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Human Rights Committee

Consideration of reports submitted by States parties under article 40 of the Covenant

Fourth periodic reports of States parties due in 2010

Republic of Korea*

[19 August 2013]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document has not been formally edited.

Contents

I. Introduction

1. The Republic of Korea, as a State party to the International Covenant on Civil and Political Rights (hereinafter referred to as "the Covenant"), hereby submits its fourth periodic report pursuant to article 40, paragraph 1, of the Covenant. Taking into account the consolidated guidelines for State reports under the International Covenant on Civil and Political Rights (CCPR/C/66/GUI/Rev.2), this fourth report describes measures taken by the Government in the implementation of the Covenant as well as the progress achieved during the period from 2004 to 2010, including updates on the points raised by the Human Rights Committee in its 2006 concluding observations (CCPR/C/KOR/CO/3).

A. Establishment of the Human Rights Bureau in the Ministry of Justice

2. In May 2006, the Human Rights Bureau was established in the Ministry of Justice, with mandates covering the formulation and implementation of national human rights policy, such as the National Action Plan for the Promotion and Protection of Human Rights, tasks related with international human rights obligations, investigation and system reform with regard to human rights infringement in the course of law enforcement, protection of crime victims along with legal aids for them, and human rights education.

3. Special attention is placed on the prevention of human rights violations in the process of law enforcement such as investigation, corrections, protection and immigration. Accordingly, the Human Rights Violation Hotline Center was established, which takes preventive measures in this regard, investigates cases of violation, and provides remedial measures for victims.

B. National Action Plan for the Promotion and Protection of Human Rights

4. In May 2007, the National Action Plan for the Promotion and Protection of Human Rights was launched for the five-year period from 2007 to 2011. As the country's first comprehensive plan on human rights policy, the National Action Plan was aimed at improving laws, systems, and practices pertaining to human rights in the fields of civil and political rights, economic and social rights, protection of vulnerable groups and minorities, international human rights obligations and relevant cooperation, and human rights education. International human rights norms and the recommendations of United Nations treaty monitoring bodies are duly respected.

5. The National Human Rights Policy Council, chaired by the Minister of Justice with participation of vice-ministerial level members of relevant government agencies, adopts the National Action Plan and monitors its implementation. The Ministry of Justice, as the lead agency, is responsible for monitoring the implementation, the results of which it annually reports to the Council then is later made public. The annual 'status of National Action Plan implementation' for the years 2007, 2008, and 2009 were reported and published in the form of booklets in 2008, 2009 and 2010, respectively, which were distributed to the general public and government agencies.

C. Dissemination of the Covenant

6. In its consideration of the third periodic report of the Republic of Korea, the Committee urged the Republic of Korea to make the Committee's concluding observations

available in the Korean language and to publish and widely disseminate them to the general public, as well as to the judicial, legislative, and administrative authorities (CCPR/C/KOR/CO/3, para. 21).

7. The Human Rights Bureau of the Ministry of Justice, the Ministry of Foreign Affairs and Trade, and the National Human Rights Commission of Korea publicize the Covenant and the Committee's concluding observations on their web pages and through the press. To raise the government employees' awareness of the Covenant, related information is included in the education courses of government agencies and of training institutes for civil servants.

D. Human rights education

8. The Committee expressed its concern that the efforts made by the Republic of Korea to raise public awareness of human rights set out in the Covenant are limited, and thus recommended the integration of human rights education into primary, secondary, higher and vocational curricula and, in particular, in the training programs of law enforcement officials (CCPR/C/KOR/CO/3, para. 20).

Human rights education contained in the National Action Plan

9. Human rights education is an integral part of the National Action Plan, which takes full account of its importance for the promotion and protection of human rights. Tasks related to human rights education at school and lifelong education facilities and human rights education for government officials and other personnel, for underprivileged groups and minorities, for entrepreneurs, journalists, and for the general public are contained in the fifth chapter of the National Action Plan.

Human rights education for government employees

10. To enhance human rights awareness among government employees, the Ministry of Public Administration and Security issued the 2010 Civil Servant Education Guidelines which requires each government agency and training institute to conduct human rights education. In addition, assessment on human rights education courses, as part of annual evaluations of education and training institutes for civil servants, is expected to contribute to the promotion of human rights education.

Number of civil servants receiving human rights education by year

Year	*2009*	*2010*
At education and training institutes	724,867	144,802
Through workplace education in government agencies	299,351	741,065

11. The National Human Rights Commission of Korea has continuously worked to enhance awareness on human rights education for public sector employees. Workshops for personnel responsible for course planning at education and training institutes helped them launch human rights education courses in addition to seminars with participation of human rights experts. The Commission has also developed materials for human rights education targeting the military, police, social workers, legislature, and judiciary in an effort to promote human rights education and enhance human rights sensitivity.

Education related to the Covenant provided by the National Human Rights Commission of Korea for government agencies by year

(Number of sessions and participants)

	Education courses		*Cyber education*		*On-site programs*		*Special lectures*		***Total***	
Description	*Sessions*	*Persons*	*Sessions*	*Persons*	*Sessions*	*Persons*	*Sessions*	*Persons*	***Sessions***	***Persons***
2004	5	150	-	-	20	1,200	44	3,957	**69**	**5,307**
2005	8	247	1	242	12	655	76	6,745	**97**	**7,889**
2006	11	352	7	623	27	849	116	9,727	**161**	**11,551**
2007	12	375	11	6,325	45	1,650	350	36,107	**418**	**44,457**
2008	20	809	20	11,210	59	1,875	566	39,764	**665**	**53,658**
2009	6	225	45	12,930	101	2,956	351	26,392	**503**	**42,503**
2010	8	202	65	10,538	88	1,726	279	22,249	**440**	**34,715**
Total	**70**	**2,360**	**149**	**41,868**	**352**	**10,911**	**1,782**	**144,941**	**2,353**	**200,080**

Human rights education for law enforcement officials

12. In 2007, the Ministry of Justice launched human rights education program targeting law enforcement officials working in prosecution, protection, correction, and immigration control with the aim of enhancing their human rights sensitivity. The Ministry plans to replace various human rights courses scattered across education programs with comprehensive, systematic, and independent programs, which includes sessions on human rights sensitivity and human rights instructor training, as part of its effort towards more effective human rights education. Further information on human rights education for law enforcement officials at detention facilities regarding prevention of torture and inhumane treatment is provided in paragraph 138.

Human rights sensitivity education for law enforcement officials

(Number of sessions and participants)

Year	*Sessions*	*Participants*
2007	59	2,067
2008	78	2,452
2009	83	2,765
2010	70	2,120

13. The Judicial Research and Training Institute, which is responsible for training those entering the legal profession, offers courses on international human rights law including the Covenant.

Human rights education in Schools

14. In 2007, 20 agencies involved in children's human rights education, including national government authorities and local offices of education, organized the "School Human Rights Education Council" as a cooperation mechanism among themselves. The Government supports pilot human rights education programs at schools, designates hub universities specializing in human rights education research, and expands human rights curricula in universities. In 2009, memorandums of understanding were entered into between hub human rights education research universities and the National Human Rights Commission of Korea, and campaigns for promoting human rights supportive culture at

campuses were carried out. As of 2009, 50 human rights curricula were in operation at 17 national and public universities.

15. Human rights education programs at schools targeting teachers and students, provided by the National Human Rights Commission of Korea, entails special lectures on the students' civil and political rights, right of equality, and right to participation; courses on the Convention on the Rights of the Child; workshops and training courses on promoting human rights supportive environment at schools; and cyber courses to promote understanding of human rights, the Convention on the Rights of the Child and discriminations. Follow-up surveys show 80 to 90% of recipients were satisfied with the courses.

E. Compliance of counter-terrorism legislation with the Covenant

16. In its consideration of the third report of the Republic of Korea, the Committee took note of the draft counter-terrorism laws that were before the Legislation and Judiciary Committee of the National Assembly. It recommended that the Republic of Korea should ensure the conformity of all counter-terrorism and related legislative measures with the Covenant and especially the strict conformity of the national rules concerning the interception of communications, searches, detention, and deportation with the relevant Covenant provisions. The Committee also recommended that the Republic of Korea should introduce a definition of "terrorist acts" in its domestic legislation (CCPR/C/KOR/CO/3, para. 9).

17. The draft counter-terrorism laws mentioned at the time of consideration of the third report were scrapped with the expiration of the 16th session of the National Assembly on 29 May 2004. The 17th session of the National Assembly witnessed introduction of three draft laws on terrorism including the draft Act on Prevention of and Response to Terrorism. All were dropped entirely due to the expiration of the session on 29 May 2008.

18. At the 18th National Assembly, the draft Basic Act on State Counter-Terrorism Activities and the draft Act on Prevention of and Response to Terrorism were proposed. Both bills contain the definition of the act of terrorism, identified as crimes in international and domestic laws. They also provide strict procedures designed to prevent violations of basic human rights in counterterrorism measures. Proper discussion is expected to be held with regard to the definition of the act of terrorism and state responsibility to protect human rights in the course of counterterrorism measures.

19. As of 2010, the Republic of Korea has no legislation on counter-terrorism, but the Guidelines on State Counter-Terrorism Activities exist as an administrative regulation. The definition of terrorist acts in the Guidelines is in accordance with international law, including the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents and the International Convention against the Taking of Hostages. In addition to basic direction on counter-terrorism measures, the establishment and operation of counterterrorism agencies including the Terrorism Information Integration Center, on-site command headquarters, and counter-terrorism squads is also regulated. However, it does not contain any provision on searches, detention, and deportation.

F. Work of the National Human Rights Institution

20. As explained in the third report, the National Human Rights Commission of Korea, established according to the Paris Principles, undertakes investigations, research and surveys, issues opinions, and works on complaints in the field of human rights

(CCPR/C/KOR/2005/3, paras. 4-9). A total of 43,232 complaints had reached the Commission by 2010 since its launch in November 2001, of which 33,799 complaints (78.2%) concerned human rights violations, 5,380 complaints (19.3%) discrimination, and 1,790 complaints (2.5%) other issues. The number of cases involving human rights violations and discriminatory acts handled by the Commission has been on the steady rise since 2005.

Complaints Handling by the National Human Rights Commission of Korea

(Number of cases)

Description	*Decisions*	*Institutions*	***Total***	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Total			**43,232**	**5,807**	**5,391**	**4,289**	**6,070**	**6,484**	**6,793**	**8,398**
Human rights violations	**Subtotal**		**33,799**	**4,933**	**4,168**	**3,264**	**4,761**	**5,299**	**5,112**	**6,262**
	Accepted	**Subtotal**	**1,911**	**147**	**280**	**221**	**243**	**319**	**369**	**332**
		Police	**728**	66	76	107	99	101	174	105
		Welfare facilities	**373**	5	35	34	38	78	65	118
		Correctional Facilities	**262**	41	45	24	43	44	45	20
		Other state agencies	**207**	16	83	15	11	27	40	15
		Local governments	**144**	6	16	16	32	30	17	27
		Prosecutors Office	**65**	8	10	8	11	18	5	5
		Military	**48**	3	4	10	9	12	3	7
		Schools	**16**	-	-	-	-	-	2	14
		Special judicial police	**13**	-	5	2	-	2	2	2
		Judicial authorities	**7**	-	1	1	-	-	1	4
		Legislative authorities	**5**	-	-	-	-	-	-	5
		National Intelligence Service	**4**	1	1	-	-	2	-	-
		Others	**39**	1	4	4	-	5	15	10
	Rejected or others	**Subtotal**	**31,888**	**4,786**	**3,888**	**3,043**	**4,518**	**4,980**	**4,743**	**5,930**
		Police	**6,723**	692	792	673	1,099	984	1,150	1,333
		Welfare Facilities	**3,143**	94	170	147	329	689	592	1,122
		Correctional facilities	**13,046**	2,071	1,914	1,453	1,852	2,003	1,858	1,895
		Other state agencies	**3,804**	1,513	461	386	348	360	288	448
		Local governments	**1,564**	96	170	122	364	386	166	260
		Prosecutors Office	**1,247**	175	201	123	216	195	127	210
		Military	**567**	73	77	59	75	69	75	139
		Schools	**149**	-	-	-	-	-	1	148
		Special judicial police	**105**	23	30	11	6	21	8	6
		Judicial authorities	**485**	35	58	56	54	89	41	152
		Legislative authorities	**36**	8	2	1	9	3	3	10
		National Intelligence Service	**123**	6	13	11	40	21	17	15
		Protection facilities	**1**	-	-	-	-	-	-	1
		Others	**895**	-	-	1	126	160	417	191

Description	*Decisions*	*Institutions*	***Total***	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Discriminations	**Subtotal**		**8,355**	**369**	**842**	**968**	**1,255**	**1,150**	**1,661**	**2,110**
	Accepted	**Subtotal**	**953**	**26**	**63**	**210**	**154**	**126**	**165**	**209**
		Juridical persons of private law	**228**	-	6	32	36	32	46	76
		Educational institutes	**132**	9	10	23	17	27	14	32
		Other state agencies	**130**	8	14	33	28	17	19	11
		Local governments	**122**	5	10	39	20	10	18	20
		Public institutions	**66**	2	2	13	18	9	11	11
		Private companies	**65**	-	1	5	11	11	21	16
		Private individuals	**39**	-	-	3	7	7	9	13
		Police	**37**	-	15	7	2	1	9	3
		Organizations	**20**	1	1	5	7	1	-	5
		Prosecutors Office	**10**	-	1	1	2	-	6	-
		Correctional facilities	**6**	1	1	1	-	1	-	2
		Military	**6**	-	-	2	1	2	-	1
		Protection facilities	**3**	-	1	1	-	1	-	-
		Others	**89**	-	1	45	5	7	12	19
	Rejected or others	**Subtotal**	**7,402**	**343**	**779**	**758**	**1,101**	**1,024**	**1,496**	**1,901**
		Juridical persons of private law	**1,677**	49	145	143	255	225	418	442
		Educational institutes	**921**	39	75	95	188	137	215	172
		Other state agencies	**1,780**	106	292	247	244	201	237	453
		Local governments	**876**	27	77	103	159	123	179	208
		Public institutions	**501**	46	56	65	62	69	101	102
		Private companies	**291**	7	12	14	50	52	61	95
		Private individuals	**358**	5	7	8	16	50	104	168
		Police	**197**	9	36	18	23	14	28	69
		Organizations	**119**	1	13	5	11	19	23	47
		Prosecutors Office	**75**	12	12	2	14	20	9	6
		Correctional facilities	**137**	37	39	19	-	10	15	17
		Military	**78**	1	7	7	24	12	14	13
		Protection facilities	**11**	-	-	2	1	2	4	2
		Others	**381**	4	8	30	54	90	88	107
Others	**Subtotal**		**1,078**	**505**	**381**	**57**	**54**	**35**	**20**	**26**
	Accepted		**22**	10	11	-	1	-	-	-
	Rejected or others		**1,056**	495	370	57	53	35	20	26

21. Since it joined the International Coordinating Committee (ICC) of the National Institutions for the Promotion and Protection of Human Rights in 2004, the National Human Rights Commission of Korea has maintained A status accreditation with regard to independence and effectiveness of national human rights institutions. In addition to serving as chair of the Asia-Pacific Forum of National Human Rights Institutions, the Commission served as vice-chair of the ICC from 2007 to 2009, and is an Asia-Pacific member of the ICC Sub-Committee on Accreditation under the Committee.

G. Effect of the Covenant and cases in which it has been invoked in trials

22. As explained in the third periodic report, the Covenant has the same effect as domestic law under the Constitution. All draft legislation is placed under review to ensure compliance with international treaties of which the Republic of Korea is a party, including the Covenant. Such procedure leaves little room for the enactment of legislations in conflict with the Covenant (CCPR/C/KOR/2005/3, para. 11). If an enacted legislation is in conflict with the Covenant, such legislations will lose the effect upon the ruling of unconstitutionality by the Constitutional Court because most rights under the Covenant are guaranteed as basic rights under the Constitution. Meanwhile, the Committee on Economic, Social and Cultural Rights, at its consideration of the Republic of Korea's third periodic report in November 2010, reiterated its concern on the exclusive application of the Constitution to citizens. In this regard, the Constitutional Court of Korea ruled in several decisions (99 HUN-MA 494, 2004 HUN-MA 570, 2003 HUN-BA 51) that foreigners are also entitled to basic rights under the Constitution, with exceptions such as suffrage.

23. Ratified international human rights treaties are invoked as judicial sources for judgment. The cases in which the Covenant was invoked in judgments are as follows:

24. With regard to article 13 (2) of the former Labor Dispute Adjustment Act on prohibition of involvement by a third party, the Supreme Court ruled on 13 November 2008 that it limited the freedom of expression guaranteed by the Covenant (article 19 (2)) and the Annex of the Constitution of the International Labour Organization, but that it was not deemed in conflict with article 19 of the Covenant or the said Annex, given the legislative purpose of such limitation and article 19 (3) of the Covenant, which also provides for certain restrictions on freedom of expression by law when necessary for the maintenance of public order and other reasons. (2006 DO 755).

25. On 16 December 2004, the Constitutional Court ruled that absolute denial of physical exercise of prisoners who are subject to disciplinary action for misconduct is unconstitutional, since it violates the human dignity and worth stipulated in article 10 of the Constitution and the right to liberty including security of person provided in article 12 (2002 HUN-MA 478) by employing excessive means and method of discipline even if the purpose of such disciplinary action is acceptable. In this ruling, the Court referred to articles 10 and 7 of the Covenant, which manifest universal respect for the fundamental human dignity, and declared that basic human dignity and value of inmates is not to be infringed, even when a disciplinary action is required for their misconduct.

H. Individual Communications and endeavors for implementation of the Views

26. In its consideration of the third report, the Committee was concerned about the absence of domestic measures giving effect to the Views on Communications adopted by the Committee. It recommended that the Republic of Korea proceed to give effect to them (CCPR/C/KOR/CO/3, para. 7).

27. Since the submission of the third report, decisions on individual communications under the First Optional Protocol to the International Covenant on Civil and Political Rights were made with regard to cases involving Chung Eui-min and ten others (Communications Nos. 1953/2007-1603/2007), Shin Hak-cheol (Communication No. 926/2000), Kim Jong-cheol (Communication No. 968/2001), Lee Jeong-eun (Communication No. 1119/2002), and Choi Myung-jin and Yoon Yeo-beom (Communications Nos. 1321/2004 and 1322/2004). Individual communications by 100 persons including Chung Min-gyu (Communications Nos. 1642/2007~1741/2007), individual communications by 387 persons

including Kim Jong-nam (Communication No. 1786/2008), and a deportation case (Communication No. 1908/2009) are under review by the Committee.

28. Setting apart the dismissed case of Kim Jong-cheol, the above-mentioned cases concern either the National Security Act (cases of Lee Jeong-eun and Shin Hak-cheol) or conscientious objection to military service (cases of Choi Myung-jin/Yoon Yeo-beom and Chung Eui-nin and others). The Committee's decisions on all these cases contradict the final and conclusive judgments by domestic courts, but the views of the Committee cannot nullify such judgments. Unless the National Assembly takes a legislative measure, it is hard to provide effective domestic remedies with regard to such cases within the current framework of the Constitution.

29. Meanwhile, concerning the follow-up measures required when a violation is acknowledged by the Committee in the View, the Government established the "Task Force on individual communications" in June 2006, with the participation of the Ministry of Justice, the Ministry of Foreign Affairs and Trade, the National Court Administration, and the National Human Rights Commission of Korea. The Task Force examined individual communications filed against the Government, the effective and reasonable follow-up measures to implement the Committee's views, and the challenges arising during the implementation. In addition, on 18 September 2007, the Ministry of Justice held a public hearing on ways to domestically implement the views on individual communications in order to collect opinions from the legal and academic communities as well as domestic NGOs. By conducting a comparative analysis of merits and demerits of proposals put forward and by consulting applicable cases concerning other countries, the Government exerts its utmost efforts to devise reasonable methods to implement the views presented by the Committee.

30. The Government has translated the full text of the Committee's views in the Korean language and published it in the official gazette to make it easily comprehensible to and accessible by the general public, and the legislative, judicial and administrative authorities. In addition, major Korean daily newspapers and broadcasting companies reported the gist of such views.

I. Reservations to the Covenant

31. In its consideration of the third report, the Committee invited the Republic of Korea to withdraw its reservation to article 14 (5) of the Covenant and encouraged it to withdraw its reservation to article 22 of the Covenant (CCPR/C/KOR/CO/3, para. 8).

32. On 2 April 2007, the Government withdrew its reservation to article 14 (5) of the Covenant stipulating everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

33. As explained in the initial report, the reservation to article 22 has been maintained as it conflicts with domestic legislation (CCPR/C/68/Add.1, para. 276). The Government's efforts concerning the reservation will be detailed in paragraph 308 and below.

II. Information relating to each article of the Covenant

Article 1

34. As expounded in the initial and second reports (CCPR/C/68/Add.1, paras. 21 and 22; CCPR/C/114/Add.1, paras. 17 and 18), the Government values the right to self-determination of all people at home and abroad.

35. To support the realization of the State of Palestine's right to self-determination, alleviate its poverty, and promote its economic and social development, the Government provided the State of Palestine with USD 25.92 million in grants-in-aid from 2004 to 2010. Designating the State of Palestine as a recipient of rehabilitation assistance, the Government pledged to provide USD 20 million (2008-2010) at the Donors' Conference on the Palestinian Territories in December 2007. During the visit to Korea by President Abbas of the Palestinian National Authority in February 2010, the Government announced its plan to provide USD 20 million in total from 2011 to 2015.

Assistance to the State of Palestine per Year

(In 10,000 USD)

Year	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	***Total***
Amount	367	166	121	96	241	732	869	**2,592**

36. The focus of above-mentioned assistance has been placed on education and health sectors, such as improvement of the educational system, construction of an IT vocational training center, and reinforcement of basic health and medical services. In addition, to share Korea's development experiences and help bolster the State of Palestine's human resources development, training program for 200 civil servants and professionals has been in operation for three years since 2008 as part of technical cooperation.

Details of Grants-in-Aid to the State of Palestine by Type

Type	*Details (period/amount of assistance)*								
Projects	Six projects: • Educational system improvement (2004-2006/USD 2.30 million) • IT vocational training center construction (2004-2006/USD 1.60 million) • Technical high school establishment in Jenin (2007-2009/USD 2.50 million) • Economic development research center construction (2008-2009/USD 2.50 million) • Local school and youth center construction in Hebron (2009-2010/USD 6 million) • Basic health and medical service reinforcement in Jenin (2009-1010/USD 3 million)								
Goods in assistance (USD 3.16 million in total)	*Year*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	***Total***
	Amount	130	86	52	-	48	-	-	**316**
Invitations for training in Korea (225 persons in total)	*Year*	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*	***Total***
	Number of persons	1	23	2	13	25	69	92	**225**

Article 2

Paragraph 1

37. As explained in the initial report, the right to equality in political, economic, and social spheres is guaranteed by the Constitution and persons with disabilities are entitled to the right along with welfare programs for them(CCPR/C/68/Add.1, paras. 26-37).

38. On 10 April 2007, the Anti-Discrimination against and Remedies for Persons with Disabilities Act was enacted for disabled persons' social participation and realization of their right of equality. With the act, discrimination on the ground of disability is forbidden

in such areas as employment, education, and provision and use of goods and services. Persons who suffer discrimination may file a petition with the National Human Rights Commission. If recommendations for correction made by the Commission are not implemented, the Ministry of Justice may issue orders to that effect.

39. On 17 May 2007, the Framework Act on Treatment of Foreigners Residing in the Republic of Korea was enacted, aiming to help resident foreigners adapt to the Korean society and attain their full potential, and facilitate an environment favorable to mutual understanding and respect with Korean nationals. Further details are provided in paragraphs 382 to 385.

40. On 21 March 2008, the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion was amended to improve employment conditions for elderly persons. The amendment prohibits age-based discrimination at all stages of employment including indirect discrimination (article 4-4) while stipulating circumstances when different treatment concerning is not deemed discriminatory (article 4-5).

41. On 18 September 2008, the Regulations on Service of Government Employees were amended to ensure that government employees perform their duties in a fair manner without discrimination based on religion and other reasons (article 4 (2)). The amendment was expected to help service provided by government employees reach the general public in an impartial manner.

Protection of Migrant Workers

42. In its consideration of the third report, the Committee expressed its concern that migrant workers face persistent discrimination and abuse in the workplace without adequate protection and redress. The confiscation and retention of official identification papers of such workers was also of concern. The Committee recommended that the Government ensure that migrant workers enjoy the rights contained in the Covenant without discrimination and that, in this regard, particular attention should be paid to ensuring equal access to social services and educational facilities, as well as the right to form trade unions and the provision of adequate forms of redress (CCPR/C/KOR/CO/3, para. 12).

43. As stated in the third report, the employment permit system for foreign workers and the Act on the Employment and other matters of Foreign Workers are in place. Labor laws and the four basic social insurance schemes (Workmen's Accident and Compensation Insurance, Employment Insurance, National Pension, and National Health Insurance) cover foreign workers as equally as Korean workers (CCPR/C/KOR/2005/3, paras. 33 and 34).

44. Under the employment permit system, migrant workers are protected by labor laws including the Labor Standards Act, Minimum Wage Act, Occupational Safety and Health Act, and Industrial Accident Compensation Insurance Act on par with Korean nationals and legally sojourning migrant workers have the right to form a labor union. The eligibility of migrant workers to the health insurance scheme was expanded. In 2005, free-of-charge medical services for migrant workers were also expanded, thus providing financial assistance to migrant workers who do not have access to health insurance and medical benefits when they are admitted to a hospital and/or undertake medical operation. In July 2006, children of migrant workers became entitled to such assistance. In addition, migrant workers are allowed to change workplaces three times during their sojourns in case they are not able to continue their work at the same workplace due to reasons such as suspension or closure of the business of their workplace. To strengthen protection of the labor rights of migrant workers with regard to changes of workplaces, a change of workplace whose cause is not attributable to migrant workers is not counted in the three times allowed since December 2009.

45. The amendment of the Immigration Control Act on 5 December 2002 prohibits holding or demanding passports or alien registration certificates as security to an employment contract or liability, which is punishable by a prison term with or without labor for no longer than three years or by a fine of no more than KRW 20 million (articles 33-2 and 94). The Government makes efforts to provide redress to grievances of foreigners and protect their human rights, by addressing difficulties they face during their stay through grievance counseling centers for foreigners, in operation at immigration offices and immigration detention centers.

Protection of Non-Regular Workers

46. In a bid to cope with a steady increase in non-regular workers and to bridge the wage gap between regular and non-regular workers, the Government 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 on 21 December 2006. With the legislations, the Government introduced a scheme to address discrimination against fixed-term, dispatched, and part-time employees (hereinafter referred to as "fixed-term employees, etc."). Under the Act on the Protection and other matters of Fixed-Term and Part-Time Employees, it is prohibited to treat, without reasonable grounds, fixed-term employees, etc. less favorably than regular workers engaged in the same or similar duties at a place of business (article 8). The Act also allows fixed-term employees, etc. to make a complaint for correction of discrimination to the Labor Relations Commissions within three months from the date of the incident at issue (article 9). The Government is considering revision of the legislation to improve the anti-discrimination scheme including extension of the period of corrective implementation and grant of representation rights to labor unions.

Complaints filed on Discrimination against non-regular workers and their handling

(Period: 1 July 2007-31 December 2010, Number of cases)

	Processed								
		Decision							
Received	***Total***	*Subtotal*	*Correction Order*	*Dismissal*	*Rejection*	*Withdrawal*	*Mediation*	*Arbitration*	*Pending*
2,387	**2,340**	908	138	623	147	922	508	2	47

47. Since April 2010, the Government has been operating the "Support Center for Discrimination-Free Workplace" to prevent and rectify employment discrimination on grounds of gender, age, disability, and types of employment. The Government intends to provide education for the prevention of discrimination in employment and counseling and consulting services for addressing discrimination in employment, and conduct campaigns through organization of local networks in this regard.

Paragraph 2

Bills and National Policy Related to Anti-Discrimination

48. The Government examines the need for an enactment of a general and comprehensive anti-discrimination legislation and grounds and areas of discrimination. Details of legislation for anti-discrimination are set forth in article 26.

Paragraph 3

Investigations and Recommendations by the National Human Rights Commission of Korea in Response to Discrimination Complaints

49. The National Human Rights Commission of Korea's mandate to conduct investigations in response to complaints against human rights violations and discriminatory acts as well as the methods for complaints filing were explained in the third report (CCPR/C/KOR/2005/3, paras. 49 and 50).

50. The National Human Rights Commission of Korea issued 72 recommendations with respect to verbal and physical sexual harassments occurring in business and employment relations; 93 recommendations concerning age-based discrimination in employment and recruitment, and discrimination in education, placement, promotion, and wages; and 84 recommendations regarding discriminatory acts against person with disabilities including in the process of detainment and investigation. The Commission recommended prohibition of discriminatory acts concerning 27 discrimination cases on grounds of gender in recruitment, wage, promotion, membership, and provision of services. It made recommendations regarding 11 discrimination cases concerning medical history, requesting the revision of rules that refuse to employ a person on grounds that he or she is a hepatitis B virus carrier. In addition, the Commission issued recommendations regarding discriminatory acts based on country of origin, appearance, marital status, sexual orientation, educational background, and others.

Complaints Received Concerning Discriminatory Acts by Area

(Number of cases, %)

Description		***Total***	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Total		**625**	**22**	**55**	**149**	**116**	**95**	**80**	**108**
Discrimination in employment	**Subtotal**	**324**	**13**	**31**	**81**	**69**	**36**	**53**	**41**
	Recruitment	**111**	3	14	41	19	14	13	7
	Employment	**80**	1	9	19	24	10	14	3
	Retirement	**22**	-	1	-	3	-	9	9
	Resignation	**5**	-	-	-	3	-	-	2
	Dismissal	**7**	1	-	1	1	1	2	1
	Placement	**10**	-	-	1	4	1	2	2
	Promotion	**10**	1	-	6	1	2	-	-
	Education	**3**	-	1	-	1	-	-	1
	Wage payment	**38**	5	2	9	10	2	7	3
	Non-wage payment	**3**	-	-	1	1	-	1	-
	Others	**35**	2	4	3	2	6	5	13

Description		***Total***	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Discrimination in supply or use of goods, etc.	**Subtotal**	**152**	**2**	**5**	**35**	**25**	**33**	**16**	**36**
	Supply/use of goods	**53**	1	-	17	7	8	7	13
	Supply/use of services	**35**	-	2	5	8	7	4	9
	Supply/use of transportation methods	**12**	-	-	-	4	3	2	3
	Supply/use of commercial facilities	**4**	-	-	-	1	2	-	1
	Supply/use of land	**1**	-	-	-	-	1	-	-
	Supply/use of housing facilities	**4**	-	-	-	-	1	-	3
	Use of education facilities	**42**	1	3	12	5	11	3	7
	Use of vocational training agencies	**1**	-	-	1	-	-	-	-
Others		**149**	7	19	33	22	26	11	31

Complaints Received Concerning Discriminatory Acts by Ground

(Number of cases, %)

Description	***Total***	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Total	**625**	**22**	**55**	**149**	**116**	**95**	**80**	**108**
Gender	**36**	3	5	7	4	6	6	5
Religion	**7**	-	-	-	3	2	-	2
Disability	**110**	4	10	11	23	23	10	29
Age	**123**	1	7	45	31	10	19	10
Social status	**86**	9	3	41	18	1	11	3
Region of origin	**2**	1	1	-	-	-	-	-
Nationality of origin	**7**	1	-	2	1	1	1	1
Appearance and physical conditions	**25**	-	12	1	-	4	2	6
Marital status	**4**	-	-	3	-	1	-	-
Pregnancy/childbirth	**9**	-	1	1	2	2	3	-
Family status	**7**	-	2	1	1	1	2	-
Race	**1**	-	-	-	-	1	-	-
Ideological and political opinion	**3**	-	-	-	-	2	1	-
Criminal record	**4**	-	1	2	-	1	-	-
Sexual orientation	**5**	1	1	1	-	2	-	-
Medical history	**13**	-	1	1	4	1	5	1
Educational background	**18**	-	2	7	5	1	1	2
Sexual harassment	**107**	-	2	19	16	22	12	36
Others	**58**	2	7	7	8	14	7	13

Guarantee of Right of Equality by the Decisions of the Constitutional Court

51. After the submission of the third report, the Constitutional Court of Korea ruled on a number of occasions that some laws violating the principle of equality were unconstitutional. Major examples are as follows:

- Case regarding basic labor right of foreign industrial trainees: The "Guidelines on Protection and Management of Foreign Industrial Trainees" excluded foreign industrial trainees (hereinafter referred to as "industrial trainees") from protections and benefits under the Labor Standards Act such as severance pay, preferential payment of wage claims and paid annual leaves, and maternity protection. The Constitutional Court ruled on 30 August 2007 that refusal to apply some provisions of the Labor Standards Act to industrial trainees constituted arbitrary discrimination since industrial trainees were workers in practice(2004 HUN-MA 670).
- Case regarding determination of local constituencies for municipal and provincial council elections: article 22 (1) of the Public Official Election Act uniformly fixes the number of municipal and provincial council members at two for each administrative district, regardless of the difference in the sizes of population. Meanwhile, the Constitution stipulates that the admissible range of deviation in matters related with population is 60% in either direction. The Constitutional Court ruled on 29 March 2007 that determination of local constituencies shall take into reasonable consideration the principle of population proportionality, local representation, and extreme differences in the sizes of population between urban and rural areas. Accordingly, determination of local constituencies exceeding the admissible deviation range of 60% was ruled as unconstitutional for violation of suffrage and the right of equality guaranteed under the Constitution (2005 HUN-MA 985).

Article 3

52. The third report explained the background of the establishment of the Ministry of Gender Equality (2001) and formulation of the first (1998-2002) and second (2003-2007) Basic Plans for Policy on Women (CCPR/C/KOR/2005/3, paras. 60-63). The Government mapped out the third Basic Plan for Policy on Women (2008-2012) reflecting a decade of implementation of such plans. The plan entails 14 core policy tasks and 48 subtasks in three areas including mobilization of female workforce through support for reemployment of career-interrupted women, strengthened protection of migrant women such as protection from domestic violence, and reinforcement of the basis for policies on gender equality. The Ministry of Gender Equality oversees government-wide women's policy through the work of the Women's Policy Coordination Committee, which reviews the annual results and next year's plans of implementation of central administrative agencies and local governments.

53. On 19 March 2010, the mandate of youth and family policy was transferred from the Ministry for Health, Welfare and Family Affairs to the Ministry of Gender Equality for comprehensive execution of policy on women, youth, and family. Accordingly, the ministries were reorganized into the Ministry of Health and Welfare and the Ministry of Gender Equality and Family. The budget for the Ministry of Gender Equality and Family was sharply increased from KRW 70.2 billion in 2008 to KRW 309.1 billion in 2010. Most of the increase is ascribable to a budget transfer of KRW 198.0 billion aligned with the reassignment of youth and family policy. However, the budget for policy on women including the promotion of women's rights rose by about KRW 32 billion, from KRW 56 billion in 2008 to KRW 88 billion in 2010. With the restructuring and budget increase,

the Ministry of Gender Equality and Family sought to realize synergy through the integration of women, youth, and family policies; strengthen its function of policy supervision and coordination; proactively promote gender equality and women's human rights across the society with broader effect; and proactively address risk factors such as the lower birth-rate and family disintegration.

Rectification of Gender Discriminatory Legislation

54. With a view to consolidating the institutional basis for gender-equal culture, the Government identified gender-discriminatory legislations from 2005 to 2006, leading to the rectification of a total of 385 legal provisions. The rectified provisions included article 801 of the Civil Act (eligible age for matrimonial engagement) and Article 807 of the Civil Act (marriageable age) which set forth different ages for men and women, and Article 6 (4) of the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof which made only women the object of crimes. Legislations discriminating between men and women regarding the legally recognized scope of relatives were also revised with cooperation among the ministries concerned. This effort gained pace thanks to the Gender-Discriminatory Legislation Zero Plan and the rectification process of gender-discriminatory legislations was completed in 2009.

Enhancement of Women's Representation in High-Level Positions

55. In its review of the third report, the Committee was concerned that women are under-represented in high-level positions in the political, legal, and judicial spheres. It recommended that the Republic of Korea take legal and practical measures to increase the effective participation of women in politics, law, and the private sector, and undertake initiatives to increase the representation of women in high-level positions in the National Assembly and the judiciary (CCPR/C/KOR/CO/3, para. 10).

56. In politics, female representation in the National Assembly and municipal and provincial councils increased as a result of the amendment of the Political Parties Act as stated in the third report (CCPR/C/KOR/2005/3 para. 69). The ratio of female legislators was 13.0% in the 17th National Assembly and 13.7% in the 18th National Assembly. The ratio of female elects inched up to 13.6% at the 4th nationwide local council elections in 2006; to 15.0% at *Gu* (district), *Si* (city), and *Gun* (county) council elections at the primary unit level of local government; and to 4.7% in electoral constituencies of municipal and provincial council elections. On 2 March 2010, the Public Official Election Act was amended to establish a quota of female candidates for electoral constituencies at local council elections, making candidates' registration completely nullified in the event of violation (article 52 (2)).

Status of National Assembly Women

(Number of persons, %)

National Assembly election	*National Assembly members*	*Assembly women*		*Women electoral constituency elects*		*Women proportional representation elects*	
		Number	*Ratio*	*Number*	*Ratio*	*Number*	*Ratio*
16th (2000~2004)	273	16	5.9	5	2.2	11	23.9
17th (2004~2008)	299	39	13.0	10	4.1	29	51.8
18th (2008~2012)	299	41	13.7	14	5.7	27	50.0

Source: National Election Commission (Conspectus on Elections of the 12th to 15th National Assembly Members), Korean Women's Development Institute (2008) (Statistics on Korea's Gender Sensitivity in 2008).

57. The Gender-Equal Recruitment Target System for governmental officials, explained in the third report (CCPR/C/KOR/2005/3, para. 68), was firmly put in place, resulting in the employment of 151 women from 2003 to 2010. In addition, five-year plans to increase the number of women at the managerial level are executed both at central administrative agencies and local governments. As a result, the number of female managers at central administrative agencies went up from 340 (5.4%) in 2006 to 593 (7.4%) in 2010 and female managers at local governments accounted for 1,730 (8.6%) in 2010 compared with 1,199 (6.5%) in 2006. The ratios of female managers vary to some degree among central administrative agencies reflecting the nature of functions of each agency and female officials' preferences. The ratios were over 20% in four agencies, 10 to 20% in five agencies, 5 to 10% in twelve agencies, and less than 5% in nineteen agencies. The Government plans to continue proactively increase the number of female officials at managerial level. In addition, it is recommended that women be assigned to major or preferred departments to reinforce their participation in decision-making process through relevant regulations.

Targets and Achievements of the Recruitment Target System for Female Managers at Managerial Level (Grade 4 or Higher) at Central Administrative Agencies by Year

Year		*2007*	*2008*	*2009*	*2010*	*2011*
Target	Persons	402	458	520	599	753
	Ratio	6.2%	6.1%	6.9%	7.9%	10.0%
Performance	Persons	454	476	544	593	-
	Ratio	6.2%	6.1%	6.8%	7.4%	-

Targets and Achievements of the Recruitment Target System for Female Managers at Managerial Level (Grades 5 and 6) at Local Governments by Year

Description		*2007*	*2008*	*2009*	*2010*	*2011*
Grade 5 or higher	Target ratio	7.1%	7.6%	8.3%	8.9%	9.6%
	Achievement (persons)	7.1% (1,349)	7.6% (1,457)	8.1% (1,595)	8.5% (1,205)	-
Grade 6 or higher	Target ratio	12.2%	13.0%	14.0%	15.2%	16.5%
	Achievement (persons)	11.8% (7,741)	12.6% (8,285)	13.4% (9,121)	14.4% (9,960)	-

58. In the legal profession, appointments of female judges and prosecutors are on increase. Among the judges appointed in 2006, women accounted for 26.6%. The ratio rose to 39.3% in 2009. 32.5% of prosecutors appointed in 2007 were women, and increased to 43.6% in 2009. As of the end of 2010, 20.8% (363 persons) of all prosecutors and 24.3% (606 persons) of all judges were female.

59. The Government has also undertaken affirmative action to address gender discrimination in work place and promote equal employment in the private sector. The Government recommends businesses of a certain size that employ much less women or have a lower rate of female managers compared with similar-sized companies in the same business sector to enhance gender equal employment. First applied to government-invested companies and government-affiliated enterprises with 1,000 or more employees in 2006, the recommendation on affirmative action expanded its application to private companies with 500 or more employees, and government-invested or government-affiliated companies with 50 or more employees since March 2008. As of the end of 2010, businesses subject to

affirmative action edged up to 225 government-invested or affiliated enterprises and 1,576 private companies including 1,321 with 500 or more employees. The percentage of female workers is 34.12 in average, rising by 0.11% from 2009, and that of female managers is 15.09%, rising by 0.96% from 2009.

Promotion of Gender-Sensitive Policy

60. The introduction of the "gender impact assessment system" was explained in the third report (CCPR/C/KOR/2005/3, para. 64). Following its pilot execution concerning 10 projects at nine agencies including the Ministry of Health and Welfare in 2004, the number of participant organizations and tasks has been increasing each year. In 2009, gender impact assessment was carried out concerning 1,908 projects of 298 organizations including central administrative agencies, local governments, and provincial and municipal offices of education. Gender impact assessment analyzes gender discriminatory factors, thereby ensuring that gender-neutral policy is developed and implemented. From 2004 to the first half of 2010, 3,310 government employees in charge of gender impact assessment participated in the relevant training course. The findings of gender impact assessment led to notable progress such as use of female-friendly pavement materials in newly constructed cities and installation of closed-circuit televisions in dark places for the safety of women. Starting in 2011, the Government plans to conduct gender impact assessment of selective gender-discriminatory policies which require focused management due to low gender equality indices, so as to promote gender-equal government policies through a government-wide general and comprehensive analysis.

61. In October 2006, the gender responsive budgeting scheme was introduced through the amendment of the National Finance Act, by which a budget is programmed and executed to enhance gender equality based on the analysis of its impact on men and women. A gender responsive budgeting form and standards to select projects for gender responsive budgeting were formulated through a basic research in 2007, the work of the gender responsive budgeting joint task force comprising relevant agencies and experts in 2008, and a pilot program in 2009 concerning 105 projects at 25 agencies. In October 2009, the first gender responsive budget was submitted to the National Assembly concerning 195 projects at 29 agencies in the fiscal year of 2010. In May 2010, the National Finance Act was amended to expand the coverage of the scheme to governmental funds and to ensure expected effects on gender equality, analysis of gender-based benefits, and targets to be clarified in the budgeting form. The gender responsive budget for 2011, submitted to the National Assembly in October 2010, covered 245 projects at 34 agencies.

Enhancement of Gender Equality Awareness

62. The establishment of the Korean Institute for Gender Equality Promotion and Education and its curricula were explained in the third report (CCPR/C/KOR/2005/3, para. 88). Gender equality awareness education was provided to about 196,000 government employees and citizens from 2003 to 2009. The number of participants in cyber education launched in 2004 has been on a gradual rise, reaching 11,000 as of the end of 2010.

63. Education to raise gender equality awareness of the general public has been provided since 2003, with the development of gender equality awareness education programs based on life cycle from infancy to childhood, adolescence, early adulthood, middle age, and old age. Gender equality awareness education based on life cycle, in conjunction with private educational institutes, employs various methods and plays an important role in raising the awareness of gender equality of workers in related areas through various on-site education programs that are appropriate for each life cycle including workshops, instructor education, and school education programs taught by instructors. From 2008 to 2010, education courses were provided for more than

70,000 persons in areas where gender equality awareness is especially low, including schools in remote or island areas, correctional institutions, military units, and juvenile reformatories. The Government hosted international symposiums on gender issues, provided training courses for foreign government employees, and published teaching materials on gender equality.

Gender Equality Awareness Education based on Life Cycle

Year	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Number of persons	60	107	287	371	2,423	1,561	2,482

64. Article 28 of the Framework Act on Women's Development and article 100 of the Broadcasting Act provide the legal ground to the efforts to rectify gender-discriminatory contents of the mass media and to use the mass media to raise the awareness of gender equality. Since 2001, cases of gender discrimination and equality in the mass media, including broadcast programs, have been monitored. "Guidelines for broadcasting review concerning gender equality" were formulated in 2008, a booklet on cases of gender equal broadcasting programs was published in 2009, and the 11th gender equality exemplary education and gender-equal broadcasting program prizes were awarded. In addition, campaigns to promote gender-equal culture concerning women's burden related to traditional holidays and child-rearing are conducted in cooperation with women's organizations.

Pursuit of Comprehensive Plans for Female Workforce Development

65. At its consideration of the third report, the Committee remained concerned at the high number of women employed by small enterprises who are categorized as non-regular workers (CCPR/C/KOR/CO/3, para. 10).

66. The employment conditions for women deteriorated drastically in 2009 following the global financial crisis in 2008. But gradual improvement appeared in 2010. The labor force participation rate of Korean women (aged 15 to 64) dropped from 54.7% in 2008 to 53.9% in 2009, but rebounded to 54.5% in 2010. The ratio of female non-regular workers went up from 40.8% in 2008 to 44.1% in 2009, but decreased to 41.8% in 2010. This improvement is attributed to employment support specialized for women such as "centers for women's re-employment," which opened in 2009 to enhance women's re-employment opportunities during an economic crisis. The 'centers for women's re-employment' and 'regional centers for new job support' linked 169,499 women to employers from 2009 to 2010. However, it does not necessarily mean that employment conditions for women have critically improved or that obstacles to the mobilization of female work forces have been effectively tackled. Concerted and constant efforts are required to promote women's economic activities and improve their employment conditions.

67. The Government fully recognizes that the low labor force participation rate and high non-regular worker rate of women are primarily a result of women's career interruption, which is mainly due to childbirth and rearing. The labor force participation rate of women in their 20's is slightly higher than that of men, but it is more than 35% lower in their 30's, the period of childbirth and rearing. The Government places high priority on supporting re-employment of career-interrupted women and preventing interruption of women's economic activities. In late 2009, the Government formulated the Basic Plan on the Promotion of Economic Activities of Women with Career Interruption from 2009 to 2014. The plan covers four areas and sets forth 13 tasks and 31 sub-tasks, with the participation of 8 central administrative agencies and local governments. The four areas include strengthening of employment support service for career-interrupted women, establishment

of link between family care and employment, creation of a corporate environment ensuring a reasonable balance between work and family, and building of a social foundation to resolve career interruption. In order to enable workers to balance work and family, the Government expanded a short-term regular worker model (flexible work program). Pursuant to the Act on the Promotion of Creation of Family-Friendly Social Environment, the Government also certifies as family-friendly companies exemplary enterprises and public institutions that implement maternity support system and flexible work programs to help workers balance work and family life. A total of 65 enterprises and institutions attained certification from 2008 to 2010. The Government has also strived to create a family-friendly social environment through family-friendly workplace education and consulting services. Relevant government ministries work together for better protection of maternity and paternity. For example, childcare leave allowance changed from a fixed amount of KRW 500,000 per month to a fixed rate of 40% of wages (minimum KRW 500,000 and maximum KRW 1 million). The Government has also taken various measures for maternity and paternity protection at companies such as reduced work hours during the period of childcare at request, work hour saving for care leave scheme, divided use of maternity leave before and after childbirth, increased health insurance premium reduction during parental leave, and paid leave for childbirth for fathers. It also expanded subscription to employment insurance by non-regular workers by linking the network systems of national tax and social insurance. It is also with the cooperation of concerned government ministries for protecting non-regular female workers that work hours of fixed-term employees are guaranteed and that incentives to companies with excellent performance in terms of continued employment of non-regular female workers through their pregnancy and childbirth are offered. Despite such policies, the rate of paternity leave use is still only 1.4%, and corporate culture for balance between work and family needs to be promoted. Continued efforts toward consistent improvement of institutions and workplace environment and awareness-raising are expected to gradually boost the impact of such policy.

68. The Government established the second five-year National Plan for Women's Human Resource Development (2011~2015) in December 2010. Along with the Basic Plan on the Promotion of Economic Activities of Women with Career Interruption (2009~2014), in effect since its formulation in late 2009, the plan represents comprehensive government-wide measures for women's career development and job creation, prevention of career interruption through establishment of balance between work and family, and reemployment of career-interrupted women. The Women's Policy Coordination Committee presided over by the Prime Minister conducts an annual review of those plans to improve their effectiveness.

Punishment of Sexual Crimes

69. The amendment of the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof on 27 October 2006 features punishment for quasi-rape (article 8-2 (2)), heavier punishment for sexual violence by the heads and workers of protection facilities for disabled persons against their charges, more stringent statutory punishment for crimes of obscenity via communication media (article 11 (3)), reduction of the scope of crimes subject to prosecution on complaint (article 14), prohibition of disclosure of personal information of victims of sexual crimes (articles 21 (3), 35 (1) 3 and 35 (1) 2), designation of investigation officers dedicated to sexual crime victims (article 21-2), expansion of the use of statements videotaping in sexual crime cases (article 21-3), and strengthening of the obligation to ensure the accompaniment of those trusted by victims in court proceedings (article 22-3).

70. On 15 April 2010, the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof was divided into the Act on Special Cases concerning the Punishment, etc.

of Victims of Sexual Crimes, which provides for punishment, and the Act on Prevention of Sexual Violence and Protection of Victims Thereof, which provides for protection of victims of sexual violence, in an attempt to protect victims more effectively. The act on punishment contains new provisions such as expansion of the scope of aggravated punishment concerning rape by relatives (article 5), tougher punishment against sexual crimes against children aged less than 13 (article 7), information disclosure including suspects' faces (articles 32 to 42), and designation of a full bench in charge of sexual crimes (article 25). Newly introduced provisions include non-application of mitigation to those committed sexual crimes with mental disorder induced by drinking or drugs (article 19), suspension of the statute of limitations in cases of sexual crimes against minors until the victim reaches majority (article 20 (1)), and extension of the statute of limitations concerning sexual crimes with concrete evidences (article 20 (2)).

71. The Criminal Act amended on 15 April 2010 introduces aggravated punishment for persons who repeatedly commit sexual crimes (article 305-2) in addition to the elevation of maximum term of imprisonment and aggravation, and mitigation limits of capital punishment and imprisonment without term. The eligibility for parole of those serving imprisonment without term was also tightened (articles 42, 55 and 72).

72. The Act on the Electronic Monitoring of Specific Sexual Criminal Offenders was enacted on 27 April 2010 for a more effective deterrence of recidivism of sexual crimes against women and children given the comparatively greater suffering of victims inflicted by their crimes and their high rate of recidivism. The Act provides for the attachment of electronic devices to sexual criminal offenders to track their movement 24 hours a day using GPS and mobile communication networks. Their location information is used by probation officers to supervise them and prevent another offense by checking compliance with requirements such as curfew, exclusion, and restraining orders. The Act was renamed as the Act on the Electronic Monitoring of Specific Criminal Offenders, on 8 June 2008, which extended its coverage to the crime of kidnapping of minors.

73. The above-mentioned act was revised on 15 April 2010 to increase the maximum period of electronic monitoring by attached device. The minimum period of monitoring is doubled if the victim is a child aged less than 13 (article 9 (1)). In addition, the amendment provides that those who are attached with a monitoring device shall be placed on probation during the period of monitoring (article 9 (3)). As of 12 April 2010, only five out of 583 persons monitored by attached electronic monitoring devices were repeat offenders (recidivism rate of 0.86%), among whom one person repeated the same type of crime (recidivism rate of 0.17%) and four others committed different types of crimes. This demonstrates that the devices are effective in preventing repeat offenses, given the average recidivism rate of same crimes (14.8%) by those with records of sexual crime for the past four years (2005-2008).

Use of Electronic Monitoring Devices

(Number of persons)

		Number of persons attached devices			
Year	***Total***	*On parole*	*On provisional termination*	*On suspended sentence*	*After completion of prison term*
2008	**188**	186	1	1	0
2009	**347**	329	12	5	1
2010	**47**	44	1	-	3
Total	**582**	**559**	**14**	**6**	**4**

74. On 13 June 2008, the Medical Treatment and Custody Act was amended to expand the coverage of medical treatment and custody to persons with psychosexual disorders with a view to improving their sexual behavior while safeguarding society (articles 1 and 2 (1) 3). Thus the amended Act provides a legal basis for treatment and education of persons with psychosexual disorders, taking into consideration that such persons, including pedophiles, are highly likely to commit another crime but also have a high chance of improvement through treatment, and specifies crimes of sexual violence subject to medical treatment and custody (article 2-2). In addition, the Act requires diagnosis or assessment by a psychiatrist at the prosecutor's request for medical treatment and custody of persons with psychosexual disorders (article 4 (1)) and provides for the maximum period of medical treatment and custody (article 16 (2)) in order to maximize the effect of medical treatment and custody and minimize the likelihood of violation of right of persons in treatment and custody. As of 9 April 2010, 29 sex criminals were accommodated at a personality treatment and rehabilitation center in the Institute of Forensic Psychiatry for treatment.

Efforts to Protect Female Victims of Domestic or Sexual Violence

General Assistance for Violence Victims

75. The Government has established a system of protective service from the initial stage of violence up to the stage of self-reliance, with a view to supporting women victims of violence to survive their suffering, which includes 1366 hot line service and counseling centers to address domestic and sexual violence, protection facilities, dedicated centers for children victims of sexual violence (2004), one-stop support centers for female victims of violence (2006), group homes (2008), the Central Support Center for Women and Children Victims of Violence, and shelters for children and youths victimized by sexual violence (2010).

76. Group homes, introduced in 2008, offer joint rental housing to female victims of domestic and sexual violence and their family members who have difficulty in securing adequate residence. As of 2010, the Government provides 54 rental houses in five areas across the country, accommodating 213 persons in 88 households. A counselor is designated for every 10 rental houses to offer counseling to victimized women, arrange their employment, and support the education of their children for the purpose of bolstering their independence.

Assistance for violence victims

Service available at the initial stage of violence	*Protection and support*	*Stage of self-reliance*

• 1366, the hot line for women (operated 24 hours a day and 365 days a year)
• A hot line for foreigners (1577-1366)
	• Facilities for victims
	  • Domestic violence counseling centers (275 places)
	  • Domestic violence victim protection facilities (66 places)
	  • One-stop support centers (17 places)
	  • Dedicated centers for children victims of sexual violence (12 places)
		• Group homes (54 places)
		• Grant of priority right to governmental rental housing

Service available at the initial stage of violence	*Protection and support*	*Stage of self-reliance*
	• Protection and support services • Counseling and treatment recovery programs • Medical, investigational and legal support • School enrollment support for victimized children including school transfer • Vocational training	

Operation of one-stop support centers

(Number of persons and cases)

	Types of violence						*Details of support*					
Year	***Total***	*Sexual violence*	*Domestic violence*	*School violence*	*Sex trade*	*Others*	***Total***	*Counselling*	*Medical treatment*	*Evidence gathering*	*Statement recording*	*Victim's report*
2006	**4,764**	2,868	1,284	226	48	338	**14,699**	7,386	3,592	1,123	542	2,056
2007	**9,352**	5,701	2,463	336	105	747	**28,236**	14,546	6,229	2,117	1,198	4,146
2008	**10,074**	6,818	2,312	209	70	665	**35,643**	18,258	7,335	2,571	1,977	5,502
2009	**10,471**	7,140	2,348	116	177	690	**37,474**	20,643	7,736	2,771	2,068	4,256
2010	**23,222**	16,929	4,049	566	225	1,453	**60,471**	30,511	13,849	3,180	3,823	9,108

Protection and Support of Female Victims of Sexual Violence

77. As described in paragraph 70, the Act on Prevention of Sexual Violence and Protection of Victims Thereof was enacted on 15 April 2010 aiming to protect and support sexual violence victims in a more proactive way. The Act provides assistance for school enrollment of victims of sexual violence and their family members including school transfer (article 7), financial assistance for those accommodated in protection facilities to support their livelihood and child education and rearing (article 14), the establishment and operation of comprehensive support centers for sexual violence victims (article 18), and the evaluation of operational performance of sexual violence counseling centers, protection facilities and comprehensive support centers by the Minister of Gender Equality and Family (article 25). Considering that the government-wide Comprehensive Protection Measures for Children and Women (April 2008) and the Measures to Prevent Recurrence of Sexual Violence against Children (October 2009) have successfully addressed the punishment and control of sexual offenders, the Government began to pay more attention to the prevention aspect. In June 2010, local safety nets for women and children were developed in order to tackle the environmental factors conducive to sex crimes in each community. Accordingly, local alliances for protection of children and women, i.e. councils of related persons for the safety of children and women, were built in 244 local governments across the country, which intends to provide safeguard of children left without proper protection from their parents or other adults through joint efforts of members of local communities. The Government also pursues "gender-sensitive comprehensive preventive education" at schools to provide more effective preventive education concerning violence against women including sexual and domestic violence by incorporating a gender-sensitive perspective. In this line, the Government developed and distributed relevant education manuals in December 2009, while developing teaching plans and materials to be used at schools.

Budget for Facilities Supporting Victims of Sexual Violence

(In KRW 1 million)

Year	*2006*	*2007*	*2008*	*2009*	*2010*
Total	**9,120**	**7,773**	**8,026**	**14,192**	**15,590**
One-stop support centers	3,503	1,768	1,392	1,665	2,455
Dedicated centers for children victims of sexual violence	1,350	1,350	1.350	6,850	6,930
Sexual violence counseling centers	1,773	2,107	2,459	2,440	2,704
Sexual violence victim protection facilities	522	617	719	755	862
Free legal aid	1,400	1,400	1,514	1,558	1,534
Medical fee assistance	523	504	566	891	1,074
Vocational training support	49	27	26	33	31

78. The Government operates around the clock 17 "one-stop support centers for female victims of violence" that provide counseling and medical treatment and videotape victims' statements in the investigation process to prevent any secondary damage. Nine centers exclusively dealing with sexual violence against children are also in operation, of which tasks include psychological treatment of children victims and their family members. In 2010, the Government established two 'shelters for child and adolescent victims of sexual violence' so that minor victims may have uninterrupted access to education and protection in a home-like environment until they become independent.

79. In 2010, "*Haebaragi* (sunflower) Women and Children Centers" were introduced, which are integrated crisis intervention centers for women and children that combine the strengths of "one-stop support centers for female victims of violence" and "dedicated centers against sexual violence against children." The centers, established inside of or near to medical hospitals, provide integrated services from physical and mental medical treatment, counseling, and investigation by female police officers, to legal assistance including litigation support at one place. Having started from a pilot center in Busan in January 2010, 4 additional centers have been established by the end of the year.

Counseling Centers for Sexual Violence Victims

(Number of cases and persons)

		Number of workers			*Counseling performance*			
Year	*Number of centers*	***Total***	*Full-time workers*	*Part-time volunteers*	***Total***	*Regarding sexual violence*	*Regarding other matters*	*Average counseling performance per center*
2006	202	-	-	-	**119,655**	57,865	61,790	592
2007	202	-	-	-	**124,591**	58,628	65,963	617
2008	196	**1,447**	594	853	**145,247**	69,115	76,132	741
2009	199	**1,476**	578	898	**155,902**	67,221	88,681	775
2010	152	**1,156**	454	702	**138,900**	68,530	70,370	841

Protection Facilities for Sexual Violence Victims

Year	Number of facilities	Total capacity of accommodation (number of persons)	Number of workers		
			Total	Full-time workers	Part-time volunteers
2006	17	**192**	**72**	51	21
2007	20	**211**	**114**	64	50
2008	19	**197**	**105**	57	48
2009	20	**214**	**116**	69	47
2010	21	**229**	**134**	76	58

Services Provided at Protection Facilities for Victims of Sexual Violence

(Number of cases and %)

Year	Total	Counseling	Investigational and legal support	Medical support	Education-related matters	Self-reliance support	Others
2006	**14,405**	9,530	247	2,000	2,069	559	-
	100%	66.1	1.7	13.9	14.4	3.9	-
2007	**18,317**	12,871	347	2,309	2,332	458	-
	100%	70.3	1.9	12.6	12.7	2.5	-
2008	**15,998**	9,713	394	2,286	1,109	515	1,981
	100%	60.7	2.5	14.3	6.9	3.2	12.4
2009	**14,570**	8,165	417	2,626	789	401	2,172
	100%	56.0	2.9	18.0	5.4	2.8	14.9
2010	**19,226**	13,087	375	2,324	701	868	1,871
	100%	68.1	2.0	12.1	3.6	4.5	9.7

Services Provided at Dedicated Centers against Sexual Violence against Children

Description	Number of Victims Served	Number of cases of services			
		Total	Medical support	Counseling	Legal Aid
2006	1,039(53)	**7,568(503)**	2,312(129)	3,944(285)	1,312(89)
2007	1,004(63)	**7,729(560)**	2,237(170)	4,131(303)	1,361(87)
2008	1,060(78)	**9,043(584)**	2,449(200)	5,196(322)	1,398(62)
2009	1,292(91)	**13,371(1,071)**	3,093(292)	8,338(576)	1,940(203)
2010	2,464(157)	**15,137(1,191)**	4,430(304)	8,611(579)	2,096(308)

Figures in parentheses represent the number of victims with disabilities and that of cases of services provided to them.

Support for Protection of Female Victims of Domestic Violence

80. Major details of amendment to the Act on the Prevention of Domestic Violence and Protection of Victims were explained in the third report (CCPR/C/KOR/2005/3, paras. 79 and 80). On 20 January 2004, the Act was amended to strengthen the protection of domestic violence victims by providing that the Government may not exercise claims for reimbursement for the costs it paid for the medical treatment of a domestic violence victim

if the offender is a beneficiary under the National Basic Living Security Act or a disabled person registered under the Welfare of Disabled Persons Act.

81. The amendment of the above-mentioned Act on 8 May 2009 introduced new measures, including the operation of hot lines for victims of domestic violence to provide prompt protection. The hotlines, installed and operated by the Ministry of Gender Equality or local governments, receive reports of domestic violence, provide counseling services to victims, refer them to appropriate organizations or facilities for further protection, and conduct emergency relief services (article 4-6). The amendment also introduced the criteria for entering and leaving protection facilities (articles 7-3 and 7-4) and preferential access to national rental housing for domestic violence victims (article 4 (1) 3). On 4 February 2010, the Act was further amended to empower the central or local government to provide financial assistance to domestic violence victims accommodated in protection facilities to support their livelihood and child education and rearing (article 7-5(1)). Another amendment on 17 May 2010 strengthened protection of victims with new provisions on the accompaniment of police officers in the event of emergency relief for victims by hot lines and other services, the evaluation of facilities for domestic violence victims, and the production, distribution, and transmission of video materials on the prevention of domestic violence and support of victims. The amendment also introduced integrated education at school for violence prevention, covering domestic and sexual violence.

82. On 1 April 2009, in order to protect victims of domestic violence from the offenders, the Resident Registration Act was amended to restrict offenders' access to the information of the residence of their victims. With the amendment, a victim of domestic violence may apply for restrictions on access by the offender, who has a separate residence from the victim, to the victim's resident registration information, including the perusal or issuance of a copy of the registration card (article 29 (6)). From 2 October 2009 when the Act entered into force to 30 June 2010, a total of 1,119 persons applied for such restrictions.

83. As described in para. 81, domestic violence victims are entitled to preferential access to national rental housing with the amendment of the Act on the Prevention of Domestic Violence and Protection of Victims on 8 May 2009. In line with this, the Rules on Housing Provision was amended on 10 December 2009, which stipulated the preferential access to national rental housing to domestic violence victims (article 32 (5) 6). Priority is granted to persons who were accommodated in protection facilities for domestic violence victims for six months or longer or victims who lived in group homes for two years or longer.

Operation of Domestic Violence-Related Counseling Centers

		Number of workers			*Counseling Service (number of cases)*			
Year	*Number of centers*	***Total***	*Full-time workers*	*Part-time volunteers*	***Total***	*Domestic violence related*	*Others*	*Average counseling service per center*
2006	372	**2,311**	815	1,496	**283,705**	138,949	144,756	763
2007	316	**2,828**	902	1,926	**295,825**	135,386	160,439	939
2008	303	**2,407**	820	1,587	**307,851**	130,921	176,930	1,016
2009	275	**1,816**	693	1,123	**307,009**	132,227	174,782	1,129
2010	251	**2,016**	709	1,307	**296,686**	135,069	161,617	1,182

Protection Facilities for Domestic Violence Victims

(Number of facilities and persons)

Year	*Number of protection facilities*	*Total capacity of accommodation (number of persons)*	*Number of workers*		
			Total	*Counselors*	*Part-time volunteers*
2006	59	955	**252**	149	103
2007	70	1,115	**311**	207	104
2008	71	1,128	**346**	220	126
2009	66	1,130	**280**	207	73
2010	64	1,114	**282**	207	75

Support for Domestic Violence Victims at Protection Facilities

(Number of cases and %)

Year		*Details of support*					
	Total	*Counseling*	*Investigational and legal support*	*Medical support*	*Support for self-reliance*	*Support for accompanying children*	*Support for offenders*
2006	**87,104**	53,382	5,317	12,384	2,863	11,925	1,233
	100%	61.3	6.1	14.2	3.3	13.7	1.4
2007	**88,002**	54,657	3,812	13,137	3,210	11,627	1,559
	100%	62.1	4.3	14.9	3.7	13.2	1.8
2008	**75,788**	42,182	3,189	11,801	2,677	11,098	4,841
	100%	55.7	4.2	15.6	3.5	14.6	6.4
2009	**74,105**	39,120	2,690	11,950	3,066	14,538	2,741
	100%	52.8	3.6	16.2	4.1	19.6	3.7
2010	**81,499**	37,837	3,257	15,510	4,772	15,762	4,361
	100%	46.4	4.0	19.0	5.9	19.3	5.4

Punishment of Domestic Violence

Revision of Legislation Concerning Domestic Violence Crimes and Status of Punishment

84. In its consideration of the third report, the Committee regretted the lack of progress in the prosecution and punishment of those responsible for domestic violence. The Committee was concerned that specific legal provisions on domestic violence were lacking in the Korean legislation. It recommended that the Government assess the effectiveness of the measures taken by it to combat domestic violence (CCPR/C/KOR/CO/3, para. 11).

85. Contrary to the Committee's concern, a special act on domestic violence is in place. Enacted in December 1997, the Act on Special Cases concerning Punishment, etc. of Domestic Violence Crimes provides for criminal procedures exceptionally applied to domestic violence cases. It stipulates protective disposition of domestic violence offenders to change their environment and reform their behavior. With the amendment of the Act on 27 January 2005, protective disposition may be arranged even in cases of non-prosecution when the victim withdraws the complaint or expresses intention of not pressing charges (article 9). In addition, a provision to impose a fine for negligence against a person who fails to comply with protective disposition was newly inserted (article 65).

86. The ratio of prosecution and punishment concerning domestic violence remains low because the protective disposition or prosecution suspension is utilized in consideration of the nature of domestic violence. Protective disposition includes a restraining order for a victim, restrictions on exercise of parental authority, community service order, lecture attendance order, and commissioned treatment, all without punishing an offender. The above-mentioned Act stipulates the opinion of victims shall be respected in arranging protective disposition and most complainants in domestic violence cases prefer admonition and recurrence prevention to punishment. Furthermore, it is generally more effective to undergo family protection proceedings than resorting to criminal prosecution for the purpose of offender treatment and family relations improvement.

87. Out of non-prosecution cases, prosecution suspension is implemented when punishment of the offender is deemed inappropriate if the crime is minor; the victim does not want penalization of the offender; and the offender is deeply repentant. In addition, some minor crimes of domestic violence are not subject to prosecution by law, when the victim does not seek punishment of the offender. Such cases are handled as a non-prosecution case based on the principle of "no power to file prosecution." On 1 June 2008, the "guideline on prosecution suspension of domestic violence criminals on condition of counseling" was formulated and enforced in order to improve the way of dealing domestic violence cases through reforming offenders' behavior in parallel with protecting victims. It also aims to prevent recurrence of domestic violence and to support recovery of family stability.

88. There were 577 persons prosecuted for domestic violence in 2010, 11.1% of 5,185 violators registered with prosecutors. 1,908 persons were sent to family courts when the prosecutor deemed protective dispositions reasonable. The combined ratio of persons prosecuted or sent to family courts accounts for 47.9 % of the total registered cases.

Domestic Violence Cases handled by the Prosecution

(Number of persons)

			Prosecution		*Non-prosecution*						
Year	*Receipt*	***Total***	*Trial*	*Summary prosecution*	*Cleared of suspicion*	*Prosecution suspension*	*Non-crime*	*No power to file prosecution*	*Case dismissed*	*Sent to family courts for protective disposition*	*Others*
2004	17,298	**17,294**	463	1,966	245	4,756	16	4,294	83	5,218	253
2005	15,454	**15,498**	361	1,800	277	4,368	12	4,006	49	4,475	150
2006	13,507	**13,531**	315	1,657	279	3,449	5	3,457	40	4,197	132
2007	12,782	**12,807**	265	1,492	200	2,847	4	3,091	31	4,735	142
2008	13,334	**13,341**	354	1,487	227	2,593	5	3,707	17	4,833	118
2009	12,132	**12,154**	266	996	213	2,197	19	3,745	41	4,579	98
2010	5,185	**5,240**	112	465	113	928	8	1,654	22	1,908	40

Human Rights Education Targeting Law Enforcement Officials in Charge of Domestic Violence

89. In its consideration of the third report, the Committee recommended that law enforcement officials, police officers in particular, be provided with appropriate training to deal with cases of domestic violence, and that awareness-raising efforts be continued to sensitize the public (CCPR/C/KOR/CO/3/C RP.1, para. 11).

90. The Legal Research and Training Institute began offering on a yearly basis a class on "characteristics of domestic violence based on counseling cases" in the curricular "expert program on investigation on crimes against women and children" for prosecutors

and a class on "explanation of domestic violence legislation and case study" in the curricular "practical investigation program on crimes of abuse of women and children" for investigators.

Marital Rape

91. In its consideration of the third report, the Committee recommended that the penal legislation of the Republic of Korea be reformed to establish marital rape as a criminal offense (CCPR/C/KOR/CO/3, para. 11).

92. Rape of a spouse can be penalized as rape under the Criminal Act. A crime of rape may be acknowledged against any person, who forces his spouse to have sex with him by using violence or intimidation, depending on individual and specific circumstances.

93. On 12 February 2009, the Supreme Court of Korea ruled that a crime of rape is acknowledged against a defendant who forced sex with his wife without her consent on grounds that the martial relationship between the defendant and victim was legally maintained but already broken in practice (2008 DO 8601). On 20 August 2004, the Seoul Central District Court acknowledged a crime of an indecent act by force causing bodily harm when a man sexually assaulted his wife after their marital relationship ended in essence as his wife had sought divorce. On 16 January 2009, the Busan District Court acknowledged a crime of rape against a man who forced sexual intercourse with his wife who is a foreigner by threatening her with a deadly weapon (2008 GO-HAP 808).

Sexual Harassment

General Information on Punishment of Sexual Harassment

94. Sexual harassment itself is not subject to punishment, but some sexual harassment cases constitute criminal acts under the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof (compulsive indecent act in abuse of occupational authority and obscenity using communication media) and the Criminal Act (rape of a woman under supervision of the offender (article 303)). In addition, the National Human Rights Commission Act and the Framework Act on Women's Development provide for matters pertaining to investigation, recommendation, punishment, and preventive education regarding sexual harassment.

95. The Equal Employment Opportunity and Work Family Balance Assistance Act contains provisions on the prohibition and prevention of sexual harassment against women (Chapter 2, Section 2). The Act forbids sexual harassment in the workplace (article 12), specifies employers' obligation to conduct education on sexual harassment prevention in the workplace (article 13), and provides for the commission of education on sexual harassment prevention (article 13-2). When a case of sexual harassment in the workplace is confirmed, the employer is obliged to take prompt disciplinary actions or other appropriate measures against the offender (article 14). On 21 December 2007, the Act was revised to include a provision designed to prevent sexual harassment that is frequently committed by customers and other persons in the service industry (article 14-2).

Prevention of Sexual Harassment in Public Organizations

96. Public institutions take measures to prevent sexual harassment and secondary damage to victims, including prevention education and systems for handling sexual harassment cases. From 2007 to 2010, 97.8% of public institutions carried out sexual harassment prevention education.

Measures taken to Prevent Sexual Harassment by Public Institutions

Year	*2007*	*2008*	*2009*	*2010*
Number of target institutions	12,042	12,383	14,634	15,692
Institutions providing preventive education	98.0%	97.7%	96.7%	98.7%

97. The amendments of the Framework Act on Women's Development on 14 September 2008 (article 17-2) and of its Enforcement Decree on 3 February 2009 (article 27-2) introduced new measures to prevent sexual harassment. Preventive measures including education are made compulsory along with duty to report the result to the Minister of Gender Equality, who is required to monitor preventive measures and take actions including special education for managers for poor performance. In addition, the result of monitoring measures to prevent sexual harassment may be disclosed publicly.

98. A sexual harassment prevention system targeting the public sector including state agencies, local governments, schools, and public service organizations has been in place. At the beginning of each year, the Government distributes guidelines to prevent sexual harassment to public institutions. With the computerization of integrated management system for prevention of sexual harassment and sex trade (shp.mogef.go.kr), reporting prevention measures and their monitoring became more efficient. Along with targeted education for the managers of poor performance, excellent performance is awarded.

99. In addition, the Government supports sexual harassment prevention education in public institutions by developing education materials for distribution and providing training of sexual harassment prevention education instructors and counselors. From 2007 to 2010, 97.8% of public institutions carried out sexual harassment prevention education.

Effort for Prevention of Sexual Harassment in the Workplace

100. The Equal Employment Opportunity and Work Family Balance Assistance Act provides for the prohibition and prevention of sexual harassment in the workplace (articles 12 to 14-2, Chapter 2), including obligatory sexual harassment prevention education, measures to be taken in the event of sexual harassment, prevention of sexual harassment by customers and other people, and prohibition of retribution in response to claims of sexual harassment. The Act also contains provisions on a penalty and fine for negligence in case of its violation (articles 37 to 39).

101. Joint monitoring and efforts for improvement by labor unions and managements of sexual harassment prevention education are made voluntarily on a yearly basis. The Government inspects workplaces that are suspected to have conducted such education inadequately. With respect to workplaces employing a large number of women, the Government conducts overall inspection of their sexual harassment prevention education records and relevant documentation (required to retain for three years), and the inspection results are managed through a computerized system named *Nosanuri*. In addition, free-of charge instructors from a pool created by the Government are sent to small workplaces that have difficulty with providing adequate preventive education despite a high risk of sexual harassment. The Government also engages in promoting prevention of sexual harassment through mass media and designates institutes providing preventive education.

Voluntary Monitoring of Sexual Harassment Prevention in the Workplace

Year	*2006*	*2007*	*2008*	*2009*	*2010*
Target of monitoring	With employees between	With employees between	With less than 10 employees	Distribution, financial,	With less than 50 employees

Year		*2006*	*2007*	*2008*	*2009*	*2010*
		10 and 19 (manufacturing business)	10 and 19 (non-manufacturing business)		restaurant, and communication business	
Number of work places conducting monitoring		7,593	8,041	8,165	7,717	7,321
Failure to comply	Number	1,313	1,788	1,620	643	574
	Ratio (%)	17.3	22.2	19.8	8.3	7.8

* All workplaces failing sexual harassment prevention took corrective measures.

Government Inspection of Sexual Harassment Prevention in the Workplace

Year		*2006*	*2007*	*2008*	*2009*	*2010*
Number of inspected companies		371	877	268	488	761
Violations uncovered	Number of companies	168	144	21	20	289
	Ratio (%)	45.3	16.4	7.8	4.1	38.0
Measures taken for violations	Corrective measures	166	139	21	20	288
	Fine for negligence	2	5	-	-	1

102. Prevention of sexual harassment is crucial in light of the limitations on *ex post facto* recovery of damage from it. Accordingly, the Government focuses on awareness-raising on prevention of sexual harassment through developing educational materials for distribution. The Government included workplaces where sexual harassment cases are reported in the targets of various inspections in order to prevent recurrence of sexual harassment, with a view to strengthening its guidance and supervision.

Article 4

103. With respect to article 4 of the Covenant, explanations were given in the first and second reports (CCPR/C/68/Add.1, paras. 88-95; CCPR/C/114/Add.1, paras. 67-70).

Article 5

104. Concerning article 5 of the Covenant, explanations were provided in the first and second reports (CCPR/C/68/Add.1, paras. 96 and 97; CCPR/C/114/Add.1, paras. 71 and 72).

Article 6

Paragraph 1

105. The first and second reports described the Government's legislation and institutions aimed at respecting and protecting right to life (CCPR/C/68/Add.1, paras. 98-100; CCPR/C/114/Add.1, paras. 73-76).

Death with Dignity

106. On 21 May 2009, the Supreme Court of Korea ruled that discontinuance of life-sustaining treatment may be permitted in certain circumstances and presented criteria of such circumstances. Thus, life-sustaining treatment of a person, whose immediate death is certain with no prospective of regaining consciousness and a irrecoverable loss of vital physical function, may be discontinued if he is deemed to have decided so on his own in light of article 10 of the Constitution which stipulates human dignity and worth and right to happiness for every citizen (2009 DA 17417 decision by a collegiate panel).

107. With the above-mentioned ruling and the guidelines on discontinuance of life sustaining treatment issued by medical institutions in October 2009, patients may cease life-sustaining treatment by their own decision when required circumstances are satisfied. In connection with death with dignity, a bill on death with dignity and a bill on the right to die naturally at the last stage of life were also submitted to the 18th National Assembly.

Paragraph 2

Death Penalty

108. No death penalty has been executed in the Republic of Korea since 1997 and Amnesty International has described Korea as "abolitionist in practice" since 30 December 2007. The Government considers that the issue of official announcement of a moratorium on or the legal abolition of the death penalty is a critical matter in terms of the criminal jurisdiction of a state. Accordingly, it will remain under careful consideration through comprehensive evaluation of the function of the death penalty in criminal policy, public opinion and social realties.

109. As stated in the first, second, and third reports (CCPR/C/68/Add.1, para. 101; CCPR/C/114/Add.1, paras. 77-82; CCPR/C/KOR/2005/3, paras. 106-108) capital punishment is limited to extremely serious crimes and it is not the only punishment applicable in most cases, since imprisonment with either unlimited or limited terms can be imposed instead of capital punishment. Therefore, a sentence of capital punishment is handed down only in exceptional cases of an extremely serious nature, and due process is fully respected in death sentencing.

Death-Row Inmates as of December 2010 by Type of Crime

(Number of persons)

Type	*Public security violation*	*Murder*	*Murder during robbery*	*Murder of lineal ascendant*	*Murder after kid-napping*	*Murder by rape*	*Arson resulting in death*	***Total***
Number of inmates	0	24	21	2	5	5	2	**59**

Status of Death Sentence

110. From 2004 through 2010, fewer than five persons were sentenced to death annually.

Annual Sentencing and Execution of Death Sentence

(Number of persons)

Year	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Finalized	2	3	2	3	0	3	2
Executed	0	0	0	0	0	0	0

Rulings of the Supreme Court of Korea and Decisions by the Constitutional Court of Korea Concerning the Death Penalty

111. On 25 February 2010, the Constitutional Court of Korea ruled that the death penalty does not conflict with the Constitution because the death penalty does not exceed the permissible limitation of rights and freedom as stipulated in article 37 (2) of the Constitution and is not against article l10 of the Constitution on the dignity and worth of human beings (2008 HUN-GA 23). The Court was also of the view that the death penalty is not in breach of the principle of proportionality: first, the death penalty justly serves the purpose of crime prevention, delivery of justice, and social defense by deterring the criminal from committing other crimes; second, it complies with the principle of minimal limitation of rights since there is no alternative to the death penalty with the same effect as it has; third, the death penalty, also, is not in violation of the principle of balancing between legal interests concerned. The above-mentioned public interests which the death penalty serves are to be valued not less than the perpetrator's individual interest in preserving life. The sentence of death in its practice has been limitedly imposed only for the most serious crimes such as vicious killings of many people so that such sentence of death could not be excessive compared to the cruelty of crime. This ruling was made by five constitutional opinions against four unconstitutional ones, while the ruling on 28 November 1996, which was mentioned in the third report (CCPR/C/KOR/2005/3, para. 109), was by seven constitutional opinion against two unconstitutional opinions.

112. With its ruling on 24 March 2006 and 26 February 2009, the Supreme Court maintained its position on the death penalty, which was explained in the third report (CCPR/C/KOR/2005/3, para. 110), that the death penalty should be imposed as the last resort only in special circumstances, which should be clarified taking into comprehensive consideration of all relevant matters including motives, means, and methods of crimes and recovery of damages (2006 DO 354, 2008 DO 9867).

Paragraph 4

Right to Request Amnesty and Commutation by Persons Sentenced to Death

113. The second report explained amnesty and commutation towards people sentenced to death (CCPR/C/114/Add.1, para. 87). In 2008, amnesty and commutation were given to six death-row inmates.

Paragraph 5

Prohibition of Death Sentence Execution against Persons below 18 years of age and Pregnant Women

114. The first report describes the prohibition of the death sentence against persons aged less than 18 and stay of execution of the death penalty against pregnant women (CCPR/C/68/Add.1, para. 19).

Treatment of Persons whose Death Penalty was Finalized

115. As explained in the first report, inmates sentenced to capital punishment are not subject to any discriminatory treatment in comparison with other prisoners (CCPR/C/68/Add.1, paras. 120 and 121).

116. On 11 December 2008, the Administration and Treatment of Correctional Institution Inmates Act was revised to revamp provisions on imprisonment of persons whose death penalty sentence was finalized, ensuring that they would be imprisoned in facilities most appropriate for their treatment. The Act also clarified that they may be placed in a prison cell with other inmates when necessary for education and edification programs (articles 11 and 89). In addition, persons whose death penalty sentence was finalized may exercise the right to defense as granted to non-convicted prisoners if he is under investigation or trial for another criminal case, including consultation with defense counsel and postal correspondence (article 88). Considering that execution of a death penalty is deferred for a long period of time, the Act explicitly stipulates that education and edification programs may be provided for persons whose death sentence was finalized and that labor may be allowed at their request (article 90). The Act also guarantees four visits a month to persons on death row, treating them in a manner comparable to non-convicted prisoners including permission of treatment at outside hospitals.

117. A “task force team for inmates on death row” including members of the clergy and clinical psychologists was organized to improve counseling for mental edification. All prisoners on death row have the right to access religious services of the religion of their choice. In addition, the scope of participation in general edification events was broadened, allowing the day of family gathering. Those who have been in correctional facilities more than three years without breaching regulations more than three times may work and attend training programs if they wish. In other words, the Government strives to improve the treatment of prisoners on death row through practical edification and work-related measures rather than simply detaining them in the waiting for the execution of the sentence.

Article 7

118. As stated in the initial report, there exists sufficient domestic legislation on torture or inhumane treatment such as the Constitution, Criminal Act, and the Criminal Procedure Act (CCPR/C/68/Add.1, paras. 136-139). As explained in the second report, prosecutors dedicated to human rights protection are posted at each public prosecutor’s office, and the heads of investigation departments are designated as human rights protection officers at each police station. Thus, the investigation authorities have stepped up their independent endeavor to prevent and detect torture or inhumane treatment (CCPR/C/114/Add.1, para. 96).

Improvement of Use of Restraining Devices and the Disciplinary Punishment against Prisoners

119. The Committee recommended that perpetrators be punished in a manner proportionate to the seriousness of the offences committed by them, and effective remedies be made including compensation to victims. It also recommended the Republic of Korea to stop practice of certain forms of disciplinary punishment, in particular, the use of restraining devices including manacles, chains, and face masks, and the continuation of disciplinary punishment through the "stacking" of 30 day periods of isolation without any apparent time limit and to take appropriate measures to prevent all forms of ill-treatment by law enforcement officials in all places of detention including mental health hospitals (CCPR/C/KOR/CO/3, para. 13).

120. Use of restraining devices is permitted to the minimum extent necessary to attain a certain purpose only when there exists a justifiable cause. The third report explained the causes, requirements, scope, and deferment of disciplinary punishment and so on (CCPR/C/KOR/2005/3, paras. 170-177).

121. In December 2007, the Government wholly amended the Criminal Administration Act to the Administration and Treatment of Correctional Institution Inmates Act and consolidated legal protection regarding prisoners' treatment and rights. According to the Committee's recommendation, chains were excluded from the scope of allowable protective devices as they are inhumane. Instead, modern protective devices including protective clothing, beds, and guards that can be used on body parts of inmates as necessary while minimizing physical pressure on them were added to the scope of protective devices that may be used (article 98). There were only five types of disciplinary punishment against inmates that primarily entailed solitary confinement, and nine new types of punishment were created including labor service, suspension of participation in events, and restrictions on telephone communication, television watching, and use of goods purchased at their own expense. This enables imposition of more various disciplinary punishments in accordance with the nature of rule violations (article 108).

122. The Act explicitly stipulates that disciplinary punishment may not be imposed repeatedly regarding the same act, explicitly prohibiting consecutive imposition of a period of solitary confinement (article 109 (3)). Disciplinary punishment is determined by the disciplinary punishment committee in a correction facility. Such committee is comprised of five to seven members including three outside members. The Act guarantees the right to appeal and the right to present an opinion in person for those subject to disciplinary punishment as a means to ensure fairness in disciplinary punishment (article 111).

Procedures of Remedy for Violation of Rights at Detention Facilities

123. As stated in the third report, inmates at detention facilities may file petitions with the Minister of Justice, institute administrative appeals and litigation in court, or submit complaints to the National Human Rights Commission of Korea, and have access to gratuitous legal counseling from the Korea Legal Aid Corporation (CCPR/C/KOR/2005/3, paras. 165-169). For the purpose of preventing ill-treatment by law enforcement officers in detention facilities, the Committee recommended that the Government take appropriate preventive measures including operation of independent investigative bodies, independent inspection of facilities and videotaping of interrogations (CCPR/C/KOR/CO/3, para. 13). As an independent national human rights institute, the National Human Rights Commission of Korea performs on-site inspection and ex officio investigation at detention facilities, and examines individual complaints by inmates. A system of videotaping the prosecutor's interrogation of the suspect was introduced as well.

Establishment and Operation of Human Rights Violation Hotline Center by the Human Rights Bureau of the Ministry of Justice

124. In May 2006, the Ministry of Justice set up the Human Rights Bureau and have since operated the Human Rights Violation Hotline Center for the purpose of investigation and prompt relief of human rights violations related to legal administration including investigation, correction, protection, and immigration control. The Center handles and processes human rights violation cases in the process of legal administration ranging from investigation, correction, to immigration, pursuant to the rules on investigation and handling of human rights violations. Major cases are directly investigated by the Center, and investigation of other cases is commissioned or transferred to each relevant office, bureau, and headquarters of the Ministry. With the help of the Korea Migrants Center, it provides telephone services in 12 languages including English, Chinese, Thai, and Vietnamese to enable reporting in a foreign language. Information on how to use the service is available on the web pages of the Ministry of Justice (www.moj.go.kr) and Human Rights Bureau (www.hr.go.kr). Petitions are received by telephone, post, and Internet.

125. From the installation of the Human Rights Bureau in May 2006 to December 2010, a total of 4,485 reports were made to the Human Rights Violation Hotline Center, which received a total of 3,817 cases, accepted and remedied 325 cases, and directly investigated 1022 cases. Out of the reports made and received so far, 8.5% were accepted and 26.77% were directly investigated.

Statistics on Cases per Year

(Number of cases)

Year	*2006. 5~*	*2007*	*2008*	*2009*	*2010*
Reported	410	576	1,156	1,171	1,172
Received	209	491	1,059	1,035	1023
Directly investigated	40 (19.1%)	116 (23.6%)	217 (20.5%)	281 (27.1%)	365 (36%)
Accepted and remedied	23 (11.0%)	42 (8.6%)	81 (7.6%)	87 (8.4%)	92 (9%)

Statistics by Area

(Period: May 2006-December 2010, Number of cases)

Area	*Received*	*Directly investigated*	*Accepted and remedied*	*Under investigation*
Total	**3,817**	**1022 (26.77%)**	**325 (8.5%)**	**0**
Investigation	386	9 (2.33%)	4 (1.0%)	0
Correction	2,413	81 (33.81%)	182 (7.5%)	0
Immigration	392	112 (28.57%)	77 (19.6%)	0
Crime prevention	121	64 (52.89%)	52 (43.0%)	0
Others	505	21 (4.5%)	10 (2.0%)	0

Status of Petition System Operation in Correctional Facilities

126. The amended on 21 December 2007 allows inmates who wish to challenge Administration and Treatment of Correctional Institution Inmates Act their treatment to file a petition not only with the Minister of Justice but also the heads of regional correction headquarters, granting them more opportunities to submit petitions (article 117).

The scheme to enable submission of such petition to the Minister of Justice has been acknowledged as a remedy by involved institutions for violation of rights of inmates. Thus, the number of petitions instituted rose approximately 47% from 1,495 in 2006 to 2,205 in 2009.

Number of Petitions Filed with the Minister of Justice

(Number of cases, %)

Year	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Number of petitions	1,200	1,229	1,495	1,999	2,330	2,205	1,573
Increase (decrease) rate from the previous year (%)	-	2.5	21.6	33.7	16.6	5.4	-28.7

127. The increase in the number of petitions filed by inmates delayed their processing. In 2006, each petition was processed in 87.7 days on average. With revision of the Guidelines on Handling of Petition-Related Affairs on 2 September 2009, the average period shortened to 80.5 days in 2009. To speed up petition processing, the petition investigation period for urgent matters was limited to 20 days. An expedited investigation system was adopted to ensure that remedy for violation of rights is accomplished within 30 days. With respect to cases not requiring fact-finding reviews, a written investigation was introduced to allow for swift decisions on petitions through independent examination without investigation by petition investigators. In the future, expedited investigation instructions will be made concerning major and urgent petitions; the functions of a complaint handling team that handles petitions at each correction facility will be strengthened; and petition investigation staff at regional correction headquarters will be utilized more efficiently as part of a consistent effort to further streamline the petition processing period.

Petition Processing Period by Year

(Number of days)

Year	*2006*	*2007*	*2008*	*2009*	*2010*
Average processing period	87.7	87.3	84	80.5	77.1

Petitions to and Recommendations by the National Human Rights Commission

128. On 23 April 2009, the National Human Rights Commission carried out *ex officio* investigation and confirmed that three police officers had committed cruel acts against suspects. The Commission filed a complaint against the officers with the prosecution and recommended the Commissioner General of the National Police Agency issue a caution. On 14 September 2009, the Commission decided that the act of exposing the face of a handcuffed suspect tied with a cord and wearing a convict's uniform to the general public constituted violation of the inmate's basic rights. Accordingly, it recommended that heads of prisons and detention centers devise measures to improve escort duties and conduct job competency education of officers who handle the affairs at issue.

Human Rights Violation Cases at Detention and Protection Facilities

(Number of cases)

Year	Type of institution	Received	Concluded								
			Total	Recom-mendation	Complaint	Discipline recom-mendation	Legal aid	Conclusion by settle-ment	Rejection	Transfer	Dismissal	Investigation discon-tinuation
06	Detention facilities	1,428	**1,092**	9	-	-	-	2	813	37	231	-
	Welfare Facilities	257	**106**	4	5	-	-	-	51	2	40	4
07	Detention facilities	2,004	**1,554**	14	-	6	-	4	1,115	53	362	-
	Welfare Facilities	587	**232**	4	8	-	-	1	133	16	67	3
08	Detention facilities	1,950	**1,599**	18	-	-	1	11	1,018	60	490	1
	Welfare Facilities	686	**388**	19	1	-	-	-	209	5	151	3
09	Detention facilities	2,027	**1,564**	13	-	-	-	15	972	52	504	8
	Welfare Facilities	489	**360**	42	1	-	-	11	136	1	169	-
10	Detention facilities	1,880	**1,441**	5	-	-	-	9	926	44	444	13
	Welfare Facilities	1,371	**1,109**	53	1	1	-	39	685	11	311	8

Revision and Execution of the Criminal Procedure Act

129. On 1 June 2007, the Criminal Procedure Act underwent a sweeping revision. The revised Act has provisions to step up human rights protection for suspects and defendants and to promote suspects' right to defense. Recommendations by the Committee were reflected in the process of its revision. As major actions to prevent the possibility of torture, the Act expressly provides for the principles to permit participation by defense counsel in suspect interrogation, allow the presence of a person who has a reliable relationship with a suspect, and exclude evidence obtained by illegal means including torture from the scope of admissible evidence. These actions were not stipulated explicitly in the past. The Act also expands the state-appointed counsel system, restricts urgent arrests, and introduces videotaping and recording of an investigation process.

Videotaping and Recording of Investigation Process

130. The revised Criminal Procedure Act establishes a legal basis for videotaping statements by suspects (article 244-2) and strengthens suspects' right to remain silent by requiring notification of such right and presentation of a record of it (article 244-3). In addition, the Act requires prosecutors or judicial police officers to record matters necessary to confirm investigation proceedings including the time when a suspect arrived at the place of investigation and the time when investigation was begun and completed (article 244-4).

Use of the Videotaping System by Public Prosecutor's Offices

(Number of cases and persons)

Year	2005	2006	2007	2008	2009	2010
No. of investigations	2,145	4,855	19,197	25,191	50,967	15,273
No. of investigated persons	2,237	5,723	22,016	27,769	59,324	18,474

Use of the Videotaping System by the National Police Agency

(Number of cases)

Year	*2006*	*2007*	*2008*	*2009*	*2010*
No. of videotaping cases	943	18,103	89,338	73,371	32,124

Provision on Presence of Persons with a Reliable Relationship

131. A newly inserted provision enables accompaniment of a person who has a reliable relationship with a suspect when the suspect lacks sufficient ability to understand matters and to make and express his or her decision due to a physical or mental disability or when such presence is necessary for the suspect's psychological stability and smooth communication in consideration of his or her age, gender, nationality, or other circumstances (article 244-5).

Principle of Excluding Illegally Obtained Evidence

132. The revised Criminal Procedure Act declares the principle that criminal facts shall be proved to the extent that there is no reasonable doubt (article 307), which explicitly provides for the principle of excluding illegally obtained evidence by stipulating that evidence collected by investigation authorities in breach of said provision shall not be admissible (article 308-2). Even before such revision, confession made involuntarily as a result of a cruel act, etc. was not adopted as evidence. With revision of the Act, illegally obtained confessions and physical evidence are excluded from the scope of admissible evidence.

Efforts to Prohibit Torture and Inhumane Treatment in the Investigation Process

133. As explained in the second report, prosecutors dedicated to human rights protection are designated at each public prosecutor's office, and the heads of investigation departments are selected as human rights protection officers at each police station. Thus, the investigation authorities have strengthened their independent endeavor to prevent and detect torture or inhumane treatment (CCPR/C/114/Add.1, para. 96). The third report describes the formulation and enforcement of the "Rules of Investigation on Protection of Human Rights" (CCPR/C/KOR/2005/3, paras. 115 and 116).

134. The Rules of Investigation on Protection of Human Rights stated in the third report were wholly amended on 26 June 2006 as some pointed out that it was abstract and failed to reflect laws enacted or amended after its entry into force as well as institutional improvements. The revised rules contain newly inserted or more detailed provisions on prohibition of discrimination, establishment of the principle of investigation without physical detention, enhancement of investigation transparency, and care for the underprivileged including youths and disabled persons to protect people's human rights more thoroughly. Each year, the Ministry of Justice evaluates compliance with the rules by each public prosecutor's office, shares best practices, and grants an award to the most outstanding public prosecutor's office.

135. In September 2005, the National Police Agency enacted the "Professional Rules on Police Officers for Human Rights Protection" in order to minimize human rights abuses during investigation. The rules specify the details of the existing Criminal Procedure Act and the Act on the Performance of Duties by Police Officers, providing for the principle of human rights protection (article 4), prohibition of violence and cruel acts (article 8), principle of investigation without physical detention (article 47), matters of consideration at the time of arrest and detention (article 53), limitations on the use of weapons, etc. (article 54), and prohibition of investigation late at night (article 64). Accordingly,

the "Human Rights Committee of the National Police Agency" consisting of outside personnel from civic groups, academia, and the religious community was organized to take charge of investigation and making recommendations as regards to human rights violations by the police and on-site inspection of facilities. The rules exceptionally permit late-night investigation only when the investigated person and counsel give consent or when expiration of the statute of limitations is impending.

136. For the purpose of promoting human rights sensitivity in performing its duties, the National Police Agency incorporated "human rights education courses" in regular education. In 2008, 111,104 persons were trained in 131 education courses for 2,568 hours. It also introduced a 'human rights counseling hotline' system to swiftly tackle human rights abuses including illegal arrest, detention, violence, and cruel acts. During the period from 2005 to 2008, 1,219 cases were received and processed.

Measures Regarding an Inmate's Suicide Caused by Sexual Violence by an Employee of Correction Facilities

137. In December 2005, an employee of the Seoul Detention Center sexually molested twelve female inmates several times. One of these inmates committed suicide due to psychological shock. After conducting a fact-finding investigation, the Government dismissed the employee concerned as a punitive action and issued a warning against other relevant employees for their failure to perform proper supervision. Apart from this, the Government paid about KRW 200 million to the victim as compensation for damage according to a claim for compensation and then recovered the amount by exercising the right to demand indemnity against the employee. Said employee was sentenced to four years in prison as a court acknowledged his crime of an indecent act by force causing bodily harm.

Human Rights Education Concerning Prevention of Torture

138. To prevent torture in detention facilities, the Government provided workers and probation officers at juvenile correctional institutes and immigration detention centers with human rights education regarding the ban on torture and inhumane acts. The education course includes "human rights investigation under the revised Criminal Procedure Act" and "investigation and human rights" that concern prohibition of such acts as torture against a suspect during investigation; and "correction devices utilization methods" that encompass the principle of proportionality pertaining to the use of correction devices, recommendations by the National Human Rights Commission on correction devices, and provisions in laws on correction to prevent abuse of correction devices. In accordance with its policy to bolster human rights education, the Government is striving to make education more concrete and practical when it formulates curricula and consults instructors.

Education for Government Employees Working at Detention Facilities

Year	*Subjects*	*No. of sessions*	*No. of persons*
2007	Methods to use security and restraining devices	3	340
2008	2 subjects including the methods to use security devices	13	531
2009	2 subjects including the methods to use security devices	28	2,087
2010	2 subjects including the methods to use correction devices	31	1,556

Article 8

Prohibition of Forced Labor

139. As expounded upon in the first report, forced labor is prohibited under the Constitution (CCPR/C/68/Add.1, paras. 140-146).

140. The Labor Standards Act forbids forced labor by providing that "no employer shall force a worker to work against his own free will through the use of violence, intimidation, confinement, or any other means which unlawfully restrict mental or physical freedom" (article 7). Any person who violates this provision shall be punished by imprisonment of up to five years or by a fine not exceeding KRW 30 million (article 107).

Receipt and Processing of Reports Regarding article 7 of the Labor Standards Act
(Number of cases)

Year	*Receipt*	*Administrative conclusion or non-prosecution*	*Judicial action*
2008	300	132	168
2009	258	113	145
2010	323	145	178

Efforts for Prevention of Human Trafficking

141. In order to prevent human trafficking for the purpose of prostitution, the Government improved the scheme of issuing entertainment and artistic activity visas (E-6 visa). The government-wide 'Countermeasure Meeting of Agencies Concerned for Prevention of Human Trafficking' was held. The Government also deters inflow of foreign females into the Republic of Korea by human trafficking organizations and presses for protective measures for foreign females victimized by human trafficking, as stated in the third report (CCPR/C/KOR/2005/3, para. 132).

142. The Ministry of Justice has been making a steady effort to bolster review of E-6 visa issuance and conduct interviews and investigations in examining extensions of stays in order to prevent human trafficking of foreigners with E-6 visa. For example, in issuing visas to foreign entertainers, the Government confirms whether they have qualifications and experience acknowledged by public institutions, etc. of the countries concerned. And when it issues visas to employees of tourism businesses, the Government checks the photographs and personal information on passport copies of a performance group attached to a "performance permit" of the Korea Media Rating Board to thoroughly verify identification.

143. In November 2004, the Government has been discussing government-wide measures countering human trafficking for prostitution by operating an 'inspection team to implement anti-prostitution measures' and convening its regular meetings based on collaboration among related agencies. In particular, the Government selected 'prohibition of overseas sex trade' as a core task, engaging in an intense discussion on ways to strengthen investigation on overseas sex trade, promote public relations activities, and step up supervision of tourism companies, etc. In March 2008, the Government revised the *Passport Act* to thwart overseas sex trade. Under the revised Act, violators may be ordered to return their passports or restrictions may be placed on issuance of passports to them.

144. In addition, the Government participated in the working group on the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, ASEAN+3 Senior Officials Meeting on Transnational Crime, international conference on organized crime and terrorism in Asia, the Commission on

Crime Prevention and Criminal Justice, US-hosted conference on human trafficking prevention, Australia-hosted international conference on human trafficking eradication, Israel-hosted workshop on human trafficking prevention, and conference on countermeasures against organized crime in East Asia, etc. to join in international efforts to deter human trafficking.

Status of International Treaties Concerning Forced Labor

145. The Government has ratified the following international treaties related to prohibition of forced labor:

- Convention concerning Minimum Age for Admission to Employment, 1973 (International Labour Organization (ILO) Convention No.138);
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the Final Protocol thereto;
- Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (ILO Convention No. 182);
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;
- Agreement between the Government of the Republic of Korea and the Government of the United States of America on Enhancing Cooperation to Prevent and Combat Crime.

Article 9

Paragraph 1

146. As explained in the second report, the Constitution and the Criminal Procedure Act provide for the principle of warrant requirements in order to guarantee right to liberty and prohibit arbitrary arrest and detention. The arrest warrant system was introduced to remove any room for human rights abuse caused by arbitrary accompaniment to a police station or prosecutor's office at the request of investigative authorities (CCPR/C/114/Add.10, paras. 108 and 109). As stated in the third report, the Government has expanded non-face-to-face investigation and investigation without physical detention, conducts arrest and detention according to writs issued by judges, and carries out specialized education on applications for arrest and detention warrants (CCPR/C/KOR/2005/3, paras. 134-137).

Principle of Investigation and Trial without Physical Detention

147. The Criminal Procedure Act amended on 1 June 2007, explicitly sets forth the principle of investigation without physical detention (article 198 (1)). Under the revised Act, in examining grounds for detention, every court shall take into consideration the seriousness of a crime, risk of repetition of the crime, and anticipated harm to the victim, important witnesses, or such, in addition to the matters of consideration such as criminal charges, risk of evidence destruction and flight, and absence of fixed residence (article 70 (2)). In order to prevent unfair long-term detention, the Act stipulates that the period of detention shall be two months and may be renewed only twice. However, it may be renewed three times if it is unavoidable and necessary for an appellate court to hold an additional hearing for the examination on the evidence requested by a defendant or a counsel, a written statement submitted to supplement the cause of appeal or for any other reason, etc. (article 92).

Ratio of Persons Detained by the Prosecution

Year	*k2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Ratio of confined persons (%)	3.2	2.6	2.1	1.7	1.5	1.5	1.3

Police Detention Rate

Year	*2006*	*2007*	*2008*	*2009*	*2010*
Rate of detention by police (%)*	2.4	2	1.7	1.7	1.5

* Number of persons detained/total number of persons arrested.

148. In addition, the revised Criminal Procedure Act explicitly provides that a court may, if deemed necessary to confine a defendant who is taken into custody for a hearing for examination before detention, confine the defendant in a correctional facility, a detention house, or a police station's jail and that in such instance, the confinement period may not exceed 24 hours from the time of being taken into custody (article 71-2).

149. The Criminal Procedure Act amended in 2007 is believed to have produced a dramatic improvement in the detention and arrest system. The Act enhances the urgent arrest system, increases compulsory release on bail, sets forth more conditions for release on bail including permission of release without payment of bail, introduces compulsory hearings for examination before detention, and improves review on legality of arrest and detention for its application to all types of arrested and detained persons.

Reinforcement of Patients' Self-Determination at the Time of Admission to and Discharge from Mental Health Facilities

150. On 21 March 2008, the Mental Health Act was wholly amended to restrict installation and opening of mental care facilities and mental medical institutions (hereinafter referred to as "mental medical institutions, etc.") by persons criminally punished due to human rights violations for five years from the date of penalty execution (article 12-2). The amended Act stipulates that the heads of mental medical institutions, etc. who permit hospitalization, etc. of persons at the request of those who are not legally responsible for their protective custody shall be sentenced to a prison term of not longer than a year or a fine not exceeding KRW 5 million (articles 24 and 57). The Act requires the heads of mental medical institutions, etc. to check the legality of continued hospitalization of patients hospitalized voluntarily at least once a year and newly provides for applicable punishment to strengthen mentally-ill persons' right to self-determination concerning their hospitalization (articles 23 and 57).

Hospitalization at Mental Medical Institutions by Type

(Number of persons, %)

Year	*Total number of hospitalized patients*	*Voluntary hospitalization*	*Hospitalization by persons responsible for protective custody*			*Hospitalization by the head of a local government*	*Emergency hospitalization*
			When a person responsible for protective custody is a family member	*When a person responsible for protective custody is the head of a local government*	*Institute of Forensic Psychiatry*		
2008	56,260	8,894 (15.8%)	42,615 (75.8%)	3,817 (6.8%)	785 (1.4%)	112 (0.2%)	37 (0.1%)
2009	59,190	11,625 (19.6%)	42,974 (72.6%)	3,488 (5.9%)	851 (1.4%)	176 (0.3%)	76 (0.1%)
2010	63,630	14,502 (22.8%)	44,530 (70.0%)	3,328 (5.2%)	910 (1.4%)	251 (0.4%)	109 (0.2%)

151. On 15 January 2009, the Supreme Court made a decision that if mental medical institutions fail to take procedures required under the Mental Health Act including a failure to report an illegal process of hospitalization and discharge, the entire period of such hospitalization constitutes a delict as it is an act of unlawful confinement (2006 DA 19832).

Detainment under the Immigration Control Act

152. As explained in the third report, when it is impossible to immediately execute a deportation order against a person, the heads of immigration offices, branch offices, or immigration detention centers (hereinafter referred to as "heads of immigration offices, etc.) may, pursuant to the Immigration Control Act, place the person in question in a foreigner custody facility, immigration detention center, etc. until his deportation is possible. Furthermore, when it becomes evident that the foreigner cannot be deported, the custody measure of the person may be lifted with certain conditions attached (CCPR/C/KOR/2005/3, para. 222).

153. Foreigners detained under a written detention order may file with a court an administrative lawsuit requesting cancellation of the order in accordance with the Administrative Litigation Act within 90 days from the day when the person gains knowledge of the order. As long as foreigners remain in custody, they may raise objections to their detention under the Immigration Control Act regardless of the period of detention (article 55). In order to give further publicity to the procedure of remedy for violation of their rights, the Government published a booklet titled "Guide to Remedy for and Daily Activities of Detainees in Immigration Detention Centers" in July 2009. The booklet was published in 10 languages including Korean, English, Chinese, and Mongolian. The Government published 4,000 copies of the booklet and keeps them available at each immigration detention center and immigration office.

154. Most detained foreigners depart from the Republic of Korea within 10 days upon completion of preparation for their return home. Most cases that foreigners remain in custody for an extended period of time are due to protection of their rights or ascribable to themselves such as issuance of a travel certificate and settlement of back pay. Since it was noted that in such cases, long-term detention of foreigners may lead to violation of their human rights, the Immigration Control Act was revised on 21 April 2010. The Act provides that if a person subject to a deportation order remains detained for more than three months, advance approval from the Minister of Justice shall be obtained every three months to extend detention. Otherwise, the custody measures will be lifted (article 63 (2) and (3)).

Paragraph 2

155. As expounded in the second report, the Constitution and the Criminal Procedure Act provide that persons arrested or detained shall be informed of the reason of their arrest or detention and their right to appoint counsel. In addition, their family members should be immediately informed of the cause, time and place of their arrest or detention (CCPR/C/114/Add.1, para. 111).

Guarantee of the Right to Counsel

156. In its consideration of the third report, the Committee was concerned by the Government's interference with the right to counsel during pre-trial criminal detention. In particular, the Committee was concerned that consultation with counsel was permitted only during interrogation, and that even during interrogation, police officials may deny access to counsel on grounds that it will purportedly interfere with the investigation, aid a fugitive defendant, or endanger the acquisition of evidence (CCPR/C/KOR/CO/3, para. 14).

157. Under the Criminal Procedure Act revised on 1 June 2007, suspects subject to a hearing for examination before detention as well as detained suspects are included in the scope of persons for whom state-appointed counsel should be designated compulsorily (article 201-2 (8)). Provisions newly inserted in the Act specify that the right to counsel of suspects not detained shall not be restricted on grounds that investigation is underway; an opinion of a counselor who participates in interrogation shall be stated after the interrogation in principle; and a counselor may raise an objection even in the middle of interrogation regarding any unfair interrogation methods (article 243-2).

Participation by Counsel in Interrogation

(Number of cases)

Year	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
No. of participation cases	303	367	541	524	962	1,059

158. With regard to the right to counsel, the Constitutional Court's decision on 23 September 2004 states that the right to counsel is naturally acknowledged to suspects and the accused under the Constitution regardless of their detention or non-detention. The court decided that a prosecutor's refusal of a non-detained suspect's request for participation by counsel without clarifying the reason therefor constituted a violation of the suspect's constitutional right to counsel (2000 HUN-MA 138). On 11 November 2003, in a re-appeal case regarding the prosecutor's action to reject a request for counsel's participation made by Song Doo-Yul, a Korean scholar residing in Germany, the Supreme Court ruled that counsel's participation in interrogation is a right recognized under the Constitution even if there is no explicit provision (2003 MO 402).

Paragraph 3

Improvement of the Urgent Arrest System

159. The Committee expresses concern with regard to reports of excessive recourse to and abuse of the urgent arrest procedure, whereby individuals can be detained without an arrest warrant for up to 48 hours. The Committee recommended that the Government take all necessary measures to restrict the use of the urgent arrest procedure and to guarantee the rights of persons so detained, in conformity with article 9 of the Covenant. In particular, the

Committee urged the prompt adoption of the relevant amendments to the Criminal Procedure Act, pending before the National Assembly (CCPR/C/KOR/CO/3, para. 15).

160. The Criminal Procedure Act revised on 1 June 2007 changed the provision that a prosecutor shall request a warrant of detention "within 48 hours from the time of arrest" to "without delay after urgent arrest." Under the Act, the period of arrest shall not exceed 48 hours. The Act has a newly inserted provision that requires a prosecutor to notify the court in writing of matters pertaining to urgent arrest of a suspect within 30 days from release of the suspect. In addition, a person who was released from urgent arrest or his counsel and legal representative, etc. may inspect or make copies of the notice and related documents, and a judicial police officer shall, when releasing a suspect subject to urgent arrest without requesting a warrant of detention, report the release to the corresponding prosecutor without delay (article 200-4). Such revision speeds up prosecutors' decision to request detention warrants after urgent arrest by the investigation authorities and establishes a posterior control system regarding decisions on release after urgent arrest.

Expansion of Hearings for Suspect Examination before Detention

161. The revised Criminal Procedure Act introduces the system of a hearing for examination before detention (articles 201-2 (1) and (2)) and newly provides that the corresponding prosecutor and counsel may appear before the court on the date of a hearing for examination of the suspect prior to detention (article 201-2 (4)). Accordingly, the court which receives a request for issuance of a detention warrant shall examine all suspects. Previously, the court would examine suspects at the request of the suspects or their counsel, etc.

Paragraph 4

Review on Lawfulness of Arrest and Detention

162. In its consideration of the third report, the Committee expressed concern that those detained for the purposes of criminal investigation or under an arrest warrant do not enjoy an automatic right to be brought promptly before a judge to have the legitimacy of their detention determined, particularly in light of the excessive length of permissible pre-trial detention. Accordingly, the Committee urged the Government to reform legislation to reflect the protection due to persons arrested or detained on criminal charges as stipulated in article 9, paragraph 3, of the Covenant. The Committee specifically recommended that the Government ensure that any detention is promptly subjected to judicial scrutiny (CCPR/C/KOR/CO/3, para. 16).

163. As stated in the second report, the Constitution provides for the right to request a review on the lawfulness of arrest and detention in favor of an arrested or detained person. Through revision of the Criminal Procedure Act, such right is granted to not only detained persons, but also persons arrested by warrant (CCPR/C/114/Add.1, para. 118).

164. With the revision of the Criminal Procedure Act on 1 June 2007, the eligibility for review on legality of arrest and detention originally limited to a suspect who is arrested or detained by a warrant of arrest or detention was extended to a suspect who is arrested or detained, which allows all suspects in custody to request a review on the legality of arrest and detention (article 214-2 (1)). Under the revised Act, a court which receives a request for review on the legality of arrest and detention shall conduct an examination within "48 hours from the time at which the request is filed", not "without delay." This further clarifies the provisions on examination of lawfulness of custody (article 214-2 (4)).

Reviews on Legality of Detention

(Number of persons)

		Processed		
Year	*Requests*	*Release*	*Dismissal*	*Withdrawal*
2004	8,393	4,125	4,014	254
2005	5,730	2,676	2,941	113
2006	4,520	2,015	2,436	69
2007	3,943	1,727	2,174	42
2008	3,663	1,417	2,189	57
2009	3,469	1,230	2,192	47
2010	2,643	831	1,778	34

Release on Bail System

165. As explained in the second report, release on bail, which had originally been acknowledged only after prosecution, was extended to stages prior to prosecution. Thus, if a detained person requests review on the legality of detention prior to prosecution, he or she may be released on condition of or without payment of a bail (CCPR/C/114/Add.1, para. 118).

166. In order to prevent persons in financial distress from being deprived of opportunities of release only due to their financial condition, the Criminal Procedure Act was revised on 1 June 2007 to grant more opportunities for release on bail. In addition to payment of bail, various other conditions for release on bail were introduced including submission of a written pledge not to destroy evidence, etc., submission of a letter of understanding to pay a deposit, circumscription of dwelling, submission of a letter of guarantee assuring a defendant's appearance, prohibition of departure from the country, provision of a deposit or offer of an asset as collateral for damage recovery, payment of a deposit and so forth (article 98).

Handling of Release on Bail by Year

(Number of persons)

		Processed			
Year	*Received*	*Permitted*	*Not permitted*	*Under examination*	*Ex officio release on bail*
2004	22,371	12,608	9,763		373
2005	15,568	8,655	6,913		258
2006	13,377	7,186	6,191		186
2007	11,599	5,681	5,918		198
2008	10,833	5,105	5,427	301	249
2009	9,947	5,134	4,543	270	289
2010	8,192	3,974	3,877	341	199

Right to Request a Court Decision Concerning Other Custody

167. On 21 December 2007, the Government enacted the Habeas Corpus Act so as to provide relief to individuals whose personal liberty was unlawfully limited as a result of an illegal administrative measure or accommodation in facilities by a private person.

168. Under the Act, persons who, against their will, remain accommodated, protected, or confined in medical facilities, welfare facilities, confinement facilities, or protection facilities operated by the central or local government, public corporations, individuals, or private organizations, and their legal representative, guardian, spouse, lineal relative by blood, sibling, cohabitant, employer, or a worker of custodial facilities may request relief to a court (article 3). Inmates shall be informed of their right to request relief prior to their custody. Custodians and persons eligible to request relief other than inmates shall not prevent them from requesting relief (article 3-2). Except for the cases where a court dismisses a request for relief, it shall promptly commence examination on the legality of custody and the need for continued custody (article 8). When necessary, a court may refer to opinions of appropriate experts. The Act also sets forth temporary suspension of custody (article 9), protection of inmates (article 11), and prohibition of return to custody (article 16).

169. As of the end of 2010, courts had received 198 habeas corpus cases. Among them, 26 cases were accepted. The petitioners for relief were largely inmates, mostly those confined in medical facilities.

Paragraph 5

Criminal Compensation System, etc.

170. As stated in the second report, if a person confined as a criminal suspect or defendant is not prosecuted or found not guilty, he may claim legitimate compensation to the state pursuant to the Constitution and the Criminal Compensation Act. The minimum amount of criminal compensation is KRW 5,000 and the maximum amount is five times as much as the daily minimum wage under the Minimum Wage Act, which is in effect in the year when the cause of such claim arises (CCPR/C/114/Add.1, para. 119).

171. On 28 October 2010, the Constitutional Court decided that article 19 (1) of the Criminal Compensation Act, which provides for a single-trial decision on criminal compensation by stipulating that objection shall not be made against a decision on compensation concerning claims of criminal compensation, was in breach of individuals' right to request criminal compensation and a trial (2008 HUN-MA 514). Thus, if any error or irrationality is detected in acknowledgement of facts, which served as the basis for determining the amount of compensation, or in determination of the amount of compensation, the claimant may request correction thereof.

Article 10

Paragraph 1

Abolition and Improvement of Substitute Cells

172. In July 2006, the Committee against Torture expressed concerns over the situation of detainees held in substitute cells, and recommended limited use of them. A substitute cell, which refers to detention facilities of police stations located in the vicinity of the Public Prosecutor's Office or a court, is temporarily used as a prison or detention house when there

are no detention facilities such as prisons or detention facilities in the jurisdiction of the Public Prosecutor's Office.

173. On 23 January 2007, the substitute cell improvement council consisting of interested persons from the Ministry of Justice and the National Police Agency was formed. It held four regular meetings to discuss and examine ways to improve the substitute cells. As part of phase-out efforts, the number of substitute cells was reduced from 11 to five as of the end of 2010.

174. In order for the remaining substitute cells to meet the minimum international standards, proper lighting systems have been installed and fitness centers set up in substitute cells; female inmates are now permitted to have interviews with female police officers; protective custody cells have been installed to separately accommodate disruptive persons such as drunks to ensure other inmates' rights to sleep; and restrooms have been given enclosing walls. Starting in 2009, the Public Prosecutor's Office reinforced its regular inspection on detention facilities with regard to a wide range of issues such as illegal arrest and/or detention, or human rights violations. Relevant agencies including the Ministry of Justice and the National Police Agency will continue to make concerted efforts to close down or improve the substitute cells.

Enactment of the Administration and Treatment of Correctional Institution Inmates Act

175. On 21 December 2007, the Criminal Administration Act was wholly amended and renamed the Administration and Treatment of Correctional Institution Inmates Act. The amended Act expanded the scope of discrimination to include disability, age, region of origin, physical appearance, ethnicity, medical history, marital status, political opinions, and sexual orientation, as well as the existing grounds such as nationality, gender, religion, and social status (article 5). The principle of censoring inmates' correspondence, as well as the requirement to obtain prior permission to write correspondence, was abolished (articles 43 (3) and 49 (1)). In order to protect, in particular, the socially underprivileged including women, senior citizens, or disabled persons, the Act explicitly specifies appropriate treatment and care for them in consideration of their physical and mental characteristics, age, health condition, or severity of disability, among other factors; and mandates adequate treatment for foreign inmates in consideration of their language and culture (articles 50 through 54).

176. With a view toward improving correctional effect and social adaptability for convicted prisoners, the Act mandates the head of correctional facilities to formulate and execute treatment plans that address the specific needs of individual convicted prisoners, accommodate them in appropriate facilities based on classification reviews, and improve the treatment for them in accordance with their prison-service records (article 56). Furthermore, pursuant to the provisions in the Act, correctional facilities are graduated and classified in accordance with the level of accommodation facilities and the degree of surveillance to prevent prison escapes, thereby allowing for a variety of treatment options depending on convicted inmates' prison-service records (article 57).

Improvement in Living Conditions of Detention Facilities

177. Treatment for inmates has been improved as explained in the third report: allowing for telephone communication; implementation of on-screen visitation; allowing for reading newspapers or books; expansion of communication right through such means as operation of the conjugal visitation house; installation of televisions; granting of extended leaves; expansion of accommodation space; and provision of air conditioning and heating equipment, among others (CCPR/C/KOR/2005/3, paras. 133-177).

178. The Korean Government guarantees inmates' rights to visitation and communication in various ways to strengthen their relationships with family members and relatives and help promote their mental stability. Communication via telephone as explained in the third report increased to 490,903 cases in 2010. Where an inmate needs to contact other persons in an emergency, he/she is allowed to use the telephone with approval of the warden. People are also allowed to use the telephone or fax to make reservations for visitation, thereby eliminating inconvenience of a long waiting time. The on-screen visit system also saw increased use in 2010, to 159,144 cases, as a result of on-going expansion of its facility and addition to its equipment.

179. To promote inmates' emotional well-being and protect their fundamental rights, correctional facilities nationwide have been modernized in many respects, including the installation of hot-water or electric heating systems and upgrading of outdated restrooms with flush toilets. Living conditions at facilities have also improved on an on-going basis by providing better clothing and food for inmates. In order to expand correctional facilities, the *Hwaseong* Correctional Institution for Vocational Training was opened in 2009; construction of three other correctional facilities to accommodate 500 inmates has already been completed; and three more are under construction.

Improvement of Medical Treatment for Inmates

180. Since 2005, inmates of correctional facilities have been given physical examinations for 22 conditions including hepatitis in the level of physical checkups for regular employees once a year. Starting in 2009 nationwide, they have been given comprehensive physical examinations for 30 conditions by a healthcare institute designated by the National Health Insurance Corporation. The number of inmates receiving physical checkups increased from 20,643 convicted prisoners in 2005 to include all 32,612 inmates in 2010, and the annual average budget for such physical checkup stands at KRW 700 million.

181. Since *Anyang* Penitentiary launched the remote diagnosis system linked to medical centers outside in 2005, 16 correctional institutions implemented such remote diagnosis system to render better medical services for inmates by 2010. As 16 correctional facilities and 16 hospitals are linked to provide multilateral remote diagnosis services, a broad range of improved medical services from various healthcare centers with specialties became available for inmates. The number of remote diagnosis cases increased from 135 in 2005 to 5,853 in 2010.

182. The architectural design of a general hospital-level specialized medical prison is underway with the completion of construction expected for 2015. This medical prison will have 300 beds, over 10 clinical departments, 24 doctors, 120 nurses, and 5 pharmacists. Four more prisons primarily focused on medical care will be established by 2013 to further improve medical treatment for inmates.

Cultural Program and Religious Activities for Prisoners

183. Music, art, and psychological therapy programs have been widely carried out to ensure the emotional stability and mental sublimation of prisoners. In concert with the Ministry of Culture, Sports and Tourism, the music, art, and psychological therapy programs from 12 organizations have been introduced since 2005. Under the auspices of and with funding from the Korean Culture and Arts Committee, cultural and art performance programs, as well as animal assisted therapy for personality treatment programs are implemented for all institutions.

184. Religious activities of inmates play a pivotal role in improving their state of mind. To that end, correctional facilities nationwide invite the members of the clergy such as pastors, monks, or priests, or respected religious leaders to encourage inmates to participate

in religious activities including religious congregations, counseling, or sisterhood relationships.

Inmates' Religious Beliefs

(As of 2010; in persons; %)

Region	*Protestant*	*Buddhism*	*Catholicism*	*Other religion*	*No religion*
Persons	12,898	8,073	4,363	1,785	7,299
Percentage (%)	37.5	23.5	12.7	5.2	21.2

Human Rights Protection in Medical Treatment and Custody Facilities

185. The Korean Government enacted the Medical Treatment and Custody Act on August 4, 2005 to provide appropriate protection and medical treatment for persons who committed criminal acts in a state of mental disorder or under the influence of narcotics, alcohol, or other drugs; who are likely to commit such crimes again; and who are deemed to be in need of special education, rehabilitation, and medical treatment, thereby preventing their recidivism and helping rehabilitation. The Act is composed of the proceedings of medical care and custody cases (Chapter 2), execution of medical care and custody order (Chapter 3), treatment and rights of Persons subject to medical care and custody (Chapter 3), and protective supervision (Chapter 4), etc.

186. In order to improve protection of human rights by guaranteeing due process for all persons subject to medical treatment and custody order, the Act stipulates that the compulsory defense and court-appointed defense counseling services, which were previously granted only to mentally disabled persons, should also be granted to drug and/or alcohol addicts and persons with psychosexual disorders (article 15). Where any person subject to medical treatment and custody who is a minor, 70 years old or older, a deaf-mute, or suspected of having mental disability, indicted for a crime punishable by capital punishment, life imprisonment, or imprisonment with or without labor for three or more years, or unable to retain a defense lawyer for any reason, or upon the request of the defendant, the Court should appoint a defense counsel and cannot hold a trial without a defense counsel.

Protection of Foreigners at Immigration Detection Facilities

187. The Immigration Control Act was amended on 21 April 2010 to prescribe that the guideline on remedies against infringement of rights such as objection, visitation, or petition procedures in regards to detention should be printed in foreign languages and posted in any protective facility so that protected foreigners are aware of such measures, which was previously set forth in the foreigner protection rules. This amendment allows most detained foreigners who have little knowledge of Korean law or systems due to their lack of Korean language skills which limits access to the information on remedies and improvement of human rights protection. Contact addresses and numbers of foreign embassies in Korea are put up in seven languages within detention facilities. Pay phones are installed at each detention room for foreigners to freely communicate with people outside the facility. At present, there are two detention centers used exclusively as foreigner detention facilities, and 16 immigration offices and seven branch offices have foreigner detention rooms established.

188. The appropriate capacity for immigration detention facilities is 1,621 persons with a floor space of 9,986.1m² and 219 protection rooms. The daily average number of detained foreigners due to violation of the Immigration Control Act in 2009 was 868 persons, half of the appropriate capacity. To prepare for fires at detention facilities, sprinklers are installed

and interior materials of detention rooms have been replaced with fire-proof materials. Exercise facilities have been expanded with the establishment of outdoor playgrounds and indoor sports facilities. To ensure the health, sanitation, and safety of detained foreigners, the "Regulations for Meal Service Management" were legislated in January 2009. Since then, meal services in immigration centers where group meal services are provided have been systematically managed.

189. For the medical treatment of detained foreigners, professional medical staffs reside in the facilities to provide medical check-ups. In order to offer medical support for detained foreigners, each immigration office concluded an agreement with local healthcare institutions to provide medical check-ups free of charge. Detained foreigners were given medical relief in 4,847 cases in 2009 alone. With a view toward supporting the religious activities of detained foreigners, clergy from Protestant, Catholic, Buddhist, and Islamic organizations visit them to provide worship services.

190. A television and public phone are installed in foreigner detention rooms to ensure free communication with people outside. They can receive, if they want to, assimilation programs including Korean traditional culture experience, Korean language (*Hangeul*) lessons, and psychological counseling. Each immigration detention center and immigration office protection room possesses 14,004 books in 13 languages including 2,014 Korean books, 2,265 Chinese books, and 2,065 Vietnamese books. In the first half of 2009, inmates rented 4,138 books.

Protection of Patients at Mental Health Facilities

191. The Mental Health Act amended in 2008 expressly provided for obligations and punitive provisions to prohibit mentally ill persons from being accommodated at any other place than a mental health facility where medical care is available, and from receiving any violence or cruel treatment (articles 43 and 55). Furthermore, it is prohibited to force mentally ill persons into labor (articles 41 and 56). Where work therapy designed for medical care and rehabilitation is implemented at a mental medical institution, etc., obligations of recording are imposed. In addition, provisions concerning work hours, work place, earnings and payment method, and punitive provisions in case of violation have been newly inserted (article 46-2).

192. In 2009, human rights education for the staff of mental health facilities was first offered to 389 establishers and operators and 12,373 workers of mental medical institutions with one or more beds (517 institutions; 13,171 persons). On 21 March 2008, the Mental Health Act was amended to oblige establishers, operators, and workers of mental health facilities to receive four or more hours of human rights education every year (article 6-2).

Paragraph 2

193. The Government efforts to improve the status of non-convicted prisoners by guaranteeing their right to counsel, prohibiting restrictions on the correspondence with counsel, and allowing them to wear their own clothes, etc.; treatment of juvenile delinquents; and their separate accommodation are as stated in the third report. (CCPR/C/KOR/2005/3, paras. 150-152, 166-161).

Improvement of Treatment of Detainees at Police Detention Facilities

194. The improvement of detention facilities of police stations, budget allocation for medical treatment of detainees, placement of more female officers, and on-screen visit system, etc. are as stated in the third report (CCPR/C/KOR/2005/3, paras. 153 and 154).

195. To create human-rights-friendly detention facilities at police stations, the Design Standards and Guidelines for Detention Facilities were revised in whole to ensure convenience of use and safety of detainees. In addition, the metropolitan detention facility that sequentially integrates several detention facilities of police stations is in operation so that a large number of police are deployed to effectively improve conditions of facilities. There were a total of 138 detention facilities in operation as of April 2010: 72 metropolitan detention facilities and 66 normal detention facilities.

196. Women and foreigners are kept at separate detention facilities. The number of female officers deployed in detention facilities is steadily increasing. To minimize human-rights violations, physical examination processes are subdivided so as to reduce the sense of shame in case of body exposure. Moreover, the average accommodation period has been shortened through prompt transfers on the basis of presumption of innocence for non-convicted detainees. As a result, the average accommodation period per detainee was reduced from 109 hours in 2004 to 69 hours in 2007.

Improvement of Treatment of Juvenile Defendants and Protected Juveniles

Amendment of the Juvenile Act

197. The Juvenile Act was amended on 21 December 2007 to adjust the upper limit of the age subject to the Juvenile Act from age 20 to age 19, and the lower limit from age 12 to age 10 in consideration of the maturity of juveniles, other laws, and the general decline in the age of juvenile offenders (articles 2 and 4). In addition, the court-appointed assistant system was introduced for juvenile protection cases so that juveniles in custody can be assigned a court-appointed assistant if he or she does not have any assistant (article 17-2). Such amendment of the Act allowed for diversification and refinement of protective dispositions. As a result, the community service order and the order to attend lectures, which were previously implemented along with probation dispositions, are used as independent protective dispositions. In addition, provisions concerning custody of a juvenile to the juvenile reformatory less than one month, alternative education programs offered by the juvenile reformatory, counseling or education programs provided by youth organizations, education programs for guardians, and curfews, etc. have been introduced (articles 32 and 32-2).

198. The Act was amended on 21 December 2007 to provide non-detained juvenile offenders with opportunities to identify the cause of their misconduct and educational and behavioral guidelines, which were offered mostly to juveniles subject to transfer to detention. Provisions on the investigation prior to the prosecutor's decision have been introduced and stipulated in the Act to require the prosecutor to deal with juvenile cases based on the data provided by the classification reviewer or probation officer who analyzed the personality and living conditions of juvenile offenders so that the prosecutor can issue the most appropriate disposition in light of guidance and protection of juveniles (article 49-2). Furthermore, the conditional suspension of prosecution, which is a prosecutor's diversion program, has been legislated. In order to strengthen guidance and protection of juvenile offenders, the Act requires measures against any misconduct to be taken at its initial stage. The Act also sets forth provisions concerning the suspension of prosecution under the condition that juveniles receive guidance from crime prevention committee members, and counseling and education from youth organizations (article 49-3). The Act newly inserted provisions concerning misconduct prevention policies such as performance of research and study on prevention of juvenile delinquency, formulation of relevant policies, and establishment of a collaborative system among appropriate institutions (article 67-2).

Amendment of the Act on the Treatment of Protected Juveniles, etc.

199. The Juvenile Reformatory Act was renamed the Act on the Treatment of Protected Juveniles, etc. on 21 December 2007 in order to comprehensively provide for matters pertaining to the treatment and correctional education of protected juveniles as well as the establishment and operation of juvenile reformatories and the Juvenile Classification Review Board.

200. According to the system that requires investigation prior to the prosecutor's decision, which was introduced in the amended Juvenile Act, the Juvenile Classification Review Board is required to perform an obligation of investigation (article 2 (2) 3). The Act on the Treatment of Protected Juveniles, etc. newly inserted provisions to protect human rights of protected juveniles, etc. (article 5 (1)), and provided for the legal basis for use, types, scope of use, and restrictions of security equipment (article 14-2). The number of disciplinary actions has been reduced, and the probation disposition is imposed against those aged 14 years or older instead of 16 years or older (article 15). The provisions on visitation, which were set forth in the enforcement decree, are legislated in the Act (article 18, paras. 2, 3, and 5). The system to order guardians to take educational courses has been newly inserted so that the education program is offered to not only the guardians of protected or fostered juveniles but also the guardians who are ordered to receive education by the Juvenile Department of the Court (articles 42-2 and 42-3). The Act introduced a new provision that protected juveniles who have been transferred to a juvenile reformatory should be immediately released as soon as they reach the maximum period of admittance (article 43 (2)), while stipulating the maximum period of admittance for juveniles whose temporary release has been cancelled (article 48 (2)).

201. The network to prevent second offence of a juvenile delinquent has been established in alignment with 330 external organizations including youth support groups from a *Si/Gun/Gu*. In order to provide misconduct prevention education for the juveniles at the initial stage of misconduct, six accommodation facilities have been changed to function primarily as a treatment facility and operate as a juvenile misconduct prevention center.

202. In December 2005, all curricula of the juvenile reformatory were reformed in a way to provide specialized and tailored character education for juveniles. A total of 71 types of character education programs are offered: nine treatment programs for each type of misconduct, ten psychotherapy programs, and 24 on-line programs. The number of vocational training institutions increased from four to six and the number of vocational capability development training facilities was also increased. Classes for new promising occupations such as bakers, hair designers, photographers, and surveyors, etc. have been set up. The *Purumi* Internet Radio Station was founded in March 2009 to schedule and broadcast programs that help refine the state of juveniles' emotions and promote education programs and policies. Moreover, open treatment is widely implemented for well-behaved juveniles through weekend home study, commuting to school, and commuting to work, etc.

Details of Open Treatment

(Number of times; persons)

Year	***Total***		*Going out*		*Commuting to school*		*Commuting to work*		*Taking classes at a private institution*		*Home study*	
2006	**247**	**382**	122	166	21	28	34	46	4	7	66	135
2007	**190**	**343**	83	133	13	13	18	17	5	10	71	170
2008	**188**	**391**	67	128	13	9	29	43	2	20	77	191
2009	**404**	**404**	147	147	9	9	30	30	22	22	196	196
2010	**380**	**380**	164	164	6	6	31	31	19	19	160	160

Paragraph 3

Treatment for Prisoners' Social Reintegration

203. In order to support minor inmates with their social reintegration, scholarship projects for inmates who apply for admission to college, as well as business incubators such as *Ocean Bakery* to help released juveniles find jobs and start businesses are in operation. Livelihood stabilization fund is provided in alignment with the education policy advisory body and the children foundation under the National Basic Living Security Act. The system to add points based on educational performance and the checklist system for reward and punishment based on behavior have been introduced to allow inmates to be released earlier if they behave and educationally perform well.

Payment of Livelihood Stabilization Fund

(In persons; KRW 1,000)

Year	*Assistance under the National Basic Living Security Act*	*Sponsored by children's foundations*		*Scholarships*	
		Persons	*Amount*	*Persons*	*Amount*
Total	**392**	**98**	**403,400**	**558**	**392,660**
2004	70	18	77,480	71	66,370
2005	41	13	63,690	72	39,150
2006	56	17	85,350	72	49,600
2007	67	9	34,220	74	44,680
2008	52	16	58,340	48	33,300
2009	53	14	43,740	79	52,500
2010	53	11	40,580	142	47,060

Implementation of Various Correctional Programs

Implementation of Educational Programs

204. The school course programs, education and training programs that allow inmates to commute to outside agencies, education programs commissioned to a college, foreign language education, and information technology (IT) education for inmates are as stated in the third report (CCPR/C/KOR/2005/3, paras. 201 and 202). As a result of such programs, in 2010, 711 inmates applied for school qualification examinations and 481 of them passed the examination (ratio of successful applicants was 67.7%). Regarding the IT education, 75 IT education centers and 2,707 personal computers were set up in correctional facilities nationwide in September 2009. About 300 instructors including professors from 54 universities nationwide provide computer education for 25,000 inmates every year, helping 1,383 inmates in 2008, 1,227 inmates in 2009, and 843 inmates in 2010 acquire relevant certificates.

Vocational Training and Employment Support for Prisoners

205. To help prisoners effectively readapt to society and prevent them from repeating offences after being released by enhancing their self-reliance, advanced technology and skill training is provided for skilled inmates. *Cheongsong* Correctional Institution for

Vocational Training has introduced the advanced skill training courses for specialization in the area. Considering that the socially underprivileged such as women and the disabled have difficulties finding jobs, vocational training programs focusing on starting small businesses have been developed, and support for such programs has increased. An institution specialized in vocational training for female prisoners has been operated more effectively, facilitating the offering of a variety of classes: Korean food cooking class, nail art class, and skin care class, etc. In August 2009, *Hwaseong* Vocational Training Center was open as a public vocational training center. In the first half of 2009 before the center was open, 120 inmates were trained in auto repair, etc., and in the second half of 2009, 120 inmates were trained in baking and other vocations.

Support for Social Reintegration

206. A variety of correctional programs are developed and implemented to help inmates stay mentally stable and strengthen family bonds while they serve time in jail. The long leave system and expansion of its eligibility are as described in the third report (CCPR/C/KOR/2005/3, para. 186).

207. Halfway houses, where prisoners expecting to be released soon are given social reintegration training, more contact with family and job finding, have been operating in *Chuncheon, Changwon, Suncheon* and *Cheongju* Women's Correctional Facilities since 2010. In 2010, 95 person released on parole went to the halfway houses. Among them, 26 persons succeeded in finding jobs and 5 persons started their own business. *Cheonahn* Open Correctional Facility opened to provide rehabilitation treatment programs based on hands-on daily experiences such as how to use public transportation, banking institutions, or emails, etc. Among the prisoners who were given training in *Cheonahn* Open Correctional Facility, 314 persons were released on parole, 136 persons found jobs, and 25 persons began their own business.

Article 11

208. As stated in the second report, under the laws of the Republic of Korea, no one is detained on grounds of non-performance of contractual obligations. (CCPR/C/114/Add.1, para. 145).

Article 12

209. As stated in the first and second reports, pursuant to article 14 of the Constitution, every person has freedom of residence and the right to change his or her residence, and this right may only be restricted for the sake of national security, maintenance of social order, and public welfare. (CCPR/C/68/Add.1, paras. 192 and 193; CCPR/C/114/Add.1, para. 146).

Immigration of Foreigners and Permanent Residency

210. Regarding immigration of foreigners, the number of countries that have visa abolition agreements with Korea has increased from 61 as stated in the third report to 90. The number of countries that are designated by the Minister of Justice for entry of foreigners into Korea without visas has also increased, from 41 to 51. As stated in the third report (CCPR/C/KOR/2005/3, paras. 211-215), any foreigner who enters Korea is required to undergo an appropriate procedure under the Immigration Control Act, has freedom of departure, and may be subject to prohibition of departure only when deemed necessary for

the sake of national security and social order. And the foreigner in question may file an objection against such decision.

211. As stated in the third report (CCPR/C/KOR/2005/3, para. 216), aliens who have stayed for five or more years at the status of resident and their children are granted the status of permanent residency (F-5). In addition, the Enforcement Decree of the Immigration Control Act was amended on 28 February 2007, to eliminate any restriction on employment activities of foreigners who have the status of permanent residency (article 23 (4)).

Persons with Status of Permanent Residency (F-5)

(As of December 2010; in persons)

Country Total	*Taiwan*	*Japan*	*China (including Korean Chinese)*	*Thailand*	*USA*	*Russia*	*Vietnam*	*Uzbekistan*	*Other*
45,475	13,316	5,648	22,437	509	582	506	596	290	1,591

Establishment and Enforcement of Policies to Promote Rights of Mobility of Transportation-Disadvantaged Persons

212. As stated in the third report (CCPR/C/KOR/2005/3, paras. 217 and 218), to enhance the mobility of the transportation-disadvantaged, the Act on Promotion and Provision of Convenience of the Disabled, the Aged, the Pregnant, etc. was enacted; convenience facilities are set up in public buildings; electronic signage is installed at bus stops; and kneeling buses are introduced.

213. On 27 January 2005, the Act on Promotion of the Transportation Convenience of Mobility Disadvantaged Persons was enacted to improve transportation modes, passenger traffic facilities, and the pedestrian environment, etc. to ensure safe and convenient transportation mobility for the disabled, the elderly and pregnant women. This Act prescribes obligations of the central Government, local governments, and transportation service providers regarding such persons, and stipulates the plans to improve their mobility, the standards for establishing facilities to promote their mobility, and the pedestrian priority zone.

214. In June 2010, the Act on Promotion of the Transportation Convenience of Mobility Disadvantaged Persons was amended to require passenger transportation facilities such as subway stations to be furnished with breast-feeding rest rooms for nursing mothers. As part of the first plans to promote the mobility of the transportation-disadvantaged, an increasing number of mobility promotion facilities, kneeling buses, and special transportation modes have been introduced. Plans to improve pedestrian environment have been carried out to ensure improvement of safety and convenience of pedestrians, and as the barrier free living environment certificate system was legislated in June 2010, the number of public institutions and transportation facilities that obtains the certificate is planned to increase from 20 to 50 by December 2010.

Assistance for Passenger Ship Fares for Residents of Island Areas

215. Residents of islands are generally in poorer surroundings than mainland residents. Their passenger fares are subsidized to provide them relief from high transportation costs, increase their interactions with the mainland, and improve their living conditions. The legal basis for such assistance is provided by article 35-2 (Fares of Passenger Transportation Services and Fare Subsidy) of the Special Act on the Improvement of the Quality of Life of Farmers, Foresters and Fishermen and the Promotion of Development of Agricultural,

Mountain and Fishery Areas, which was newly inserted in August 2005, and article 44 (Fares of Passenger Ship Users and Fare Subsidy) of the Marine Transportation Act, which was newly inserted in October 2006.

216. In November 2005, the former Ministry of Maritime Affairs and Fisheries, local governments, and passenger ship owners signed an agreement on passenger fare assistance for residents of islands to provide passenger fare assistance starting in March 2006, through which 20% of fares of up to KRW 5,000 is covered, and if the fare exceeds KRW 5,000, the resident bears up to KRW 5,000 and the Government bears the remainder. The assistance ratio increased from 20% to 30% only for the second half of 2009.

Coastal Passenger Ship Transport Capacity

	Total		*Inland residents*		*Residents of islands*	
Year	*Persons (1,000)*	*Ratio (%)*	*Persons (1,000)*	*Ratio (%)*	*Persons (1,000)*	*Ratio (%)*
2006	11,574	100	8,172	71	3,402	29
2007	12,634	100	8,974	71	3,660	29
2008	14,162	100	10,414	74	3,748	26
2009	14,868	100	11,166	74	3,702	26
2010	14,308	100	10,813	76	3,495	24

Article 13

Deportation System under the Immigration Control Act

217. As stated in the third report (CCPR/C/KOR/2005/3, paras. 220 and 225), the limited reasons for deportation of foreigners are set forth in the Immigration Control Act, and the requirements for deportation of foreigners with the status of permanent residency became more stringent. As of December 2010, there were 1,261,415 foreigners staying in Korea, of whom 168,515 were illegal residents. Deportation orders were imposed on 21,339foreigners in 2010.

Deportation

(In persons)

Year	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Persons	19,307	38,019	18,574	18,462	30,576	29,043	21,339

218. Where a deportation order is determined under the Immigration Control Act, the foreigner in question should be issued a copy of deportation order stating the objective and reason of the order and the possibility of filing an objection against such order (article 59 (2)). The matters concerning the objection procedure for the foreigner who received the deportation order are set forth in paragraph 153 above.

Objections against Deportation Orders

(Number of cases)

Year	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Total	**8**	**21**	**19**	**44**	**70**	**83**	**117**
Sustained	2	5	11	28	54	53	65
Overruled	6	16	8	14	15	30	51
Cancelled				2	1		1

219. Even when the objection of the foreigner who received the deportation order is deemed groundless, if there exist extenuating circumstances deemed to require the foreigner in question to sojourn in the Republic of Korea, the Minister of Justice can permit his/her sojourn based on humanitarian considerations under the Immigration Control Act (article 61 (1)). When the foreigner who received the deportation order cannot be repatriated for reasons such as rejection of his/her entry by another country, he/she is to be released from custody under necessary conditions (article 63 (2)).

Improvement of Refugees Status Determination System and Their Treatment

220. The Immigration Control Act was amended on 19 December 2008 to respond to the recommendations made by the National Human Rights Commission of Korea to improve policies on refugees' human rights in June 2006, and the requests made by refugee support organizations to improve the refugee recognition system and the treatment of refugees. In accordance with the Act, foreigners recognized as refugees by Korea receive the status and treatment as stipulated by the Refugee Convention. And foreigners who have not been recognized as refugees but are deemed to require humanitarian consideration are permitted to sojourn in Korea. Foreigners who have applied for refugee status and waited for the decision thereon for a given period are allowed to take jobs (article 76-8). The legal basis for establishing refugee support facilities to efficiently support foreigners who have applied for refugee status, or have been recognized as refugees is provided (article 76-9). As of 2010, the Ministry of Justice is pursuing establishment of the refugee support center for those who apply for refugee status based on such legal basis.

221. The Ministry of Justice established the Nationality and Refuge Division on 3 February 2006 to deal with refugee affairs, and appointed a specialist having legal expertise from outside as the head of the division, enhancing the Ministry's competency in refugee affairs. On 25 May 2009, the Ministry increased the number of personnel working on refugee affairs in the division from two to four, and established the Nationality and Refugee Division in the Seoul Immigration Office, where the number of the staff members for refugees increased from four to seven. With the introduction of the on-line refugee review system coupled with such an increase in manpower, the refugee review period was considerably shortened from 42 months at the end of 2008 to 12 months at the end of 2009, improving promptness and efficiency of the refugee status determination process.

Application for Refugee Status

(Period: 2004-2010; in persons)

Total number of applicants	*Recognized*	*Humanitarian sojourn*	*Not recognized*	*Withdrawn by applicant*	*Under review*
2,915	222	136	1,577	556	424

Application for Refugee Status by Reason

(Period: 2004-2010; in persons)

Total number of applicants	*Political*	*Racial, religious, and other*
2,915	1,195	1,720
(100%)	(41%)	(59%)

Article 14

222. The governmental efforts and institutional measures to guarantee the right to a fair trial of the accused are as stated in the first and second reports (CCPR/C/68/Add.1, paras. 198-214; CCPR/C/114/Add.1, paras. 43 and 153). The court-appointed defense counsel system has been strengthened to ensure fair trials. Under the Constitution and the Court Organization Act, the judge-appointment system is stipulated; the judges' independent status is guaranteed; and petitioning for adjudication and the reopening of proceedings is allowed, as described in the third report (CCPR/C/KOR/2005/3, paras. 43, 231-239).

Enactment of the Act on Citizen Participation in Criminal Trials

223. On 1 June 2007, the Act on Citizen Participation in Criminal Trials was enacted to establish a judicial system that has the confidence of the general public by bolstering the democratic legitimacy of the judicial system and enhancing its transparency. This Act introduced the system that allows the public to participate in criminal trials as jury members and provides for various matters such as the scope of eligible cases for the system, qualifications and selection procedures of the jury, preparation and proceedings of trials, deliberation, rendering verdicts, discussion, ruling, and jury protection.

224. Under the Act, major offenses such as homicide, burglary, or rape; major corruption offenses such as bribery; and other offenses prescribed by the Supreme Court are subject to the system (article 5). A defendant is asked if he/she desires a participatory trial (article 8). A court is allowed to decide not to proceed to a participatory trial for cases where a juror, or a prospective juror, etc. has difficulties in attending a trial due to threats, or possible threats to his/her life, body, or property, or where some of the defendants do not desire a participatory trial (article 9). The Act also provides for various matters such as the number of jurors, selection process, and preparation for trials. The jury can deliver a verdict upon closing of pleadings and arguments, and discuss sentencing with the judge and express their opinions when they deliver a verdict of guilty. However, no verdict and opinions of the jury are binding on the court (article 46). Where a court sentence is different from the jury's verdict, the written judgment should spell out reasons therefor (article 49).

Expansion of Scope of Crimes Subject to Petition for Adjudication

225. Under the amended Criminal Procedure Act, the scope of crimes for adjudication, which was previously limited to abuse of official authority, illegal arrest, detention, violence or cruel treatment has been expanded to all crimes against which a complaint has been filed. In principle, the petition for adjudication is to be filed subsequent to an appeal to the prosecution, but exceptions are made for the cases where no disposition on the appeal has been made for three months since the appeal was filed, or where the end of the statute of limitations is impending (article 260).

Protection of Victims during the Trial

226. The amended Criminal Procedure Act allows the court to make a decision over an examination behind closed doors when it examines the victim as a witness, upon request from the victim or the public prosecutor, if deemed necessary for the victim's privacy or personal safety (article 294-3). If a victim wishes to make statements behind closed doors on grounds of privacy, he/she is allowed to do so by eliminating elements that restrict the victim's statement so that the victim's right to speak in court, which is guaranteed by the Constitution, can be substantially exercised.

227. On 29 October 2007, under the Regulations on Criminal Procedure, a provision concerning the decision over whether to examine a victim via media equipment such as video was newly inserted in response to arguments that a victim needs to be isolated from the accused because the victim may suffer psychological pressure or emotional distress during his/her testimony in the face of the accused, even if the crime was not one of sexual violence (article 84-4). Therefore, in order to prevent witnesses such as children from suffering such secondary damage including mental distress that may arise when they testify in court before the litigants and spectators, the witness is put in a special room other than the courtroom to testify by a video monitor, through which a judge or a litigant examines the witness; or the witness is isolated by shielding equipment from the accused in the courtroom so that the witness does not have to look at the accused when responding to the examination.

Legal Aid

228. As explained in the first and second reports (CCPR/C/68/Add.1, para. 49; CCPR/C/114/Add.1, paras. 31 and 32), the Government is providing legal aid including free legal advice, assistance for legal expenses, and legal representation in order to protect the rights of citizens who are unable to pursue legal proceedings for their personal damages due to their lack of legal knowledge or financial resources. At present, corporations providing legal aid include the Korean Legal Aid Corporation, the Korea Legal Aid Center for Family Relations, the Korea Family Legal Service Center, and the Korean Bar Association Legal Aid Foundation. An extensive description of the Korean Legal Aid Corporation is offered in the third report (CCPR/C/KOR/2005/3, paras. 41-44).

229. Other legal aid corporations provide a variety of legal services such as legal counseling, reconciliation and arbitration, legal proceeding aid, and document preparation. The pre-litigation aid service covers compromise and conciliation before an action is instituted; the document preparation service covers assistance with drawing up of documents to be submitted to the court; and the legal proceeding aid service deals with lawsuits or oral proceedings lodged by a lawyer or a public-service advocate.

Legal Aid by the Korean Legal Aid Corporation

(Number of cases; KRW 100million)

	Legal Aid							
			Civil					
Year	***Total***	*Change*	***Subtotal***	*Pre-litigation aid*	*Document preparation*	*Legal proceeding aid*	*Criminal*	*Counselling (visit/telephone)*
2005	**76,058**	9.4	**58,980**	453	29,004	29,523	17,078	1,002,908
2006	**93,280**	22.6	**75,976**	377	13,488	62,111	17,304	1,035,714
2007	**100,147**	7.4	**77,653**	271	10,429	66,953	22,494	1,085,712

	Legal Aid							
			Civil					
Year	***Total***	*Change*	***Subtotal***	*Pre-litigation aid*	*Document preparation*	*Legal proceeding aid*	*Criminal*	*Counselling (visit/telephone)*
2008	**124,995**	24.8	**99,043**	190	8,916	89,937	25,952	1,194,603
2009	**133,273**	6.6	**108,654**	120	8,243	100,291	24,619	1,260,401
2010	**132,671**	0.5	**113,092**	115	9,532	103,445	19,579	1,218,792

Legal Aid by the Korea Legal Aid Center for Family Relations

(Number of cases)

	Legal Aid				
Year	***Total***	*Pre-litigation aid*	*Legal proceeding aid*	*Legal counseling*	***Total***
2005	**4,012**	3,708	304	103,692	**107,704**
2006	**4,884**	4,479	405	129,523	**134,407**
2007	**6,065**	5,520	545	134,734	**140,799**
2008	**5,675**	5,071	604	134,065	**139,740**
2009	**7,303**	6,518	785	138,958	**146,261**
2010	**8,181**	7,330	851	145,808	**153,989**

Legal Aid by the Korea Family Legal Service Center

(Number of cases)

	Legal Aid			
Year	*Pre-litigation aid*	*Legal proceeding aid*	***Total***	*Legal counseling*
2005	4,978	13	**4,991**	14,309
2006	4,882	12	**4,894**	18,962
2007	3,329	13	**3,342**	16,856
2008	3,752	22	**3,774**	17,660
2009	5,147	26	**5,173**	19,896
2010	4,815	26	**4,841**	19,235

Legal Aid by the Korean Bar Association Legal Aid Foundation

(Number of cases)

Year	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Legal Aid	31	37	20	110	167	355

Government Subsidies for Legal Aid Corporations

(In KRW 1 million)

Description	*2006*	*2007*	*2008*	*2009*	*2010*
Korean Legal Aid Corporation	22,224	24,420	26,039	25,289	26,273
Korea Legal Aid Center for Family Relations	836	957	1,057	1,057	1,168
Korea Family Legal Service Center	-	-	50	54	59

230. A public-service advocate is a person holding a practicing certificate who is drafted as a public service worker and ordered to serve in legal aid services or related affairs such as government litigation instead of a mandatory stint in the armed forces under the Public-Service Advocates Act (article 2). Public-service advocates handle legal affairs such as legal counseling and legal representation for those who cannot afford to have legal protection due to their financial difficulties or ignorance of law at the Korean Legal Aid Corporation (article 2).

Legal Aid by Public-Service Advocates

Year	*Number of public-service advocates*	*Aid for civil/family litigations (number of cases)*	*Defense in criminal cases (number of cases)*	*Legal counseling (number of cases)*	*Lecture for basic legal knowledge (times)*
2004	112	9,663	15,855	82,974	245
2005	119	15,541	14,894	67,135	246
2006	104	29,659	15,019	60,392	204
2007	112	36,412	22,949	64,141	227
2008	130	49,029	16,326	64,036	242
2009	126	47,897	18,061	58,414	70
2010	126	46,800	14,374	52,125	238

Protection of Criminal Victims

231. In April 2009, the Enforcement Decree of the Crime Victim Aid Act, designed to provide financial aid for the bereaved family of the deceased or the victim injured due to criminal acts, was amended to increase the upper limit of the compensation for the bereaved family from KRW 10 million to KRW 30 million, and that of the disability compensation from KRW 6 million to KRW 30 million.

Payment of Criminal Victim Compensation

(Number of cases; KRW 1,000)

		Application		*Payment*	
Year	*Budget (KRW1,000)*	*Number of cases*	*Amount (KRW 1,000)*	*Number of cases*	*Amount (KRW 1,000)*
2004	749,000	138	1,274,000	74	648,400
2005	537,000	221	2,052,333	118	1,065,133
2006	1,937,000	200	1,861,000	117	1,063,000
2007	1,927,000	261	2,469,000	169	1,607,000
2008	1,878,000	237	2,225,000	155	1,411,000
2009	2,246,220	295	3,611,667	205	2,204,833
2010	3,268,220	343	6,631,93	209	3,416,782

232. On 23 December 2005, the Government enacted the Crime Victim Protection Act to not only provide crime victims with financial aid but also to help them effectively cope with damages caused by major and brutal crimes and practically support them. Under the Act, the Government is required to prepare the "Master Plan for Protection and Support for Crime Victims" every five years (article 12). The plan includes comprehensive and structured protection and support measures for crime victims. Subsidies are offered to crime victim support corporations (article 17), and such subsidies are prohibited from being used for other purposes than prescribed under the Act (article 18).

233. The amendment of the Crime Victim Protection Act, which is an integration of the Crime Victim Protection Act and the Crime Victim Aid Act, and the bill for the Crime Victim Protection Fund Act, which is designed to establish the crime victim protection and support fund with 4% of fines, passed through the National Assembly on 21 April 2010. Major provisions of the amendment of the Crime Victim Protection Act are as follows: the aforementioned two laws are combined to unify the legal structure for crime victim protection and support; the requirements for payment of crime victim aid money are eased (requirements regarding unidentified offenders and insolvency deleted); the scope of payment is expanded to include cases of severe injury as well as death and all disabilities; criminal arbitration is newly provided for to promote prompt resolution of conflicts between the victim and offender; and more reasonable means of calculation of the aid money are used to set it at levels based on actual income rather than paying a fixed amount to ensure that victims receive appropriate support.

Judgment to Compensate for Victims of Unfair Judicial Proceedings

234. On 27 May 2010, the Seoul Central District Court acknowledged that the central Government announced trumped-up charges during the investigation into the *Inhyeokdang* (the People's Revolutionary Party) Incident in 1974. The then Korean Government accused members of army intelligence who had been sent to North Korea on special missions of spying on behalf of North Korea and leading the *Inhyeokdang* Incident. The *Inhyeokdang* Incident occurred in 1974, when the Supreme Court sentenced individuals of socialist inclinations to the death penalty based on accusations fabricated by the Korean Central Intelligence Agency and executed them only 18 hours after sentencing. The Seoul Central District Court ordered compensation of KRW 2.8 billion for mental distress of the bereaved families, who had long been branded as spies' families (2008 GA-HAP 68581).

Article 15

235. As stated in the first and second reports (CCPR/C/68/Add.1, paras. 215 and 216; CCPR/C/114/Add.1, paras. 175 and 176), the principle of *nulla poena sine lege* is strictly guaranteed under article 13, paragraph 1 of the Constitution, which stipulates that "no citizen shall be prosecuted for an act which does not constitute a crime under the Act in force at the time it was committed."

236. On 24 July 2008, the Supreme Court ruled that the principle of non-retroactivity should also apply to the community service order, which is a public security measure by nature rather than criminal punishment. The ruling says, "The community service order aims to adjust the environment of and correct the character and conduct of the person who committed domestic violence crimes, serving as a security measure rather than a punishment, by nature. However, it is imposed in lieu of criminal punishment by imposing mandatory labor and restrictions on personal freedom upon the person who committed an act of domestic violence and thereby deprives him or her of leisure time. Therefore, in principle, in accordance with the principle of non-retroactivity, the Act in force at the time the crime was committed should apply." (2008 EOH 4)

237. As explained in paragraph 72 above, pursuant to article 2 (1) of Addenda of the Act on the Electronic Monitoring of Specific Criminal Offenders, a prosecutor is permitted to make a request to the court to attach electronic anklets to sex offenders who are soon to be released, or have been released, and are deemed to pose high risk of repeating the crime. In August 2010, the *Cheongju* District Court made a request for adjudication on the constitutionality of the Act to the Constitutional Court on grounds that the provision is likely to violate the principle of non-retroactivity.

Article 16

Introduction of Adult Guardianship

238. Various guardianship arrangements in accordance with the degree of disability are being devised to improve systems for incapacitated persons under existing laws, and to better respect their intentions and actual capacity. Under the provisions of the Civil Act, only two types of incapacitated wards – the incompetent and the quasi-incompetent – were recognized, and all their legal acts require the guardian's procuration or consent. However, with the introduction of adult guardianship, comprehensive guardianship is broken down into adult guardianship and minor guardianship depending on age, and restrictive guardianship is classified into limited guardianship and special guardianship depending on the scope of guardianship. Furthermore, the guardianship contract has been established to allow the ward to make decisions over a guardian and details of guardianship.

239. With the introduction of such a system, the scope of legal acts to be conducted independently by the ward under comprehensive guardianship has been expanded. In addition, with the introduction of the limited guardianship, through which a ward obtains assistance only for a given period or for specific matters, actual capacity of the ward can be maximized. The guardianship contract system also allows a ward to exercise his/her rights to make decisions over the details of guardianship, protecting the right to self-determination of the ward. The amended Civil Act contains such new provisions and is expected to be passed through the plenary session of the National Assembly in December 2010.

Article 17

Paragraph 1

240. The freedom of privacy is guaranteed by the provisions of article 17 of the Constitution, and the freedom of correspondence is guaranteed by article 18 thereof. Such guarantee of the freedom is substantiated by the Criminal Act, the Civil Act, the Minor Offence Punishment Act, the Protection of Communications Secrets Act, the Act on the Protection of Personal Information Maintained by Public Institutions, the Postal Services Act, and the Telecommunications Business Act. As such, the legal structure of the Republic of Korea in relation to the freedom of correspondence set forth in article 17 of the Covenant is as stated in the first, second, and third reports (CCPR/C/68/Add.1, paras. 223-228; CCPR/C/114/Add.1, paras. 179-184; CCPR/C/KOR/2005/3, paras. 245-263). Revisions since May 2004 are as follows:

Amendment of the Protection of Communications Secrets Act

241. The public prosecutor's offices at each level have cracked down on violations of the Protection of Communications Secrets Act such as illegal wiretapping. From 2004 to 2009, a total of 1,622 persons were caught, and 104 of them were arrested. The frequency of requests for warrants for wiretapping has been decreasing since 2004, though there has been a slight increase in such requests specifically concerning the increase in incidents of industrial espionage involving high technology.

Crackdown on Offences of the Protection of Communications Secrets Act
(In persons)

Year	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Arrest	15	38	12	9	8	22	6
Non-restraint	156	280	290	232	226	334	226
Total	**171**	**318**	**302**	**241**	**234**	**356**	**232**

Communications Restriction Measures
(Number of cases)

Year	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Requested	337	134	166	141	137	208	112
Issued	332	134	159	135	136	199	107

Wiretapping by Year
(Number of cases)

Year	*Prosecution*	*Police*	*NIS*	*Military investigation agency*	***Total***
2006	35 (3.3%)	99 (9.5%)	870 (84%)	29 (2%)	**1,033 (100%)**
2007	24 (2%)	81 (7%)	1,010 (87%)	34 (2.9%)	**1,149 (100%)**

Year	*Prosecution*	*Police*	*NIS*	*Military investigation agency*	***Total***
2008	18 (1.5%)	75 (6.5%)	1,043 (90%)	16 (1.3%)	**1,152 (100%)**
2009	9 (0.5%)	145 (9%)	1,320 (87%)	42 (2.7%)	**1,516 (100%)**
2010	2 (0.2%)	186 (17%)	856 (79%)	37 (3.4%)	**1,081 (100%)**

242. On 27 January 2005, in order to protect privacy, the Protection of Communications Secrets Act was amended to require permission from the court when communications data including Internet logs, location tracking data of the sending base station and access area are confirmed (article 2 (11)).

243. On 26 May 2005, the Protection of Communications Secrets Act was amended again to protect the freedom of correspondence and privacy by setting forth strict requirements and procedures for investigation agencies to make requests for measures to restrict communications or provide communication confirmation data. There are four major amendments. First, to request the provision of the communication confirmation data, permission from the competent district court is required, rather than approval from the chief public prosecutor (article 13 (2)). Second, in order to guarantee the people's right to know any violation of communications secrets, the amended provision stipulates that where communications confirmation data is provided, such fact should also be notified to the person concerned so that such confirmation data is not abused, along with the previous provision that stipulated notification of the enforcement of the communication restriction measure to the person concerned (article 13-3). If the final disposition including indictment, non-indictment, or non-booking is imposed against a case where communication confirmation data had been received for the purpose of criminal investigation, a public prosecutor or a judicial police officer is required to notify, in writing, the person concerned of the receipt of such data, the agency that requested such provision, and the period thereof within 30 days. If the head of an intelligence and investigation agency receives the communication confirmation data for the purpose of national security, as is the case with enforcement of the communication restriction measure, he or she should notify the person concerned of the enforcement of such request for provision of the communication confirmation data within 30 days from the receipt of such request. Third, control over the provision of communication confirmation data by telecommunications service providers has been strengthened to prevent them from assisting an investigation agency with its illegal request for the provision of such data (article 13 (7)). If a telecommunications service provider provides an investigation agency with communication confirmation data, it should submit reports on such provision and other details to the Korea Communications Commission twice a year, and keep relevant documents including a register stating the provision of such data and other necessary information, and the written request for such provision for seven years from the date of providing such data. The Korea Communications Commission should verify the details of reports made by the telecommunications service provider and the proper management of relevant documentation. Punitive provisions enforced in the event of violation of these provisions were also newly inserted. Fourth, in order to prevent unauthorized disclosure of personal information or divulgence of investigation secrets due to the provision of communication confirmation data, obligations to observe confidentiality are classified to be imposed upon each agency, corresponding to the measure to restrict communication (article 13-5).

Number of Cases where Communication Confirmation Data were Provided

	2009		*2010*			
Description	*First half*	*Second half*	*First half*		*Second half*	
Prosecution	22,279	19,780	22,829	(2.5)	22,111	(11.8)
Police	97,659	96,131	91,704	(-6.1)	94,692	(-1.5)
National Intelligence Service	951	768	731	(-23.1)	957	(24.6)
*Military investigation agencies, etc.	5,482	5,502	2,677	(-51.2)	3,168	(-42.4)
Total	**126,371**	**122,181**	**117,941**	**(-6.7)**	**120,928**	**(-1.0)**

244. On 28 May 2009, the Protection of Communications Secrets Act was amended to guarantee the right to privacy and the right to know regarding the execution of confiscation, search, or investigation for telecommunication equipment whose transmission and reception have been completed. Where an investigation agency executes confiscation, search, or investigation for telecommunication equipment whose transmission and reception have been completed, and the final disposition including indictment, non-indictment, or non-booking is imposed, the investigation agency should notify, in writing, the subscriber subject to investigation of such enforcement within 30 days from imposition of such disposition (article 9-3).

Protection of Information on Suspects during Investigations

245. As stated in the third report (CCPR/C/KOR/2005/3, para. 255), the Act on the Lapse of Criminal Sentences was revised to tightly control investigation materials.

246. As the details of major investigations have been leaked to the press, publication of facts of suspected crimes has led to defamation and human right violations against persons involved in the cases. Since there may be conflicts between a person's right to privacy and reputation and the people's right to know, it is necessary to devise a new system to strike a balance between them.

247. Prosecutors, police, or others who investigate crimes may be punished for the crime of publication of facts of suspected crime under the Criminal Act (article 126) if they make public the facts of suspected crimes. A crime informant or a defense counselor other than an investigation agency who makes public the facts of suspected crime for political or personal purposes may be punished under the Criminal Act for the crime of defamation (article 307), the crime of interference with business (article 314), or the crime of occupational disclosure of other's secrets (article 317).

248. On 18 January 2010, the Prosecutors' Office enacted the Rules for Official Report of Investigation to Protect Human Rights as a directive of the Ministry of Justice. The rules involve limitations on oral briefing prior to institution of public prosecutions, prohibition of prosecutors and investigators from contacting the media, and types of information prohibited from being disclosed. Under the rules, as for the materially incorrect reports or speculative reports that officials of the Prosecutors' Office are quoted as saying, official reports on investigations, and requests for correction and counter-argument reports can be actively made.

249. Pursuant to the Rules for Official Report of Investigation to Protect Human Rights, the Prosecutors' Office announces findings of investigation after public action is instituted.

Under the rules, even before public action is instituted, information can be disclosed only to the extent necessary to fulfill exceptional purposes in the following cases: (i) where it is highly likely that damages of the crime will rapidly spread or copycat crimes will be perpetrated; (ii) where the people need to be immediately informed about the imminent threat to public security or its countermeasures; (iii) where it is essential to gain cooperation of the public through provision of information for the purpose of arresting a criminal or discovering important evidence. However, even in such cases, information should be provided anonymously, and any expression that likely leads to hasty conclusion of guilt should be avoided.

Receipt and Handling of the Cases of Publication of Facts of Suspected Crime

(In persons)

		Handling									
		Prosecuted		*Not prosecuted*							
Year	*Receipt*	*Brought to trial*	*Brought to summary prosecution*	*Cleared of suspicion*	*Suspension of prosecution*	*Not classified as a crime*	*No authority to file prosecution*	*Dismissed*	*Stay of prosecution/Stay of prosecution due to witnesses*	*Transferred*	*Unresolved*
2004	28	0	0	17	0	1	0	0	2	3	5
2005	17	0	0	5	1	2	0	5	1	2	1
2006	57	0	0	7	1	0	2	13	0	34	0
2007	30	0	0	16	2	0	0	8	0	0	4
2008	8	0	0	4	0	0	0	2	0	2	0
2009	46	0	0	8	0	12	1	18	0	3	4
2010	10	0	0	15	0	3	1	13	3	2	3

Protection of Information on Victims and Witnesses during Investigations

250. Crime victims are likely to sustain secondary damages due to inappropriate actions such as divulgence of personal information during criminal proceedings including investigations or trials in addition to direct damages due to crimes. For this reason, on 31 August 1999, the Act on Protection of Specific Crime Informants, etc. was enacted to protect the reputation and ensure the safety of crime victims, informants, and witnesses. Under the Act, where an investigation agency deems crime informants or their relatives to be at risk of retaliation, relevant documentation may mention the reasons and omit their personal information (article 7). Furthermore, the Act prohibits an investigation agency from disclosing, publicly announcing, or reporting any personal information of a crime informant or any fact that may permit identification of the crime informant (article 8).

251. In order to prevent the identity and personal information of the victim from being divulged, the Act on Special Cases concerning the Punishment, etc. of Victims of Sexual Crimes stipulates that any public official who is responsible for or involved in the investigation or trial of a sexual crime should not disclose, or divulge to other persons, the address, name, age, occupation, appearance, photos, or other personal information that may help identify a victim (article 22). The Act on the Protection of Children and Juveniles from Sexual Abuse sets forth the same provision (article 19).

Enactment and Amendment of the Act on the Protection, Use, etc. of Location Information

252. On 27 January 2005, the Act on the Protection, Use, etc. of Location Information was enacted to protect the right to privacy against leakage, abuse, and misuse of location information and to vitalize the use of location information by creating a safe environment for its use, thereby contributing to the improvement of the quality of life for the people and promotion of general welfare. The Act contains provisions concerning prohibition against the gathering of location information, protective measures thereof, procedures of use and provision of personal location information and restrictions thereon, rights of the principal person of location information, and use of location information for emergency relief, etc.

Emergency Relief Agency's Inquiry into Location Information for Relief Efforts
(In persons)

Description	*2007*	*2008*	*2009*	*2010*
National Emergency Management Agency	3,668,521	6,843,277	6,293,527	7,892,689
Korea Coast Guard	4,141	3,970	1,485	866
Total	**3,672,662**	**6,847,247**	**6,295,012**	**7,893,555**

253. In light of the facts that relief for victims of crimes such as abduction and sexual violence is frequently delayed and such inadequacy of emergency relief system exacerbates damages suffered, a revised bill to allow the police to use location information has been presented to the National Assembly.

Strengthening Protection of Personal Information and Remedy against Damages

254. Amid the rapid advancement of information technology, the Government submitted to the National Assembly the Act on the Protection of Personal Information (draft) on 28 November 2008 in an effort to safely manage personal information. The Act is designed to govern the personal information handling principles in conformity with global standards and strengthen remedies for personal information infringement. The bill was resolved by the Public Administration and Security Committee and is expected to be presented to the Legislation and Judiciary Committee as of 2010. This bill contains provisions concerning the legal basis for installation and use of image information processing equipment of private closed-circuit television, obligations of public institutions to conduct personal information impact assessment, and collective dispute mediation, etc. The Personal Information Protection Committee established under the Act is organized in conformity with the Guidelines Concerning Computerized Personal Data Files. The Committee has a total of 15 members, five of whom are elected and appointed by the National Assembly, the Supreme Court, and others, respectively. It has a secretariat to help the Committee independently perform its duties. The Committee has authority to deliberate upon and resolve major policies on personal information protection, and to recommend corrective actions and request submission of documents to public institutions such as constitutional institutions or ministries.

255. The Government endeavors to improve the personal information management system and technological protection measures by distributing the public I-PIN (Internet Personal Identification Number) over the Internet. It is an individual identification number used in lieu of the resident registration number, minimizing the on-line gathering of resident registration numbers. The Government is also striving to raise awareness about personal information protection and provide remedies against damages by checking

whether the public and private sectors manage to prevent resident registration numbers from being leaked, providing more education programs to the public and private sectors, developing and distributing educational materials, taking effective remedial measures through utilization of the Personal Information Infringement Report Center.

256. Subsequent to a case of provision through electronic data storage of a huge number of resident registration numbers in return for favors, which led to widespread public outrage, on 1 April 2009, the Government amended the Resident Registration Act to punish any person who provides another person's resident registration number for a profit-making purpose (article 37, subparagraph 9).

Operation of the National Education Information System (NEIS) and Privacy Infringement

257. The intention and purpose of the National Education Information System (NEIS), its security measures, and plans to protect human rights, etc. are as stated in the third report (CCPR/C/KOR/2005/3, paras. 259-262).

258. On 24 March 2005, the Elementary and Secondary Education Act was amended to stipulate the provisions on the restriction, supervision, and oversight of management and provision of data on students in connection with the establishment of the NEIS School Administration System. It also prescribes tougher penalties in the event of violations of the provisions (articles 30-4 through 30-7). On 4 March 2008, the Rules for Operation of National Education Information System, etc. was amended to provide for necessary matters pertaining to the implementation, operation, and access methods, etc. of the system, reinforcing the information protection scheme. The Rules laid down prohibitions against unauthorized persons' perusal of and access to student information, and obligations to abide by laws and ordinances on student information.

259. The Government has implemented a variety of policies to address concerns over privacy infringement in relation to the operation of NEIS. In March 2006, in accordance with the recommendation of the Education Information Management Committee, which is an advisory body under the Prime Minister, and government policies, the three databases of academic affairs, admission, and student health were separated from NEIS; and personal identification data such as name, resident registration number, and class standing of students were encrypted. The School Administration System Operation Evaluation Committee, composed of ten members including representatives of teacher organizations and parent organizations as well as professors, convened from July through October, 2008 to assess the system from four aspects – system quality, security, cost effectiveness, and operation and maintenance – and proposed the future direction of server operation.

260. Accepting the recommendations made by the National Human Rights Commission of Korea, the Government will improve the system to allow students to peruse their own information starting in September 2011 so as to reinforce the protection of their right to personal information privacy.

Protection of Personal Information and Privacy of AIDS Patients

261. There are concerns that the real-name report and the establishment and maintenance of the AIDS patient registry under the Prevention of Acquired Immunodeficiency Syndrome Act may infringe on the personal information and privacy rights of AIDS patients. On 21 March 2008, the Prevention of Acquired Immunodeficiency Syndrome Act was amended to abolish the obligations of the mayor/*do* governor to establish and maintain the AIDS patient registry (article 6), and newly insert provisions on anonymous medical examination (article 8 (4)), thereby inducing medical examination of persons carrying the AIDS virus and minimizing exposure of personal information.

Article 18

Paragraphs 1 and 2

Guarantee of Freedom of Conscience and Religion

262. The Constitution guarantees the freedom of conscience, and the legal systems in relation thereto are as stated in the first and second reports. As explained in the second report (CCPR/C/68/Add.1, paras. 229-231; CCPR/C/114/Add.1, paras. 186-193), the freedom of religion is guaranteed by article 20 (1) of the Constitution, and denial of state religion, and the separation of religion and state are set forth in article 20 (2). As stated in the third report (CCPR/C/KOR/2005/3, para. 270), the law-abidance oath system was abolished.

263. As stated in the third report (CCPR/C/KOR/2005/3, paras. 267-269) and paragraph 184 above, the freedom of religion can be exercised within correctional facilities.

264. On 22 April 2010, the Supreme Court ruled it to be an illegal act that infringing legal interest of student's personality as to religion that a religious school, in effect, to force students to attend religious ceremonies by imposing disadvantages if students do not attend, and to offer de facto mandatory religion classes by providing no alternative classes (2008 DA 38288). The Court ruled, under the standardization of high schools where a faith-based school accepts students irrespective of their faith, that if a religious school provides students with religious education in the form of specific denominational education rather than as generic liberal arts classes with religious neutrality, and if such religious education is deemed to have exceeded the acceptable limits in consideration of the contents, continuity, students' consent, and possibility to choose an alternative class or reject participation in the religious education, such education may be deemed illegal.

Paragraph 3

Conscientious Objectors to Military Service for Religious Reasons, etc.

265. The Committee recommended that the Government take all necessary measures to recognize the rights of conscientious objectors in order for them to be exempted from military service, and it urged the Government to bring legislation into line with article 18 of the Covenant (CCPR/C/KOR/CO/3, para. 17).

266. The military tension between the Republic of Korea and North Korea, the issues of recognition of conscientious objectors, and the alternative service system are as stated in the third report (CCPR/C/KOR/2005/3, paras. 271 and 272).

267. To recognize alternative service in the Republic of Korea, the following is taken into consideration: practical problems with the recognition of objectors based on their conscience or religious faith or the introduction of an alternative service system under the current mandatory military service system, securing social integration and stable pluralism, and difficulties with providing alternative service commensurate with compulsory military service, among other issues.

268. The Ministry of Defense continues to conduct research in recognition of the difficulties in introducing such alternative service system. Although it ran the Alternative Service System Research Committee (17 members) from April 2006 through April 2007, it decided to defer its decision thereon after it judged that adequate national consensus had not been reached in consideration of the results of an opinion poll conducted in December 2008 by Research & Research, an external polling company (Against 68.1%; For 28.9%;

Do not Know 3%), and the results of public hearings. The Ministry is expected to conduct the poll again in the future. When adequate public consensus is deemed to be reached, the Ministry will actively consider whether to introduce the alternative service system. The poll is expected to be conducted in consultation with polling companies and the National Defense Committee of National Assembly sometime in the latter part of 2011. The public sense of threat to national security in relation to military service has been elevated. According to the 2010 Social Survey performed by the Korea National Statistical Office on 26 October 2010, 28.8% of respondents answered national security (war, North Korean nuclear programs, etc.), 21.1% said crime, 15.4% said economic risk, and 7% said lack of morality is the greatest threat to social safety. Compared to 2008, the number of people who were most concerned about national security increased 18.3%. Maintenance of adequate military manpower to cope with national security threats is an issue that must be taken into account in introducing the alternative service system.

269. On 26 August 2004, the Constitutional Court ruled that the Government's not introducing the alternative service system was not a violation of an individual's freedom of conscience. According to the Constitutional Court decision, the freedom of conscience is a right to requiring the Government to protect an individual's conscience but does not allow per se an individual to deny other legal obligations or to ask for alternative obligation. The Court also ruled that given the national security situation of Korea, the public's demand for equity in conscription, and a wide range of possible restrictive elements concomitant with the adoption of the alternative service system, at the present stage, it was difficult to rule the Government's not introducing the alternative service system to be unconstitutional. However, the Constitutional Court also ruled that legislators should provide an alternative system that does not counter the public interest or legal order so as to mitigate individual conflicts due to freedom of conscience, and recommended that they establish alternative systems such as the alternative service system (2001 HUN-GA 1).

270. On 15 July 2004, the Supreme Court also ruled that because a military obligation to ensure national security is to guarantee people's human dignity and value, it is difficult to declare that individual freedom of conscience supersedes military obligation, which is of constitutional interest. The provision of article 88 (1) of the Military Service Act is, therefore, a justifiable limitation under the Constitution (2004 DO 2965).

271. The following table shows the status of punishment and criminal dispositions imposed upon the persons who refused to enlist and join the manual exercise:

Punishments against Persons who Refused to Enlist and to Join Manual Exercise
(As of December 31, 2010)

Description	***Total***	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Persons	**3,674**	828	781	571	375	728	721
Type	3,755 persons in active service; 249 replacements						
Reason	Religious reasons: 3,975 persons (1 Buddhist; 3,974 Jehovah's Witnesses) Non-religious reasons: 29 persons (based on conviction such as opposition to war, pacifism, Catholic doctrines, etc.)						

Punishments According to Sentence
(As of December 31, 2010)

Description	***Total***	*Imprisonment*	*Stay of execution*	*On trial*	*Other*
Persons	**4,004 (100%)**	3,459 (86.4%)	12 (0.3%)	495 (12.4%)	38 (1.0%)
Remarks		More than 2 years: 2 persons 1.5 years-2 years: 3,452 persons 1 year or less: 5 persons	More than 2 years: 6 persons 2 years or less: 6 persons		Freedom from suspicion: 34 persons suspension of prosecution, etc.: 4 persons

Article 19

Paragraph 1

272. As stated in the second report, the rights set forth in article 19 of the Covenant are protected by the Constitution, and other applicable laws including the Broadcasting Act (CCPR/C/114/Add.1, para. 141).

Paragraph 2

Abolition of Prior Deliberation of Broadcasting Advertisement

273. On 26 June 2008, the Constitutional Court ruled that the Korea Advertising Review Board, which is entrusted by the Korean Broadcasting Commission, is an administrative entity, thus prior deliberation on TV commercials by the Board constitutes censorship, which is prohibited under the Constitution. Therefore, the Court decided that article 32 (3) of the Broadcasting Act, which sets forth such provisions, is unconditional (2005 HUN-MA 506).

274. As such, on 31 July 2009, the Broadcasting Act was amended to delete the provision on prior deliberation on TV commercials and insert the legal basis for voluntary review by broadcasting business operators (article 86 (3)). As prior deliberation on TV commercials is now conducted through autonomous regulations of broadcasting service providers instead of the government regulations, the freedom of expression guaranteed by the Constitution is more effectively protected.

Deregulation for Entry into Broadcasting Industry

275. Broadcast services vary in terms of their media and channels, and the Internet is rapidly becoming more prevalent. This reduces the need for rigorous regulation over ownership of broadcast business. On 31 July 2009, the Government, therefore, revised the Broadcasting Act to deregulate entry into the broadcasting industry. For a terrestrial broadcasting business operator and a program provider (PP) engaging in general programming or specialized programming of news reports, the upper limit on equity interest of one person was raised from 30% to 40%; equity interest of a newspaper or a large company in the terrestrial broadcasting business, previously prohibited, was permitted at up to 10%; and equity interest of a newspaper or a large company in the program providing business engaging in general programming or specialized programming of news reports, also previously prohibited, was permitted at up to 30% (article 8).

Revised Provisions on Equity Interest under the *Broadcasting Act*

Ownership entity / *Objects owned*	*One person*		*Daily paper; Press agency*		*Large company (more than KRW 10 trillion)*	
	Previous	*Revised*	*Previous*	*Revised*	*Previous*	*Revised*
Terrestrial broadcasting business	30%	40%	Prohibited	10%	Prohibited	10%
General programming PP	30%	40%	Prohibited	30%	Prohibited	30%
News report PP	30%	40%	Prohibited	30%	Prohibited	30%
Composite cable broadcasting service provider	-	-	33%	49%	-	-
Satellite broadcasting service provider	-	-	33%	49%	49%	-

Improvement of Deliberations on Expression, and Unreasonable Regulations on Motion Pictures and Video Product

276. On 28 April 2006, the Government enacted the Promotion of the Motion Pictures and Video Products Act to improve the quality of motion pictures and video products and promote the film industry, thereby enhancing people's cultural life. The Act stipulates provisions on the development and implementation of master plans to promote motion pictures, rating and classification of the motion pictures and video products, restrictions on advertising and commercials, and the Korea Media Rating Board.

277. On 8 May 2009, the Government amended the Promotion of the Motion Pictures and Video Products Act to specify contents of films to be rated as restricted screening (article 29 (2) 5, and (7)), delete the video product rating pending system, and newly establish a restricted viewing rating for video products (article 50 (3) 5, article 53-2, article 62, subparagraph 4) so as to address controversies over infringement on the freedom of expression and fundamental rights.

278. As such, motion pictures and video products are no longer subject to prior deliberations by the Korea Public Performance Ethics Committee, which had been a problem. They only receive ratings by age based on their content from the Korea Media Rating Board, whose members are all private citizens, and which is a self-regulating and independent agency. The Act expressly stipulated provisions on the once uncertain and ambiguous restricted screening rating system, thereby preventing a rating agency from arbitrary interpretation and application and protecting the freedom of expression for creative works.

279. In the case of video products, like films, the rating pending system has been abolished, eliminating unconstitutional aspects. Instead, the complete rating system is implemented to offer five ratings: General Audiences, 12+, 15+, Teenager Restricted, and Restricted Viewing. Such a rating system respects the freedom of creation and expression, thereby addressing controversies over prior censorship arising from video product rating. The rating status under the video rating pending system, and the rating status before 9 November 2009 when the video rating pending system was abolished and the restricted viewing rating was newly established are as in the following table. There are no data on the rating pending system since it was abolished on 9 November 2009.

Video Product Rating and Rating Pending

(As of 2007 – November 8, 2009; number of works)

	Number of films rated			*Number of films whose reviews are pending*					
				Domestic		*Foreign*		***Total***	
Description	*Domestic*	*Foreign*	***Total***	*Number of works*	*Ratio*	*Number of works*	*Ratio*	***Total***	***Ratio***
Number of works and ratio	9,623	1,259	**10,882**	2,553	99%	28	1%	**2,581**	**100%**

280. On 30 October 2008, the Constitutional Court ruled that the Korea Media Rating Board under article 20 (4) of the former Sound Records, Video Products, and Game Software Act providing for the video product rating pending system was a censorship institution, which is an administrative agency, and that rating pending thereby was deemed to be censorship. The rating pending system was designed to prohibit any video product from being released based on reviews made prior to distribution thereof, so it was in violation of the Constitution (2004 HUN-GA 18). However, on 4 October 2007, the Constitutional Court decided that the audiovisual material rating system was a minimum procedure to make age-based classification to guarantee the freedom of expression and, at the same time, to protect youths from hazardous audiovisual materials, and prevent any violation of the law, so that it did not constitute prior censorship under the Constitution (2004 HUN-BA 36).

281. Regarding phonograms, with the enactment of the Music Industry Promotion Act in October 2006, the foreign phonogram recommendation system and the system for determination of phonograms harmful to youth by the Korea Media Rating Board were repealed. However, while the latter system was abolished, phonograms with excessively suggestive and/or violent contents are required to be handled after circulation pursuant to the Juvenile Protection Act (Chapter 2).

Registration of Periodicals

282. On 5 June 2008, the Government wholly amended the Registration, etc. of Periodicals Act and renamed it the Act on Promotion of Periodicals, Including Magazines to promote the voicing of a variety of public opinions and sound advancement of periodicals by providing for matters concerning publication of periodicals such as magazines and their development. The delivery system for periodicals as mentioned in the third report (CCPR/C/KOR/2005/3, paragraph 279) was changed in a manner that periodicals are registered with mayor/*do* governor. The Act prescribes modernization of publishing facilities and distribution of periodicals, support for periodicals including development of experts, and registration and report for periodicals, among other provisions.

Publication of Periodicals

(As of the end of 2010; number of periodicals)

Type	*Daily*	*Correspondence/ Other dailies*	*Weekly*	*Monthly*	*Bimonthly*	*Quarterly*	*Semi-annual*	*Internet*	***Total***
Number	673	9	2,868	3,936	542	1,161	408	2,484	**12,081**

283. On 27 January 2005, article 16 of the Registration, etc. of Periodicals Act was separated and enacted as a new law named the Act on Press Arbitration and Remedies, etc. for Damage Caused by Press Reports. This Act prescribes provisions for requests for the news of counter-argument, requirements for and procedures to exercise correction reports, compensation for damages, and recommendation for remedies.

Paragraph 3

284. Under the Juvenile Protection Act, the system for media materials harmful to youth is introduced to protect juveniles and guarantee freedom of expression. Matters pertaining to deletion of the provisions related to homosexuality from the Enforcement Decree of the Act are as stated in the third report (CCPR/C/KOR/2005/3, paras. 298-301).

National Security Act and Restrictions on the Freedom of Expression

285. The Committee expressed concerns over the continued prosecutions under article 7 of the National Security Act, and recommended as a matter of urgency that the restrictions placed on the freedom of expression and punishment in relation thereto under article 7 of the National Security Act be compatible with the requirements of article 19, paragraph 3, of the Covenant (CCPR/C/KOR/CO/3, para. 18).

286. As stated in the third report (CCPR/C/KOR/2005/3, paras. 290 and 291, 294-296), the National Security Act is applied in accordance with the strict criteria for interpretation thereof by the Constitutional Court.

Results of Cases under the *National Security Act*

(In persons)

Year	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Booked	64	62	64	46	57	97
Imprisoned	18	22	17	16	18	32
Prosecuted	47	38	40	32	43	52
Not prosecuted	28	28	35	12	13	21
Unresolved	25	21	10	12	13	36

Jurisprudence on the Interpretation of article 7 of the National Security Act

287. On 26 August 2004, the Constitutional Court ruled that the risk of a broad interpretation of the National Security Act that deviates from the legislative spirit of the Act has been almost completely avoided since, unlike the old law, article 7 (1) of the current National Security Act includes a subjective element: "with the knowledge of the fact that it may endanger the existence and security of the State or democratic fundamental order." As the concepts used in article 7 (1) of the current National Security Act such as "a member," "acts," "in concert with," or "any person who propagates or instigates a rebellion against the State" also constitute said element, the possibility of equivocality of such concepts and broadness of the scope of application have been eliminated. The punishment for possession of expression materials benefiting the enemy of the State under article 7 (5) of the National Security Act is restricted to the cases where such possession is for the purpose of endangering the existence and security of the State or disrupting democratic fundamental order. The Constitutional Court also decided that the case where one possesses expression materials benefiting the enemy for the purpose of

mere academic research or simple artistic activities without any danger mentioned above should not be subject to article 7 (5) of the National Security Act.

288. On 24 May 2009, the Supreme Court ruled that a personal memo recorded in one's personal notebook, even if the content thereof actively sympathizes with activities of an antinational organization, should not be regarded as expression material that one is prohibited from possessing under article 7 (5) of the National Security Act on grounds that the personal notebook is not deemed to have been fixed in a form of documentation, and the person who possesses the notebook is not deemed to have had intentions of making it available to any third person for perusal (2009 DO 329).

Verification of Identity of Users over the Internet

289. Anonymity originally encouraged greater use of the Internet, but it has since 2002 increasingly given rise to adverse developments, including especially a rising tide of on-line crimes and violence. Minimizing the harmful effects of anonymity on the Internet has raised the need to hold users accountable for the opinions they post on the Internet and to provide remedial measures against damages. In January 2007, after collecting opinions from and conducting a series of discussions with experts, the Government amended the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc. to establish provisions on verification of identity of message board users (article 44-5).

290. Even though some domestic NGOs assert that the user identity verification system is in violation of article 19 of the ICCPR and article 21 (Freedom of Expression) of the Constitution, it was found that through the system, the incidence of vicious comments characterized by defamation, insults, abusive language, and the like had fallen 12.1% by August 2007, 22.2% by February 2008, and 17.7% by August 2008. Freedom of expression is not an absolute freedom. The user identity verification system over the Internet was introduced in consideration of the need to strike a balance between the legal interests of Internet users and other persons: that is, the freedom of expression of Internet users vs. protection of the right to privacy and personal rights of others. According to a perception survey of 2,500 persons on the identity verification system for Internet message board users in December 2009 and 2010, the respondents agreed to positive impact of the user identity verification system on the self-regulation and decline of vicious comments.

Effectiveness Analysis for 2008: Changes in (Vicious) Comments before/ after the Implementation of the User Identity Verification System

(Number of comments; percentage (%))

	Before implementation	*After implementation*		
	May 2007	*Aug 2007*	*Feb 2008*	*Aug 2008*
Description	*Number (%)*	*Number (%)*	*Number (%)*	*Number (%)*
Total	10,924 (100)	13,472 (100)	11,587 (100)	8,380 (100)
Vicious comments	1,722 (15.8)	1,867 (13.9)	1,203 (10.4)	1,086 (13.0)
Normal comments	9,202 (84.2)	11,605 (86.1)	10,384 (89.6)	7,294 (87.0)

Result of the Perception Survey on the User Identity Verification System

	Results	
Questions	*2009*	*2010*
Impact of the System	Self regulation (71.2%) Increase of credibility of postings (17.3%)	Self regulation (67.0%) Increase of credibility of postings (15.8%)
Decline of vicious comments	The system help decline of vicious comments and creating sound Internet use (84.5%)	The system help decline of vicious comments and creating sound Internet use (75.3%)

291. A constitutional complaint was filed against article 82-6 (Identification of Real Names on Message Boards, or Chat Rooms, etc. of Internet Press Agency) of the Public Official Election Act on grounds of its restrictions on freedom of anonymous expression. However, on February 25, 2010, the Constitutional Court ruled that article 82-6 (1), (6), and (7) of the former Public Official Election Act, which obliged Internet press agencies to verify the real names of users when they post comments that oppose or support a certain political party or candidate on message boards, forums, or chat rooms of their websites during electoral campaigns, were not in violation of the freedom of expression, etc. on grounds that the scope of the Internet press agencies was specified; the Internet Election News Review Committee determined and posted such scope; damages from false information could not be remedied during the short period of an electoral campaign; and whether real name was verified or not was only indicated (2008 HUN-MA 324). Another constitutional complaint against article 44-5 (Verification of Identity of Message Board Users) of the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc. is under deliberation on grounds of restrictions on freedom of anonymous expression (2010 HUN-MA 47, 2010 HUN-MA 252).

Provision of Framework Act on Telecommunications Ruled Unconstitutional

292. Article 47(1) of the Framework Act on Telecommunications included a provision to punish "a crime of communicating false information via telecommunications facilities for the purpose of harming the public interest." On 18 December 2010, the Constitutional Court ruled said article 47 (1) unconstitutional on grounds that "regulating an act of expression and imposing penalties by making an indefinable and ambiguous concept of the public interest a constituent of a crime are in violation of the rule of clarity and the principle of legality, which are required in protecting the freedom of expression." This ruling was delivered in the so-called "Minerva" case where the party in the case (pen-named Minerva) who posted allegedly false information on government measures on the financial crisis in 2008 requested adjudication on constitutional petition with the Constitutional Court while he was in an appellate trial on 14 May 2009. According to this ruling, for a case under a trial, a judgment of acquittal or dismissal of a public action is given; and even for a case where a judgment of guilty is already determined, a retrial can be requested.

Article 20

Paragraph 1

Efforts for Peaceful Unification

293. The division of the country, pursuit of the principle of peaceful unification, and adoption of the Joint Statement of North and South Korea are as stated in the third report (CCPR/C/KOR/2005/3, paras. 306 and 307).

294. The Korean Government has strived to peacefully resolve the North Korean nuclear issues in order to realize permanent peace on the Korean peninsula. In response to the sinking of the *Cheonan*, a South Korean naval corvette, the Government has urged the North to act responsibly and engage in substantial dialogue based on mutual respect. The Government has, accordingly, supported the on-going development of businesses in the *Kaesong* Industrial Complex to facilitate the peaceful unification of the Korean peninsula, and continued to provide humanitarian support for the underprivileged of the North, including especially infants, children, and pregnant women, stressing close adherence to the policy that the efforts to resolve humanitarian issues should continue irrespective of political situation. These policies are ultimately intended to establish a peaceful, prosperous and national community.

295. On 15 August 2009, the Korean Government announced the new initiative for peace on the Korean peninsula to realize genuine peace and reconciliation on the peninsula through denuclearization of the North and arms reduction in both Koreas, etc. and urged the North to respond to it appropriately.

Paragraph 2

Enactment of Legislation to Implement the Rome Statute of the International Criminal Court

296. As stated in the third report (CCPR/C/KOR/2005/3, para. 304), the Korean Government signed and ratified the Rome Statute of the International Criminal Court. To faithfully implement the Rome Statute, the Government, on 21 December 2007, enacted the Act on Punishment, etc. of Crimes under Jurisdiction of the International Criminal Court to punish crimes under the jurisdiction of the International Criminal Court and set forth the scope and procedures of cooperation between the Republic of Korea and the International Criminal Court.

Article 21

297. Details of the Act Concerning Assembly and Demonstration such as obligations to report open-air assemblies, prohibiting assemblies or demonstrations if they are illegal and violent, prohibition against open-air assemblies in certain places, requiring certain conditions to maintain traffic order during assembly, etc. are as stated in the third report (CCPR/C/KOR/2005/3, paras. 309-311).

298. The Korean Government strives to guarantee legal assemblies to the maximum possible extent so as to protect the people's fundamental rights. However, the Government consistently responds to illegal and violent assemblies in accordance with applicable laws and principles and imposes legal liabilities on those who commit any illegal act. The Government imposes financial punitive measures on persons or organizations that hold

illegal protests including claims for injuries or damage inflicted on the police or their equipment, apart from judicial measures. As a result of such efforts, the number of rallies or demonstrations over the last five years has increased every year, while the number of illegal and violent protests was declined by 26.7% in 2010 from the previous year. The numbers of police officers injured and unreported illegal rallies decreased 96.5% and 45.9% respectively.

Rallies and Protests

Year	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Incidents	11,036	10,368	11,904	13,406	14,384	8,811
Participants	2,928,483	2,617,893	2,327,608	3,082,069	3,092,668	1,462,894
Unreported illegal rallies	1,001	826	588	3,155	980	530
Illegal and violent protests	77	62	64	89	45	33
Police officers injured	893	817	202	577	510	18

Judicial Handlings

Year		*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Judicial handling	Detained	200	305	176	148	220	34
	Not detained	4,127	5,534	5,140	4,277	3,995	2,899
	Subtotal	4,338	5,839	5,316	4,425	4,215	2.933
Other (summary trial, dismissal with a caution, etc.)		2,855	3,627	949	508	1132	1,287
Total		**7,193**	**9,466**	**6,265**	**4,933**	**5,347**	**4,220**

Constitutional Court Rulings Regarding the Assembly and Demonstration Act

299. On 24 September 2009, the Constitutional Court ruled that the main clause of article 10 of the Act Concerning Assembly and Demonstration was in violation of article 21 (2) of the Constitution on grounds that the provision prohibits open-air rallies at night in general under the proviso that the chief of a competent police station, who is an administrative authority, performs prior examination to ascertain the nature and scale of the assembly, etc. and determines whether the assembly can be held; therefore, the provision is deemed to stipulate permission of open-air rallies at night. However, the Court decided that in consideration of social disruption that may arise from sudden abolition of that provision, the effect thereof is tentatively recognized, and the National Assembly should amend it by 30 June 2010 (2008 HUN-GA 25). Following this ruling of the Constitutional Court, the National Assembly has discussed a variety of bills, and for the time being, open-air rallies at night are permitted due to invalidation of the provision.

Cases Related to the Right to Assembly

Candle-light Demonstration

300. When the Government decided to resume US beef imports on 17 April 2008, groundless anxiety among the public was greatly amplified due to some press reports questioning the safety of US beef. Candle-light demonstrations started to be held on 2 May 2008 in response to the rapid spread of false information over the Internet including unfounded stories about mad cow disease. Civic groups including the Korea Alliance for Progressive Movement harnessed the public sentiment and established the People's Meetings on Countermeasures against Imports of US Beef with Mad Cow Disease ("People's Meetings on Countermeasures") on 6 May 2008.

301. The candle-light demonstration was originally intended to be a peaceful assembly, but became systematically organized and turned into an illegal and violent protest. Demonstrators occupied roads, used weapons such as iron pipes, assaulted law enforcement officers, damaged police buses, and started fires. The People's Meetings on Countermeasures eventually led a march toward *Cheongwadae* (the Korean presidential residence) on 23 May 2008, causing a prolonged traffic jam downtown as well as a number of injuries and substantial property damage. The protests lasted three months, until 15 August, and caused damages of about KRW 1.1 billion including injuries to 501 police officers (100 severely injured; 401 slightly injured), severe injuries to 88 citizens, and 2,275 cases of damage to police vehicles and equipments.

302. As of 2010, cases are under investigation in accordance with applicable laws. The National Human Rights Commission of Korea recommended eight items to the Commissioner General, who accepted some of them. Since most of complaints or accusations of assault by the police are lodged against police officers whose names are not reported, it is difficult to specify and identify the accused, which in turn has prolonged the investigations.

Yongsan Fire Incident

303. On 19 January 2009, 32 persons including tenants of commercial buildings who protested against compensation criteria of the urban environment improvement project broke into a building at the center of *Yongsan-gu*, Seoul, and waged a sit-in protest. They set up a lookout and dropped petrol bombs. The police and SWAT started suppression operations on 20 January, and the protesters responded by throwing petrol bombs. In the process, a fire broke out at the lookout. Five protesters and one law enforcer died, and six protesters and 16 law enforcers sustained severe or minor injuries.

304. Since protesters posed a danger to public safety by unlawfully occupying the building, setting up the lookout, and throwing petrol bombs down on the street, the police had to put an end to their actions immediately. The police and the security company asked them several times to withdraw voluntarily, but they refused and continued to throw petrol bombs at the police. In the last resort, the police tried to overpower them by force.

305. The police put fire trucks, water tanks, and ambulances on standby before quelling the protest to minimize damage and prevent accidents. Nevertheless, a fire broke out in an instant following the throwing of petrol bombs and explosions and resulted in the death of several protesters and a police officer. The Prosecutors' Office conducted thorough investigations into possible illegal acts by the police and employees of the security company and found no illegal act by the police but some illegal acts by the security company. Seven security guards were prosecuted. On 11 November 2010, the Supreme Court ruled that the suppression operation of the police was performed in consideration of

the possibility of serious infringement upon public stability and order and, therefore, could not be deemed an illegal performance of duties (2010 Do 7621).

Article 22

306. In April 1990, the Korean Government joined the International Covenant on Civil and Political Rights with a reservation to article 22 because the freedom of association for public officials and teachers was restricted pursuant to domestic laws. The Government has taken measures to gradually expand the freedom of association for public officials and teachers (CCPR/C/68/Add.1, paras. 271-275; CCPR/C/114/Add.1, para. 158; CCPR/C/KOR/2005/3, paras. 317-321).

Improvement of Labor Relations Management

307. On 1 January 2010, following extensive discussions including working-level meetings between the labor, management, and the Government, and meetings of representatives, the Trade Union and Labor Relations Adjustment Act was amended to introduce the time-off system (articles 24 and 24-2, etc.; entered into force on 1 July 2010), and permit establishment of multiple labor unions at each workplace (articles 29-2, 29-3, 29-4, and 29-5; to enter into force on 1 July 2011).

308. Under the time-off system, payment of full-time union officers, who devote themselves to union activities on a full-time basis, is prohibited. However, they can be paid for relevant activities such as bargaining, consultation, complaint handling, and industrial safety, and a given scope of union activities such as management of labor unions. There were several issues at the early stage of implementation of the system, but the system becomes smoothly established. The time-off system has enabled the rectification of the once unreasonable payment practices for full-time union officers and increased independency in operation of labor unions, thereby likely establishing law and order in industrial relations.

309. Multiple unions can be established at one workplace, but a single bargaining channel should be ensured. However, if the employer agrees, each union may engage in bargaining individually. A single bargaining channel is sought preferentially through voluntary efforts among unions. If voluntary efforts to establish a single bargaining channel fail, the majority union becomes the bargaining partner. If there is no majority union, a joint bargaining delegation designated by voluntary decision or formed by the Labor Relations Commission upon request becomes the primary agent of bargaining. In order to prevent discrimination against minority unions, the representative union is obligated to represent in a fair manner. The multiple union system is expected to encourage members-oriented union activities by guaranteeing the freedom of establishment of unions, creating sound competition among unions, and strengthening service functions of unions.

Guaranteeing Public Officials' Labor Rights

310. In consideration of the third report, the Committee recommended that the State party reconsider its position on the rights of association of senior public officials, and engage in dialogue with the representatives of the 76,000 KGEU members with a view to fully realizing their right of association (CCPR/C/KOR/CO/3, para. 19).

311. To protect the freedom of association of public officials, the Government enacted the Act on the Establishment and Operation of Public Officials' Unions on 27 January 2005. Subject to the Act, public officials of grade 6 or below are granted the right to organize, but those who are in directing or supervising positions and advocate an administrative agency by engaging in personnel and wage management affairs in dealing

with public officials' unions are prohibited from entering the union (article 6). Public officials' rights to collective bargaining and signing the collective agreement are guaranteed. However, those provisions of collective agreement set forth subject to Acts and subordinate regulations, ordinances, or budget, and those delegated to Acts and subordinate regulations or ordinances do not come into force as collective agreement (article 10). Public officials' unions and their members are prohibited from engaging in any industrial actions such as a strike or slowdown (article 11). If collective bargaining comes to an impasse, unions are permitted to request mediation or arbitration by the Public Officials Labor Relations Mediation Committee under the National Labor Relations Commission (article 12).

312. With the implementation of the Act, the institutional framework to guarantee public officials' right to work has been laid down. It is meaningful in that under the Act, public officials' lawful union activities are guaranteed and their fundamental labor rights are considerably enhanced for the first time. As of 31 December 2010, there were 96 public officials' labor unions, and about 160,000 public officials, 55% of all eligible public officials, were union members. In addition, after effectuation of the said Act, collective bargaining agreement regarding common working conditions, remuneration, retirement age was concluded between 10 unions and the Ministry of Public Administration and Safety and collective bargaining agreements have been executed at the level of the local governments and education offices.

Public Officials' Labor Unions

(As of December 31, 2010; number of unions; number of members)

Total		*Joint*		*Nation-wide*		*Court*		*Administration*		*Local Government*						*Office of Education*	
										Subtotal		*Si/Do*		*Si/Gun/Gu*			
Unions	***Members***	*Unions*	*Members*	*Unions*	*Members*	*Unions*	*Members*	*Unions*	*Members*	***Unions***	***Members***	*Unions*	*Members*	*Unions*	*Members*	*Unions*	*Members*
99	**161.753**	9		2	61,430	1	7,500	2	22,944	**62**	**47,044**	19	24,500	43	22,544	20	25,229

313. The public officials' labor relations system has been systematically put in place. Under the Ministry of Labor, the Public Sector Labor Relations Division was set up in 2005, and the Public Sector Labor Relations Policy Officer was appointed in November 2009. The Director General for Civil Service Labor Relations was appointed under the Ministry of Public Administration and Security. The Government pursues a wide range of initiatives to ensure reasonable public officials' labor relations such as dialogues with public officials' unions, guidance and education on establishment and management of unions, and support and guidance for smooth collective bargaining.

314. On 26 December 2008, the Constitutional Court ruled that the Act on the Establishment and Operation of Public Officials' Unions, which limits the right to organize of all public officials of grade 5 or above, and public officials of grade 6 or below who exercise authorities of direction and supervision, take charge of businesses, advocate an administrative agency in dealing with personnel and compensation management, and engage in adjustment and supervision of labor relations , is not in violation of the Constitution (2005 HUN-MA 971, 2005 HUN-MA 1193, 2006 HUN-MA 198).

Guaranteeing Teachers' Labor Rights

315. Enactment and implementation of the Act on the Establishment and Operation of Teachers' Unions are as stated in the third report (CCPR/C/KOR/2005/3, para. 318).

316. Teacher's educational activities, unlike ordinary workers, are public service, requiring high ethical standards, neutrality, and professionalism, and the actual users of their services are the people, and a lockout upon a teachers' strike is impossible. In this sense, their right to organize, and rights to collective bargaining and signing a collective agreement are protected, but their right to collective action is partly restricted. However, when a collective bargaining is broken off, either party or both parties may request mediation or arbitration to the National Labor Relations Commission, or the Labor Relations Conciliation Commission for Teachers, made up of the members representing the public interests, conducts conciliation and arbitration proceedings. Finalized compromise rulings become effective as a collective agreement, making up for the restrictions on the right to collective action.

317. On 8 July 2008, the Seoul Administrative Court ruled that teachers' participation in a strike fighting for annual leaves by collectively taking an annual leave was an industrial action that did not fall under a justifiable exercise of the right to organize, which was permissible under the Act on the Establishment and Operation of Teachers' Unions (2007 GU-HAP 35753). On 18 May 2006, it also ruled it justifiable to dismiss teachers who did not participate in managers' meetings and morning assemblies, unlawfully entered the principal's office and used abusive language, and wore vests of the Korean Teachers and Educational Workers' Union (2005 GU-HAP 15250).

Article 23

Paragraph 1

Expansion of Childcare Program Support

318. To expand childcare program support, the Government is establishing an additional 80 national and public nursery facilities every year in agricultural and fishing villages and low-income regions, which private facilities avoid. Such support is rendered in many ways including purchases of private nursery facilities, utilization of idle classrooms, and remodeling of public institutions such as community centers and community service centers. For agricultural and fishing villages where nursery facilities are not available, small nursery facilities are set up in consideration of regional circumstances.

Establishment and Utilization of Childcare Facilities

(As of the end of 2010; number of facilities; persons)

Description	***Total***	*National and public*	*Corporation*	*Private nursery*	*Home nursery*	*Parents*	*Work*
Number of facilities (%)	**38,021**	2,034	1,468	14,677	19,367	74	401
	(100)	(5.3)	(3.9)	(38.6)	(51)	(0.2)	(1.1)
Number of children (1,000 persons, %)	**1,280**	138	114	723	281	2	22
	(100)	(10.8)	(8.9)	(56.5)	(22)	(0.2)	(1.7)

319. In July 2009, to strengthen the State's responsibility to rear infants and preschoolers, the Government expanded the eligibility for full funding of childcare costs from the low income to households with infants in the bottom 50% of income. In 2010, the eligibility for full funding for a second child and later births was expanded to households whose income was at the bottom 70%, and the eligibility criteria for funding for dual-income families was relaxed.

Budget for Childcare Funding by Year

(In KRW 100 million)

Year	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Funding	2,671	5,328	7,263	10,376	12,822	16,322

Number of Children Subject to Childcare Funding by Year

(In persons; KRW)

Year	*Number of children receiving childcare*	*Total number of children supported*	*Differential childcare costs*	*Childcare costs subsidized for children aged 5*	*Childcare costs subsidized for disabled children*	*Childcare costs subsidized for households with two or more children**
2005	989,390	462,952	342,604	105,760	14,588	73,097
2006	1,040,361	616,991	463,867	139,031	14,093	63,745
2007	1,099,933	749,754	586,836	145,303	17,615	109,599
2008	1,135,502	730,333	592,256	122,857	15,220	107,554

* The childcare costs subsidized for households of two or more children are excluded from the total because they have been added to the differential childcare fees.

Support for Single-Parent Families

320. As stated in the third report(CCPR/C/KOR/2005/3, paras. 323 and 324), the Government supports low-income single parent families under the Single-Parent Family Welfare Act by subsidizing education fees and child rearing expenses, offering priority for moving into permanent rental housing, and helping them secure loans for living expenses.

321. On 28 December 2006, the Government amended the Single-Parent Family Welfare Act to protect low-income single-parent families facing issues of child rearing, housekeeping, and making a living, make persons who marry Korean nationals and raise children as Korean nationals eligible for such protection (article 5-2). On 17 October 2007, the Single-Parent Family Welfare Act was renamed the Single-Parent Family Support Act to make grandparent-grandchildren families eligible for the protection. The age for eligibility for the child rearing subsidies for single-parent families was raised from under age 6 in 2005 to under age 12 in 2010. The age for eligibility for education subsidies for single-parent families was also raised from under age 20 to under age 22 in 2007. To help single parent family welfare facility residents become self-supporting as soon as possible, psychological analysis, professional counseling, and therapy programs available for all facility residents were introduced in 2010.

Applicants under the Single-Parent Family Support Act

(Number of households; persons)

	Total		*Single-mother family*		*Single-father family*		*Grandparent-grand children family*	
Year	***Households***	***Members***	*Households*	*Members*	*Households*	*Members*	*Households*	*Members*
2004	**47,405**	**123,461**	38,993	101,165	8,412	22,296	-	-
2005	**56,903**	**146,056**	46,013	117,162	10,890	28,894	-	-
2006	**66,163**	**170,530**	53,120	135,728	13,043	34,802	-	-

	Total		*Single-mother family*		*Single-father family*		*Grandparent-grand children family*	
Year	***Households***	***Members***	*Households*	*Members*	*Households*	*Members*	*Households*	*Members*
2007	**73,305**	**189,854**	57,757	148,462	15,548	41,392	-	-
2008	**81,792**	**212,581**	63,469	163,567	18,150	48,572	173	442
2009	**94,487**	**245,793**	71,775	185,510	22,532	59,812	180	471
2010	**107,313**	**276,378**	80,956	207,217	25,997	68,267	360	894

322. On 17 October 2007, the Government amended the Single-Parent Family Support Act to support child rearing of unmarried single-mother families and established a group home for unmarried single mothers within a single-parent family welfare facility. The number of "unmarried single mother group homes" where unmarried single mothers bring up their children and prepare to become independent increased from 16 in 2006 to 19 in 2008, and 24 in 2010. In light to support unmarried single mothers with housing, the period of residency for single mothers, single fathers, and unmarried single mothers was lengthened from one year to two years since 1 January 2010. The number of "regional unmarried single parent assistance centers" that provide medical service allowances, counseling, education and self-help meeting to help unmarried single parents with their child rearing and social reintegration was increased from six in 2009 to 17 nationwide in 2010. The "self-reliance assistance program for juvenile single parents" was introduced in April 2010 for households of single parents under the age of 25 including unmarried single-mother households. Under the program, the Government provides juvenile single parents with nurturing, competency development, and self-reliance assistance for up to five years or until the month when they turn 25. While the income criterion for eligibility of low-income single-parent households is 130% of the minimum cost of living, that for juvenile single-parent households under the self-reliance assistance program for juvenile single parents is 150% of the minimum cost of living, improving conditions for nurturing juvenile single parents. The Government grants KRW 1.54 million a year for private institution tuitions to support unmarried single-mother school dropouts with their academic development so that they can prepare to earn general equivalency diplomas for middle and/or high school, and also continues to subsidize high school expenditures (actual expenses), provide self-reliance promotion allowances (KRW 100,000 per month), and subsidize child rearing expenses (KRW 150,000 per month). Starting in July 2010, the Ministry of Gender Equality and Family, in concert with the Ministry of Education, Science, and Technology, including Offices of Education, designated the entrusted alternative educational institution to help juvenile unmarried single mothers on the verge of dropping out of school continue to learn, with their names remaining on the school register.

Support for *Multicultural Family*

323. International marriage is becoming increasingly common, making multicultural families (Koreans with foreign spouses and their children) an important family type. Of all marriages in 2010, 10.5%, 34,235 marriages were international, and the number of marriage migrants living in Korea reached 181,671 in January 2010. The better part of them experience conflicts with family and social alienation due to language and cultural differences, financial distress, and social prejudices. A great number of problems related to multicultural families are connected with human rights violations and provision of false information by international marriage brokers. Measures to supervise and oversee marriage broker agencies, strengthen international cooperation, and reinforce protection of human rights of immigrants by marriage need to be taken.

Marriage migrants

(As of the end of 2010; persons)

Total			*Immigrants not obtaining Korean nationality*			*Immigrants obtaining Korean nationality*		
Total	*Male*	*Female*	***Total***	*Male*	*Female*	***Total***	*Male*	*Female*
181,671	19,672	161,999	**125,087**	15,876	109,211	**56,584**	3,796	52,788

324. In April 2006, the Government formulated the government-wide "Measures to Support Social Integration of Female Marriage Migrants," and the Ministry of Gender Equality and Family implements overall support policies designed to provide appropriate assistance at different stages of the family life cycle: marriage preparation phase, family formation and competency development phase, and child education phase. In 2009, the "Multicultural Families Policy Commission" chaired by the prime minister was formed to devise the "Master Plan for Multicultural Families Support Policy" (2010-2012) and execute the plan with all ministries participating. The Master Plan entails 20 main tasks and 61 subtasks in five areas: (i) improvement of implementation structure of multicultural families support policies, (ii) rendering practices of international marriage healthier, (iii) reinforcement of support for settlement and self-reliance of marriage migrants, (iv) support for children from multicultural families, and (v) enhancement of social understanding of other cultures. The plan especially emphasizes the importance of promoting the self-reliance of multicultural families and improves employment of marriage migrants and education measures for their children.

Multicultural Families Support Center

(Number of centers)

Year	*2006*	*2007*	*2008*	*2009*	*2010*
Number of Multicultural Families Support Centers	21	38	80	100	159

325. On 21 March 2008, the Multicultural Families Support Act was enacted to systemize the implementation of multicultural family support policies by providing information and social adaptation education for the purpose of improving the quality of life of multicultural families and accelerating their social integration. This Act provides for the provision of daily life information that marriage migrants need and support for education on the Korean language, social integration, occupation, and family (article 6); implementation of family counseling, education for couples, parents, and family life, and provision of professional services such as interpretation, legal counseling, and administrative services (articles 7 and 11); providing culture and language-tailored services of protection and support for victims of domestic violence, health management before and after childbirth, and child rearing and education support (articles 8 through 10); and conducting surveys on actual conditions of multicultural families to establish support policies (article 4). With the amendment of the Multicultural Families Support Act, the Government expanded the definition of "a multicultural family" from "a family composed of Koreans at birth and marriage migrants, etc." to "a family composed of persons who obtained Korean nationality by birth or through acknowledgment, or naturalization, etc. and marriage migrants, etc." The Government plans to further improve the system in such a way that foreign workers and foreign students studying in Korea, etc. can receive multicultural family support services in the future.

Paragraphs 2 and 3

326. As stated in the first and second reports, the rights of people of marriageable age to marriage and to forming families are guaranteed, and a marriage without both parties' free and complete agreements does not constitute a lawful marriage (CCPR/C/68/Add.1, paras. 292 and 293; CCPR/C/114/Add.1, paras. 169-171).

Paragraph 4

327. The revised bill of the Civil Act prescribing abolishment of the mandatory waiting period for women for remarriage and establishment of the system for full adoption of a child, as mentioned in the third report (CCPR/C/KOR/2005/3, para. 332), was presented to the National Assembly and was passed.

Amendment of the Civil Act and the Family Litigation Act

328. On 21 December 2007, the Civil Act was amended to introduce a "cooling-off period before divorce" so that the parties to a divorce by agreement are allowed to divorce only after obtaining confirmation of the intention to divorce by agreement from the Family Court after a certain period lapses (three months for those with a child; one month for those with no child) (article 836-2 (2) and (3)). This system could prevent an indiscreet and irresponsible divorce that may arise under the present system of divorce by agreement, which requires only simple procedures to divorce. It also provides both parties opportunities to carefully deliberate and discuss ways to protect their minor children.

329. Considering that most women are not properly paid child rearing expenses after a divorce or separation, on 8 May 2009, the Civil Act and the Family Litigation Act were amended to provide legal and institutional mechanisms to compel a parent who deliberately avoids his/her responsibility for rearing a child to make child support payments for the welfare of children of a single parent. The revised law introduced the child rearing expense payment order, through which child rearing expenses are deducted upon a claimant's request from the monthly pay of an obligor who fails to pay them more than two times without a justifiable reason. Under the Act, the "protocol for payment of child rearing expenses," which makes terms of agreements made by both parties the ground of claim for execution, must also be prepared. (article 836-2 (5) of the Civil Act; articles 41 and 63-2 of the Family Litigation Act).

330. There are many cases where people secretly adopt a newborn child and register the child as their own due to the tremendous importance that society places on lineage. There are clearly strong needs to discourage such practice and to realize the welfare of children from previous marriages of remarried couples. To satisfy such needs, on 31 March 2005, the full child adoption system was introduced to abolish discrimination between an adopted child and one's own child, and uphold the welfare of an adopted child (articles 908-2 through 908-8).

331. With the proliferation of remarriage, many children from previous marriages do not have the same surnames as their stepfathers, which causes psychological suffering. To protect these children, on 31 March 2005, the Civil Act was amended so that a child may assume the mother's surname and family origin even though the child, in principle, should assume his/her father's surname and family origin, if the parents agree thereto when they file a report of their marriage. If necessary for the welfare of a child, the child's surname and family origin may be altered with the approval of the court (article 781 (1) and (6)).

332. On 22 December 2005, the Constitutional Court ruled that in the main clause of article 781 (1) of the Civil Act, which was in force before amendment, the phrase "a child shall assume his/her father's surname and family origin" was unconstitutional because the principle of paternity, in itself, is not unconstitutional, but exceptions to paternity are too limited (2003 HUN-GA 5 and 6 combined).

Strengthening Systems to Protect Human Rights of Migrant Women

333. The Government established and operates the "Migrant Women Hotline Center 1577-1366" with one central center and four regional centers to provide assistance to migrant women experiencing abuse from their spouses. In addition, 18 protective facilities for migrant women violently abused ("Migrant Women Shelter") are operated across the country to provide mid- and long-term protection services for migrant women and their accompanying children who need emergency protection from violence. The Government also implements the Happy International Marriage Programs for men who wish to marry a person of a different nationality to understand cultural differences and gender equality so as to prevent domestic violence and help them make a happy home through inter-racial marriage. In 2009, the Happy International Marriage Programs were carried out across the country for 2,670 men interested in international marriage or who married women of different nationalities.

Monthly Average Counseling Sessions at the Migrant Women Hotline Center 1577-1366

(Number of sessions)

Year	*2006*	*2007*	*2008*	*2009*	*2010*
Number of monthly average counseling sessions	382	1,106	1,660	3,621	4,512

Article 24

Paragraph 1

334. The Government's on-going efforts to protect children are as stated in the first and second reports (CCPR/C/68/Add.1, paras. 285-295; CCPR /C/114/Add.1, paras. 237-245).

Recognizing Visitation Right of the Child

335. On 16 October 2008, the Korean Government withdrew the reservation to article 9 (3) on the visitation right of the child of the Convention on the Rights of the Child.

336. On 21 December 2007, the Civil Act was amended to stipulate "a parent who does not bring up a child and his/her child shall have visitation rights" (article 837-2 (1)). The amendment of the Civil Act made the right to visitation a right of a child. It is also meaningful in that a child became an agent of the visitation right instead of a mere object thereof. In the case of a divorce by agreement, both parties are required to agree on whether and how to exercise the visitation right and submit a written agreement to the Family Court before the intention of a divorce is confirmed (articles 836-2 (4) and 837 (2)) so that the parties are obliged to agree on the visitation right before a divorce.

Protection from Child Abuse

337. In response to the concerns that too few abused children were being protected and, especially, that too few reports were being made by persons obliged to report child abuse, even though the number of reports of child abuse had been increasing every year, the Child Welfare Act was amended on 27 September 2006 to expand the scope of persons obliged to report child abuse to include workers of kindergartens and private institutions, and paramedics (article 26 (2)). The Act was again amended on 13 June 2008 to increase the number of regional child protective institutions so that specialized child protective institutions that detect, protect, and treat abused children, and provide counseling and education services for abused children, abusers, and their family members are required to be set up in a *Si/Do* and a *Si/Gun/Gu* (article 24 (2)).

338. The Government runs on-line education programs on child abuse prevention for persons obliged to report child abuse and the general public to raise social awareness about child abuse prevention, and has counselors from child protection institutions offer on-site education. It also makes every effort to promote child abuse prevention through a variety of media such as posters and public relations videos over the Internet. It holds commemorative events for the International Day on Prevention of Child Abuse (19 November) every year to carry on campaigns nationwide to raise awareness of prevention of child abuse.

339. These efforts have helped create social atmosphere that regards children as independent human beings and child abuse as a crime, leading to an increase in the number of reports of child abuse as well as the num of the abused children protected at child protection institutions after being identified as victims of child abuse.

Reports on Child Abuse

(Number of cases; percentage (%))

Year	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Suspected child abuse	4,880 (69.7)	5,761 (72.0)	6,452 (72.5)	7,083 (74.7)	7,219 (75.4)	7,354 (80.1)	7,406 (80.5)
General counseling	2,118 (30.3)	2,239 (28.0)	2,451 (27.5)	2,395 (25.3)	2,351 (24.6)	1,854 (19.9)	1,793 (19.5)
Total (100%)	**6,998**	**8,000**	**8,903**	**9,478**	**9,570**	**9,309**	**9,199**

Abused Children under Protection

Year	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Number of protected children	3,891	4,633	5,202	5,581	5,578	5,685	5,657

Protection from Child Sexual Abuse

340. The enactment and main provisions of the Act on Protection of Juvenile Sex, and the introduction and details of disclosure of identity of offenders are as stated in the third report (CCPR/C/KOR/2005/3, paras. 351-356).

341. There has been a steady rise in sexual crimes, which has in turn led to more and more kidnappings or inducements of children for sexual abuse and murder. Sex criminals are more prone to recidivism than other criminals, and they tend to commit their crimes secretly. That has invited criticism that in order to effectively prevent these crimes, sex

offenders should be given harsher punishments, and institutional mechanisms need to be laid down to prevent recurrence of the crimes and protect victims.

342. Under the Criminal Act, the Act on the Protection of Children and Juveniles from Sexual Abuse, the Child Welfare Act, and the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof, any sexual crimes committed against children and juveniles incur heavier punishment than other crimes in general.

Punitive Provisions for Major Sex Crimes such as Rape

Age	*Under 13*	*13 -18*	*19 or older*
Rape	More than seven years of imprisonment under article 8-2 (1) of the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof	More than five years of imprisonment under article 7 (1) of the Act on the Protection of Children and Juveniles from Sexual Abuse	More than three years of imprisonment under article 297 of the Criminal Act
Sexual molestation by force	More than three years of imprisonment and a fine of KRW 10 million-30 million under article 8-2 (4) of the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof	More than one year of imprisonment and a fine of KRW 5 million-20 million under article 7 (2) of the Act on Protection of Juvenile Sex	Less than ten years of imprisonment and a fine of less than KRW 15 million under article 298 of the Criminal Act
Quasi-rape, sexual molestation by force	Same as for rape and sexual molestation above under article 8-2 (4) of the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof	Same as for rape and sexual molestation above under article 7 (3) of the Act on Protection of Juvenile Sex	Examples under articles 299, 297, and 298 of the Criminal Act
Illicit sex, sexual molestation by deception and/or abuse of power	Same as for rape and sexual molestation above under article 8-2 (5) of the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof	Same as for rape and sexual molestation above under article 7 (4) of the Act on Protection of Juvenile Sex	Less than five years under article 302 of the Criminal Act (Mentally retarded person)
Illicit sex, sexual molestation	Examples under articles 305, 297, and 298 of the Criminal Act	NA	NA

343. On 9 June 2009, the Act on Protection of Juvenile Sex was wholly amended and renamed the Act on the Protection of Children and Juveniles from Sexual Abuse to clarify that children under 13 also be protected under this Act and to newly establish punitive provisions against acts of quasi-sexual intercourse and inducement for prostitution committed against children and juveniles (articles 7 (2) and 10 (2)). In consideration of the likelihood of recidivism and the severity of crimes, the identities of sex offenders against children and juveniles are required to be disclosed through the information and telecommunications network (article 38 (1)) to raise public awareness of sex crimes against children and juveniles and to rectify institutional deficiencies by setting forth punitive provisions (article 20), limiting the employment of such criminals (article 44 (1)), and stipulating negligence fines to ensure effectiveness of obligations (article 49 (3)).

344. On 13 June 2008, the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof was amended to impose heavier statutory punishments for rape and sexual molestation by force committed against girls under 13 years of age. The amendment of the Act on Special Cases concerning the Punishment, etc. of Victims of Sexual Crimes is as explained in paragraphs 69 through 70 above. Matters concerning the Act on the Electronic Monitoring of Specific Criminal Offenders are as explained in paragraph 72 above.

345. In April 2008, the Government announced the government-wide comprehensive measures to protect children and women from sexual violence and formed the Task Force Team to Examine Implementation of Measures to Protect Children and Women, in which nine ministries under the Prime Minister's Office collectively participated. The Government held meetings of appropriate ministries to eradicate sexual violence against children and strengthen protection and support for victims, and came up with more rigorous measures to prevent recurrence of sex crimes against children in October 2009.

346. To aggressively handle sexual violence by a guardian, if an offender is a person with parental authority, the prosecutor was granted authority on 25 September 2009 to request forfeiture of parental authority and take protective measures for and support the victim, who has no guardian due to the forfeiture of parental authority, in cooperation with child protection institutions and criminal victim support centers. On 14 October 2009, the Prosecutor for Child (PFC; a prosecutor exclusively investigating children's cases) system was introduced so that a specialized investigation advisory committee could be actively utilized and highly specialized education could be offered to prosecutors and investigators. On 15 October 2009, the one-on-one relationship between a crime prevention committee member and a child was established; customized assistance for children vulnerable to crimes was provided; and a collaboration system with related agencies was built. The women's and children's crime investigation specialist course is offered to prosecutors, and the practicum course for crime against children investigations is offered to investigators.

Protection of Children from Violence in School

347. Following the self-assessment that the governmental measures to prevent and fight against violence in schools are only short-term plans that were explained in the third report (CCPR/C/KOR/2005/3, paras. 335-340), in January 2004, the Government provided a legal basis for prevention of violence in schools and devised relevant master plans in line with schools, Offices of Education, government agencies, local governments, communities, professional organizations, and experts.

Violence in Schools

(Number of cases; persons)

Year	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Cases under review	2,518	3,980	7,667	8,813	5,605	7,823
Student victims	4,567	5,752	14,190	16,320	11,708	13,748
Student offenders	6,604	6,267	20,323	24,018	14.605	19,949

348. On 29 January 2004, the Government enacted the Act on the Prevention of and Countermeasures against Violence in Schools. In order to effectively achieve the purpose of the Act, the Government devised the first master plan (2005-2009) of the "Master Plan to Prevent and Handle Violence in Schools ("Master Plan")," which is to be formulated every five years. Involved ministries including the Ministry of Education, Science and Technology carried out five major tasks of the first Master Plan: to actively operate supportive entities to prevent and eradicate violence in schools; to strengthen education and

support to prevent and eradicate violence in schools; to enhance teachers' expertise on guidance of students; to strengthen protection of victims and guidance of offenders; and to carry on government-wide campaigns to raise public awareness.

349. In accordance with the first Master Plan, institutional systems to prevent and stop violence in schools were established by organizing the "Planning Committee for Measures on Violence in Schools" under the Ministry of Education, Science and Technology, the "Regional Committee for Measures on Violence in Schools" in a *Si/Do*, and the "Autonomous Committee for Measures on Violence in Schools" at schools, and setting up a division exclusively for violence in schools at Metropolitan and Provincial Offices of Education, and a center exclusively for violence in schools. School wardens are assigned to schools and an increasing number of closed-circuit televisions are installed in danger zones within a school to reinforce education and support for prevention of violence in schools. Private support services are also provided for victims of school violence through SOS support team.

350. In December 2009, the second Master Plan (2010-2014) was devised to establish specific preventive and ex post facto measures in light of the rising social need for countermeasures against school violence due to the declining age of offenders and the increasingly brutal and varying forms of violence. The second Master Plan includes the six major policy tasks: to ensure safety infrastructure against violence in schools; to strengthen tailored preventive education; to secure countermeasure competence and accountability of individual schools; to improve the quality of protection of victims and guidance of offenders; and to build up school safety net.

351. The Act on the Prevention of and Countermeasures against Violence in Schools, which was wholly amended on 19 February 2008, substantially complements and modifies the previous Act.

Provisions	*Details (Proposed)*
Articles 2 and 21 (3)	The concept of violence by students includes sexual violence.
Article 8 (3)	Members of the Planning Committee for Measures on School Violence include teachers with more than ten years experience in student guidance, qualified physicians, and parents of students with extensive experience with school operation committees and juvenile protection.
Article 14 (3) and (5)	The principal of a school should form a body that exclusively addresses school violence and provide administrative support and funding therefor.
Article 16 (5)	The cost of medical treatment for student victims should be borne by the parents of student offenders. If they fail to cover the cost, the School Safety Mutual Aid Association or the Municipal or Provincial Offices of Education bear the cost and exercise the right to demand indemnity.
Article 17 (8)	Where a student offender undergoes a special education program, the Autonomous Committee for Measures on School Violence may mandate the student's parents to take it, too.

352. On 8 May 2009, the Act on the Prevention of and Countermeasures against Violence in Schools was partially amended as follows:

Provisions	*Details (Proposed)*
Article 2, subparagraph 5; articles 11 (8) and 16-2	Counseling services by counselors specialized in the disabled, or treatment at a medical institution specialized in the disabled become available; and the superintendents of the Offices of Education are required to take measures to raise awareness of eradication of violence against disabled students.
Article 14 (4)	Upon the request of a class teacher, the center exclusively dedicated to addressing violence in schools should report results of investigation into school violence to the class teacher.
Article 14 (5)	Student victims may require the center exclusively dedicated to addressing school violence to investigate damages for confirmation.
Article 17 (1) 2	Retribution of any kind against student victims is prohibited.
Article 20 (2) and (3)	An agency that receives reports of school violence is obligated to notify such reports to the principal of the school.
Article 20- 2	Hotline for reports and counseling for school violence is required to be established.

353. In 2008, the Ministry of Education, Science and Technology began to carry out the *Wee* Project aiming to improve school violence preventive counseling services and guide both student offenders and victims. The *Wee* Class is to be set up at schools to detect students in danger and offer counseling services. The *Wee* Center will also be established at regional Offices of Education to provide professional assessment and counseling services for students who cannot be guided by a school. These services will be more widely rendered in phases.

354. The Government strengthened protective systems for student victims by operating the One-stop Support Center for Women and School Violence Victims and the School Violence Student Victim Supporters System, and developing and distributing other recovery programs for student victims of various kinds. Guidance programs for students causing school violence were also diversified to include the *Wee* Center, entrusted alternative education institutions, juvenile counseling support centers, delinquency prevention centers, various systems for stay of indictment, and the one-on-one mentoring system for students on probation.

Social Policies to Protect Children

Dream Start Project for Children in Poverty

355. In 2007, the Korean Government started the Dream Start Project designed to focus government assistance on children with underprivileged family environment. The Dream Start Project provides children in need with comprehensive services intended to address their individual needs and circumstances in partnership with public health centers, medical centers, private institutions, and social welfare centers in the community.

356. The Dream Start Project provides the assistance services for 300 pregnant women and children aged up to 12 per each local area, who are from households receiving basic livelihood benefits and near-poor households in poor neighborhoods in *Si/Gun/Gu*. The legal basis for the Dream Start Project will be provided by amending the Child Welfare Act and eligibility for the Dream Start Project will be determined based on appropriate review criteria to ensure intensive services for eligible children.

Implementation of the Dream Start Project

(Number of areas; persons)

Year	*2007*	*2008*	*2009*	*2010*
Eligible areas	16	32	75	101
Eligible children	4,800	9,600	25,954	31,924
Eligible persons (children + family members)	4,800	22,000	60,471	76,652

Protection of Children Requiring Protection

357. With regards to protective measures at child welfare facilities for children requiring protection, the punitive provisions against child abuse, abandonment, and trafficking; the provisions on prohibition of harmful acts under the Child Welfare Act; the amendment of the Juvenile Protection Act; and the environments harmful to juveniles as defined by the Act are as stated in the third report (CCPR/C/KOR/2005/3, paras. 345-349).

358. Child welfare centers provide food, clothing, housing and shelter, medical treatment, education, and support for self-reliance for children requiring protection who do not have a guardian or who need to be protected from family dissolution or abuse by a guardian. In 2007, unregistered child homes were abolished to bolster protection of the human rights of children requiring protection, and child homes are only approved and subsidized when their facilities satisfy certain requirements.

Child Welfare Facilities

(As of December 2010)

	Total		*Child homes (protection, rearing)*		*Vocational training facilities (self-reliance knowledge and skills for children of age 15 +)*		*Protection and treatment facilities (guidance, protection, and rearing of delinquent children and children under foster care by a court)*		*Independence support facilities (protecting and helping children discharged from child homes with employment)*		*Temporary protective facilities (temporary protection and rearing)*		*Comprehensive facilities (Children counselling centers with protection and rearing facilities)*	
Year	***Facilities***	***Persons***	*Facilities*	*Persons*	*Facilities*	*Persons*	*Facilities*	*Persons*	*Facilities*	*Persons*	*Facilities*	*Persons*	*Facilities*	*Persons*
2007	**282**	**18,426**	243	17,161	3	72	8	404	13	269	13	365	2	155
2008	**285**	**17,992**	242	16,706	2	69	10	447	12	257	14	341	5	142
2009	**280**	**17,586**	239	16,239	2	65	11	514	12	262	13	368	3	138
2010	**280**	**17,119**	238	15,787	2	69	11	495	12	235	14	402	3	131

359. To facilitate preparation for coming of age of low-income children requiring protection, the Government provides 42,000 children and youths aged up to 17 who are accommodated in child welfare facilities or welfare facilities for the disabled, or children breadwinners or foster children with up to KRW 30,000 per month to subsidize their upfront education fees, employment, commencement of business, or housing through one-to-one (1:1) matching of their savings. The children discharged from a facility are given counseling services regarding admission to a school, employment, and livelihood by offering them self-reliance education, qualifying them to move into a permanent rental housing, providing a group home, subsidizing deposits for the lease of a house, or giving them preferential treatment for acceptance into boarding in school.

Support for Self-reliance for Children Requiring Protection

Content of Support	*Details of Benefits*
Granting qualifications for moving into a permanent rental house	Rules on housing provision amended (Aug 18, 2006) Beneficiaries: Seven persons from five households (2008) → 4 persons (2009) → 14 persons (2010)
Support for moving into a group home	Beneficiaries: 24 persons (2007) → 5 persons (2008) → 9 persons (2009) → 8 persons (2010)
Support for rental housing	Beneficiaries: 66 persons from 40 households (2007) → 74 persons from 73 households (2008) → 89 persons (2009) → 88 persons (2010)
Support for deposit for the lease of a house	Beneficiaries: 31 persons (2007)→24 persons (2008) → 13 persons(2010)
Preferential assignment to a dormitory	Beneficiaries: 31 persons of 21 universities (2007) →89 persons of 35 universities (2008) → 90 persons of 46 universities (2009) → 121 persons (2010)
Increasing effectiveness of operation of self-reliance support facilities	Rules for eligibility (age 24→age 25) amended (Jan 2006) Beneficiaries: 229 persons (2005) →266 persons (2008) → 269 persons (2009) → 296 persons (2010)

Establishment of Social Security Net (CYS-net) for Juveniles in a Crisis

360. In 2005, the central Government, local governments, and regional youth counseling support centers established the Community Youth Safety Net (CYS-Net) to provide juvenile runaways, school dropouts, or Internet addicts with personalized services for counseling, protection, education, and self-reliance assistance so that they could return to their homes or society. Through the CYS-Net, public institutions protecting juveniles in crisis such as the Offices of Education, police offices, labor offices, public medical centers, and shelters are required to render collaboration and cooperation. They provide a wide range of services including counseling, emotional support, social protection, basic livelihood assistance, financial aid, and the like. The number of juvenile beneficiaries of the CYS-Net services increased 131% from 98,020 persons in 2009 to 128,426 persons in 2010. The number of cases of CYS-Net services rendered increased 196% year on year from 715,589 in 2009 to 1,403,494 in 2010.

Number of Youths Receiving CYS-Net Services

(In persons)

Year	*Boys*	*Girls*	***Total***
2007	27,845	29,054	**56,899**
2008	40,977	40,025	**79,933**
2009	47,825	50,195	**98,020**
2010	67,035	61,391	**128,426**

Types of CYS-Net Services

(Number of cases)

Description	*Counselling and emotional support*	*Social protection*	*Basic lively-hood and financial assistance*	*Educa-tional and academic support*	*Self-reliance support*	*Medical support*	*Legal counselling and remedy of right infringement*	*Leisure and cultural activity support*	***Total***
2007	303,356	25,176	55,035	6,986	2,463	4,902	1,800	13,093	**412,811**
2008	286,069	30,497	80,857	10,740	2,754	5,759	1,362	16,243	**434,281**
2009	504,540	43,517	109,428	18,210	3,387	5,431	1,283	29,793	**715,589**
2010	822,001	62,456	225,721	84,535	11,544	6,254	1,728	129,255	**1,403,494**

Paragraph 2

Right to be Registered and to Name of a Child

361. Pursuant to the Act on the Registration, etc. of Family Relationship, a child's birth should be registered within one month from birth by submitting a birth report to a competent administrative agency (article 44). The obligation to register a birth should be assumed by the father or mother if the child is born in wedlock, or by the mother if out of wedlock (article 46). For an abandoned child, the head of a *Si/Eup/Myeon* should determine the child's surname and family origin with the approval of the Court and record the name and location of registration in the registry (article 52).

362. As stated in the second report, a child shall inherit the surname and family origin of the father. Where the father of a child is unknown, the child shall inherit the surname and family origin of the mother (CCPR /C/114/Add.1, paras. 246 and 247). On 31 March 2005, the Civil Act was amended to allow a child to inherit the surname and family origin of the mother if the child's parents agreed thereto in the marriage report, and to change the surname and family origin afterwards, if necessary to ensure the welfare of the child, upon the request of either parent or the child with the permission of the Court (article 781 (6)).

Paragraph 3

Nationality of a Child

363. As explained in the second report, all children including children born out of wedlock, abandoned children, and children of no nationality are allowed to obtain a nationality by birth. As stated in the second and third reports (CCPR/C/68/Add.1, paras. 246 and 247; CCPR/C/KOR/2005/3, para. 358), the Civil Act was amended to uphold the paternal and maternal double lineage, through which the child of a woman of Korean nationality married to an illegal migrant becomes a Korean national.

Article 25

364. The Constitution provides for the principle of popular sovereignty in article 1 (2), people's right to vote in article 24, people's right to hold public office in article 25, and prohibition of restrictions on people's right to vote by means of retroactive legislation in article 13 (2). These provisions in the Constitution; details of the right to vote and the right to hold public office; and principles of the universal, equal, direct and secret ballot are as stated in the first report (CCPR/C/68/Add.1, paras. 313-318).

Amendment of the Public Official Election Act

365. As mentioned in the third report (CCPR/C/KOR/2005/3, paras. 360-362), the Act on the Election of Public Officials and the Prevention of Election Malpractice was wholly amended and renamed the Public Official Election Act on 14 August 2005.

366. Through such amendment, the voting age was lowered from age 20 to 19, and foreigners of age 19 or above for whom three years have passed from the date of obtaining qualification for stay may exercise the right to vote in elections of the appropriate local government (article 15). Recommendation of female candidates has become compulsory in an election of lawmakers by proportional representation. Where a political party intends to recommend its members as candidates to run in an election by proportional representation and in an election of local council members by proportional representation, the political party should recommend at least 50/100 of the candidates from among women, and put the female candidates under every odd-numbered slot on a slate of candidates (article 47). In order to prevent groundless slander from being posted over the Internet and provide an environment conducive to clean elections, all Internet press agencies are required to take measures to have their users identify their real name when posting comments on forums or message boards. Where Internet press agencies wish to allow users to post comments in opposition to or in favor of a certain political party or candidate on message boards or chat rooms of their websites, they should have their users identify their real names by a means of real-name authentication provided by the Minister of Public Administration and Security, and delete any post that has no "real-name authentication" mark (article 82-6).

367. In light of the controversy surrounding the setting up of polling stations in religious facilities such as churches, the Act was amended on 25 January 2010 to prohibit polling stations from being established within religious facilities (article 147 (4)). Following public concerns that recommendation of female candidates was not guaranteed by compulsory provisions, with the result that the purpose of the legislation to expand women's political participation could not be fulfilled, the Act was amended on 12 March 2010 to establish a new provision to make recommendation of female candidates compulsory (article 52 (2)).

Granting Right to Vote to Aliens and Overseas Koreans

368. As explained in the third report (CCPR/C/KOR/2005/3, paras. 363 and 364), the Local Referendum Act was enacted to allow alien sojourners living in the Republic of Korea to participate in important decision-making processes of local governments as residents.

369. On 28 June 2007, the Constitutional Court ruled article 37 (1) of the Public Official Election Act, which did not guarantee overseas Koreans' participation in elections, unconstitutional (2004 HUN-MA 644; 2005 HUN-MA 360). Under that provision, the possibility for entry in the electoral registry and exercise of right to vote was determined depending on whether a person was registered as a resident. Therefore, under article 37 (1) of the Public Official Election Act, overseas Koreans, who could not be registered as residents under the Resident Registration Act even though they were Korean nationals, were not able to exercise their right to vote. The Constitutional Court decided that such provisions did not have any merit and violated article 37 (2) of the Constitution by infringing upon overseas Koreans' right to vote and right to equality, and breaching the principle of universal ballot. The Public Official Election Act was amended to guarantee their right to vote accordingly.

370. On 12 February 2009, the Government amended the Public Official Election Act to newly establish provisions to grant the right to vote in a presidential election and an election of lawmakers in electoral districts due to the termination of the term thereof to a Korean national of age 19 or older whose resident registration has been made or whose

domestic domicile has been reported, and who stays overseas only temporarily (article 218-4 (1)) and to grant the right to vote in a presidential election and an election of lawmakers by proportional representation due to the termination of the term thereof to a Korean national of age 19 or older whose resident registration has not been made and whose domestic domicile has not been reported, and who resides permanently in a foreign country (article 218-5 (2)).

371. Where overseas Koreans conduct illegal election campaigns, Korean public officials are limited in their capacity to exert governmental authority in performing examination, crackdown, and investigation to collect criminal evidence in a foreign territory. This calls for strengthening of preventive measures led by overseas election commissions. In addition, the Government is searching for ways to examine and investigate any electoral crime in violation of the Public Official Election Act that is committed in a foreign country by means of the Act on International Judicial Mutual Assistance in Criminal Matters, and the Extradition Act, and through the treaties on mutual legal assistance in criminal matters and the bilateral extradition treaties signed between the Republic of Korea and other countries.

Equal Right to Hold Public Office

372. The increase in women's participation in politics and public posts is as explained in paragraphs 55 through 58 above.

373. On 18 January 2010, the Employment Promotion and Vocational Rehabilitation of Disabled Persons Act was amended to guarantee balanced opportunities for the disabled to obtain public posts. Under the amended Act, the compulsory employment rate of the disabled at government-owned companies and quasi-government agencies was adjusted upward from 2% to 3% (article 28-2); and private companies and public institutions that fail to fulfill the employment obligation are fined (article 33). Government institutions are required to employ 6% of new hires from disabled until the disabled account for 3% of all public officials (article 27 (2)). In order to put more people with severe disabilities in public posts, the Government amended the Decree on the Appointment Examination for Public Officials on December 28, 2007 to provide a legal basis for the introduction of a special employment system for the seriously disabled and started to enforce it in September 2008 (article 20-3).

Quota of Disabled People Employed by Public Agencies and Employment Rate

(As of 31 December 2010)

Description	*Number of subject businesses*	*Number of subject employees*	*Quota*	*Number of employees with disabilities*	*Employment rate (%)*
Total	**331**	**1,114,835**	**30,446**	**22,388**	**2.01**
Government	81	821,794	24,653	17,207	2.40
Public	260	294,245	8,827	6,775	2.56

Compulsory Employment Rate of the Disabled by Central Administrative Agencies

Description	*2004*	*2005*	*2006*	*2007*	*2008*	*2009*	*2010*
Employment rate (%)	1.96	2.15	1.95	2.02	2.18	2.35	3.01

374. In order to expand opportunities for low-income members of society to hold public office, the Government finalized the "Master Plan to Support Low-Income Groups in Holding Public Office" and enforced "Plans to Utilize Low-Income Groups as Administrative Support Personnel" in March 2008. On 31 December 2008, the State Public Officials Act was amended to provide a legal basis for active preferential treatment in appointment of low-income members of society as public officials (article 26). The preferences were applied to the examination for appointment of public officials for 2009 and are under enforcement as of 2010.

Right to Vote of the Disabled

375. The National Election Commission actively provides voting conveniences for the disabled to guarantee their political rights. The Commission has set up facilities to improve accessibility of the disabled, and guided and supported installation of required voting booths for the disabled. It also printed voter's guide in braille, ballot support stationery, and the like, and installed voting booths for the disabled and assigned assistants for the disabled at polling stations.

Article 26

Laws Prohibiting Discrimination

376. The Constitution stipulates principles of equality including equality before the law (article 11 (1)), equal opportunities for education (article 31 (1)), protection of female workers and prohibition of discrimination (article 32 (4)), and gender equality in marriage and family life (article 36 (1)). There is no framework law setting forth provisions on the principles of equality guaranteed under the Constitution while a number of individual laws prohibiting discriminations exist.

Plans to Legislate Anti-Discrimination Law

377. The Ministry of Justice presented a bill banning discriminations to the National Assembly in December 2007. However, the bill failed due to termination of the 17th session of the National Assembly in May 2008. No Anti-Discrimination bill is pending in the National Assembly as of the end of 2010.

378. The Ministry of Justice formed a task force team to review domestic laws, international standards, and legislative cases of foreign countries in relation to anti-discriminations in 2008 and 2009. The Ministry organized a commission made up of experts on anti-discriminations, interested people from relevant organizations, and public officials from government ministries in April 2010. Since then, the commission has held 13 meetings to refer to the review results of the task force team, thoroughly discuss issues of discrimination, and carefully review whether to pursue enactment of a framework law prohibiting discriminations in consideration of legal balance with other domestic laws prohibiting discriminations.

Enactment and Enforcement of the Framework Act on Treatment of Foreigners Residing in the Republic of Korea

379. The Government enacted the Framework Act on Treatment of Foreigners Residing in the Republic of Korea on 17 May 2007 to prescribe fundamental provisions pertaining to the treatment of foreigners residing in Korea. The Act is designed to help the foreigners and marriage migrants without Korean nationality, who legally reside in Korea, with their adaptation to Korean society and achieve their individual potentials, and create a social

environment where Koreans and foreigners residing in Korea mutually understand and respect each other.

380. The Act stipulates that the Minister of Justice must formulate a master plan for policies on foreigners every five years in consultation with heads of central administrative institutions, which are, in turn, required to devise and implement annual action plans based on the master plan (articles 5 and 6). The Act also provides that the Foreigner Policy Commission should be established under the Prime Minister to deliberate upon and coordinate important policies on foreigners (article 8).

381. The Act 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 discrimination against and protect the human rights of foreigners or their children residing in Korea. It also sets forth provisions concerning assistance for social adaptation of foreigners residing in Korea, support for education and child rearing for the marriage migrants and their children, support for persons recognized as refugees, promotion of understanding of multicultural diversity, designation of "Together Day (May 20)," complaint resolution guidance and counseling services, and so on.

382. On 17 December 2008, based on the Act, the "First Master Plan for Policies on Foreigners (2008 – 2012)" was devised by the Foreigner Policy Commission. As the basic directions of immigration policies, it was proclaimed in the master plan that any direct discrimination against immigrants in society should be eliminated and that Korean society needs to evolve into a mature multicultural society by means of support for immigrants' adaptation to Korea society and enhancement of the public understanding of multicultural diversity. Through the master plan, immigrants can receive stronger support to avoid indirect discrimination that may arise due to their slow social adaptation. The "Social Integration Programs" are to be introduced to standardize various types of support policies. The infrastructure to provide multicultural families with various services such as support centers, schools, provincial culture centers, and social organizations will be expanded, and a broad range of self-reliance meetings and educational programs will be provided for the spouse and family members of marriage migrants.

Article 27

383. In Korea, there is no distinctive minority that forms a group identity by maintaining its own culture, religion, and language. In the meantime, as stated in the second report, all naturalized foreigners and persons of foreign nationality including ethnic minorities can enjoy their own culture, religion, and language under the Constitution and article 27 of the Covenant (CCPR/C/114/Add.1, paras. 257 and 258).

Treatment of Chinese Immigrants Living in Korea

384. Statistical data on Chinese immigrants living in Korea are not maintained or managed. As of April 2010, a total of 21,692 Taiwanese in Korea obtained either the status of long term (F-2 residence visa) or the status of permanent residence (F-5 permanent residence visa).

385. With the establishment of the permanent residence status (F-5) in April 2002 and the amendment of the Enforcement Decree of the Immigration Control Act and applicable regulations, sojourn qualifications for Chinese immigrants living in Korea have been improved. Taiwanese with F-2 (residence) visas who have lived for more than five years in the Republic of Korea, are now able to apply for visas for permanent residence. Chinese immigrants living in Korea with F-5 (permanent residence) visas do not need to apply for permits to extend their stays. If they return to Korea within one year from departure, they

can freely enter the country without reentry permits. Chinese immigrants living in Korea with F-5 visas are not deported unless they commit crimes of insurrection or treason.

386. Chinese immigrants living in Korea have no restriction on their occupational activities. Under article 15 of the Public Official Election Act amended on 12 February 2009, foreigners of age 19 or above for whom three years have passed from the date when obtaining qualification for stay can exercise the right to vote for local council members and heads of local government. Chinese immigrants who were born in Korea and once had F-2 visas but emigrated to foreign countries are granted permanent residence status again if they wish to settle in Korea after returning from abroad.