

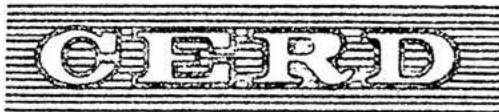
**INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION**



UN LIBRARY

APR 30 1982

UN/DA COLLECTION



Distr. GENERAL
CERD/C/86/Add.1
22 January 1982
Original: ENGLISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Twenty-fifth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Second periodic reports of States parties due in 1982

Addendum

REPUBLIC OF KOREA 1/

[13 January 1982]

Introduction

1. The Government of the Republic of Korea has consistently supported the efforts of the international community to eradicate all forms of racial discrimination and the system of Apartheid.

As a clear expression of its determination to contribute to such efforts, the Government of the Republic of Korea acceded to the International Convention on the Elimination of All Forms of Racial Discrimination in 1978.

2. In its initial report to the Committee on the Elimination of Racial Discrimination in 1980, the Government of the Republic of Korea manifested that racial discrimination was in contradiction with the basic principles of the Constitution of the Republic of Korea explaining relevant Articles of the Constitution as well as the legislative, judicial, administrative and other measures.

3. The current report is prepared following the revised general guidelines concerning the form and contents of report by States Parties of the Convention adopted by the Committee at the twenty-first session of CERD in Geneva (CERD/C/70 of May 1980) on 9 April 1980. It will deal mainly with the issues raised by members of the Committee during its consideration of the initial Report.

1/ For the initial report submitted by the Government of the Republic of Korea, see document CERD/C/61/Add.2, and for its consideration by the Committee see documents CERD/C/SR.505 and 506.

I. General

A. After a certain period of political instability in 1979 and 1980, the Fifth Republic was inaugurated on 3 March 1981 based on a new Constitution approved by an overwhelming majority in a national referendum held on 22 October 1980.

The revised Constitution contains various provisions for the enhancement of fundamental rights and freedom in the political, economic, social, cultural and other fields of public life. In sum, it seeks to harmonize the national security, law and order and efficiency with the people's desire for democratization, while guaranteeing basic human rights to the greatest possible extent.

B. As for the application of the provisions of the Convention in the domestic laws of the Republic of Korea, the Article 5 (1) of the Constitution stipulates as follows:

"Treaties duly concluded and promulgated in accordance with the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea."

On the basis of this provision, it was not deemed necessary for the Government of the Republic of Korea to legislate new laws or decrees against racial discrimination and segregation. However, the Korean Government will not fail to take necessary measures, when required in the faithful observance of the Convention.

C. Information on the demographic composition of the population of the Republic of Korea.

(1) Korea is a homogeneous country with the population of 39 million people.

(2) As of 1 November 1980, there were 29,446 foreigners residing in the Republic of Korea. The percentage of foreigners in the total population was only 0.079 per cent. Among these foreigners, more than 90 per cent of them are of three nationalities, namely, Chinese, Japanese and American.

(3) As of 30 June 1980, 7,326 foreign students were registered at the Ministry of Education.

(4) Given considerably very small number of foreigners, we have hardly faced any kind of problems arising from racial discrimination or segregation.

II. Information in relation to each of the Articles in Part 1 (Articles 2 to 7) of the Convention

A. Article 2

As explained in the initial report as well as in the general introduction of this report, the Government of the Republic of Korea does not find it necessary to adopt or introduce new legislative, judicial, administrative and other measures for the purpose of eliminating racial discrimination. It will, however, continue to fulfil to implement the obligations stipulated in the Convention.

B. Article 3

(1) Information on the legislative measures which give effect to the provisions of Article 3 of the Convention.

(a) All forms of racial discrimination, including segregation, exclusion, restriction or preference, are condemned by the Constitution of the Republic of Korea. Article 9 of the new Constitution states as follows:

"All citizens shall be assured of human worth and dignity and have the right to pursue happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals."

(b) Any discrimination in political, economic, civic and other fields is also strictly forbidden by Article 10 of the Constitution.

(2) Information on the relations with South Africa.

The Government of the Republic of Korea, in faithful observance of the basic principles of the United Nations Charter as well as relevant resolutions adopted by the General Assembly and other organs, has consistently supported the common effort of the international community to fight against the Apartheid policy of South Africa.

The Republic of Korea has no relations whatsoever with South Africa not only in political or military fields but also in economic, cultural or other fields. In 1978, the Government of the Republic of Korea established "Guidelines on the export of military goods" which prohibits any direct or indirect deals with South Africa of military material in compliance with the Security Council resolution 418 of November 1977.

The Republic of Korea rejected issuance of visas to the group or individual participants from South Africa in the following events:

- WBA Flyweight championship title match in May 1980.
- Miss Universe Beauty Contest in June 1980.
- Seoul Symposium on Cardiac Pharmacology of the 8th International Congress of Pharmacology in July 1981.
- Church Growth International Seminar in September 1981.
- 2nd General Assembly of the International Federation of Korean War Veterans Associations in September 1981.

C. Article 4

As for the provision of the Article 4 of the Convention, the new Constitution as well as Criminal Law clearly stipulate that acts of violence and other unlawfulness against persons of different colour or ethnic origin constitute offenses.

D. Article 5

In full compliance with the obligations stipulated in Article 2 of the Convention, the Republic of Korea guarantees the enjoyment of the respective rights without discrimination as to race, colour, national or ethnic origin.

(1) The right to equal treatment before tribunals and all other organs administering justice is guaranteed to everyone irrespective of his race, colour or nationality.

Article 26 of the Constitution stipulates:

(a) "All citizens shall have the right to be tried in conformity with the law by judges qualified under the Constitution and the law."

(b) "All citizens shall have the right to a speedy trial. An accused shall have the right to a public trial without delay in the absence of justifiable reasons to the contrary."

(c) "The accused shall be presumed innocent until a determination of guilt has been confirmed."

(2) The right to security of person and protection by the State against violence or bodily harm is guaranteed by Article 11 of the Constitution and Article 125 of the Criminal Law.

Article 11 of the Constitution states as follows:

(a) "All citizens shall enjoy personal liberty. No person shall be arrested, detained, searched, seized, interrogated, punished or placed under probationary supervision except as provided by law, or be subject to involuntary labour except by a criminal sentence."

(b) "No citizen shall be tortured or be compelled to testify against himself in criminal cases."

In other sub-articles of Article 11 and article 125 of the Criminal Law it guarantees the right of the people such as right to have the prompt assistance of counsel, presentation of warrants in case of arrest, strict prohibition of torture, etc.

(3) As for the provision of Article 5 (c), political rights of the people are guaranteed regardless of his race, origin or colour in Articles 23 and 24 of the Constitution. Articles 23 and 24 of the Constitution states as follows:

(Article 23)

"All citizens who have reached the age of twenty shall have the right to vote in accordance with provisions of law."

(Article 24)

"All citizens shall have the right to hold public office in accordance with the provisions of law."

(4) The guaranteeing of other civil rights enumerated in Article 5, paragraph (d), of the convention is also well stipulated in the Constitution and relevant laws. Some of the important provisions to protect the civil rights are included in the relevant laws as follows:

(a) The right to freedom of movement and residence is guaranteed in Article 13 of the Constitution which stipulates that "All citizens shall enjoy freedom of residence and the right to move at will."

(b) As to the right to nationality, the Nationality Law stipulates strict requirements against the loss of citizenship, thus making it impossible to deprive a citizen of his nationality on the ground of his race. Under the provision of Article 5 of the Nationality Law, any alien who satisfies certain requirements may obtain citizenship irrespective of his race or nationality.

(c) The right to marriage and choice of spouse is also guaranteed in Article 34 (1) of the Constitution. In addition, relevant Articles of the Civil Code also affirm the freedom of marriage.

Article 34 (1) of the Constitution states:

"Marriage and family life shall be entered into, and sustained on the basis of individual dignity and equality of the sexes."

(d) The right to ownership and co-ownership is guaranteed by Article 22 of the Constitution and the relevant Articles of Civil Code, and transfer of possessory right through succession is also guaranteed by Articles 193 and 1005 of the Civil Code.

(e) The right of freedom of thought, conscience and religion is guaranteed in Articles 18 and 19 of the Constitution.

(Article 18):

"All citizens shall enjoy freedom of conscience."

(Article 19)

(a) "All citizens shall enjoy freedom of religion."

(b) "No state religion shall be recognized, and religion and politics shall be separated."

(f) The rights to freedom of opinion and expression is embodied in Articles 17 and 20 of the Constitution;

(Article 17)

"The privacy of correspondence of all citizens shall not be violated."

(Article 20)

(a) "All citizens shall enjoy freedom of speech and the press,"

(b) "Neither speech nor the press shall violate the honour or rights of other persons nor undermine public morals or social ethics. Should speech or the press violate the honour or rights of other persons, claims may be made for the damage resulting therefrom."

(g) The rights to freedom of peaceful assembly and association is guaranteed in Articles 20 (1) and 31 (1) of the Constitution.

(Article 20 (1))

"All citizens shall enjoy freedom of assembly and association."

(Article 31 (1))

"To enhance working conditions, workers shall have the right to independent association, collective bargaining and collective action."

(5) Economic, social and cultural rights enumerated in Article 5 (e) are likewise guaranteed by the Constitution of the Republic of Korea to all citizens irrespective of race or colour. Among other things, the right to work, free choice of employment, fair and favourable conditions of work, protection against unemployment, the right to form and join trade unions, the right to housing, the right to public health and medical care, the right to education and training are well guaranteed by the relevant articles of the Constitution and respective laws concerned such as Labour Standard Law.

No practice, social custom or precedent of discrimination in the above-mentioned right have been found in Korea.

In addition to guaranteeing all rights as mentioned above, the Constitution of the Republic of Korea provides also a comprehensive clause for the protection of human rights, whether or not they are set out in the provisions of the Constitution.

Article 35 of the Constitution reads as follows:

(a) "Freedoms and rights of citizens shall not be neglected on the grounds that they are not enumerated in the Constitution."

(b) "The freedoms and rights of citizens may be restricted by law only when necessary for national security, the maintenance of law and order or for public welfare. Even when such restriction is imposed, no essential aspect of the freedom or right shall be violated."

E. As for the provision of Article 7 of the Convention, the Government of the Republic of Korea has issued official statements on various occasions to help create international favourable atmosphere to eradicate racial discrimination.

They include, for example, statements issued on the occasion of "International Day for the Elimination of Racial Discrimination" on 21 March and "Namibia Day" on 26 August etc.

These measures are taken by the Korean Government with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship as well as to propagating the basic purposes and principles in accordance with the relevant declarations and resolutions of the World Organization.