



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Eighty-sixth session
13-31 March 2006

**LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE
CONSIDERATION OF THE THIRD PERIODIC REPORT OF THE REPUBLIC
OF KOREA**

**Constitutional and legal framework within which the Covenant and the Optional
Protocol are implemented; right to an effective remedy (art. 2)**

1. Noting the fact that the Covenant has the same effect as domestic law in the Republic of Korea under Article 6 of the Constitution, please specify whether the Covenant takes precedence over domestic legislation in case of conflict between the two. Can the Covenant be directly invoked before the courts? If so, please provide examples.
2. Please provide information on the State party's follow-up to the recommendations and requests for indictments or investigation made by the National Human Rights Commission during the period 26 November 2001 to 31 December 2003 in regard to petitions filed before the Commission. (Periodic report, para.52) Is similar information available for 2004 and 2005?
3. Has the State party reconsidered its reservations to the Covenant with a view to determining whether their continuance is necessary? Please provide information on what aspects of its domestic legal system are incompatible with Art. 14 paragraph 5. What steps does the State Party propose to take to adapt its legislation so as to be in conformity with Article 14 paragraph 5. (Periodic report, para 20; previous conclusions, para 20.)
4. The Committee's previous concluding observations found "inappropriate that the State party should require the author of a communication on which the Committee has expressed its Views to seek a remedy through the domestic courts, by way of further appeal or by way of a claim for compensation." Please indicate what specific measures

have the State party taken to implement the Committee's Views in cases brought under the Optional Protocol? (Periodic report, paras.17-19; previous conclusions, para.21)

Counter-terrorism measures and respect of Covenant guarantees

5. Please provide information on existing or proposed counter-terrorism related laws in the State party. Information should include, inter alia, the definition of terrorism, any derogations from ordinary law which are enacted in existing or proposed counter-terrorism legislation, especially in rules on searches, telephone tapping, interception of communications, and deportations.

Principles of equality and non-discrimination (arts. 2.1, 3, 20 and 26)

6. What measures are taken by the State party to ensure protection against discrimination, including against “non-regular” workers, foreign workers, and the disabled? (Periodic report, paras.31-40).

7. Please provide further information concerning the criminal punishment of domestic violence, including the number of prosecutions and the sentences imposed since the time of the State party’s last report. Please state whether there is any improvement in this area since the nomination of extra prosecutors charged exclusively with handling crimes of domestic violence. (Periodic report, para.82; previous conclusions, para.11). Please also provide information in relation to the concerns of the Committee in regard to the offence of rape, including the relevant legislation, the number of prosecutions and convictions and the length of sentences imposed. (Previous conclusions, para.11)

8. What is the current position of the bill, submitted to the National Assembly in 2003, which seeks to revise the Civil Code and proposes to abolish the Family Head System? (Periodic report, paras. 65 and 330; previous conclusions, para.10)

9. How does the State party measure the degree of success or failure of initiatives to combat the practice of identifying the sex of fetuses and aborting female fetuses? What are the measures adopted by the State party and steps taken to reduce the risk of unsafe abortions and maternal mortality? Please provide information on the levels of maternal mortality and the results of prosecutions under article 19(2) of the Medical Treatment Act. (Periodic report, paras.102-103; previous conclusions, para.10)

10. Under the Basic Plan for Realisation of Gender Equal Employment formulated in 2003, what measures have been taken in order to secure equal wages for work of equal value? (Periodic report, para.90). The Parliament and the senior civil service, including the judiciary, the parliament, and managerial positions are sectors in which women continue to be under-represented. What are the main obstacles facing the State party in achieving a more equitable balance in these areas? Given the success of the women’s recruitment target scheme, are there proposals to re-introduce this scheme, in particular in the areas mentioned above? (Periodic report, para.68; previous conclusions, para.12)

Right to life and prohibition of torture and cruel, inhuman or degrading treatment (arts. 6 and 7)

11. In addition to the figures provided regarding punishment of investigative agents for violent or cruel treatment of criminal suspects in performance of their official duties between the years 2000 and 2002, please provide the corresponding figures for the years 2002 to 2005. What were the type and duration of such punishments imposed for these acts between 2000 and 2005? What prosecutions and/or punishments were imposed in cases of violent or cruel treatment of detainees other than criminal suspects? Please also provide information on remedies provided to the victims (Periodic report, para. 120; previous conclusions, para.14)

12. Does the State party intend to curb the reported widespread reliance of the prosecuting authorities on confessions by accused persons and accomplices, an aspect which in so far as it may encourage acts of torture and cruel, inhuman and degrading treatment by interrogating officials? If so, what are the means it proposes to adopt for the purpose? (Previous conclusions, para.14)

**Liberty and security of the person and treatment of prisoners, right to a fair trial
(arts. 9, 10, 14)**

13. What rules govern consultation with one's lawyer during interrogation by police and at what point is a lawyer permitted to be present? Please provide precise information on the conditions governing the participation of defence counsel in the examination of criminal suspects. What has been the progress to date regarding the revision of the Penal Administration Act with a view to providing the guaranteed participation of defence counsel in the examination of the suspects as a legal right? (Periodic report, paras.229-230)

14. Please provide information on the progress made to date by the State party to ensure compliance with article 9, paragraph 3 of the Covenant. What are the measures taken in that regard? (Periodic report, para.143-145; previous conclusions, para.13)

15. Please comment on the present status of the Amendment Bill to the Criminal Code and the Law on Criminal Procedures and whether it includes provisions that further extend the length of permissible pre-trial detention notwithstanding the criticism of the National Human Rights Commission. (Previous conclusions, para.13)

16. Please provide information on the criteria for imposing restrictions and carrying out disciplinary punishments and the manner in which the State party ensures that such restraints are proportionate to the danger posed. (Periodic report, para.170-177). Despite amendments to the Penal Administration Act in 1999, it is reported that there is a lack of awareness amongst prisoners of petition procedures. What steps does the State party propose to take to increase the awareness of the petitions procedures amongst prisoners and make it more effective? (Periodic report, para.165-169)

17. In light of a petition lodged with the National Human Rights Commission of Korea concerning the excessive use of isolation and constraint on patients at a mental health hospital in October 2004, please provide information on the safeguards provided to protect the rights of those in such institutions.

Right to privacy & freedom of thought, conscience and religion (art.17, 18)

18. Does illegal wiretapping, shadowing, and surveillance still occur? What is the length of time during which communications can be monitored under domestic legislation. Please provide information on effective remedies in the case of misuse or abuse of wiretapping, surveillance and monitoring of communications. Are there plans to create an independent body to investigate and oversee the use of wiretaps and other above mentioned practices? (Periodic report, paras.251-253, previous conclusions, para.17)

19. Please comment on the large number of persons imprisoned for failure to discharge obligations of military service on grounds of conscience. (Periodic report, paras. 271-276). Has the State party considered not only alternative forms of service in the community but also non-combatant service within the armed forces? Are women permitted to serve in the armed forces?

Right to freedom of opinion and expression and right of (art. 19)

20. Please provide more detailed information on the current developments with regard to the revision or abolition of the National Security Law in light of article 19 of the Covenant. (Periodic report, para.290-297, previous conclusions, para.9)

Right to peaceful assembly and right to freedom of association (arts. 21 and 22)

21. Please provide more specific information on the criteria for declaring a demonstration illegal or involving a threat to public safety. Please also state whether and if so how an unsuccessful application for permission to hold an assembly may be appealed. (Periodic report, paras.306-314, previous conclusions, para.18)

22. Please provide information on the extent and progress of the new government bill concerning public officials' right to associate and form unions. What guarantees does it provide and to what groups of public officials? (Periodic report, paras. 315-320, previous conclusions, para.19)

23. What measures has the State party taken to ensure the right of freedom of association and assembly to migrant workers?

Dissemination of information relating to the Covenant (art. 2)

24. Please indicate how the State party has informed the public about the Committee's concerns and recommendations contained in the last concluding observations of the committee. What steps have been taken to disseminate information to the public and to NGOs in regard to submission of the present periodic report and its consideration by the Committee? Are concluding observations distributed to members of Parliament and the public and what mechanisms are in place or envisaged to follow-up on the concluding observations? (Previous conclusions, para.23)