



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

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

Fourteenth periodic reports of State parties due in 2006

Addendum

REPUBLIC OF KOREA*

[3 July 2006]

* The present document contains the thirteenth and fourteenth period reports of the Republic of Korea, due on 4 January 2006, submitted in one document. For the twelfth periodic report of the Republic of Korea and the summary record of the meeting at which the Committee considered this report, see CERD/C/426/Add.2 and CERD/C/SR.1593.

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Introduction

1. In accordance with the provisions of article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as “the Convention”), the Republic of Korea submits its thirteenth and fourteenth combined periodic report containing status updates on all the points raised by the Committee on the Elimination of Racial Discrimination (hereinafter referred to as “the Committee”) in its concluding observations (CERD/C/63/CO/9) with respect to the Republic of Korea’s eleventh and twelfth combined periodic report (CERD/C/426/Add.2).
2. The information contained in the present report is set out in accordance with the revised general guidelines concerning the form and contents of the reports submitted by States in December 2000 (CERD/C/70/Rev.5).
3. The present report deals mainly with the legislative, judicial, administrative and other measures taken by the Government of the Republic of Korea in the practical implementation of the provisions of the Convention and the progress achieved during the period from 2003 to 2005.

I. GENERAL

A. Population

4. The Republic of Korea is an ethnically homogeneous country with a total population of 47,254,000 as of November 2005. However, the ethnic composition of the population is not clearly documented since the Republic of Korea does not conduct a census on ethnicity.
5. The total number of naturalized citizens was approximately 38,020 as of December 2005, up from 5,986 in 2003 due to the increase in the number of people who obtained citizenship by marrying citizens of the Republic of Korea and the second-generation Koreans living abroad who chose to become naturalized. A census on the “Status of Immigrant Families” set to be conducted in 2006 is expected to provide a more accurate analysis of the people who obtained citizenship by marrying citizens of the Republic of Korea.

B. Respect for human rights

6. The Republic of Korea is a democratic republic that is governed under a presidential system based on the principle of checks and balances. Sovereignty rests with the people, and the National Assembly, the Administration and the Judiciary are vested with legislative, executive and judicial power respectively.
7. The Government of the Republic of Korea (hereinafter referred to as “the Government”) strives to provide full protection of the basic human rights to all citizens. The Government has undertaken a variety of domestic measures to promote democratization and human rights, and in recognition of the promotion of human rights as a major foreign policy objective, has actively participated in international endeavours to improve human rights under the astute leadership of the United Nations.

Respect for human rights in the Constitution

8. The Constitution of the Republic of Korea is grounded upon respect for human dignity, the worth of individuals, and equality of all before the law. These constitutional principles on the protection of human rights are consistently incorporated into national legislation and all fields of life, including the political, economic, social and cultural aspects of the country.

9. Article 11, paragraph 1, of the Constitution provides that “All citizens shall be equal before the law, and there shall be no discrimination in political, economic, social or cultural life on account of gender, religion or social status.” Even though the Constitution does not make specific reference to racial discrimination, the subject is deemed as having been covered under the comprehensive terms of article 37, paragraph 1, of the Constitution, which provides that the “Freedom and rights of citizens shall not be neglected on the grounds that they are not enumerated in the Constitution.”

10. Article 6, paragraph 1, of the Constitution provides that “Treaties duly concluded and promulgated under the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea.” The Convention was ratified and promulgated by the Government with the consent of the National Assembly. As such, it has the same authority of domestic law and does not necessitate additional legislation.

11. The principle of the respect for human rights and the principle of equality of individuals before the law, as enshrined in the Constitution, also apply to foreigners. Foreigners residing in the Republic of Korea are guaranteed fundamental human rights. The exceptions are those rights which, by their nature, are regarded as being applicable only to nationals of the Republic. Since citizenship is a prerequisite for the exercise of certain rights, e.g. the right to vote, the right to hold public office, as well as the right to carry out official duties, these rights are inapplicable to foreigners.

Activities of the National Human Rights Commission

12. The National Human Rights Commission, a comprehensive human rights body which deals with all matters relating to the protection of human rights, including domestic observance of international human rights treaties, was established in November 2005 under the National Human Rights Commission Act passed in May 2005. The Act explicitly prohibits discrimination on the basis of race, colour, descent, or national and ethnic origin, and provides the grounds on which such acts can be declared illegal and be subject to punishment, as prescribed in article 4 of the Convention. The Commission actively participates in the issues involving foreign workers and ethnic minorities in line with the Act (Details of the Act are given in paragraphs 23-26 of the eleventh periodic report on the Convention by the Republic of Korea).

C. Foreigners

13. Recently, the Republic of Korea has been experiencing a rapid growth in its foreign population, of migrant workers in particular. As of October 2005, the total number of resident foreign nationals in the Republic of Korea stood at 711,869 (approximately 2 per cent of the

total population).¹ By nationality, Chinese are the most numerous (36.9 per cent of the total), followed by Americans (14.8 per cent), Filipinos (5.1 per cent) and Japanese (4.2 per cent).

Table 1

Foreigners residing in the Republic of Korea (as of October 2005)

Total	Legal sojourners		Illegal sojourners
	Registered	Others	
711 869	353 172	172 083	186 614
	525 255		

14. The Republic of Korea maintains a system of immigration whereby the status of sojourn serves as the basic framework for foreigners' entry and stay in the country. The Government controls the entry and length of sojourn of foreigners according to the provisions of the Immigration Control Act and the Enforcement Decree of the Immigration Control Act, which determine the status of sojourn according to the category of activities in which foreigners are authorized to participate. Foreigners are not allowed to enter or stay in the Republic of Korea unless they satisfy the requirements of the status of sojourn as provided for in the immigration laws, except in cases where other laws provide otherwise.

15. All foreigners who stay more than 91 days are requested to register at local immigration offices in accordance with article 31 of the Immigration Control Act and article 40 of the Enforcement Decree of the Immigration Control Act.

16. According to the statistics provided by the Ministry of Justice, the number of registered foreigners in the country is on the rise, with 481,611 as of October 2005. By nationality, the Chinese are the most numerous (33.1 per cent of the total), followed by Americans (16.5 per cent), Filipinos (5.8 per cent) and Japanese (5.3 per cent).

17. As of October 2005, 24,588 ethnic Chinese, generally referred to as *Hwagyo*,² were residing in the Republic of Korea. Most of the *Hwagyo* population resides in major cities, including approximately 8,903 in Seoul, 2,929 in Incheon, 2,290 in Gyunggi, 1,874 in Busan and 979 in Daegu. In addition, as most of them, although eligible, have not applied for naturalization, the majority of *Hwagyo* are regarded as foreigners under the law.

18. The total number of foreigners who are in violation of the immigration law of the Republic of Korea for overstaying their term of sojourn has increased steadily, reaching its highest point at 306,382 in August 2003. The number declined temporarily when some 184,000 foreigners in violation of the immigration law were granted legal status in September 2003. However, as those who were granted legal status again overstayed their permitted term of sojourn, the number of foreigners in violation of the immigrant law climbed again until the first half of 2005 (see table 2 below).

19. As of October 2005, a total of 186,614 foreigners were overstaying their permitted term of sojourn, among which Chinese accounted for the largest portion with a total of 80,404,³ followed by Bangladeshis at 14,455, Filipinos at 13,651, Thais at 11,541, Vietnamese at 10,877, and Mongolians at 10,563.

Table 2**Number of illegal sojourners by year**

Year	1999	2000	2001	2002	2003	2004	Oct. 2005
Total	135 338	188 995	255 206	289 239	138 056	188 483	186 614

20. Most of the illegal sojourners in the Republic of Korea are workers who are engaged in difficult and hazardous jobs. As of October 2005, about 91 per cent of the total illegal sojourners were people who had entered the country with either a tourist or business visa and had overstayed the permitted period of sojourn.

21. Since the abolishment of the school registration system in February 1999, schools for foreigners have been placed under the education law of the Republic of Korea and are now established and operated freely. Under the current educational system of the Republic of Korea, schools for foreigners are classified and accredited as a separate category. As of April 2005, a total of 44 schools for foreigners were accredited in the Republic of Korea, in which about 7,800 students are enrolled. In addition, there are 16 non-accredited schools.⁴ The schools fully exercise their rights of autonomous decision-making regarding matters of school management including curriculum, credits for graduation and tuition fees.

D. Refugees

22. A total of 762 foreigners applied for refugee status in the Republic of Korea as of October 2005, among which 40 persons were recognized as refugees and 28 persons were granted humanitarian protection. One hundred and one persons were rejected, 72 persons withdrew their applications, 71 persons filed an objection to the decision, and the remaining 450 applications for refugee status are still being examined.

23. The number of applications for refugee status per year is on the rise. Between 1994 and 2000, 96 persons applied, 37 in 2001, 34 in 2002, 84 in 2003, 148 in 2004 and 363 in 2005. The applicants comprised of 229 Chinese, 134 nationals of Myanmar, 48 Congolese, 47 Ugandans, 45 Ivorians, and 259 from other States.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2**National Human Rights Commission**

24. The National Human Rights Commission was established in November 2001 under the National Human Rights Commission Act and has since compiled recommendations for the National Action Plans (NAP) for the Promotion and Protection of Human Rights. The NAP for the Promotion and Protection of Human Rights is intended to make an accurate and objective

assessment of the human rights situation in the Republic of Korea and to guarantee governmental protection and promotion of human rights, as a response to international recommendations made by the Vienna Declaration and Programme of Action of 1993⁵ and the Committee on Economic, Social and Cultural Rights.⁶

25. The NAP for the Promotion and Protection of Human Rights will be a comprehensive, nationwide master plan which oversees all laws, systems and policies in relation to human rights. It is expected to help to build and strengthen national human rights infrastructure for the promotion of human rights by making and amending human rights-related laws and developing human rights institutions, raising awareness about the socially underprivileged and minority groups, and devising plans to promote their human rights, strengthen human rights education and foster an environment that upholds human rights by intensifying the publicization of human rights via mass media.

26. Taking into account the comprehensive and complex nature of acts of discrimination which is normally attributable to more than one cause and is not limited to a single domain, the National Human Rights Commission is working towards legislating a Discrimination Prohibition Act in 2006 for a comprehensive and effective response to discrimination. The Act is expected to make clear references to discrimination on the basis of race as illegal and prohibited acts.

27. The Committee's request for clarification of the actual interpretation and application of "unreasonable discrimination" under article 30 of the National Human Rights Commission Act in its final comments on the eleventh and twelfth periodic report, was met through the amendment of the above-mentioned phrase to "without reasonable clause". This implies that affirmative action is not viewed as an act of discrimination as long as it is grounded upon a "reasonable cause". The National Human Rights Commission reviews case precedents, regulations and practices in other countries, and takes into account the details of individual cases when determining the existence of a "reasonable cause". It also plans to form a team of experts, both in and outside the Commission, to set standards for determining whether an act of discrimination has a "reasonable cause" or not.

Reforming policy on foreigners

28. The number of foreigners entering, leaving and staying in the Republic of Korea is expected to rise due to the advancement of transportation and communication, the expansion of the basis for international exchange of human resources such as the free trade agreement, and the shortage of domestic labour resources attributable to social tendencies to avoid hazardous jobs and small-scale businesses.⁷ Given the increasing demand for support to ease foreigners' adjustment to our society, there is a growing need to shape policies to promote the human rights of foreigners and emphasize a social integration policy. The Government is preparing Schemes to Improve Policy on Foreigners to promote respect for the human rights of foreigners and their social integration.

29. The reform of policy on foreigners is expected to include extending protection of married immigrants and easing their adjustment to the society, enhancing the refugee application process

and providing assistance to those who have been granted refugee status, fostering an environment appealing to foreign human resources with specialized knowledge and skills and permitting their long-term stay, improving the human rights and treatment of illegal sojourners and their children, and establishing an immigrations office which would take charge of all the above-mentioned tasks.

Ethnic Chinese

30. Through the revision of relevant laws, the status and conditions of the ethnic Chinese have been improving. Since 1997, foreigners, including the ethnic Chinese, have been allowed ownership of stocks and real estate. In addition, under the revised Nationality Law of the Republic of Korea, ethnic Chinese who are married to nationals are able to give their offspring the choice of opting for citizenship in the Republic.

31. The sojourn status for ethnic Chinese has further improved as the Enforcement Decree of the Immigration Control Act and other relevant regulations were revised in April 2002 in order to newly implement the option of permanent resident status (F-5 visa).⁸ Long-term resident (F-2 visa) visa holders who have resided in the Republic of Korea for more than five years have become eligible for permanent resident status in the Republic of Korea. It is no longer necessary for holders of permanent resident status (F-5 visa) to obtain permission for an extension of their period of sojourn every five years and no employment restrictions are imposed on them. A foreign spouse who holds a F-2 visa is allowed to work freely without obtaining permission to work. As of October 2005, 10,918 ethnic Chinese were granted permanent resident status and 9,849 ethnic Chinese remain as long-term residents (F-2 visa holders).⁹

32. The Government has been working towards the revision of relevant laws to grant certain suffrage rights to foreigners who have resided in the Republic of Korea for more than five years after they obtained the sojourn status of long-term resident (F-2 visa). As a part of these efforts, foreigners who hold long-term resident status were granted limited suffrage rights (such as the right to vote in local elections) under the Enforcement Decree of the Immigration Control Act, which was revised in March 2005. These revised election-related laws further contributed to the enhancement of the civil and political rights of the ethnic Chinese.

Foreign migrant workers

33. Recently, the Republic of Korea has been experiencing a rapid increase in the population of migrant workers. Amidst the steady influx of foreign migrant workers, protecting their human rights and resolving the problem of social integration have become serious social and political concerns.

34. The Government has worked tirelessly to improve treatment of foreign migrant workers and protect their human rights. In line with this, the Government carefully reviewed and overhauled the industrial training programme to solve problems arising from its introduction in 1994, such as the lack of consistency in the selection of industrial trainees and their occasional desertion from their designated workplaces.

35. In December 2001, the Government permitted foreign industrial trainees to work for one year after two years of training instead of working in the country for two years following the completion of a one-year training programme, as they had done under the previous programme.¹⁰ The Foreign Labour Policy Committee and Foreign Industrial Trainees Committee have been in operation since 2004 to guarantee the fair and transparent reflection process of industrial trainees, and have taken various measures including the application of strict standards on the designation of trainee-sending countries and disciplinary actions against countries or companies who have engaged in illegal practices of sending trainees.

36. On 17 August 2004, the Government implemented an important measure of adopting and enforcing the Employment Permit System to legalize the employment of foreign labourers. Under the previous industrial training programme, the trainees were susceptible to human rights violations due to their underprivileged status under the Immigration Control Act and limited entitlement to protection guaranteed by the Labour Standard Act. The new system, however, treats foreign workers as labourers and applies all labour-related laws, including the Labour Standard Act, the Minimum Wages Act and the Occupational Safety and Health Act to foreigners and natives equally.

37. As of the end of October 2005, a total of 52,735¹¹ foreign workers have entered the country and are working under the above-mentioned programme.

Table 3

Foreign migrant workers

(Unit: person)

Category		Application for foreigner employment	Employment pass issued (Certificate of employment)	Contract of employment (Certificate of employment)	Entry into the country (Employment)
Employment Permit System	Total	108 496	84 526	71 716	52 735
	Regular	76 967	59 018	46 208	27 227
	Exemptees	31 529	25 508	25 508	25 508

Employment permit exemptees of foreign nationality are those who have already entered the country (construction industry 15,979, service industry 9,529) and hold an employment licence.

38. The Government abolished altogether the industrial trainee programme which had been embroiled in human rights controversies and decided to integrate foreign human resources programmes into the comprehensive Foreigner's Employment Permit System. This measure is expected to have a positive impact on the human rights protection of foreign workers.

39. Meanwhile, the endorsement of the Act on Foreign Workers Employment on 16 August 2003 allowed for the equal application of all labour-related laws, including the Labour Standard Act, to foreign labourers and native workers. Article 22 of the Act on Foreign Workers Employment prohibits unfair discrimination on the grounds of nationality.

40. To guarantee the effectiveness of the Act on Foreign Workers Employment, the Government also conducts periodic inspections of workplaces to verify if the employer has met the conditions set forth in the contract, delayed the payment of wages, committed an act of violence or discriminated against foreign labourers.

41. At the same time, efforts have been made to bolster legal employment practices, in line with measures against illegal employment and hiring. In 2004, 4,105 workplaces which employed foreigners were subject to inspection and 1,533 were found to have had committed 1,906 cases of violation. Not only the Ministry of Labour but also the Ministry of Justice took part in investigating and inspecting 5,688 workplaces.

42. In 2005, 4,287 of the workplaces which legally employed foreigners were inspected. Of the 1,197 workplaces which used normal-Hexan, 65 were prosecuted. In addition, the Government visited the work sites of and provided guidance to 57,030 workers in 24,648 workplaces to induce voluntary departure of foreign workers with legal status.

Ethnic minorities

43. As an ethnically homogeneous State, the Republic of Korea has been traditionally unfamiliar with the problems of ethnic minorities. However, the dynamic exchange of human resources between countries and an increase in the number of interracial marriages have recently raised a range of concerns involving ethnic minorities.

44. The principle of the “pure-blooded”, based on the Republic of Korea’s pride in the nation’s ethnic homogeneity, has incurred various forms of discrimination, largely invisible and not illegal, against so-called “mixed-bloods” in all areas of life including employment, marriage, housing, education and interpersonal relationships. This is particularly serious since such practices are passed down from one generation to the next.

45. The Government is formulating a comprehensive and integral set of measures including an institutional reform to remedy sources of discrimination arising from the country’s social structure by analysing the ways in which mixed-bloods come to be and the status of each type of mixed-blood citizen.

46. Given that most of the “mixed-bloods” and ethnic minorities have low-wage jobs and are subject to poverty, the Government is particularly keen to devise a comprehensive plan for their welfare and safety, including employment training and housing support. Moreover, the Government is stepping up its efforts to make prompt changes in social awareness through education and public-awareness campaigns in order to eliminate sources of discrimination and prejudice.

Refugees

47. With regard to the issue of asylum-seekers in the Republic of Korea, the Enforcement Decree of the Immigration Control Act prescribes provisions on the following refugee-related issues: recognition of refugee status (art. 88-2), cancellation of refugee recognition (art. 88-3),

appeal (art. 88-4), issuance and re-issuance of refugee travel documents (arts. 88-5 and 88-6), extension of validity of refugee travel documents (art. 88-7), and return of refugee travel documents (art. 88-8).

48. The issue of asylum-seekers in the Republic of Korea has been carefully reviewed by the Refugee Recognition Council, which comprises representatives from the Ministries concerned and private organizations. The Convention relating to the Status of Refugees, the Protocol relating to the Status of Refugees and the relevant domestic laws serve as guidelines in granting refugee status without any discrimination on the grounds of race or country of origin.

49. The application procedure for refugee recognition has been made easier and more applicant-friendly by the amendment of the operation rules and the abolishment of the Working Committee of Refugee Recognition, which assumed the role of conducting first trials for applicants of refugee status. The ratio between the number of government members and that of the civilian members of the Council has been readjusted to 5:5 to secure greater fairness and transparency in the application process for refugee recognition.

50. Applicants may file a formal appeal to the Minister of Justice pursuant to article 76 (4) of the "Immigration Control Act" after being denied refugee status. Should this appeal be denied, the applicant may then file a suit at a relevant court of law. Applicants denied refugee status are not forced to leave the country immediately, but are granted a certain period of time to prepare for voluntary departure.

51. In an effort to enhance refugee status applicants' rights and interests, the Government is working toward amending the Immigration Control Law within the year 2006. Amendments will include abolishing one-year time limit when applying for refugee status, giving a work permit to refugee status applicants in certain cases, and offering temporary resident status from the humanitarian perspective to those who were denied refugee status.

52. Since 1 July 1994, a total of 762 foreigners have applied for refugee status, among whom 40 were granted refugee status and 28, humanitarian status. One hundred and one have been denied refugee status, 72 withdrew their applications and 71 have raised a formal objection. The remaining 450 applications for refugee status are still being examined.

53. The number of applicants is on the rise with 96 persons applying between 1994 and 2000, 37 in 2001, 34 in 2002, 84 in 2003, 148 in 2004 and 363 in 2005. By nationality, 229 applicants are from China, 134 from Myanmar, 38 from the Democratic Republic of Congo, 47 from Uganda, 45 from Côte d'Ivoire and 259 from other States.

Article 3

54. Article 3 requires States parties to condemn racial segregation and apartheid and to undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

55. No policy serving the purpose of racial segregation and discrimination exists in the Republic of Korea. They are prohibited in accordance with article 11, paragraph 1, of the Constitution, which guarantees equality before the law without racial or any other form of discrimination. The Republic of Korea has consistently maintained a firm position against racial discrimination and constantly opposed apartheid, which contravenes the principle of racial equality and respect for fundamental human rights enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights.

56. Since the 1960s, the Republic of Korea has actively joined the efforts of the international community in condemning the racist policies and practices of apartheid in South Africa and has actively participated in economic and related sanctions, in accordance with the decisions of the United Nations.

57. As democratization in South Africa led to the abolition of apartheid, the Republic of Korea, together with the international community, responded appropriately to the developments in South Africa by lifting all sanctions imposed.

58. Since the establishment of diplomatic relations between the Republic of Korea and the Republic of South Africa in 1992, there have been frequent exchanges of visits and the economic cooperation and trade between the two countries have been steadily expanded. The volume of trade between the two countries totalled US\$ 1.96 billion in 2004 and US\$ 2.3 billion in 2005. It is estimated that about 3,700 nationals of the Republic of Korea were residing in the Republic of South Africa as of December 2005.

Article 4

59. The Constitution condemns any notion or theory of superiority of one race or ethnic group over another, and denounces any attempt to justify or promote racial hatred or discrimination in any form. Article 11 of the Constitution stipulates as follows:

(a) All citizens shall be equal before the law, and there shall be no discrimination in any fields of political, economic, social or cultural life on account of gender, religion or social status;

(b) No privileged caste shall be recognized or ever established in any form.

60. These constitutional principles are elaborated upon in concrete and detailed terms in various domestic laws, which pursue the implementation of article 4 of the Convention. For example, an act of racial discrimination can be punished under the present Penal Code, pursuant to articles 307 and 309, which concern defamation and defamation by publication, respectively, and article 311, which deals with libel.

61. As noted positively by the Committee in response to the eleventh and twelfth periodic report, the legislation of the Act on Foreign Workers Employment on 16 August 2003 applied all labour-related laws, including Labour Standard Act, to foreign workers and native workers equally. Article 22 of the Labour Standard Act prohibits discrimination of foreigners on the grounds of foreign nationality.

Article 5

62. Foreigners who are over 20 years of age and hold F-2 visa status under the Immigration Control Act are granted voting rights in accordance with the regulations of the local autonomous entity under Clause 2, article 5, of the Resident Voting Rights Act.

63. In principle, naturalized foreigners enjoy the same rights and duties as the natives and, furthermore, no restrictions are imposed upon them when seeking public office or employment in the public sector.

64. Foreigners who hold F-2 status and have resided in the Republic of Korea for more than five years are granted permanent resident status (F-5 visa) under the newly established system. Holders of F-5 visa status are subject to almost no employment restrictions and have equal status to nationals.

65. With the exception of certain serious crimes such as insurrection and foreign aggression, long-term foreign sojourners are exempt from being subject to forced leave under Clause 2 of article 46 of the Immigration Control Law. Article 30 of the Law guarantees long-term foreign sojourners the freedom of travel without obtaining permission to re-enter.

66. With the enforcement of the newly amended Immigration Control Act on 25 September 2005, the number of years of residence required of a holder of F-2 status who is married to a national of the Republic before obtaining F-5 visa status was reduced from five to two years, elevating his or her legal status.

67. Previously, a foreigner (F-2 visa)¹² married to a national of the Republic of Korea was required to obtain permission to engage in activity outside of status of sojourn to work. Beginning 25 September 2005, however, low-income foreigners faced with severe economic destitution are permitted to work without obtaining the permission to engage in activity outside of status of sojourn under the newly amended Immigration Control Act.

68. Furthermore, in the case that the spouse, being a national of the Republic, had died following the foreigner's entry into the country or, in case of a divorce or separation, eligible guarantors were limited to relatives and close friends (no restriction on the degree of kinship) of the spouse before his or her death or divorce. Beginning 1 March 2005, eligible guarantors also include third parties.

69. Foreigners are permitted to stay in the country under the F-2 status to raise children or to support their in-laws and families who are nationals of the Republic even when the marriage is no longer valid. Regardless of the status of the marriage, if a foreigner has children with a spouse who is a national, he or she is permitted to stay in the country under F-2 status to exercise the right to visitation even if he or she does not take part in the children's upbringing.

70. Burdens have grown heavier on foreigners, the majority of whom are victims to industrial accidents and have no familial ties to the Republic of Korea and, therefore, have difficulty in

finding a guarantor and obtaining permission to stay. To guarantee a safer and more secure sojourn for these foreigners, the Government removed the obligation to submit identity verification documents when applying for a change in the status of sojourn since the beginning of May 2005.

71. Those that have been granted refugee status are in a more favourable position than other foreigners with regard to employment, business and acquisition of real estate, and enjoy public relief, public support and social welfare to an equal extent as nationals.

72. In February 2005, the Ministry of Justice established a Research Committee on Legislation and Amendment of the Refugee Recognition Law which is mandated to study issues including the refugee recognition procedure and refugee relief policies. Along with the Committee, the Ministry of Justice is currently devising plans to strengthen refugee protection.

73. Since 17 August 2004, the Government has been operating the Employment Permit System, which legalizes the employment of foreign workers. The new system treats foreign workers as labourers and applies all labour-related laws, including the Labour Standard Act, the Minimum Wages Act and the Occupational Safety and Health Act, to foreigners and natives alike.

74. Meanwhile, all illegal sojourners from the six countries which were hit by the earthquake and tsunami disaster on 26 December 2004, including Sri Lanka, were exempted from entry restriction and fine and, furthermore, admitted into the Employment Permission System and were given permission to re-enter. A total of 2,600, including 1,109 illegal, sojourners were relieved through this measure. To the same effect, a total of 428 Pakistanis who were victim to the earthquake disaster which hit the region of Kashmir on 8 October 2005 were subject to special relief measures, which granted them the assistance necessary for their return to their country and re-entry to the Republic of Korea.

Article 6

Protection and remedies for foreigners, including foreign workers

75. The Constitution and the relevant laws of the Republic of Korea ensure everyone within its jurisdiction effective protection and remedies against any acts of racial discrimination through competent national tribunals and other State institutions. Foreigners as well as nationals are entitled to receive protection, remedies and compensation in cases of acts of discrimination, including racial discrimination committed by a person, a group of persons, or central and local government agencies.¹³

76. Foreigners, in particular, are provided with foreign language interpretation services either by the interpretation commission or foreign embassies on request, in times of interrogation, to avoid being subject to any disadvantage.

77. All foreigners are notified of available services in their language, including the summary of the crime at the time of arrest, the grounds for arrest, the right to attorney, and the right to visit

and communicate with the consulate of their nationality stationed in the Republic of Korea. The Government bears the cost of interpretation services in the language of their choice during the trial.

78. Foreigners who have suffered racial discrimination can make a claim for damages in court, and can file an administrative litigation suit. In a case where a foreigner whose basic rights had been violated by the exercise of public power has undertaken all domestic relief steps but has not been relieved, he or she can file an appeal with the Constitutional Court.

79. Over the last few years, the Government has imposed strict legal measures in the cases of human rights violations of foreign workers and carried out rigorous inspections and necessary crackdowns to secure full implementation of relevant laws and measures. Illegal sojourners can also bring charges on human rights violations and, in such cases, may be subject to postponed departure while the relevant steps are being taken.

80. In September 2002, the Committee for Foreign Workers' Human Rights, consisting of the Justice Minister as the chairperson and nine deputy ministers from relevant government agencies as members, was established to deal with cases involving the investigation and analysis of the human rights status of foreign workers as well as policies on human rights, illegal foreign workers, the human rights of other foreign workers and illegal foreign labourers.

81. Furthermore, the Government provides language assistance, counselling services and support for relocating businesses to help ease the adjustment process of foreign workers in the country. Twenty-nine interpreters are stationed in 26 call-centres and Employment Assistance Centres operated by the Ministry of Labour. Foreign workers can also receive assistance through government and public organizations such as the Immigration Control office.¹⁴

82. On 23 December 2004, the Government launched the Korea Foreign Workers Support Centre in cooperation with private organizations to improve services for foreign workers by providing them with counselling services in the language of their choice, Korean language courses, computer courses, education on Korean life and laws and medical assistance. Between 31 December 2004 and 31 August 2005, a total of 9,921 foreigners used the Centre. Among these foreigners, 3,054 made use of the counselling services, 2,880 sought education in and assistance on the Korean language, 1,254 took advantage of the medical examination service, and 2,733 used the welfare facilities.

83. Since February 2000, relevant organizations, including the Prosecutor General's Office and the Ministry of Justice, have been releasing monthly reports on the human rights status of foreigners, including deferred payment; mistreatment, including violence; industrial disaster; illegal entry; inappropriate conduct regarding assisting foreigner's sojourn and sending human resources; manipulation by industrial trainee management companies; human rights violations of foreign female workers; and inappropriate conduct regarding crackdowns on illegal sojourner. The chart below describes the human rights status of foreigners staying in the Republic of Korea between January 2002 and October 2005.

Table 4

Human rights violations against foreigners staying in the Republic of Korea

(Unit: person)

Types of charges	Year	Status of wrongdoers			Number of victims
		Arrested	Booked without detention	Total	
Deferred payment	2002		671	671	1 330
	2003	1	1 659	1 660	2 439
	2004	2	1 313	1 315	2 162
	2005		800	800	1 749
Mistreatment, including violence	2002	4	23	27	25
	2003	8	43	51	55
	2004	1		1	1
	2005		2	2	1
Industrial disaster	2002		8	8	8
	2003		136	136	136
	2004		136	136	134
	2005		136	136	162
Illegal entry, in appropriate conduct regarding assisting foreigner's sojourn and sending human resources	2002	106	147	253	81
	2003	55	39	94	3
	2004	61	26	87	75
	2005	25	37	62	
Manipulation by industrial trainee management companies	2002	1	3	4	
	2003				
	2004				
	2005				
Human rights violations of foreign female workers	2002	10	31	41	12
	2003	3	11	14	3
	2004	12	10	22	45
	2005	8	25	33	20
In appropriate conduct regarding crackdowns on illegal stayers	2002				
	2003	1		1	
	2004	1		1	
	2005		5	5	

Table 4 (continued)

Types of charges	Year	Status of wrongdoers			Number of victims
		Arrested	Booked without detention	Total	
Others	2002	3	38	41	59
	2003	98	131	229	14
	2004	16	11	27	15
	2005	1	3	4	8
Total		417	5 444	5 861	8 537

84. Beginning 15 April 2003, the Korea Legal Aid Corporation, which had previously limited its area of service to labour, expanded its area of service to all cases involving foreigners residing in the Republic of Korea, providing foreigners with legal service of a quality which is equal to that offered to nationals of the Republic.

Table 5**Claims filed by documented foreign citizens**

	Number of cases	Overdue payment		Medical assistance	Disaster compensation	Prosecuted by Immigration Control Law	Others
		Cases	Amount (1,000 Korean won)				
2005.10	13 772	11 295	11 389 241	280	3	555	1 639
2004	9 690	6 561	6 622 550	384	8	353	2 384
2003	2 866	1 267	1 546 272	358	3	492	746
2002	2 611	954	927 187	213	3	674	767
2001	4 831	3 025	2 780 550	164	13	673	956

Human trafficking and preventive measures

85. Since 1 January 2003, the Government has been providing free legal service regarding civil cases involving human trafficking of foreign females residing in the country as well as services on criminal law regarding criminal cases concerning a foreign female, whether she is the accused or the accuser.

86. To prevent sex trafficking involving foreign females who are sold into prostitution, the Immigration Control Law now includes an article penalizing agents and employers who confiscate passports or certificates of inscription as a means of securing foreign females' financial obligations under the contract and payment of debt.

87. Art and entertainment (E-6) visas are no longer issued to foreign female dancers who are employed in the entertainment industry. Foreign women who are staying in the Republic of

Korea illegally or have violated the law on prostitution are, in principle, to be deported to their countries. However, if a witness is needed or a lawsuit is being filed, or humanitarian assistance is required, the victim's departure from the country can be postponed until her rights have been reclaimed.

88. A shelter with an interpretation system for three languages, including English and Russian, is in 24-hour service in Seoul and the Gyunggi province. The shelters provide victims of sex trafficking with emergency protection and legal and medical assistance, and ensure their safe return to their homelands.

Article 7

89. It is important to raise public awareness of the human rights of every individual, and to promote human rights education to combat and eliminate racial prejudice and discrimination.

90. With a view to promoting understanding, tolerance and friendship among nations and racial or ethnic groups, the Government has, as explained in full in previous reports, included the following subjects in elementary and secondary school curricula:

- (a) The diverse characteristics of different races and ethnic groups;
- (b) Respect for human dignity, regardless of race, colour, sex, religion and belief;
- (c) Measures and efforts to eliminate racial prejudices and discrimination.

91. The admission of foreign children, including the children of illegal sojourners, to schools is guaranteed by the right to education under the Elementary and Secondary Education Act and the Ministry of Education administrative policy. As of April 2005, 1,574 foreign students were attending native schools. Schools offer Korean language classes to prevent cases of maladjustment due to cultural and language problems.

92. Since the abolishment of the school registration system in February 1999, schools for foreigners have been placed under the education laws of the Republic of Korea and are now freely established and operated. As of April 2005, a total of 44 schools for foreigners were accredited in the Republic of Korea, in which about 7,800 students were enrolled. In addition, there are 16 non-accredited schools. The rights of autonomous decision-making on matters of school management, including curriculum, credits for graduation and tuition fees, are fully exercised by the schools.

93. Human rights education extends beyond the classroom, and is offered at the society-wide level by such persons as law enforcement officers of all kinds, including employees in the Immigration Control Office, policemen, and correction officers.

94. To raise public, especially youth, awareness of human rights and cultural diversity, the Government has been issuing publications on human rights education, broadcasting television commercials, distributing human rights CDs and showing films and animated films with human

rights themes. In 2005, the National Human Rights Commission televised a commercial titled “Respect for differences will create a world free from discrimination” and published and distributed “Lose Favour with a Person” (a disclosure of deep-rooted discrimination in our society through photographs, December 2003) as well as “A world without discrimination dreamt by 10 cartoonists” (August 2005) all under its own supervision.

95. In addition to the production and distribution of pamphlets relating to human rights and cultural diversity and the publication of *Monthly Human Rights*, the National Human Rights Commission has been operating the human rights website (available at: <http://www.humanrights.go.kr>) since August 2003.

96. The Information Communication Ethics Committee was established in April 1995 under article 53 of the Electric Communication Act to prevent distribution of illegal and harmful information via information and communication networks, including the Internet. The Committee can request for corrections of illegal and harmful information distributed via information and communication networks. Information related to racism and racial prejudices, in particular, can be subject to deletion or other corrective measures pursuant to the deliberation rules of the Committee.¹⁵

97. The Government notes that non-governmental organizations and other civic groups have greatly contributed to the promotion and protection of human rights. The Government plans to distribute this report with the concluding observations of the Committee to relevant ministries and to make it widely available to the general public.

Notes

¹ This number of foreign nationals includes both long-term residents and short-term visitors as well as both legitimate and illegal sojourners.

² *Hwagyo* refers to ethnic Chinese who now have long-term sojourn status in the Republic of Korea. The history of *Hwagyo* on the Korean peninsula dates back to when Chinese merchants began entering the region some 120 years ago. There were as many as 120,000 ethnic Chinese residents in the Republic of Korea during the early 1970s. Since then, the number has continued to decrease as many *Hwagyo* have emigrated to other countries such as China, Taiwan Province of China, the United States of America and Canada, as well as South America.

³ This total number of 80,404 includes ethnic Koreans in China and Taiwan Province of China.

⁴ Several schools for foreigners which only admit their own nationals did not apply for accreditation.

⁵ The Vienna Declaration and Programme of Action recommends that each country establish a national human rights commission and human rights machinery and that it work out National Action Plans for the Promotion and Protection of Human Rights suitable for its own political, cultural and historical circumstances and conditions.

⁶ The Committee on Economic, Social and Cultural Rights advised the Government of the Republic of Korea to establish the National Action Plans for the Promotion and Protection of Human Rights and to report to the United Nations by 30 June 2006.

⁷ According to the Ministry of Justice, the number of foreigners entering and leaving the Republic of Korea stood at 32,630,000 in 2005, up from 16,010,000 in 1995 by approximately 104 per cent, and is expected to reach 50,000,000 in 2010. The number of foreign sojourners also rose by 290 per cent, from 190,000 in 1995 to 710,000 in 2005, and is expected to reach 1 million in 2010.

⁸ Article 12 of the Enforcement Decree of the Immigration Control Act (the sojourn status of foreigners).

⁹ As of October 2005, the total number of foreigners with long-term sojourn status (F-2 visa holders) amounted to 11,004. Among these, there was a total of 9,578 who have resided for a period of more than five years. By nationality, there were 8,800 residents of Taiwan Province of China, 595 Japanese, 45 Americans and 138 persons from other countries.

¹⁰ During the two years of employment under the new system, the industrial trainees receive equal protection of all labour-related laws, including the Labour Standard Act, as the natives.

¹¹ Under the Employment Permit System 27,227 foreigners have entered the country and 25,508 have entered under the Special Employment Permit System.

¹² As of October 2005, there were 72,032 foreign spouses staying in Korea.

¹³ Articles 12, 26, 27, 28 and 29 of the Constitution refer to the relief provided to the victim with regard to the outcome of the act of discrimination. The Civil Code, the Criminal Code, the Code of Civil Procedure, the State Tort Liability Act, the Administrative Litigation Act and the Criminal Indemnity Act all include clauses applicable to protecting foreigners from racial discrimination and to providing them with relief.

¹⁴ Between 30 July 2004 and 1 August 2005, 4,283 foreigners utilized the call-centre including, 2,274 people who sought assistance regarding the Employment Permission System and Immigration Control, 1,433 who consulted about delayed payment and employment standard, and 576 who sought advice on industrial disasters.

¹⁵ As of December 2005, no cases of racial discrimination have been reported to, or deliberated by, the Committee.
