



**International covenant
on civil and
political rights**

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**Human Rights Committee
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**CONSIDERATION OF REPORTS SUBMITTED BY STATE PARTIES UNDER
ARTICLE 40 OF THE COVENANT**

Concluding Observations of the Human Rights Committee

REPUBLIC OF KOREA

1. The Human Rights Committee considered the third periodic report of the Republic of Korea (CCPR/C/KOR/2005/3) at its 2410th and 2411th meetings (CCPR/C/SR.2410 and 2411), on 25 and 26 October 2006, and the Committee adopted the following concluding observations at its 2422nd meeting (CCPR/C/SR.2422), on 2 November 2006.

A. Introduction

2. The Committee welcomes the submission by the Republic of Korea of its third periodic report, which was prepared in conformity with the reporting guidelines. The Committee commends the high-level delegation as well as the constructive dialogue with the delegation that provided responses to the written and oral questions formulated by the Committee.

B. Positive aspects

3. The Committee welcomes the establishment of the National Human Rights Commission, established in 2001 in conformity with the standards set out in the Paris principles.

4. The Committee notes with appreciation the initiatives undertaken to promote non-discrimination regarding women, including the establishment of the Ministry of Gender

Equality and the introduction of the Basic Plan for Realization of Gender Equal Employment and a Recruitment Target Scheme for women.

5. The Committee welcomes the measures taken in order to combat domestic violence, in particular the nomination of special prosecutors charged with the duty of handling such crimes.

6. The Committee also welcomes the adoption by the National Assembly in March 2005 of the Civil Code amendment which includes the abolition of the Family Head System and which will come into force in 2008.

C. Principal areas of concern and recommendations

7. The Committee remains concerned about the absence of domestic measures giving effect to the Views on Communications adopted by the Committee on the Republic of Korea.

When the Committee has adopted its Views, the State party should immediately proceed to give effect to them.

8. The Committee notes that the State party has stated its intention to withdraw its reservation to article 14(5) of the Covenant; however, it regrets that the State party intends to maintain its reservation to article 22.

The State party is invited to withdraw its reservation to article 14(5) of the Covenant. The State party is also encouraged to withdraw its reservation to article 22 of the Covenant.

9. While taking note of the draft counter-terrorism laws that are currently before the Legislation and Judiciary Committee, the Committee regrets that insufficient information was provided in relation to existing or proposed counter-terrorism legislation and that no definition of terrorism was provided (arts. 2, 9, 10, 13, 14, 17 and 26).

The State party should ensure that all counter-terrorism and related legislative measures are in conformity with the Covenant. In particular, national rules concerning the interception of communications, searches, detention and deportation should be in strict conformity with the relevant Covenant provisions. The State party should introduce a definition of “terrorist acts” in its domestic legislation.

10. The Committee remains concerned at the high number of women employed in small enterprises who are categorized as non-regular workers. It is also concerned that women are under-represented in high-level positions in the political, legal and judicial spheres (arts. 2, 3 and 26).

The State party should take necessary legal and practical measures to increase the effective participation of women in the political, legal and economic sectors. In addition, initiatives to increase the representation of women in

high-level positions in the National Assembly and the judiciary should be undertaken.

11. Notwithstanding a variety of measures and programmes intended to combat domestic violence, the Committee regrets the lack of progress in the prosecution and punishment of those responsible for domestic violence. The Committee is concerned that specific legal provisions on domestic violence, including marital rape, are lacking in the State party's legislation (arts 3, 7 and 26).

The State party should assess the effectiveness of the measures taken by it to combat domestic violence. It also recommends that the penal legislation of the State party be reformed to establish marital rape as a criminal offence. Law enforcement officials, in particular police officers, should be provided with appropriate training to deal with cases of domestic violence, and awareness-raising efforts should be continued to sensitize the public.

12. The Committee is concerned that migrant workers face persistent discriminatory treatment and abuse in the workplace, and are not provided with adequate protection and redress. The confiscation and retention of official identification papers of such workers is also of concern (arts. 2, 22 and 26).

The State party should ensure to migrant workers enjoyment of the rights contained in the Covenant without discrimination. 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.

13. The Committee is concerned about allegations of torture or other forms of ill-treatment in places of detention. Moreover, the Committee regrets the continued practice of certain forms of disciplinary punishment, in particular, the use of 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. In the light of this, the Committee is also concerned at the lack of thorough investigation and adequate punishment of the responsible officials (arts. 7 and 9).

The State party should take appropriate measures to prevent all forms of ill-treatment by law enforcement officials in all places of detention including mental health hospitals. Appropriate measures may include independent investigative bodies, independent inspection of facilities and videotaping of interrogations. The State party should prosecute perpetrators of such acts and ensure that they are punished in a manner proportionate to the seriousness of the offences committed by them, and grant effective remedies, including compensation to victims. In addition, the State party should discontinue harsh and cruel measures of disciplinary confinement, in particular, the use of manacles, chains, and face masks, and the "stacking" of 30-day periods of isolation.

14. The Committee is concerned by the State party's interference with the right to counsel during pre-trial criminal detention, in particular, that consultation with counsel is permitted only during interrogation, and that even during interrogation, police officials can deny access to counsel on grounds that it will purportedly interfere with the investigation, aid a fugitive defendant, or endanger the acquisition of evidence. In addition, consultation with legal counsel is not provided during the involuntary commitment of persons to mental health facilities (art. 9).

The State party should ensure prompt access to counsel in all forms of custodial detention.

15. The Committee expresses concern with regard to the urgent arrest procedure, whereby individuals can be detained without an arrest warrant for up to 48 hours. In particular, the Committee is concerned at reports of excessive recourse to and abuse of this procedure (arts. 7, 9, 10).

The State party should 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 urges the prompt adoption of the relevant amendments to the Criminal Procedure Act, pending before the National Assembly.

16. The Committee remains concerned 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 as prescribed by article 9, paragraph 3 of the Covenant, particularly in view of the excessive length of permissible pre-trial detention (30 days in ordinary cases and 50 days in cases involving the National Security Law) (art.9).

The State Party is urged to reform legislation to reflect the protection due to persons arrested or detained on criminal charges as stipulated in article 9 of the Covenant. In particular, the State party should ensure that any detention is promptly subjected to judicial scrutiny.

17. The Committee is concerned that: (a) under the Military Service Act of 2003 the penalty for refusal of active military service is imprisonment for a maximum of three years and that there is no legislative limit on the number of times they may be recalled and subjected to fresh penalties; (b) those who have not satisfied military service requirements are excluded from employment in government or public organisations and that (c) convicted conscientious objectors bear the stigma of a criminal record (art.18).

The State party should take all necessary measures to recognize the right of conscientious objectors to be exempted from military service. It is encouraged to bring legislation into line with article 18 of the Covenant. In this regard, the Committee draws the attention of the State party to the paragraph 11 of its general comment No. 22 (1993) on article 18 (freedom of thought, conscience and religion).

18. The Committee notes the attempts in recent years to amend the National Security Law and the absence of consensus concerning its alleged continued necessity for reasons of national security. However, it is concerned that prosecutions continue to be pursued, in particular under article 7 of this law. Under such provisions, the restrictions placed on the freedom of expression do not meet the requirements of article 19, paragraph 3 of the Covenant (art.19).

The State party should as a matter of urgency ensure the compatibility of article 7 of the National Security Law, and sentences imposed there under, with the requirements of the Covenant.

19. The Committee expresses its concern at the significant number of senior public officials who are not permitted to form and join trade unions and at the State party's unwillingness to recognise certain trade unions, in particular, the Korean Government Employees' Union (KGEU) (art. 22).

The State party should reconsider its position vis-à-vis 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 ensuring the realization of their right of association.

20. Although the Committee notes the efforts made by the State party to increase public awareness of the human rights set out in the Covenant, it is concerned that these efforts are limited.

The State party should integrate human rights education in primary, secondary, higher and vocational curricula and, in particular, in the training programmes of law enforcement officials.

21. The Committee urges the State party to make the present concluding observations available in the Korean language to the general public as well as to the legislative, judicial and administrative authorities. It requests that the next periodic report be widely disseminated among general public, including civil society and non-governmental organizations working in the Republic of Korea.

22. The Committee sets 2 November 2010 as the date for the submission of the Republic of Korea's fourth periodic report. It requests that the present concluding observations be published and widely disseminated to the general public, as well as to the judicial, legislative and administrative authorities.

23. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the Republic of Korea should submit within one year information on the follow-up to the Committee's recommendations in paragraphs 12, 13 and 18. The Committee requests the Republic of Korea to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.

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