

Information Note of the National Human Rights Commission of Korea

**regarding the Adoption of the List of Issues for
the Review on the Fourth Periodic State Report
of the Republic of Korea
on the Implementation of the ICCPR**



National Human Rights Commission of Korea

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Information Note of the National Human Rights Commission of Korea

A. Introduction

The National Human Rights Commission of Korea (“NHRCK”) hereby submits its information note for the 113 session of the working group meeting of the Human Rights Committee (“HRC”) to compose the List of Issues in the face of the HRC's consideration of the fourth periodic report (hereinafter referred to as “the Report”) submitted by the state party, the Government of the Republic of Korea (hereinafter referred to as “the Government,”) under the International Covenant on Civil and Political Rights (“ICCPR”). The NHRCK, an independent national human rights institution, offers general comments about implementation progress of the ICCPR and questions about each article of the Covenant to be asked to the Government, providing the HRC with information for references in preparing the List of Issues.

B. Implementation of the ICCPR

General Comments

1. Establishment and Implementation of National Action Plan for the Promotion and Protection of Human Rights

The Government says that it has established a five-year National Action Plan for the Promotion and Protection of Human Rights since 2007, and the National Human Rights Policy Council monitors the establishment and implementation of the plan, the results of which are disclosed and distributed to the general public every year (the fourth periodic State Report para. 4, 5). However, while establishing and implementing the plan and monitoring its progress, the Government hardly seems to listen to enough of opinions of either the NHRCK or any other civil society group and lack efforts to persuade and communicate with them.

Question

What measures does the Government have to institutionally ensure the participation of the NHRCK and civil society, consider their opinions, and encourage substantive communication with them during the procedures such the establishment, implementation, and implementation monitoring of the NAP?

2. Enhancement of General Human Rights Education

The Government reports that human rights education is an integral part of the NAP and it has exerted efforts to enhance human rights awareness and education for government employees and law enforcement officials and at schools, leading to the growing role of the NHRCK in human rights education (para. 9-15).

The NHRCK has an on-going project to continuously hold seminars and workshops on human rights education for public sector employees, the results of which are presented by the Government (para. 11). The NHRCK also runs various school education programs on human rights (para. 15).

The Plan of Action for the Third Phase (2015-2019) of the World Programme for Human Rights Education by the Office of the United Nations High Commissioner for Human Rights (“OHCHR”) in 2014 recommends that human rights education should require close cooperation and partnership within and among governmental agencies, national human rights institutions, and civil society.

Questions

Please present information about specific efforts and their outcomes to make human rights education more effective.

What measures does the Government have to help the NHRCK to systematically play its role in human rights education?

Articles 2, 26

3. Anti-Discrimination Legislation

The NHRCK recommended the then Korean Prime Minister legislating against discrimination on July 25th, 2006. The Ministry of Justice presented a general and comprehensive anti-discrimination bill, which prescribes the principle of equality in the Constitution, to the 17th session of National Assembly in December 2007. However, some rose to oppose the bill as it included prohibition of discrimination based on sexual orientation. In consideration of the opposition, seven grounds of discrimination including sexual orientation were deleted before the bill was submitted to the Ministry of Government Legislation for deliberation. The bill, however, failed due to termination of the 17th National Assembly (para. 48, 376, 377).

In November 2012, ten lawmakers from the Unified Progressive Party and the Democratic United Party proposed another anti-discrimination bill which is pending at the 19th session of the National Assembly and has not seen any progress in its deliberation since April 2013.

In February 2013 some lawmakers from the opposition parties re-proposed an anti-discrimination bill, (also stipulating prohibition of discrimination on grounds at sexual orientation, sexual identifications) which revived the opposition from some religious groups, leading to the withdrawal of the bill in April 2013.

Question

What stance does the Government have on legislation against discrimination stipulating grounds of discrimination such as sexual orientation, and what efforts does the Government exert for anti-discrimination legislation?

4. Discrimination Against Non-Regular Workers

The Government says that it enacted the Act on the Protection and other matters of Fixed-Term and Part-Time Employees and amended the Act on the Protection and other matters of Dispatched Workers in 2009. With the legislations, the Government is of the opinion that it introduced a scheme to address discrimination against fixed-term, dispatched, and part-time employees (para. 46).

The Additional Survey to Economically Active Population Survey conducted by Statistics Korea in August 2013 shows that non-regular workers account for 45.9%, 8.37 million, of the total waged workers, while regular workers take up the remaining 54.1% at 9.87 million. The number of non-regular workers is as large as that of regular workers, and 96.5% of the non-regular workers, or 8.08 million, either are temporary workers or double the parts of a temporary post.

Monthly average wage for three months from June to August 2013 is KRW 2.84 million for regular workers, which is about twice as high as KRW 1.41 million for non-regular workers. Working hours per week, however, are not much different from each other: 40.5 hours for non-regular workers and 42.8 hours for regular workers. Hourly wage, on the other hand, is KRW 8,263 for non-regular workers, while it is KRW 15,648 for regular workers. As of August 2013, non-regular workers take up 93.0%, or 1.94 million, of the 2.09 million waged workers whose hourly pay falls short of the statutory minimum wage of KRW 4,860, while regular workers account for 7%, or approximately 150 thousand workers.

While 84 to 99% of regular workers subscribe to social insurance including National Pension, National Health Insurance, and Unemployment Insurance, the social insurance policyholder ratio of non-regular workers ranges from 33 to 39%. 72 to 99% of the regular workers enjoy the benefits of severance pay, bonus, overtime pay, and paid leave, while 19 to 38% of non-regular workers do.

Question

What measures does the Government prepare in order to resolve discrimination against non-regular workers, improve their employment stability, and ensure better treatment at workplace?

5. Forced Submission of ID, i.e., Passports and Alien Registration Certificates

The Government states that the Immigration Control Act prohibits holding or demanding passports or alien registration certificates as security to an employment contract or liability, which is punishable by law (para. 45).

However, according to the survey of 1,300 migrant workers by the IOM Migration Research and Training Center in 2013, 3.7% of the respondents are made to give in their passports to employers. The practice becomes more rampant in sectors with dire working conditions and high employee turnover: a series of surveys by the NHRCK show that 16% in agricultural and dairy industries (Survey Report for Human Rights of Migrant Workers in Agricultural and Dairy Industries in 2013), 46% in arts and entertainment industries in 2014, and 79% in fishing industry (Survey Report for Human Rights of Migrant Workers in Fishing Industry in 2012) are forced to hand over their identification cards to employers.

Question

What countermeasures does the Government have to ban the confiscation of identification cards such as passports of migrant workers?

6. Occupational Disease and Work Accident Insurance and National Health Insurance for Migrant Workers

The Government states that the four basic social insurance schemes, Occupational Disease and Work Accident Insurance, Unemployment Insurance, National Pension, and National Health Insurance, cover foreign workers as equally as their Korean counterparts (para. 43).

However, according to the survey of 2,000 migrant workers by the Occupational Safety and Health Research Institute in 2010, titled Occupational Safety and Health of Migrant Workers and Protection Measures, 73% of the respondents say that they have never claimed industrial accident compensation in case of occupational injury or disease because 28% of them do not know how to make a claim and 26% simply do not know whether they are eligible.

According to the survey of about 1,300 migrant workers conducted by the IOM Migration Research and Training Center in 2013, 12% of the respondents say that they do not have National Health Insurance and the ratio soars to 49% when it comes to the migrant workers in agricultural and dairy industries. The Survey Report for Human Rights of Migrant Workers in Fishing Industry conducted by the NHRCK in 2012 shows that 55.6% of 169 respondents neither have insurance nor know if they have one. The same goes for 72.6% of 161 respondents in another study by the NHRCK in 2013, the Survey Report for Human Rights of Migrant Workers in Agricultural and Dairy Industries.

Questions

What measures does the Government have in order to help more migrant workers insured by Occupational Disease and Work Accident Insurance and National Health Insurance?

What measures does the Government have in place for migrant workers who fail to receive insurance benefits for various reasons such as their intransigent employers, unawareness of their own insurance policy, or lack of knowledge about how to make a claim?

Article 3

7. More Women in Low-Wage and Non-Regular Jobs

The Status Survey on Female Non-Regular Workers' Wage conducted by the NHRCK in 2013 shows that female workers number 7.62 million out of the total waged workers at 17.74 million as of March 2013. Non-regular workers represent 37.2%, or 3.76 million, of the total male waged workers, while female non-regular workers 57.5%, or 4.38 million, of the total female waged workers.

<Ratio of Non-Regular Workers>

		Regular	Non-Regular	Total
Men	Number(Persons)	6,362,752	3,762,492	10,125,244
	Ratio(%)	62.8	37.2	100
Women	Number	3,237,450	4,380,689	7,618,139
	Ratio	42.5	57.5	100
Total	Number	9,600,202	8,143,181	17,743,383

The gender pay gap in Korea is the highest among OECD countries at 39%. For regular workers, men earn USD 3,180 per month on average (1 USD to KRW 1,000),

while women USD 2,110. Male non-regular workers receive USD 1,710 per month on average when female non-regular workers earn USD 1,120.

		<Average Wage>	(USD:KRW=1:1000)
		Monthly Average Wage(USD)	% of Male Regular Workers
Regular	Men	3,186	100
	Women	2,118	66.5
Non-Regular	Men	1,715	53.8
	Women	1,127	35.4

Question

What efforts has the Government been taking in a bid to solve the issues of the increasing number of women in being non-regular workforce, and the gender pay gap?

Article 6

8. Death Penalty

The criminal law in Korea stipulates the death penalty as a form of punishment, and the court has been sentencing criminals to be executed. However, no death penalty has been executed for a decade since it was last executed for 23 condemned criminals on December 30, 1997; thus, Amnesty International has announced Korea as an “abolitionist in practice” on December 30th, 2007. Nevertheless, death penalty was sentenced, but has never been practiced. For example, the general military court sentenced capital punishment to Sergeant Lim in January 2015 for shooting and killing his colleagues (para. 108-110).

To promote legislative resolution, a Special Bill on Abolishing the Death Penalty has been submitted in every session from the 15th National Assembly (1996-2000) to the 18th National Assembly (2008-2012) but failed due to termination of the sessions.

Question

Does the Government have plans to legally abolish the death penalty?

Article 7

9. Assault, Sexual Violence, and Brutal Treatment in the Military

A two-year military conscription for young and healthy Korean male is mandatory unless he can prove he is unfit for service, physically or mentally. In April 2014, however, a soldier died after suffering acts of violence inflicted by his senior colleagues in the 28th Division of the Army.

The military authorities conducted a survey of all Army units on soldier management for one month in April 2014, exposing 3,900 cases of cruel acts including physical and verbal abuse. According to the 2005 Survey Report conducted by the National Human Rights Commission of Korea, 6.0% of the respondents replied that they have been beaten up at the barracks.

The 2014 Survey Report for Sexual Violence in the Military conducted by the Center for Military Human Rights Korea, announced by the main opposition party, the Democratic United Party, reflected military statistics from 2009 to 2013 and surveyed 100 female soldiers and 200 male soldiers. The survey showed that 19% of the female

soldiers have experienced sexual harassment and violence, and 28% of them have witnessed the incidents.

In 2012, the NHRCK recommended the improvements of related policies and institutions to build a human rights friendly military culture, and of the human rights situations for maladjusted soldiers in 2013.

Although the Government is strengthening human rights education for soldiers, it is mostly centered on rank-and-file soldiers, officers, human rights instructors, and human rights workers. Human rights education in educational centers that foster low ranking officers is still weak.

Questions

What are the countermeasures for resolving sexual harassment and violence issues inflicted by senior colleagues in the military?

What measures is the Government mapping out in order to improve the military culture?

What types of human rights education is the Government planning for low ranking officers, such as platoon leaders and noncommissioned officers and low ranking commanders such as company commanders who command, manage, and live with soldiers?

Article 8

10. Damages Inflicted on Migrated Women from Human Trafficking and Prostitution

The Government states that it is preparing measures to prevent human trafficking and prostitution of foreign females holding an entertainment and artistic activity visa; i.e., E-6 visa, and to safeguard them from harm(para. 141, 142).

The NHRCK's Human Rights Situation Survey on Migrants with E-6 Visa also comes to the conclusion that, in terms of the United Nations Office on Drugs and Crime's general standard on human trafficking, the situation of migrant workers with E-6 visas can be considered as human trafficking.

According to the Report on the state of State of Prostitution on Migrant Women and Research on Improvement Measures released by the Ministry of Gender Equality and Family in 2012, 53% of the 51 respondents replied that they have been forced to provide sexual services. In the NHRCK's 2014 survey, 23% answered that they were forced into prostitution.

Question

What measures are the Government reviewing in order to fundamentally improve E-6 visas?

Article 9

11. Guarantee of the Right to Legal Counsel

The Criminal Procedure Act, amended in 2007, provides that unimprisoned suspects shall not be restricted the right to a lawyer (para. 157). However, it specifies an opinion of a counselor who participates in interrogation shall be stated after the interrogation, in principle. Regarding any unfair interrogation methods, a counselor may raise an objection even in the middle of an interrogation, state his/her opinion after winning an approval from a prosecutor or a judicial police, and A suspect cannot decide whether the criminal can receive counsel on individual questions.

In 2013, the NHRCK recommended the Korean National Police Agency Commissioner General to amend the Regulations on Criminal Procedure so as to assure a suspect the right to legal counsel and advice, for example by allowing an attorney to engage in interrogation without any restrictions. The NHRCK also recommended the improvement of practices that limit the attorney's legal counsel and advice.

Question

What plans does the Government have to practically guarantee a suspect the right to legal counsel during interrogations?

12. Protection Procedures for detained Foreigners in Immigration Processing Center (Foreigner Protection Center)

Under the Immigration Control Act, protected foreigners in protection facilities can appeal to the Minister of Justice. However, the Act does not stipulate the grounds and conditions for such appeals, and in most cases, they are denied. Even the Protection of

Personal Liberty Act, which provides relief to individuals whose personal liberty was unlawfully limited, explicitly excludes persons protected by the Immigration Control Act.

In 2011, the NHRCK provided in the “Human Rights Guidelines on Migration” that a system should be put in place to protect, rights based on criminal judicature procedures since protection under Immigration Control Act is practically a form of constraining personal liberty.

Question

Are there any plans to provide a system to guarantee rights equivalent to criminal judicature procedures for foreigners in Immigration Processing Center under the Immigration Control Act?

13. Involuntary Hospitalization Under the Mental Health Act

In January 2014, the Ministry of Health and Welfare proposed a completely revised bill for the Mental Health Act which includes ways to reduce the range of mentally-ill persons and strengthen the screening of the conditions for involuntary hospitalization and of the propriety of hospitalization. Currently, the bill is pending in the National Assembly. Meanwhile, in April 2014, the Ministry of Justice put forward the partly amended Protection of Personal Liberty Act, which introduces a protection officer who checks for persons unlawfully detained in facilities such as mental hospitals and helps them be released. This bill is also currently pending.

According to the National Mental Health Commission’s 2012 report, among the 80,569 patients accommodated at mental health facilities, 75.9%, or 61,128 persons, were hospitalized involuntarily. Forced hospitalization rate in Korea is higher than that of other advanced countries which is lower than 20%, e.g., 17.7% in Germany,

13.5% in the UK, and 12.5% in France, and its average hospitalization period of 247 days is longer than that of other nations, e.g., 52 days in the UK, 35.7 days in France, and 26.9 days in Germany (para.150-151).

Question

What measures are being prepared in order to prevent the abuse or misuse of involuntary hospitalization system for mentally-ill people?

Article 10

14. Correspondence Censorship

The Government states in the report that it decided not to censor correspondences in principle (para. 175).

However, Article 43 of the Act on the Execution of Criminal Penalties and the Treatment of Inmates includes escape clauses that allow censorship when there are concerns about undermining the inmates' reform or their sound return to society, concerns about harming safety and order, or information conflicting with criminal statute. Such grounds are mostly abstract, having the potential to invite arbitrary decisions by prison officers. The NHRCK, thus, recommended the Minister of Justice in 2010 to amend the Act in a bid to specifically state the grounds of censoring convicts' correspondences and disapproving their reception and transmission; to amend the regulations; to fully guarantee the human rights of convicts; and to make and distribute related manuals and use them for education.

Question

Does the Government plan to modify the rules and regulations so as to prevent arbitrary censorship?

15. Improving Medical Treatments for Inmates

The Government states that it is improving medical treatments within detention facilities, for example, by providing yearly health checkups, remote medical examinations, and medical prisons(para. 180-182).

The Act on the Execution of Criminal Penalties and the Treatment of Inmates stipulates that inmates shall use internal medical facilities, in principle. In order to receive treatment in external medical facilities, they have to receive permission from the head of the facilities(Article 37, 38). According to the 2014 report by the Ministry of Justice, 36.5% of the inmates have fallen sick over the past five years. There are 128 doctors in detention facilities, as of October 2014, which means that one doctor treats, on average, 142 patients a day. For the past five years, 105 inmates died due to acute myocardial infarction and to sudden cardiac deaths among an yearly average of 31,878 inmates in total.

On December 23, 2011 the NHRCK recommended to dispatch full-time psychiatrists and psychiatric health nurses to improve medical treatment conditions for mentally-ill inmates in detention facilities and to come up with related process guidelines. The NHRCK also recommended to provide recurrence prevention measures regarding a case in which an inmate died of liver disease in 2013 at the Jeonju Correctional Institution.

Question

What efforts have the Government taken to improve medical treatment conditions for inmates and what plans does the Government have?

Article 14

16. Military Courts and Other Judicial Systems within the Military

At present, each division of the military has a department of justice that is superintended by the division commander. The military prosecutor's office and the general military court is installed within the department of justice. Article 11 of the Act on the Organization of National Armed Forces stipulates that a head of a unit or an agency of each service of the Armed Forces shall direct and supervise his unit or agency by order of the chief of the superior unit or agency under the formation regulations or the system of direction and supervision, which makes it possible for the court and prosecutor of the unit's department of justice to be directly or indirectly influenced by the division commander.

The military police is the primary investigative organization in the military. It is usually formed as a unit linked directly under the divisions and the provost marshal directly reports to the division commander on matters of criminal cases. The division commander is the commander of the military court jurisdiction and has the power of mitigation over the military court's verdict, so there are concerns regarding the compromise of the independence of judiciary (para 221).

Question

What are measures to establish the independence of judiciary in the existing military court system?

Article 16

17. The Disability Rating System

The Government has been dividing disabled persons into six classes according to the Act on Welfare of Persons with Disabilities and has been providing welfare benefits accordingly. The Disability Rating System has the inherent problem of providing uniform services according to disability class, thereby not being able to provide services tailored to the actual circumstances of the disabled individuals.

In Korea, disability is rated only by medical factors. The ICF (International Classification of Functioning, an international functioning, disability and health standard established by the WHO and used by many countries when rating disability levels) standard, which takes into consideration the actual circumstances of each individual, is not applied when rating the level of disability.

In early 2014 the Ministry of Health and Welfare established a Comprehensive Disability Evaluation System Reform Task Force comprised of academia, government officials and members of the disability community to abolish the Disability Rating System.

Questions

How does the Comprehensive Disability Evaluation System (which the Government is providing as an alternative solution) differ from the existing Disability Rating System?

What plans do the Korean Government have to abolish or amend the problems of the Disability Rating System and ensure the practical rights of the disabled according to each individual's circumstances?

Article 17

18. Regarding Communication Confirmation Data and Communication Data

According to the Protection of Communications Secrets Act, investigative agencies require permission from the court in order to verify information on communication, but the court is giving broad permission in instances deemed “necessary for investigation,” leading to real-time provision of location information on the target’s cell phone or internet device. Furthermore, the police has recently been utilizing the so-called “base station investigations” in which they are provided with every call history that was received by base stations. In 2014, the NHRCK advised the Minister of Science ICT and Future Planning to make permissions for obtaining communication confirmation data more strict.

Communication data refers to information of telecommunications service users that includes personal information such as names and addresses. According to the Telecommunications Business Act, investigative agencies do not need permission from the court to request communication data. Instead, information can be obtained after submitting a written request that covers the reason for request, association with the user and the scope of needed information. The NHRCK has recommended to amend the Act so that communication data be included in the communication Confirmation data thereby requiring permission from court to obtain it (para 240-243).

Questions

Does the Government, as recommended by the NHRCK, have plans to implement a stricter requirement standard to impose on intelligence/investigation agencies when requesting the provision of communication verification data and location data?

Does the Government have plans to accept the NHRCK recommendation regarding the request for communication data and modify related laws, such as making court permission mandatory, accordingly?

19. Regarding the Resident Registration Number

In Korea, a resident registration number is issued at birth which is valid until death, but problems of leakage have been arising. During the 2008 UPR evaluation, the UNHRC recommended the Korean government to “limit the uses of registration numbers to those strictly necessary for the provision of public services”(provision 64-13) and the NHRCK also recommended in 2014 to limit the use of resident registration numbers.

However, the Government is not fully accepting this recommendation. Although the Government is gradually prohibiting the on-line and off-line use of resident registration numbers that do not have a legal basis for usage, many laws that allow the on and off-line use of resident registration numbers are appearing. This includes matters such as verifying the grounds for disqualification when evaluating the executives of institutions, declaring or registering businesses, issuing various qualification certificates or processing financial services. As of November 2014, there were over 1,000 laws that allowed the use of resident registration numbers (para.253-255).

Question

Does the Government have plans to accept the recommendations of the NHRCK?

Article 18

20. Regarding the Punishment of Conscientious Objection to Military Service

According to the Analytical Report on Conscientious Objection to Military Service published by the UNHRC in 2013, among the 723 conscientious objectors imprisoned in the world in 2012, 669 (92.5%) were Koreans. According to the Military Manpower Administration data, as of June 13, 2013, 6,090 people had objected to military service for reasons of religion or personal belief during the last ten year period. Among them, 5,695 (93.5%) objectors' sentences were confirmed and 5,669 (93.1%) were imprisoned.

Bills to implement an alternative service system for conscientious objectors were submitted twice in 2004 during the 17th session of the National Assembly (2004-2008), but both were discarded after the session expired in 2009. During the 18th session (2008-2012), bills to attempt the implementation of the alternative service system for conscientious objectors were submitted again on two occasions but were also discarded after the session expired in 2012. During the current 19th session, another bill to implement the alternative service system was submitted in 2013 and is currently pending (para. 264-270).

Question

Does the Government have plans to acknowledge the right of Conscientious Objection to Military Service and to implement an alternative service system?

Article 19

21. The Increase of Imprisonment on Suspected Violations of the National Security Act

The Government reports that the National Security Act is being strictly applied, leading to the retention of the number of imprisonment levelling off, which had previously been on a downward trend since 2005 (para. 286).

According to the data provided by the Supreme Prosecutor's Office, the number of people charged for violating the National Security Act was 64 (17 imprisoned) in 2007, 46 (16 imprisoned) in 2008, 56 (18 imprisoned) in 2009, 97 (32 imprisoned) in 2010, 90 (19 imprisoned) in 2011, 112 (26 imprisoned) in 2012 and 129 (38 imprisoned) in 2013 and 57 (7 imprisoned) in 2014. According to the data provided by the National Police Agency, among 90 people of 103 were apprehended from 2013 January to September, and, in 2012, among 95 of 109 people were arrested on the grounds for violating Article 7 (Praise, Incitement) of the National Security Act, which is a controversial article in that it may infringe on human rights such as freedom of thought and conscience.

In 2004, the NHRCK recommended the abolishment of the National Security Act on the grounds that it violates the principle of legality and that it is an anti-human rights law that may infringe on human values and dignity such as freedom of thought, conscience and expression. As of 2015, however, this Act is still in effect.

Question

Does the Government have plans to abolish or amend the National Security Act, especially Article 7, so that it does not excessively restrict an individual's freedom of thought and conscience?

22. The Review of Acts of Expression on the Internet by Administrative Agencies

Since cyber crime and violence is increasing due to active Internet usage, the Government newly established an Individual Identification System in order to secure user responsibility as well as provide measures for remedies against damages (para 288).

In 2010, the NHRCK advised to stop the Korea Communications Standards Commission's review of acts of expression on the Internet and illustrated the need to transfer the current review function of the Korea Communications Standards Commission to a civil independent organization free of unfair political, commercial and other influences. After a mission to Korea in 2010, a UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression remarked during his 2011 visit and in his investigation report that freedom of expression on the Internet is not ensured in Korea.

Questions

Does the Government have measures for institutional improvement regarding reviews on acts of expression on the Internet in order to widely ensure freedom of expression?

Does the Government have plans to accept the recommendation of the NHRCK to stop the government agencies from reviewing acts of expression on the Internet and to transfer the current review function to a free civil independent organization?

Article 21

The Government reports that it is taking measures such as imposing legal liabilities against illegal and violent assemblies in accordance with the Assembly and Demonstration Act. This act includes obligations to report assemblies, prohibiting illegal and violent assemblies or demonstrations, banning open-air assemblies and requiring certain conditions to maintain traffic order during the assembly (para. 297).

23. The Use of Force at the Scene of Assemblies

The Government reports that the initially peaceful assemblies are gradually becoming systematically organized which is leading to injured police, severely injured civilians and property damages (para 300).

During peaceful assemblies including the 2008 candlelight vigil, the police infringed upon demonstrators' human rights by violently cracking down the vigil and, in turn, injuring some demonstrators. In response, the NHRCK advised the Minister of Administration and Security to give warning to the then Commission-General of the National Police Agency for responsibility of supervision and advised the Commission-General of the National Police Agency to strictly adhere to the defense-oriented security principle which prioritizes safety of life and body of the people to prevent recurrences of human rights violations at rallies.

Question

What institutional measures for improvement does the Government seek to prevent human rights infringements that are caused by the police's excessive use of physical force at rallies?

24. Restricting Rallies through Car Blockades

Car blockades (blocking assembly areas by parking police buses without any space even for passage) were used in order to block street marches or assembly areas. In recent years, this method is used not only for unreported assemblies but also for reported ones. Car blockades have become a routine regulation method for restricting or blocking passage according to the situation. Even if certain areas are allowed for passage, car blockades surrounding the rallies separate citizens from demonstrators.

Regarding the blockade of passage by using police buses to surround the Seoul Plaza ordered by the Commissioner-General of the National Police Agency on June 6, 2009, the Constitutional Court ruled that the blockade was unconstitutional as it prohibited all assemblies that could have taken place at the Seoul Plaza and that it was a broad, extensive and excessive action that banned even the passage of citizens.

Question

What measures does the Government have to resolve excessive restrictions on the right to assembly and demonstrate by car blockades, etc?

Article 22

25. Rights to Organize of Public Officials and Teachers

The Government reports that, based on article 33.2 of the Constitution it grants public officials with limited basic labor rights given that they serve the entire public and are required to have publicness and neutrality in performing duties. Teachers' right to collective action is also partially restricted given that their duties are public

services that require high ethical standards, neutrality, professionalism and a lock-out upon a teachers' strike is impossible(para. 311, 315).

However, the Government continues to reject the application to establish the Korea Government Employee's Union, or KGEU, pursuant to the Act on Establishment and Operation of Trade Union of Public Officials. In August 2013, the Ministry of Labor and Education rejected the application for establishing the KGEU on grounds that the KGEU acknowledged laid-off workers as its members and allowed grade six public officials in charge of supervising positions to join. In response, the International Labor Organization carried out an emergency intervention(ILO TUR 1-145/1-145-3) in August 2013, recommending to accept the application for the establishment of the KGEU.

On October 24, 2013, the Government, pursuant to provisions of the Act on Establishment and Operation of Trade Union of Teachers, notified the Korea Teachers and Educational Workers' Union that it is "not a trade union" because it did not exclude nine laid-off workers from union activities and did not implement the order to correct its regulation.

On September 30, 2010, the NHRCK recommended to the Minister of Labor to delete related provisions in the Trade Union and Labor Relations Adjustment Act, which denies laid-off workers and unemployed persons membership of trade union. In addition, the NHRCK made recommendations to resolve the issue of not acknowledging a trade union that possesses a registration document if it does not implement orders to correct factors for disqualification. The NHRCK announced a statement on October 22, 2013 that recommends the Ministry of Employment and Labor to withdraw the notification under which the Korean Teachers and Educational Workers' Union is not acknowledged.

Question

Is the Government considering making amendments to related domestic legislations including the Act on Establishment and Operation of Trade Union of Public Officials and the Act on Establishment and Operation of Trade Union of Teachers in a way that conforms to the guarantee of full labor basic rights of public officials suggested by the ILO and international labor standards?

Article 24**26. Protection of Children from Abuse**

The Government Report elaborates on the Government's action taken to protect children from child abuse(para. 336-337). It is encouraging that the Act on Special Cases Concerning Punishment for Child Abuse Crimes was enacted and took effect in September 2014. However, with lack of infrastructure for prevention of child abuse and protection for victims, questions are arising on the effectiveness of the Act.

According to the Ministry of Health and Welfare, after the Act on Special Cases took effect the number of reports on child abuse has increased by 55.2% compared to one year before implementation of the Act, and experts are expressing concerns that the number of institutions specializing in child protection which deal with post-management including investigation on scenes of child abuse and psychotherapy for victims is 50, equaling one institution for 200,000 children(compared to one institution for 100,000 children in the US) and one consultant is in charge of 22,882 children(compared to 2,268 children for one consultant in the US). Even though the Government plans to establish six additional child protection institutions, experts

point out the number of child protection facilities should be increased to 100, and the number of consultants at one institution from the current eight to at least 15.

Question

What measures does the Government have to substantially expand infrastructures to protect children from abuse?

27. Universal Birth Registration System

According to the Act on the Registration, Etc. of Family Relationship, the birth of a child born within wedlock shall be reported by the father or the mother, and the birth of a child born out of wedlock shall be reported by the mother, and in cases where parents are unable to file such reports, relatives living together, the doctor, the midwife or any other persons involved in the delivery shall file the report(para. 360).

In response, the UN Committee on the Rights of the Child in 2011, and the UN Committee on the Elimination of Racial Discrimination and UPR of the UN Human Rights Council in 2012, recommended the introduction of a universal birth registration system for every child born in Korea.

Question

What are the position and plans of the Government regarding the introduction of a universal birth registration system?

28. Guarantee of Rights to Education and Medical Care for Migrant Children

In 2011 the NHRCK advised that migrant children should have guaranteed access to education and medical care regardless of their parents' legal status of residence and

established the Human Rights Guidelines on Migration to advise relevant institutes to guarantee children of undocumented immigrants access to education and medical care.

The Framework Act on Treatment of Foreigners Residing in the Republic of Korea in 2007 stipulates that the state and local governments should make every effort to carry on education and public relations activities or take other necessary measures to prevent unreasonable discriminations against and protect the human rights of foreigners, marriage migrants, or their children residing in Korea. In addition, a master plan for policies on foreigners was formulated to ease discrimination against foreigners residing in Korea (para. 378-381). However, the foreigners residing in Korea defined by the Act is only limited to legally residing foreign nationals and does not cover undocumented immigrants and their families who are illegally staying in Korea. The State Report does not describe how the Government would prevent discrimination against undocumented immigrants and their families.

Question

What improvement measures is the Government preparing in order to enhance the migrant children's access to education and medical care?

Article 25

29. Guaranteeing the Right to Vote of Persons with Disabilities

The Government reports on measures to guarantee the right to vote of persons with disabilities including the installation of voting boxes that accommodates persons with disabilities and providing convenient facilities for voting (para. 374).

However, while article 27 of the Act on the Prohibition of Discrimination Against Disabled Persons, Remedy Against Infringement of Their Rights, Etc. stipulates that the state and local governments, candidates for public election, and political parties shall not discriminate against disabled persons when they exercise their political

rights, the Public Official Election Act does not specify detailed measures for the exercise of political rights of persons with disabilities.

In 2010, the NHRCK expressed opinions to amend the Public Official Election Act to guarantee the right to vote of persons with visual disabilities by mandating the creation of campaign bulletin in braille, and recommended the National Election Commission to devise customized balloting methods for persons with different types of disabilities so that persons with disabilities vote for themselves.

Regarding persons with mental disabilities, the NHRCK conducted a survey on the human rights situation of mentally disabled persons residing in mental health facilities, where 81% of respondents answered that they could not exercise their right to vote at the June 4th local elections. It also turned out that despite the fact that, pursuant to the Constitution and Public Officials Election Act, rights to vote has to be guaranteed unless the disabled persons are under adult guardianship, official documents related to election that were distributed to mental health hospitals by the National Election Commission were not delivered to persons with mental disabilities in mental health facilities.

Question

Is the Government preparing detailed improvement measures to guarantee the right to vote of persons with disabilities? What are the contents of such measures?

30. Voting Age

The State Reports states that due to the amendment to election related legislations in 2005, voting age has been lowered from 20 to 19(para. 365). Lowering the voting age to 19 is encouraging, but some people argue that in order to aggressively guarantee peoples' right to vote, voting age has to be further lowered to 18.

In 2013, the NHRCK expressed an opinion that, given that the age with political judgment ability is becoming younger, and other legislations encourage people older than 18 to participate in the development of state and society including military service and public office and, as of 2011, more than 90% of the world has set the voting age at lower than 18, it is desirable to review lowering voting age stipulated under the current legislations including the Public Official Election Act.

Question

With many countries setting the voting age at under 18 and actively planning to further lower the voting age does the Government plan to lower the voting age from 19?

31. Guarantee of Rights to Vote of Prisoners

In the Constitutional Court's decision, it was ruled that the provision of the Public Officials Election Act, which entirely and uniformly restricts the right to vote of persons under probation, is unconstitutional as the provision violates the right to vote, universal suffrage, and the principle of equality. Accordingly, the right to vote of persons under probation was acknowledged.

In the same decision, the Constitutional Court ruled that restricting the right to vote of prisoners who are sentenced to penal servitude or imprisonment without labor for a limited term, of which execution has not ended, is unconstitutional as it excessively, entirely and uniformly limits the right to vote. However, the Constitutional Court decided that since legislators have discretion on sentencing, the provision applies until it is amended by the legislative until December 31, 2015.

Question

Are the related legislation processes to guarantee the right to vote of prisoners underway, after the decision of the Constitutional Court? What are the contents? If prisoners' rights to vote is partially acknowledged, what is the standard?