korea’s judicial system comprises a Supreme Court, appellate courts, and a Constitutional Court. The judiciary is independent under the constitution. The country has nine provinces and seven administratively separate cities--the capital of Seoul, along with Busan, Daegu, Daejeon, Gwangju, Incheon and Ulsan.” [3a]

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3. HUMAN RIGHTS

Overview

3.01 The US State Department Country Report on Human Rights Practices for 2007, Republic of Korea, (USSD Report 2007), published on 11 March 2008, stated that: “The government generally respected the human rights of its citizens; however, there were problems in some areas. Women, persons with disabilities, and minorities continued to face societal discrimination. Rape, domestic violence, child abuse, and trafficking in persons remained serious problems.” [3b] (Introduction)

3.02 The FCO’s country profile, updated 12 June 2008, commented on South Korea’s human rights that the

“...situation in South Korea has radically improved in parallel with the democratisation process. Much of this is the legacy of pro-democracy activist Kim Dae-jung (President 1998 – 2003), whose work was recognised with a Nobel Peace Prize in 2000. With the creation of the National Human Rights Council [Commission] of Korea (NHRCK) in 2001, adoption of UN protocols, domestic legislation and the formation of a 5 year National Action Plan (NAP), South Korea now has a world-class framework for the protection of human rights. In January 2007, renowned South Korean human rights expert, Ms Kang Kyung-hwa, was appointed Deputy High Commissioner to the UNHCR and the country will undergo universal peer review in spring 2008.” [1]

3.03 The Human Rights Watch (HRW) *World Report 2007*, South Korea, (HRW Report 2007) released on 11 January 2007 and commenting on events in 2006, observed: “... some of South Korea’s important human rights concerns, including the National Security Law, imprisonment of conscientious objectors to military service, and the death penalty, remain unresolved, despite a series of recommendations by the National Human Rights Commission calling for

relevant laws to be abolished or amended. Human rights activists have also complained about the widespread mistreatment of migrant workers, and about South Korea's reluctance to recognize non-Korean refugees and asylum seekers." [5a]

- 3.04 Freedom House in its *Freedom in the World 2007* Report, South Korea, (Freedom House Report 2007) released on 23 April 2007, noted that
- "South Korea is an electoral democracy. Elections are free and fair, and the government is elected on the basis of universal suffrage... Political pluralism is robust in South Korean politics, with multiple political parties competing for power" but added that despite "...the overall health of the South Korean political system, bribery, influence peddling, and extortion by officials have not been eradicated from political, business, and everyday life. South Korea was ranked 42 out of 163 countries surveyed in Transparency International's 2006 Corruption Perceptions Index [and joint 43rd out of 180 countries in 2007 – with first being the least corrupt country (Transparency International, 25 September 2007) [25]]." [6a]
- 3.05 The Freedom House Report 2007 also noted with regard to civil liberties generally that the media are free and competitive; the constitution allows for freedom of religion and the government did not enforce any state religion; academic freedom is not restricted (bar statements in support of the North Korean government); there is freedom of association ("the Law on Assembly and Demonstrations requires only that the police be informed in advance of all demonstrations, including political rallies"); members of civil society and Non Government Organisations are active and able to operate freely; the judiciary is considered generally independent; and the police though occasionally culpable of verbally and physically abusing detainees are considered well disciplined and un-corrupt. [6a]
- 3.06 The same report noted, however, that the country's few ethnic minorities faced legal and societal discrimination, and though women had legal equality they faced "de facto discrimination in society, with men enjoying more social privileges and better employment opportunities." [6a]
- 3.07 In a letter addressed to the then President elect, Lee Myung-bak, dated 15 January 2008 and published in *The Korean Times*, Brad Adams, the executive director of the Asia Division of HRW called for Mr Lee to pay attention to a number of areas of human rights concern. Mr Adams wrote:
- "South Korea is a leading democracy in Asia, yet there are ways in which key rights are not fully protected. It has not executed any prisoner for more than a decade, but it still retains the death penalty. We would like to ask you to make South Korea the first Asian country to officially abolish the death penalty... Although the National Security Law has been used with declining frequency, and the punishments for violating it have become more lenient, its ongoing use remains problematic. Banning 'praising or supporting' North Korea is a violation of free expression, and, as such, we believe it is time for South Korea to either abolish or revise the law... We ask for your attention to the socially weak or marginalized in the South Korean society as well, including sex workers, who have limited means of redress when facing abuse from their employers. We welcome the steps South Korea has taken to strengthen the protection of sex workers in recent years, but further measures are needed to

protect those who voluntarily stay in the sex industry. Migrant workers are also known to face difficulties in forming trade unions and experience discrimination and abuse by their employers...Finally, we urge you to take a strong stand in support of refugees and asylum seekers. Compared to other industrialized democracies, South Korea has been anything but generous in accepting those fleeing persecution.” [7]

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WOMEN

Overview

- 3.08 South Korea ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1984. (Sixth periodic report of States parties, Republic of Korea, 5 March 2007) [8a] For an overview of South Korea’s implementation and application of the CEDAW, identifying both positive achievements and highlighting areas of concern, see the concluding comments of the [Committee on the Elimination of Discrimination against Women: Republic of Korea](#) dated 10 August 2007 (CEDAW Report 2007). [8b]
- 3.09 The USSD Report 2007 stated that the law forbids discrimination on the basis of, amongst other things, gender, marital status, pregnancy and child delivery, and family status. The report added that the Government generally respected these provisions however “... traditional attitudes limited opportunities for women... While courts have jurisdiction to decide discrimination claims [including but not only those filed by women], many of these cases were instead handled by the National Human Rights Commission [NHRC]. From January to August, 779 such cases were brought before the NHRC.”[3b] (Section 5)

Domestic violence

- 3.10 The USSD Report 2007 stated that
- “Violence against women remained a problem. Between January and August [2007] the Ministry of Justice (MOJ) registered 6,733 cases of domestic violence and prosecuted 1,043 cases. According to the Ministry of Gender Equality and Family Affairs (MOGEF), nearly 50 percent of all women were victims of domestic violence. The Special Act on the Punishment of Domestic Violence defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to six months. Offenders can also be sentenced up to five years' imprisonment or fined less than [US]\$7,400 (seven million won). Offenders may also be placed on probation or ordered to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence, and the police generally were responsive. The government established some shelters for battered women and increased the number of childcare facilities. However, women's rights groups stated these measures fell far short of effectively dealing with the problem. During the year the [National Human Rights Commission] NHRC determined that female victims are more likely to receive social criticism rather than protection. The NHRC also found that women often suffer from feelings of shame, disgust, mortification, and guilt rather than being provided with

appropriate support because of law enforcement officials' chauvinism and inadequate sensitivity, which affects the investigation and trial process. During the year the government built five new shelters for victims of domestic violence... [providing] a total of 97 shelters but did not build any new shelters for child victims of sexual violence.." [3b] (Section 5)

3.11 The CEDAW Report 2007 commented that while the Committee welcomed "...the amendments to the Act on Prevention of Domestic Violence and Protection of Victims and the Act on the Punishment of Sexual Violence and Protection of Victims, the Committee regrets that marital rape has not been criminalized." [8b] (page 3) However the USSD Report 2007 noted that "Although there is no specific statute that defines spousal rape as illegal, the courts have established a precedent by prosecuting spouses in such cases." [3b] (Section 5)

3.12 The CEDAW Report 2007 also added that the

"Committee remains particularly concerned that under the Act on the Punishment of Sexual Violence and Protection of Victims the crime of sexual violence is prosecuted only upon complaint by the victim. The Committee also expresses its concern about the low rates of reporting, prosecutions and convictions of cases of violence against women. It is concerned about the lack of information and data provided about the prevalence of all forms of violence against women." [8b] (page 3)

Harassment of and violence against women

3.13 The CEDAW Report 2007 noted with concern that acts of sexual violence against women can only be prosecuted if the victim complains, and marital rape is not criminalised. [8b] (page 3) though the courts have set a precedent by prosecuting spouses in marital rape cases. (USSD Report 2007) [3b] (Section 5) The CEDAW Report added that there were low rates of reporting, prosecution and conviction of cases of violence against women (page 3) and commented that the persistence of trafficking and exploitation of prostitution remained a concern. [8b] (page 4)

3.14 The USSD Report 2007 stated that rape was a serious problem, and commented that

"Between January and August there were 4,374 reports of rape and 1,959 prosecutions. Many rapes were believed to have gone unreported because of the stigma associated with being raped. The activities of women's groups increased awareness of the importance of reporting and prosecuting rape, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. The penalty for rape is three years' imprisonment; if a weapon is used or two or more persons commit the rape, punishment may be a maximum of life imprisonment.." [3b] (Section 5)

- 3.15 The US State Department Country Report on Human Rights Practices 2006, Republic of Korea, released on 6 March 2007 (USSD Report 2006) that

“The law defines sexual harassment as a form of gender discrimination. The Gender Discrimination Prevention and Relief Act covers almost all kinds of human relations--including, for example, relations between teachers and students and citizens and civil servants. Nevertheless, sexual harassment continued to be a problem. The National Human Rights Commission of Korea received 99 cases of sexual harassment in the past year [2006].” [3g] (Section 5)

- 3.16 On the same subject the USSD Report 2007 noted that

“In recent years the government has made some progress in addressing sexual harassment, but the issue continued to be a problem. The 2005 revision of ‘Framework Act on Women’s Rights Promotion’ stipulated that heads of organizations were obligated to take preventive measures against sexual harassment. Pursuant to the act, the government conducts an annual review of actions taken by public organizations concerning sexual discrimination, grants awards for improvements, and provides special retraining sessions for managers of suboptimal organizations. Private companies’ obligations to take preventive measures against sexual harassment are stipulated in the Sexual Equality Employment Act. These efforts have had only limited success; the NHRC found that there continued to be a lack of understanding on what constitutes sexual harassment. The NHRC received 155 cases of sexual harassment during the year. According to the NHRC, remedies for sexual harassment cases included issuance of recommendation for redress, conciliation, mutual settlement, and resolution during investigation. More cases were resolved through conciliation or mutual settlement, which were quicker and more efficient than the commission’s investigation process. The NHRC lacks the authority to impose punitive measures, which must be pursued through the court system. During the year court rulings that overturned sexual harassment convictions, often at the request of the complainant, pointed to an underlying tolerance in society at large for sexual harassment in the workplace rather than any failing of the systems of redress.” [3b] (Section 5)

- 3.17 With regard to prostitution and the sex trade the USSD Report 2007 noted that

“Prostitution is illegal but widespread. Media reports claimed that police officers, soldiers, government employees, and airport officials frequented massage parlors, where prostitution has become more prevalent in recent years. Antiprostitution and antitrafficking legislation provides protection for the victims of prostitution and enhanced punishment for those engaged in prostituting other persons. From January to June, the government indicted 2,944 citizens for violating the 2004 Act on the Punishment of Intermediation of Sex Trade, and of these 147 had been detained for pretrial purposes. In 2006 the government indicted 6,472 such persons and detained 323 for trial. The government allows for the prosecution of its citizens for acts of child sexual exploitation committed in other countries, although this law was seldom used. Some NGOs also expressed concern that sex tourism to China and Southeast Asia was becoming more prevalent.” [3b] (Section 5)

- 3.18 Commenting on the 2004 anti-trafficking and anti-prostitution laws, the HRW Report 2007 stated that "...the law does not protect those that either want to stay in the sex industry or cannot prove that they were coerced, while critics argue that police crackdowns pursuant to the law have driven many sex workers further underground, putting them in an even more vulnerable situation." [5a]

Household registration and property rights

- 3.19 The USSD Report 2007 observed that

"In 2005 the National Assembly eliminated the household registration system that made women legally subordinate to the male family head. The reforms also allow remarried women to change their children's family name to their new husband's name and ended the six-month waiting period to remarry that was directed only at women. The family law permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce.." [3b] (Section 5)

- 3.20 USSD Report 2006 observed that "Although the law helped abused women who chose to divorce, there remained a stigma of divorce and little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities, led some women to stay in abusive situations. However, according to a National Statistical Office report, 44.8 percent of marriages ended in divorce." [3g] (Section 5)
- 3.21 The Freedom House Report 2007 noted that "...a landmark ruling by the Supreme Court in July 2005 granted married women in South Korea equal rights with respect to the inheritance of property owned by family clans. Previously, married women were considered to be part of their husband's family and were not eligible to inherit family property. Women's rights groups in South Korea hailed the decision as a significant step in the reduction of gender discrimination within the family." [6a]

Women in the workplace

- 3.22 The USSD Report 2007 observed that

"Women continued to experience economic discrimination in pay for substantially similar work. According to the Korea Institute of Finance, a survey of financial services companies revealed that almost 60 percent of newly created jobs in this sector were filled by women. Nevertheless, relative to other developed countries, few women worked in managerial positions or earned more than a median income, and gender discrimination in the workplace remained a problem. According to a 2006 Korea Women's Development Institute survey, the average working woman earned 64 percent of what a man made in a comparable job. The Equal Employment Act penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination could be fined up to approximately \$5,300 (5 million won) and have its name published in the newspaper. The law also provides for a public fund to support

victims in seeking legal redress. Some government agencies' preferential hiring of applicants with military service (nearly always men) reinforced barriers against women, despite a constitutional court ruling that such preferential hiring was unconstitutional. A poll showed that 79 percent of female respondents experienced some form of discrimination in the workplace, usually in the form of job duties and pay. [3b] (Section 5)

- 3.23 The CEDAW Report 2007 observed that women faced disadvantages in the workplace; they were concentrated in low wage jobs and more likely than men to be in irregular work. [8b] (page 6) The same report also noted that women were under-represented in decision-making areas, such as government, the judiciary and in politics. [8b] (page 5)

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CONSCIENTIOUS OBJECTORS

- 3.24 Article 39 of the South Korean Constitution states that "All citizens shall have the duty of national defense under the conditions prescribed by Act..." (The Constitutional Court of Korea, undated) [9] Military service is compulsory for men aged 20 to 30 years old. The period of conscription is between 24 to 28 months (this is to be reduced to 18 months in 2016). Women also undertake military service but are limited to 7 service branches. (CIA Factbook, 10 June 2008) [3] Those who refuse to do military service on moral or religious grounds face imprisonment. (HRW Report 2007) [5a]
- 3.25 In its concluding observations on South Korea dated 28 November 2006, the UN's Human Rights Committee noted, and was concerned, that:
- "(a) under the Military Service Act of 2003 the penalty for refusal of active military service is imprisonment for a maximum of three years and that there is no legislative limit on the number of times they may be recalled and subjected to fresh penalties; (b) those who have not satisfied military service requirements are excluded from employment in government or public organisations and that (c) convicted conscientious objectors bear the stigma of a criminal record (art.18)." [8c]
- 3.26 A report by War Resisters' International, 'Briefing Paper on Conscientious Objection and Human Rights issues in the Republic of Korea', released 2 April 2004, noted that "Without exception, conscientious objectors are subject to 18 months to 2 years imprisonment. Stricter standards are applied to conscientious objectors when considering parole compared to other prisoners...". [29b] (Executive Summary)
- 3.27 The Amnesty International Report 2008, *State of the World's Human Rights*, Republic of Korea, released in May 2008, stated that "In December [2007], at least 733 conscientious objectors, mostly Jehovah's Witnesses, were in prison following convictions in 2006 and 2007 for refusing compulsory military service. In October [2007], newspaper sources cited the government's intention to reform military conscription by 2009, offering more, but potentially longer, alternatives to military service." [17d] On the subject of amending the conditions of military service the *International Herald Tribune* reported on 18 September 2007 that the South Korean Government had announced that it would "...allow conscientious objectors to perform social service instead of

mandatory military stints, and approved a proposal to drastically shorten the service term for ordinary conscripts.” The proposed revision is subject to the legislature’s endorsement but if approved the decision could come into effect by January 2009. The article also noted that “More than 3,760 young South Korean men, mostly followers of the Jehovah’s Witnesses Christian denomination, have refused to perform military service in the past five years, and nearly 95 percent of them served more than 17 months in prison.” [10]

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NATIONAL SECURITY LAW

3.28 The Freedom House Report 2007 commented that the National Security Law (NSL) “...assumes an antagonistic relationship between North and South Korea and combines legitimate counterespionage measures with vague prohibitions on ‘anti-state activities’ and ‘benefiting the enemy,’ and restrictions on expression, movement, and the media. The NSL retained support among a section of the public and Parliament, while opponents were divided between advocates of reform and total abolition. In the absence of a consensus on the matter, the NSL remained unchanged.” [6a] Reporting on events in 2007, Amnesty International noted that the law remained unchanged, and as of December 2007 there eight persons detained under its provisions as compared to one at the end of 2006. [17d]

3.29 The USSD Report 2007 commented that the

“... rules regarding arrest and detention under the National Security Law (NSL) are vague. For example, the NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea (DPRK) and therefore deemed dangerous to the country. The NSL permits the imprisonment for up to seven years of anyone who ‘with the knowledge that he might endanger the existence or security of the state or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an antistate organization.’ The legal standard for what constitutes ‘endangering the security of the state’ is vague. Thus, persons could be arrested for the peaceful expression of views that the government considered pro-DPRK or antistate. The UN Human Rights Committee termed the NSL ‘a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights.’

“Between January and September [2007], authorities arrested 16 persons for alleged NSL violations. For example, two teachers who were members of the Unification Committee of the Korea Teachers Labor Union were indicted on charges of violating the NSL for collecting unification-related materials to be used in class and for discussing such materials over the Internet with other teachers. They were released on bail and were on trial without physical detention. In another case a photographer faced charges of revealing national security and military secrets for publishing a book that included photographs of local United States Forces Korea facilities. At year's end he was on trial without physical detention.

“A university professor found guilty of violating the NSL was sentenced to two years in prison with a stay of execution of three years, and he appealed the

case in 2006. At an appeal hearing, his sentence was upheld, and at year's end he was pursuing his final appeal." [3b] (Section 1d)

- 3.30 The Reporters without Borders Annual Report 2008, South Korea, released 13 February 2008, noted that "...although it is never used, Article 7 of the law on national security still allows a journalist to be imprisoned for expressing 'sympathy' with the North Korean regime." [16]

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ETHNIC AND NATIONAL MINORITIES

- 3.31 The USSD Report 2007 noted that the law forbids discrimination on the grounds of national or regional origin, physical condition or appearance, ethnic origin, race and skin colour, and the Government generally respected these provisions. "However, traditional attitudes limited opportunities for... ethnic minorities. While courts have jurisdiction to decide discrimination claims, many of these cases [of all forms of discrimination, including those based on ethnicity and nationality] were instead handled by the [National Human Rights Commission] NHRC. From January to August, 779 such cases were brought before the NHRC." [3b] (Section 5)

- 3.32 The same report continued:

"The country is racially homogeneous, with no sizable populations of ethnic minorities. Citizenship is based on parentage, not place of birth, and persons must demonstrate their family genealogy as proof of citizenship. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained 'foreign,' thus disqualifying them legally from entering the civil service and, in practice, being hired by some major corporations. Some foreign workers continued to report difficult working conditions." [3b] (Section 5)

- 3.33 The Freedom House Report 2007 stated that "Because South Korean citizenship is based on parentage rather than place of birth, residents who are not ethnic Koreans face extreme difficulties obtaining citizenship. Lack of citizenship bars them from the civil service and also limits job opportunities at some major corporations. The country's few ethnic minorities face legal and societal discrimination." [6a]

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- 3.34 South Korea signed the UN Refugee Convention in 1992, and between then and 2006 had granted protection to 48 out of 950 asylum applicants. Financial assistance for those granted refugee status was "almost non-existent". (HRW Report 2007) [5a]

- 3.35 The USSD Report 2007 observed that South Korea had

“...laws provid[ing] for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. However, the government did not routinely grant refugee status or asylum. In practice the government generally provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers and an alternative form of protection, a renewable, short-term permit, to those who met a broader definition of ‘refugee.’ Between July 1994, when the government first accepted applications, and December 2007, the government received approximately 1,500 asylum applications (not including those from the DPRK); of those, the government recognized 64 applicants as refugees. During the year the government received 403 refugee applications (not including those from the DPRK). The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government continued to work with the UNHCR to bring its refugee processing up to international standards; however, a complex procedure and long delays in refugee status decision making continued to be problems.” [3b] (Section 2d)

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North Koreans

- 3.36 The USSD Report 2007 recorded that “The government continued its longstanding policy of accepting refugees from the DPRK, who are entitled to ROK citizenship. The government resettled 1,990 North Koreans from January to October [2007], resulting in a total of approximately 11,700 North Koreans resettled in the country.” [3b] (Section 2d) On the same subject, the HRW World Report 2008, North Korea, Events in 2007, released on 31 January 2008, noted that “South Korea accepts all North Korean asylum seekers as citizens, under its constitution that defines the entire Korean Peninsula as South Korean territory. In the past decade, it has admitted around 10,000 North Koreans.” [5d]

Treatment of North Koreans

- 3.37 The UN News Service reported on 25 January 2008 that the UN Special Rapporteur on the human rights situation in the Democratic People’s Republic of Korea (DPRK - North Korea), Vitit Muntarbhorn, “welcomed” the efforts of the South Korean Government has made to assist people fleeing North Korea. Mr Muntarbhorn praised the support given by the South Korean Government to “.. over 10,000 nationals from the DPRK it has accepted for settlement.” [8d]
- 3.38 Mr Muntarbhorn, quoted in the same source, also recommended that the government should provide “longer-term facilities to help them adapt to their new lives, and social, educational, employment and psychological back-up, with family and community based networks; more family reunion possibilities; more protection to be afforded to those who do not receive the protection of other countries; and a more active information campaign using success stories of those who have settled in the Republic of Korea to ensure a positive image

and nurture a sense of empathy for those who exit from the DPRK in search of refuge elsewhere.” [8d]

- 3.39 The article continued that Mr Munterbhorn “...praised increased support for these persons, such as through longer term protection periods, the provision of pensions, and employment and other opportunities. He also hailed a new law allowing DPRK nationals to file for divorce from a spouse in their home country if the location of that person cannot be identified.” In addition he was ““encouraged by educational and training programmes for the young generation from the DPRK, complemented by caring neighbours who help them adapt to society’.” Mr Muntarbhorn also highlighted the need for longer-term care for torture victims and older North Koreans who had escaped. He further called for more attention to be given to mixed marriages, where a North Korean has a relationship and child with a national of a third country (i.e. neither North nor South Korea) on the way to South Korea, but the child is left in the third country. [8d]
- 3.40 A *New York Times* (NYT) article dated 25 June 2006 reported that after arriving in South Korea, North Korean defectors spend a month in the custody of the National Intelligence Service before being taken to the Government’s main resettlement centre, Hanawon, 50 miles south of Seoul. There the North Koreans receive “a three-month crash course on life south of the demilitarized zone.” Those who complete the resettlement course receive a “[US] \$20,000 stipend and are provided with low-cost public housing. They are also entitled to welfare benefits in case of unemployment and cash incentives for job training”. [15a] Andrei Lankov, an academic specialising in North and South Korea, in a report *The North Korean Refugee Crisis: Human Rights and International Response*, released in 2006, observed that as of January 2005 the support amount was “fixed at 10 million won (US\$9,000) for a single defector, though families were paid more. A lump sum of 3 million won is first paid upon arrival while the remaining amount is paid in quarterly instalments over the first two year’s of the defector’s new life in the South.” Further monies are available as a deposit to be put towards buying a property and for the completion of training programmes. [41] (page 60)
- 3.41 The NYT article of 25 June 2006 added that North Koreans “...have started carving out a space for themselves in this society, though often as second-class citizens” and “Out in the real world, many defectors who have come here with unrealistically high expectations find out that they are prepared for only the most menial of jobs. Many move from one part-time job to another.” The article also reported that North Koreans acknowledged that often the discrimination they faced is unintentional, such as South Koreans offering “...copious amounts of food on the assumption they must be hungry or ask[ing] them whether they have ever tried a basic food.” [15a]

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