



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

Distr.: General
17 November 2017

Original: English
English, French and Spanish only

Committee on the Elimination of Racial Discrimination

**Combined seventeenth to nineteenth periodic
reports submitted by the Republic of Korea under
article 9 of the Convention, due in 2016***

[Date received: 17 October 2017]

* The present document is being issued without formal editing.

GE.17-20490(E)



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Part 1: 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 seventeenth, eighteenth and nineteenth combined periodic report. The information contained in the present report is set out in accordance with the general guidelines concerning the form and contents of the reports submitted by States revised in January 2007 (CERD/C/2007/1).
2. 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 2011 to 2016.
3. This report also contains status updates on the points raised by the Committee on the Elimination of Racial Discrimination (hereinafter referred to as “the Committee”) in its concluding observations (CERD/C/KOR/CO/15-16) with respect to the country’s fifteenth and sixteenth combined periodic report (CERD/C/KOR/15-16).
4. On 8 April 2016, in preparation of this report, the Republic of Korea had a consultation with civic organizations working to combat racial discrimination. Moreover, in accordance with Article 21 of the *National Human Rights Commission Act*, the government requested the opinion of the National Human Rights Commission of Korea (NHRCK) on the initial draft and received it on 23 August 2016. In this report, the government reflected the opinions of non-governmental organizations (NGOs) and the NHRCK as appropriate.

Part 2: General Information

A. Naturalization

5. A total of 54,138 persons were naturalized between 2012 and 2016. The total number of naturalized citizens during ten years from 2007 to 2016 amounts to 131,496. Chinese immigrants take up the majority of naturalized Korean citizens, followed by those from Vietnam and Cambodia. In 2016, 10,108 persons were naturalized. Among them, 5,126 were Chinese (50.7%), 3,289 were Vietnamese (32.5%), 476 were Cambodians (4.7%), 337 were Filipinos (3.3%), 107 were Mongolians (1.0%).

Table 1
Number of Naturalized Citizens by Year
 (Unit: Person)

Year	2012	2013	2014	2015	2016	Total
Naturalized citizens	10 535	11 264	11 310	10 921	10 108	54 138

B. Stateless Persons

6. A total of 166 stateless persons were identified to be residing in the Republic of Korea as of the end of 2016. Among them, 106 were registered aliens who entered on long-term visa valid for more than 91 days, while 60 were not registered aliens who entered on short-term visa valid for 90 days or less.
7. Stateless persons residing in the Republic of Korea can be classified into four categories: i) those who were stateless and issued travel document from the country of residence prior to entry into the Republic of Korea,¹ ii) those who are stateless temporarily

¹ Ethnic Koreans (Koryo Saram or Köpe Capam, majority of whom reside in Uzbekistan) who have not been granted a new nationality after the collapse of the Soviet Union in 1991.

as they renounce their original nationality after they lose their newly obtained Korean nationality; The loss of Korean nationality is the result of their earlier failure to renounce the original nationality upon acquiring Korean nationality,² iii) those who are in the process of reinstatement of original nationality after their Korean nationality is cancelled³ due to conviction for fake marriage or forgery/alteration of passport, iv) ethnic Chinese who defected from the Democratic People's Republic of Korea⁴ and Vietnamese refugees.⁵ Generally they can obtain Korean nationality, as can foreigners of other countries residing in the Republic of Korea, should they meet the requirements set forth under the *Nationality Act*.

C. Foreign Residents

8. The number of foreigners residing in the Republic of Korea⁶ has been steadily increasing. The ratio of foreign residents to the total number of registered national citizens has also been increasing every year. As of the end of 2016, the proportion of foreign residents to the total number of registered national citizens is 3.96 percent.

Table 2

Registered Citizens and Foreign Residents in the Republic of Korea by Year

(Unit: Person)

Year	2011	2012	2013	2014	2015	2016
Foreign residents	1 395 077	1 445 103	1 576 034	1 797 618	1 899 519	2 047 441
Registered National citizens	50 734 284	50 948 272	51 141 463	51 327 916	51 529 338	51 696 216
Percentage	2.75%	2.84%	3.08%	3.50%	3.69%	3.96%

9. A total of 2,049,441 foreigners are residing in the Republic of Korea as of the end of 2016, of which 1,016,607 are Chinese (49.6%), 149,384 are Vietnamese (7.3%), 140,222 are American (6.8%), 100,860 are Thai (4.9%), 56,980 are Filipinos (2.8%), and 51,297 are Japanese (2.5%). Among 20,49,441 foreigners residing in the Republic of Korea, 775,715 persons (37.8%) are ethnic Koreans with nationalities from other countries, 84.1 percent or 652,028, of which have Chinese citizenship.

10. The number of undocumented immigrants has steadily declined through 2011, but reversed to an upswing in 2012. However, the proportion of undocumented immigrants in the total population of foreigners residing in the Republic of Korea decreased from 12.3% in 2012 to 10.2% in 2016, as the total number of foreigners residing in the Republic of Korea sharply increased during the same period.

² In this case, they may promptly obtain Korean nationality through reacquisition or reinstatement of nationality.

³ The reason for the cancellation falls under the circumstances prescribed in the Article 8 of the Convention on the Reduction of Statelessness in which the person may be deprived of the nationality.

⁴ They are born to Chinese father and North Korean mother in the Democratic People's Republic of Korea and are de facto stateless persons as they are not protected by the Chinese government. They may obtain Korean nationality under the Nationality Act.

⁵ Vietnamese who escaped Vietnam following the Vietnam War and settled in the Republic of Korea may obtain Korean nationality if they wish to do so.

⁶ The number includes long-term stayers and short-term visitors as well as legal residents and undocumented immigrants.

Table 3
Share of Legal Residents and Undocumented immigrants among the Total Number of Foreigners Residing in the Republic of Korea by Year
 (Unit: Person)

Year	2009	2010	2011	2012	2013	2014	2015	2016
Foreigners residing in the Republic of Korea	1 168 477	1 261 415	1 395 077	1 445 103	1 576 034	1 797 618	1 899 519	2 047 441
Legal residents	990 522	1 092 900	1 227 297	1 267 249	1 392 928	1 588 840	1 685 351	1 838 470
Undocumented Immigrants	177 955	168 515	167 780	177 854	183 106	208 778	214 168	208 971
Proportion of undocumented immigrants	15.2%	13.4%	12.0%	12.3%	11.6%	11.6%	11.3%	10.2%

11. The total number of foreigners who married a Korean citizen (marriage migrants) is consistently increasing every year. However, this increase is slowing down as the number of applications for marriage visa has decreased. As a result, the proportion of marriage migrants in the total foreign population residing in the Republic of Korea decreased to 7.4% by the end of 2016. As of the end of 2016, 152,374 marriage migrants reside in the country, with an absolute majority of them being female: 23,856 (15.7%) are male and 128,518 (84.3%) are female. By nationality, there are 56,930 Chinese (37.4%), 41,803 Vietnamese (27.4%), 13,110 Japanese (8.6%), 11,606 Filipinos (7.6%), 4,473 Cambodians (2.9%), 3,182 Thais (2.1%), and 2,381 Mongolians (1.6%).

Table 4
Share of Marriage Migrants among the Total Number of Foreigners Residing in the Republic of Korea by Year
 (Unit: Person)

Year	2011	2012	2013	2014	2015	2016
Foreigners residing in the Republic of Korea	1 395 077	1 445 103	1 576 034	1 797 618	1 899 519	2 049 441
Marriage migrants	144 681	148 498	150 865	150 994	151 608	152 374
Proportion of marriage migrants	10.4%	10.3%	9.6%	8.4%	8%	7.4%

D. Refugees

12. Since the Republic of Korea's ratification of the Convention Relating to the Status of Refugees in 1992, a total of 22,792 persons have applied for refugee status by the end of 2016; 672 of them were recognized as refugees,⁷ and 1,156 applicants were granted residence permits on humanitarian grounds (humanitarian status holders).⁸ In 2016, 5,394

⁷ The number of recognized refugees includes those recognized through Refugee Status Determination (RSD) procedure by the Ministry of Justice as well as those admitted through administrative litigation against the denial of refugee status.

⁸ A person who is given permission to stay on humanitarian grounds refers to an alien to whom the category of refugees does not apply but for whom there are reasonable grounds to believe their life or

applications were reviewed. Since the establishment of the Nationality and Refugee Division in 2006 in the Ministry of Justice and the separation into the Refugee Division in 2013, the number of recognized refugees and those granted residence permits on the grounds of family reunification has increased. In particular, the number of those granted residence permits on humanitarian grounds increased sharply in 2014. The yearly statistics from 2011 to 2016 are as follows:

Table 5
Yearly Statistics on Refugees and Humanitarian Status Holders
(Unit: Person)

	2011		2012		2013		2014		2015		2016	
	M	F	M	F	M	F	M	F	M	F	M	F
Recognized refugees	42		60		57		94		105		98	
	27	15	39	21	35	22	62	32	54	51	48	50
Humanitarian status holders	20		31		6		539		194		246	
	15	5	16	15	4	2	483	56	50	144	115	131

13. Statistics on recognized refugees and applicants granted residence permits on humanitarian grounds as of the end of 2016, categorized by gender, age and nationality, are as follows:

Table 6
Refugees and Humanitarian Status Holders by Gender
(Unit: Person)

	Total	Male	Female
Recognized refugees	672	417	255
Humanitarian status holders	1 156	851	305

Table 7
Refugees and Humanitarian Status Holders by Age
(Unit: Person)

	Total	0-4 yrs	5-17 yrs	18-59 yrs	60 and over
Recognized refugees	672	60	109	492	11
Humanitarian status holders	1 156	98	140	900	18

Table 8
Refugees by Nationality
(Unit: Person)

Total	Myanmar	Bangladesh	Ethiopia	Pakistan	D.R. Congo	Iran	Others
672	226	96	88	47	32	30	153

personal freedom may be egregiously violated by torture or other inhuman treatment or punishment or other circumstances.

Table 9
Humanitarian Status Holders by Nationality
 (Unit: Person)

<i>Total</i>	<i>Syria</i>	<i>Myanmar</i>	<i>China</i>	<i>Pakistan</i>	<i>Côte d'Ivoire</i>	<i>Iraq</i>	<i>Others</i>
1 156	874	33	31	27	24	23	144

Part 3: Information on Articles (Articles 1-7 of the Convention)

Article 1: Definition of Racial Discrimination

A. Definition of Racial Discrimination

14. Upon consideration of the fifteenth to sixteenth periodic report, the Committee on the Elimination of Racial Discrimination, while noting that the Republic of Korea affirms that Article 11 Paragraph 1 of its Constitution, as well as a series of individual laws, are sufficient to ensure equality among citizens and prohibit racial discrimination, urged the country to include in its legislation a definition of racial discrimination which encompasses all prohibited grounds of discrimination in line with Article 1 of the Convention and which guarantees equal rights to citizens and non-citizens (para. 6 CERD/C/KOR/CO/15-16).

15. With regard to the definition of racial discrimination, it is as explained in Paragraphs 17 through 23 of the previous report (CERD/C/KOR/15-16). Article 11 Paragraph 1 of the Constitution states that all citizens shall be equal before the law, and that there shall be no discrimination in political, economic, social or cultural life on account of gender, religion or social status. Article 11 Paragraph 1 of the Constitution does not mention “race, color, family, national origin or ethnic origin,” which are listed as discriminatory grounds in Article 1 Paragraph 1 of the Convention. However, the grounds listed in Article 11 Paragraph 1 of the Constitution are exemplary rather than definitive, and discriminatory acts on grounds other than those listed in Article 11 Paragraph 1 of the Constitution are also prohibited.

16. In relation to Article 11 Paragraph 1 of the Constitution, the Constitutional Court has ruled that the content in Article 2 Paragraph 2 of the International Covenant on Economic, Social and Cultural Rights, which prohibits discrimination based on “race, color, ethnic or social origin, birth or other status,” should be considered in the interpretation of the Constitution (Constitutional Court 2007. 8. 30. Case No. 2004Hun-Ma670).

17. While the Korean domestic laws do not contain a definition of racial discrimination, many individual laws prohibit discriminatory acts based on the prohibited grounds provided in Article 1 Paragraph 1 of the Constitution. Article 4 Paragraph 1 of the Framework Act on Education, Article 9 of the Trade Union and Labor Relations Adjustment Act, Article 5 Paragraph 1 of the Act on Promotion of News Communications, Article 6 Paragraph 2 of the Broadcasting Act, Article 3 Paragraph 1 of the Child Welfare Act, and Article 3 Paragraph 1 of the Juvenile Welfare Support Act prohibit discriminatory acts on the basis of race; Article 3 Paragraph 3 of the Military Service Act prohibits discriminatory acts on the basis of race and color; and Article 5 of the Administration and Treatment of Correctional Institution Inmates Act prohibits discriminatory acts on the basis of national and ethnic origin. Furthermore, Article 6 of the Labor Standard Act prohibits discriminatory acts based on nationality and Article 22 of the Act on the Employment of Foreign Workers prohibits discrimination against migrant workers.

18. Article 2 Subparagraph 3 of the National Human Rights Commission Act provides a definition of the term ‘discriminatory act of violating the right to equality,’ and that definition considerably reflects the definition of racial discrimination provided in Article 1 of the Convention. According to Article 2, any act of favorably treating, excluding, differentiating or unfavorably treating a particular person in employment, in the supply or

use of goods, services, transportation, commercial facilities, land, and residential facilities and in the provision of education and training at or usage of educational facilities or vocational training institutions on the grounds of ‘national origin, ethnic origin, race, skin color, etc.’ without reasonable cause falls under the definition of ‘a discriminatory act of violating the right to equality’. However, if a particular person receives favorable treatment for the purpose of remedying existing discrimination, then such favorable treatment shall not be deemed a discriminatory act.

19. When receiving a petition regarding discriminatory acts by individuals or State bodies, the National Human Rights Commission has the authority to recommend the party concerned or the head of the organ or organization to which the party concerned belongs the relief measures such as suspending discriminatory acts, restitution, compensation for damages, and preventive measures for recurrence. The National Human Rights Commission also has the authority to conduct an investigation on its own initiative if there is a reasonable doubt of human rights violations or discriminatory acts (Article 30, Article 44 Paragraph 1, Article 42 Paragraph 4 of National Human Rights Commission Act).

20. Article 11 Paragraph 1 of the Constitution does not contain specific provisions regarding indirect discrimination. While there have been no decisions of the Constitutional Court in which the term “indirect discrimination” was mentioned, the Constitutional Court recognized the principle of indirect discrimination while making a decision with regard to the violation of Article 11 Paragraph 1 of the Constitution. With regard to the Constitutional Complaint against Article 8 Paragraph 1 of the Support for Discharged Soldiers Act, the Constitutional Court ruled that the extra point system for veterans in civil service examinations ‘substantially discriminates against female applicants in favor of male applicants since more than 80 percent of males can be veterans while a very small number of women can become veterans and in fact there are virtually no female veterans.’ The Constitutional Court’s reasoning is equally applicable to racial discrimination cases.

Article 2: Government Policies for Elimination of Racial Discrimination

A. Definition of Multicultural Families

21. Upon consideration of the fifteenth to sixteenth periodic report, the Committee recommended the Republic of Korea to broaden the definition of multicultural families to include unions between foreigners or inter-ethnic unions in order to fully integrate a large number of the people present in its territory which, at present, cannot benefit from the support provided by the Multicultural Families Support Act (para. 17 CERD/C/KOR/CO/15-16).

22. The Korean government adopted policies for multicultural families back in the early 2000s, targeting immigrants and their Korean spouses in an effort to address issues associated with fast-increasing international marriages. Thus the Multicultural Families Support Act was enacted in March 2008, which initially targeted immigrants and their Korean spouses. Its coverage was expanded to include acknowledged and naturalized Koreans and their families in 2011 (Amendment of the Multicultural Families Support Act, April 4, 2011).

23. In addition, the Framework Act on Treatment of Foreigners Residing in the Republic of Korea is in place which deals with foreigners as a whole to support their social integration and ban discrimination against foreigners. Also, the central and local governments are working together on the Basic Plan for Immigration Policy and Action Plan for Immigration Policy Commission to establish and maintain policy measures concerning treatment of foreigners residing in the Republic of Korea and prevention of discrimination.

24. Recently, a bill was initiated to revise the Multicultural Families Support Act to broaden the definition of multicultural families. However, there are some opposition to the bill on the grounds of unfairness and redundancy of the law. The fundamental purpose of the recommendation by the Committee is to minimize the number of foreigners excluded

from policies that integrate foreign residents in the Republic of Korea, not just to expand the definition of multicultural families through specific policy measures. The immigration policy based on the Framework Act on Treatment of Foreigners Residing in the Republic of Korea is currently functioning as the general and universal policy measures to deal with all foreigners, and it is more appropriate to reinforce specific policy measures for multicultural families based on the current immigration policy. To this end, it is necessary that a reasonable agreement should be made with regard to the bill, by collecting opinions of government ministries, experts and the general public through research, forums and symposiums, and by building a social consensus.

B. Establishment of NAP

25. The Korean government has implemented its second National Action Plan for the Promotion and Protection of Human Rights 2012-2016 (NAP) since its adoption in March 2012. It is as explained in Paragraphs 28 through 32 of the previous report (CERD/C/KOR/15-16).

26. The second NAP, a government-wide blueprint for human rights policies, lays out several implementation tasks with regard to the elimination of racial discrimination. Primary tasks include: (1) to support social integration of multicultural families; (2) to provide secure legal status for female marriage migrants; (3) to prevent domestic or sexual violence against marriage migrants and provide relief to such victims; (4) to promote social integration measures for immigrants; (5) to strengthen assistance and support for foreign women who are victims of sex trafficking; (6) to provide basic health services to undocumented foreigners and their children; (7) to continue to strengthen human rights protection in the course of crackdowns on and detainment of undocumented foreigners; (8) to ensure fairness of the Refugee Status Determination (RSD) procedure; (9) to improve treatment of applicants for refugee status and (10) to establish a system to support refugees which conforms to international standards.

27. The Ministry of Justice, as the lead ministry on the NAP, collects the performance data from all relevant ministries and government agencies to submit to the National Human Rights Policy Council and then makes it public. Since 2013, with the aim of incorporating wider public opinion in the review of the NAP implementation, the Ministry established the Human Rights Policy Advisory Panel (the Civil Inspection Panel), which is the body that reviews the performance data before submitting it to the Council. The panel has 25 members comprised of experts on human rights from academia, legal background, organized religion groups, etc.

C. Basic Plan for Immigration Policy

28. The Korean government formulated and implemented the First Basic Plan for Immigration Policy (2008-2012) on the foundation of the Framework Act on Treatment of Foreigners Residing in the Republic of Korea, which applies to all foreigners in Korea. The Second Basic Plan for Immigration Policy (2013-2017) was established in 2012 and is yet underway. Under the Second Basic Plan, while the Korean government emphasizes immigrants' responsibilities and contributions, it also works to improve legal framework to protect human rights and prevent discrimination against immigrants, as well as to enhance public awareness of cultural diversity. The Second Basic Plan also clarifies legal status of foreigners by individual status of sojourn. The Plan also includes development of broadcasts and educational programs and establishment of a platform for cross-cultural interactions to prevent possible conflicts between Korean citizens and immigrants arising from the growing population of immigrants and to reduce negative stereotypes against immigrants.

29. Under the Plan, the Korean government is working to prevent human rights violations against immigrants and improve measures to help the victims. As part of this effort, the Korean government has expanded the eligibility for residence permit for foreign victims of human rights violations. In order to protect human rights of immigrant women,

the Korean government offers legal counselling and operates shelters for female immigrant victims of domestic violence. In addition, the Korean government intends to formulate and implement policy that will guarantee the right to compulsory education for children from an immigrant family.

30. In order to prevent occupational accidents and protect human rights of migrant workers, the Korean government has formulated and distributed education materials on occupational safety and health translated in various languages. Furthermore, the Korea Support Center for Migrant Workers, which originally provided counselling services in 10 languages, is working to provide them in 15 different languages, thereby enhancing the efficiency of counselling. The Korean government has been assisting the dissolution of conflicts between migrant workers and their employers, and supporting employment activities of foreigners by operating the Council for Protection of the Rights and Interests of Migrant Workers, through which the Korean government will continue its efforts on promoting institutional improvement.

D. Policy Assessment Tool

31. The Korean government has been monitoring and assessing the outcomes of annual action plans carried out under the Second Basic Plan for Immigration Policy. The Korean government measures the overall performance using different key indicators for each policy. Among the indicators that measure overall and government-wide performance with respect to human rights are “volume of immigrant counselling service,” “client satisfaction with the immigrant counselling service” and “satisfaction with educational program on cultural diversity.” The Korean government analyzes the policy outcomes in the protection of immigrants’ human rights and promotion of cultural diversity, and reflects the result in its future policy design and implementation process.

Article 4: Active Countermeasures for Elimination of Acts Based on Racial Superiority or Hatred

A. Consideration of Enactment of the Discrimination Prohibition Act

32. Upon consideration of the fifteenth to sixteenth periodic report, the Committee urged the Republic of Korea to take immediate action on the finalization and adoption of the Discrimination Prohibition Act or other comprehensive legislation to prohibit racial discrimination in line with Article 4 of the Convention (para. 7 CERD/C/KOR/CO/15-16).

33. Since the draft bill of the Discrimination Prohibition Act submitted in December 2007 to the National Assembly was discarded when the National Assembly session ended in May 2008, the Korean government has yet to submit further bills for this Act. The enactment of the Discrimination Prohibition Act is one of the implementation tasks set forth in the second NAP that is currently underway. The Ministry of Justice established the Enactment Council for Discrimination Prohibition Act in 2013 to continue an in-depth consideration of the major issues at hand. The 12 members of the Council include the Director General of the Ministry’s Human Rights Bureau (acting as the council chairman), independent experts and competent officials from relevant ministries. The Ministry is also engaging in discussions on discrimination by gathering opinions from civil organizations and other relevant parties. It is carefully considering the enactment of the Discrimination Prohibition Act, taking into account the coordination with existing individual domestic laws that prohibit discrimination.

B. Punishment of Racially Motivated Acts of Crime

34. Upon consideration of the fifteenth to sixteenth periodic report, the Committee reiterated the mandatory character of the provisions of Article 2 and Article 4 and urged the Republic of Korea to amend its Criminal Act to include racial discrimination as a crime and

to adopt comprehensive legislation which criminalizes racial discrimination, provides for adequate punishments proportional to the gravity of the offence, considers racial discrimination as an aggravating circumstance and provides for reparations to the victims (para. 8 CERD/C/KOR/CO/15-16).

35. As of now, the Republic of Korea has no comprehensive legislation explicitly prescribing punishment for offenses based on racial discrimination. However, such offenses are criminally punished otherwise through existing individual laws, as described in Paragraphs 50 through 51 of the previous report (CERD/C/KOR/15-16). Recently, there is a growing concern that hate crimes against aliens can expand with the increase in the number of migrant workers. However, these xenophobic hate crimes can also be punished through the above-mentioned existing individual laws.

C. Statistics on Complaints, Prosecution and Judgment with regard to Crimes of Racial Discrimination

36. Upon consideration of the fifteenth to sixteenth periodic report, the Committee requested the Republic of Korea to undertake an in-depth analysis on the low number of complaints and to provide, in its next report, data and statistics on the number of cases of racial discrimination reported to the relevant authorities, the nationality of the complainants and their legal status, the percentage of investigations and prosecutions of those complaints and outcomes (para. 9 CERD/C/KOR/CO/15-16).

37. Currently, crime statistics in the Republic of Korea are categorized by the crime charged. Not all crimes where a victim is a foreigner can be deemed motivated by racial discrimination. As of now, there are no separate statistics on racially motivated crimes.

Article 5: Equality and Prohibition of Discrimination in Exercising Rights

A. Refugee

38. Upon consideration of the fifteenth to sixteenth periodic report, the Committee recommended the Republic of Korea to ensure unhindered and equal access to official procedures for lodging asylum applications at ports of entry, thereby upholding the principle of non-refoulement (para. 13 CERD/C/KOR/CO/15-16).

39. According to the Refugee Act adopted on 1 July 2013, 'Refugee Recognition Application and Procedures at a Port of Entry' was introduced to allow an alien to apply for a refugee status at the time of immigration inspection. If the alien wishes to apply for a refugee status during the entry inspection, they shall submit a written Application for Recognition of Refugee Status to the respective Office Chief or Branch Chief with jurisdiction over the port of entry. The Office Chief or the Branch Chief may require them to stay at a designated location within the port of entry and decide whether to refer the application to the refugee status determination procedure for a period not exceeding seven days. However, if the decision is not made within this period, the applicant's entry into the country shall be permitted. Once the referral is granted, a status as a refugee applicant and entry permit shall be given. With the implementation of the Refugee Act, refugee status applications at ports of entry as well as refugee status applications from aliens residing in the country can be submitted, which increased the chance of applying for refugee status.

Table 10
Application for Refugee Status at Ports of Entry (July 2013-December 2016)
 (Unit: Person)

	<i>Applications</i>	<i>Referral</i>	<i>Non-referral</i>
Total	685	392	286
2013	27	16	11
2014	71	26	45
2015	400	287	113
2016	187	61	119

Table 11
Application for Refugee Status at Ports of Entry by Syrian Nationals (July 2013-December 2016)
 (Unit: Person)

	<i>Applications</i>	<i>Referral</i>	<i>Non-referral</i>
Total	355	329	33
2014	13	13	0
2015	295	270	25
2016	47	46	8

* There was no application in 2013.

40. Upon consideration of the fifteenth to sixteenth periodic report, the Committee recommended the Republic of Korea to take all the necessary measures so that refugees and asylum seekers enjoy the right to work and that they themselves and their families enjoy adequate livelihood, housing, healthcare and education (para. 13 CERD/C/KOR/CO/15-16).

41. Abiding by the recommendations of the Committee, the Korean government guarantees stable status of stay in the Republic of Korea as well as the right to work for recognized refugees, and they are entitled to receive social security including basic living security service, health insurance, social integration program including Korean language classes, and a Refugee Travel Document to travel outside the Republic of Korea. Refugee status applicants can receive financial aid for their living expenses, and if the Refugee Status Determination (RSD) procedures have not been completed even after 6 months of the application, they may be permitted to work during their authorized stay. Furthermore, a Refugee Support Center is in operation so that access to residential facilities, medical check-up cost, and medical services can be granted to refugee status applicants. Refugee status applicants and their children are also entitled to receive primary and secondary education at the same level as that of Korean nationals. However, due to limited budget, refugee status applicants who are in urgent need of aid would be selected on priority to receive living expenses, medical check-ups, medical aids, etc., and the Korean government is trying to expand the relevant budget.

42. Upon consideration of the fifteenth to sixteenth periodic report, the Committee recommended the Republic of Korea establish a system and procedures to properly register the births of the children of refugees, humanitarian status holders and asylum seekers born in the country, as already recommended by the Committee on the Rights of the Child in 2011 (CRC/C/KOR/CO/3-4) and of children of undocumented migrants (para. 13 CERD/C/KOR/CO/15-16). While the Korean government shares the Committee's concern reflected in its recommendation, it is important to note that birth registration is an issue that is closely related to acquisition of Korean nationality, which calls for careful consideration. In addition, it is the responsibility of the foreign diplomatic missions in the Republic of Korea to register a child born to its national in accordance with the law of the respective country. However, in the case of refugees, humanitarian status holders, or refugee status applicants who cannot register their child at the embassy of their own country, the Korean

government grants a status of sojourn to the child to give them a legal status in the Republic of Korea.

43. Upon consideration of the fifteenth to sixteenth periodic report, the Committee requested that the Republic of Korea, in its next report, provide the number of total applications for refugee status per year distinguishing between those rejected and those accepted (para. 13 CERD/C/KOR/CO/15-16). The Korean government has already provided information on Refugee Status Determination status⁹ on the Ministry of Justice website, etc., with international organizations including the UNHCR.

Table 12

Refugee Status Determination Statistics (1994-2016)

(Unit: Person)

Application	Completed Refugee Status Determination Procedure (13 393)			Ongoing RSD Procedure (6 861)		
	Refugee Recognition	Humanitarian Status	Rejection	1st Round	Appeal	Withdrawal
22 792	672	1 156	11 565	3 715	3 146	2 538

Table 13

Refugee Status Applicants, Recognized Refugees, Humanitarian Status Holders by Year (1994-2016)

(Unit: Person)

	Total	1994-2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Refugee status applicants	22 792	1 087	717	364	324	423	1 011	1 143	1 574	2 896	5 711	7 542
Recognized refugees	672	52	13	36	70	45	42	60	57	94	105	98
Humanitarian status holders	1 156	40	9	14	22	35	20	31	6	539	194	246

44. Upon consideration of the fifteenth to sixteenth periodic report, the Committee recommended that the procedure for recognition of refugee status conform to international standards and be further expedited, including by appointing more officials to review the applications. The Committee also recommended that the due process of law be respected at all stages of the process, inter alia by providing interpreters to the applicants and guaranteeing their right to be heard during the appeal procedures which concern them (para. 13 CERD/C/KOR/CO/15-16).

45. Recently, there have been requests for proceeding with the RSD procedure more rapidly as the number of refugee status applications has been increased dramatically. The Korean government attempts to classify the type of application and complete the RSD procedure within 6 months pursuant to the Refugee Act. Moreover, a separate Refugee Task Force Team was organized to reinforce the staff for RSD procedures, and thereby reduce the number of pending applications. The Korean government created a separate Refugee division in the Seoul Immigration Office and appointed 4 additional officials for RSD procedures in 2016 and 10 additional officials in 2017. The Korean government is currently consulting relevant ministries about increasing staff members.

46. In order to ensure a fair and effective determination on rejected applications during the appeal procedures, the Refugee Committee was established in accordance with the *Refugee Act*. The Refugee Committee is comprised of 15 representatives including the

⁹ Refugee recognition rate is 7.1%, which is the ratio of recognized refugees (576 persons) to the total decisions made (8,001 persons), and refugee protection rate is 18.5%, which is the ratio of recognized refugees (576 persons) and humanitarian status holders (910 persons) to the total decisions made (8,001 persons).

representatives from relevant ministries at the Director General or Deputy Minister-level, a judge recommended by the Supreme Court and 8 civilian representatives who have expertise in and objective view on refugee affairs. Professionalism and promptness can be achieved through the pre-assessment of subcommittee divided by three regions including Asia, Middle East, and Africa. Pursuant to the operation rule of the Refugee Committee, appeal applicants' right to present in the Committee for statement has been ensured, and the Committee may seek opinions in writing or a statement from a person with sufficient experience and knowledge in matters concerning the case presented in order to ensure a fair and objective determination of the appeal.

47. To respect procedural rights as well as to ensure fair RSD procedure for refugee status applicants, the Refugee Act specifies as follows. The Minister of Justice shall collect evidence favorable to a refugee status applicant, and request cooperation from the head of relevant administrative agencies or other related organizations on matters including the submission of information. Refugee status applicants are entitled to receive assistance from an attorney, be presented by a trusted person in interviews, receive interpretation service of qualified interpreters, be allowed to record or videotape the interview process, and request access to or a copy of their refugee interview record or relevant materials submitted by them. In addition, prohibition of disclosure of personal information of any refugee status applicant or trusted individual present in an interview shall be guaranteed in compliance with the Refugee Act. Considering the fact that there has been an increasing number of refugee status applicants, the Korean government is constantly holding training sessions on human rights and strengthening capabilities for RSD officers to help conduct RSD procedures in a professional manner.

B. Promotion of Rights and Social Integration of Marriage Migrant Women

48. Upon consideration of the fifteenth to sixteenth periodic report, the Committee reiterated its recommendation to the Republic of Korea to increase its efforts to protect foreign women married to Korean spouses by granting them equal rights in case of separation or divorce, and subsequent residence permits and other provisions. In this regard, the Committee requested the Republic of Korea to provide information on the number of foreign spouses who have been denied resident status after separation or divorce since 2007, when the Committee made its first recommendation (para. 14 CERD/C/KOR/CO/15-16).

49. A foreign spouse may retain a residence permit if he/she is not found to be at fault for the divorce or he/she is supporting the Korean spouse's parent(s) or family. Nonetheless, when a sham marriage, a marriage of convenience entered into for the purpose of entering the country without genuine intention to get married, is suspected, the Korean government may deny the foreign spouse's resident status which is premised upon a marriage in good faith. However, the Korean government does not manage separate statistics for foreign female spouses whose resident status is denied after divorce. Even in case of separation, the resident permit may be retained if the foreign spouse can prove that he/she is raising a child born between the couple or supporting the Korean spouse's parent(s) or family along with the proof of the couple's separation.

50. The Korean government enacted the Act on the Management of International Marriage Agencies in 2007 to protect foreign women married to Korean nationals from having their rights violated by international marriage agencies. In April 2010, the law was revised to include new provisions such as mandating agencies to provide key information on potential Korean spouses, such as marriage history, criminal record¹⁰, health status and occupation. In 2012, the law was revised once again to reinforce management of international marriage brokerage and ban marriage brokerage involving minors and group blind dates. In 2013, a new provision was added to conduct fact-finding surveys on international marriages.

¹⁰ With the amendment of the Act in February 2012, the international marriage agencies are obliged to provide with the criminal records related to forced/arranged sex trafficking in the criminal record certificate.

51. Additionally, international marriage agencies have been monitored every year since 2009 in order to reinforce regulation and monitor illegal acts of international marriage agencies. In 2012, the law was amended to mandate international marriage brokers to take training courses provided by the Korean government as a precondition to register as an international marriage brokerage business. Also, measures to ensure financial stability of small-scale international marriage brokers, including a minimum capital requirement of 100 million KRW, were imposed.

52. In 2008, the Korean government began operating pre-arrival overseas programs for soon-to-be marriage migrants before they enter the Republic of Korea to prepare them with a better understanding of international marriage and Korean lifestyle and culture. The program was expanded from three countries in 2014 to four countries in 2015. The program, through which the Korean government supports the settlement of marriage migrants in the Korean society, has contributed to prevent various problems including family conflicts that may occur after migration. In addition, ‘international marriage guide program’ was developed to assist Korean nationals who sponsor foreign spouses from certain countries. The program is designed to promote the understanding of the cultural background of foreign spouses and the laws and regulations concerning the process of foreign spouse sponsorship. Implemented across the nation, the program addresses topics such as multicultural society, gender equality, relationship and communication, and relevant laws. In 2016, 7,330 persons participated in the program, and 81.0% (5,834 persons) of those surveyed responded that the program was helpful in preparing for international marriage. Furthermore, the Korean government offers initial adjustment support program to marriage migrants, which consists of tips for marital relationship and communication, to facilitate early integration to the Korean society. In 2016, 3,254 persons participated in the program, and 90% (593 persons) of those surveyed responded that the program was helpful in adjusting to life in the Korean society.

53. Meanwhile, to promote social integration of immigrants with Korean spouses, the Multicultural Family Support Centers in 217 locations across the nation provide Korean language and culture courses diversified by the migrants’ languages and proficiency levels, along with home-visits and online and broadcast programs. Furthermore, Korean spouses and family members of immigrant spouses are also provided with education programs and counselling services so that immigrant spouses can quickly integrate into the Korean society.

54. To protect migrant women victims of domestic violence, the Korean government operates 28 shelters nationwide. Female immigrants and their children can stay at these shelters and receive medical care and legal services, and take rehabilitation program and vocational training.

55. Since 2006, the Danuri Call Center has provided 24/7 counselling services to female immigrant spouses to provide information on living in the Republic of Korea and to protect their human rights. The call center provides immigrant women counselling services in 13 different languages and supports immigrant women make arrangements with hospitals, police stations and protection shelters. With 4 regional centers in 2007 and two more in 2010 newly opened, a total of 7 Danuri Call Centers are currently operating around the country. 124,000 counselling services were provided in the year 2016.

C. Protecting Rights of Migrant Workers

56. Based on its unique experience of both sending and receiving workers, the Korean government has developed its policy on migrant workers considering both domestic labor demand and protection of migrant workers’ human rights. In order to address the problems identified in the Industrial Trainee System (ITS), first introduced in December 1993, including the infringement of human rights of migrant workers, a massive increase in the number of undocumented workers and irregularities in the placement process due to the intervention of private brokers, the Employment Permit System was introduced on 17 August 2004, as referred to in Paragraph 13-14 of the thirteenth and fourteenth Periodic Reports (Para 14. CERD/C/KOR/34-36).

57. Article 22 of the Act on the Employment of Foreign Workers prohibits discrimination against migrant workers, stating that “an employer shall not give unfair and discriminatory treatment to foreign workers on grounds of their status”. Labor-related laws, including the Labor Standard Act, the Minimum Wage Act, and the Occupational Safety and Health Act, are also equally applied to both migrant and native Korean workers. Indeed, the Labor Standard Act prohibits discriminatory acts based on nationality and Article 9 of the Trade Union and Labor Relations Adjustment Act prohibits discriminatory acts on the basis of race.

58. In order to ensure the effectiveness of the Act, the Korean government has been conducting labor inspections on a regular basis to check whether employers violated any labor laws, including a breach of terms of employment contracts, overdue wages, and discrimination. At the same time, the Korean government conducted surveys to identify trends in illegal hiring and employment to entrench legitimate employment practices. In 2016, labor inspection was conducted for 3,316 workplaces and 7,005 violations of labor laws were addressed through corrective measures, thereby remedying breaches of the rights of migrant workers. In addition, the public sector has been put in charge of the entire process of sending and receiving migrant workers, including preparing job seekers’ roster and placing migrant workers in jobs in the Republic of Korea, to prevent irregularities in the sending process and to keep the procedures for selecting and receiving migrant workers transparent.

59. Under the existing policy, native English teachers (E-2 visa holders) were required to submit their Medical Examination Record for Employment including HIV test results for Alien Registration as a new entrant. However, the HIV testing requirement for native English teachers (E-2) was abolished under Notification No. 2017-116 of the Ministry of Justice as of July 3, 2017 which followed the National Human Rights Commission of Korea (NHRC)’s recommendations made based on the decision that the mandatory HIV testing policy has discriminatory nature against race, national origin, etc.

60. The Korean government sets labor quota for migrant workers every year based on domestic labor market conditions and labor supply and demand by industry in order to protect employment opportunities for native workers and to receive migrant workers who satisfy market demands. As of 2016, the Korean government signed a MoU with 15 sending countries, including Vietnam and Thailand, and received 599,941 migrant workers. Among them, 85.1% (510,836 workers) entered Republic of Korea to be employed in the manufacturing industry.

Table 14
Number of Migrant Workers Received by Industry (2004-2016)

(Unit: Person)

<i>Year</i>								
<i>Industry</i>	<i>Total</i>	<i>2004-2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Subtotal	599 941	276 265	49 130	53 638	58 511	51 556	51 019	59 822
Manufacturing	510 836	247 319	40 396	45 632	48 967	40 874	40 223	47 425
Construction	23 189	10 987	2 207	1 269	1 606	2 299	2 228	2 593
Agriculture & livestock	47 563	13 420	4 557	4 931	5 641	6 047	5 949	7 018
Service	846	315	124	107	70	91	71	68
Fisheries	17 507	4 224	1 846	1 699	2 227	2 245	2 548	2 718

61. In its consideration of the fifteenth to sixteenth periodic report, while taking note of the amendments in the Employment Permit System, the Committee recommended the Republic of Korea to further amend the Employment Permit System in particular relating to the maximum employment period and the limitation of the migrant workers’ ability to change their workplaces (para. 11 CERD/C/KOR/CO/15-16).

62. As a short-term labor mobility system, Korean Employment Permit System (EPS) has respected the principle of ‘prevention of permanent residency’ and ‘subsidiarity to domestic labor market’ since its introduction in 2004. The EPS allows migrant workers to stay for a maximum of 3 years, and a migrant worker may be reemployed for an additional one year and 10 months after the end of that period without leaving the Republic of Korea. In July 2012, the Act on the Employment of Foreign Workers was amended to allow migrant workers who acted in good faith, whose employment period of 4 years and 10 months came to an end, to be reemployed for a maximum of additional 4 years and 10 months upon re-entry. At the same time, various programs are in operation to support migrant workers, whose employment period has expired, for their prompt return to and reestablishment in their home country. In addition, an institutional framework is in place where migrant workers under EPS — who meet requirements including educational background, Korean language ability, acquisition of domestic qualification certificate in a relevant field, and passing a skills verification test while working at a certain type of business for a designated period — are allowed to change their sojourn status to “Skilled Worker”, which removes the restriction of the maximum employment period as long as the requirements are met and allows their family members to stay as well.

63. Migrant workers are allowed to change workplaces during their stay in certain cases where they are deemed unable to continue working because of temporary shutdown or closure of business or where the working conditions of the workplace are not consistent with the terms and conditions of the labor contract. The change in workplaces due to causes not attributable to the migrant worker is not counted. On 20 January 2016, the Korean government strengthened the rights and interests of migrant workers by further amending “Causes for Change in Workplaces which are not attributable to Migrant Workers” (Notification of the Ministry of Employment and Labor) to include violations of the Minimum Wage Act and the Occupational Safety and Health Act, and when decided by the subcommittee of the Council on Protection of the Rights and Interests of Migrant Workers.

64. Upon consideration of the fifteenth to sixteenth periodic report, the Committee expressed concern that migrant workers cannot enjoy their right to organize and join labor union and recommended that the Republic of Korea guarantee the right of all persons to freely form and join trade unions freely (para. 11 CERD/C/KOR/CO/15-16).

65. The Korean government has ensured both documented migrant workers and native workers their right to freely organize and join labor union without discrimination. In addition, upon consideration of the judgement of the Supreme Court on the case of the “Seoul-Gyeonggi-Incheon Migrants’ Trade Union (MTU)” in June 2015, which states that migrant workers without qualifications for employment also have the right to organize and join labor unions, the Korean government delivered a certificate of completion for the labor union establishment report to the MTU in August 2015, which granted the MTU a status of a legal labor union.

66. Upon consideration of the fifteenth to sixteenth periodic report, the Committee recommended the Republic of Korea to ensure that migrant workers fully enjoy their rights and that migrant workers and their families, particularly children, enjoy adequate livelihood, housing, healthcare and education (para. 11 CERD/C/KOR/CO/15-16).

67. To assist migrant workers adapt to life in the Republic of Korea, the Korean government operates Migrant Workers Support Centers, which provide interpretation services, Korean language education and counselling service, as of December 2016 in 39 cities, including Seoul, Incheon, Daegu, and Kimhae, where migrant workers are concentrated. More Centers are due to be established in other locations and the services will be diversified. In addition to the support centers, shelters for migrant workers are run by NGOs, and the Korean government also holds various cultural events to help migrant workers adapt to life in the Republic of Korea and to promote their cultural diversity.

68. Migrant workers, like native Korean workers, are covered by Industrial Accident Compensation Insurance and National Health Insurance. In addition, in order to protect migrant workers’ rights and interests and guarantee support for their return to their home country, it is mandatory to take out Return Cost Insurance to cope with their departure costs such as air fare, and Casualty Insurance to insure them against diseases not related to work.

69. The Employment Permit System (EPS) was introduced to address the problems identified in the Industrial Trainee System (ITS), and the current statistics indicate significant improvements. The rate of undocumented workers which reached 80% in 2003 dropped to 13.9% in December 2016, and the average sending cost dropped from \$3,509 in 2003 to \$941 in 2015. Meanwhile, according to an assessment conducted in 2007, when the EPS was in its early stage, Absent Without Leave from Workplace (AWOL) rates dropped from 50~60% to 3.3%, and the rate of overdue wage rates also dropped from 36.8% to 9.0%. This indicates that migrant workers' rights and interests in the Republic of Korea have rapidly improved in a relatively short period.

70. Upon consideration of the fifteenth and sixteenth periodic report, the Committee urged the Republic of Korea to protect the rights of undocumented migrant workers and to provide information on the number of undocumented migrant workers identified during labor inspections, their conditions and length of detention, as well as the number of those who have been expelled. The Committee also requested the Republic of Korea to take all measures that migrant workers, who entered the country legally, do not become undocumented as a result of the inflexibility of the work permits system (para. 12 CERD/C/KOR/CO/15-16).

71. Labor-related laws such as the Labor Standard Act and the Act on Industrial Accident Compensation Insurance are equally applied to both undocumented migrant workers and legal migrant workers. Undocumented migrant workers can also equally enjoy their right to organize and join labor union. Furthermore, the conditions for changing workplaces has been eased so that migrant workers can change workplaces should they be deemed unable to continue working, including when the employment permit of the employer is cancelled or restricted, when the working conditions are not consistent with the terms of the labor contract, and when the employer violated the Occupational Safety and Health Act and the Minimum Wage Act. The Korean government has conducted labor inspections to check whether the employers fulfill their duties regarding the Employment Permit System and abide by labor-related laws in general. The inspection is not aimed at identifying undocumented migrants. The number of undocumented migrant workers identified during labor inspections between 2013 and 2016 is as follows.

Table 15

Number of Undocumented Migrant Workers Identified During Labor Inspections (2013-2016)

(Unit: Persons)

<i>Year</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Undocumented migrant workers	13	9	20	13

D. Guaranteeing Right to Education for Immigrant Children, Including the Children of Undocumented Immigrants

72. The Korean government revised the Enforcement Decree of the Primary and Secondary Education Act (in Feb 2008 and Dec 2010) to provide primary and secondary education for all immigrant children in the Republic of Korea regardless of their parents' status of sojourn. Moreover, to support immigrant children to better adapt to their school life in the Republic of Korea, multicultural students are allowed to enroll in or transfer to a school that has a special class dedicated to educating multicultural students. Furthermore, the Enforcement Decree of the Primary and Secondary Education Act was revised (Oct 2013) to establish deliberative committees under the superintendents of education to deliberate the level of educational attainment of immigrant children who have difficulty proving their previous academic qualifications received in their home country. In line with this Act, local offices of education across the country have established their own deliberative committees to review the level of educational attainment of immigrant children (completed in Nov 2015), and the Ministry of Education has developed and distributed guidelines and evaluation templates to assist effective operation of the deliberative

committees. Furthermore, in cases where the immigrant parents of primary or secondary school students face immediate deportation for having caught violating the Immigration Control Act, in order to avoid abrupt discontinuation of education for the children, the parents are granted temporary release from deportation, which effectively allows them to take time to prepare for their departure before they are ready to leave the country.

73. To support Korean language education for foreign students in the Republic of Korea, the Korean language subject has been included in the regular curriculum of preliminary schools for foreign students (publicly announced in July 2012), and standard Korean language learning materials were developed. Also, after-school programs, field activities and college student mentoring services are provided to foreign students to assist their studies.

E. Ratification of International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

74. Upon consideration of the fifteenth to sixteenth periodic report, the Committee recommended the Republic of Korea to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (para. 11 CERD/C/KOR/CO/15-16).

75. Some of the elements of the Convention including i) admission of accompanying family members, ii) conditions under which migrant workers may engage in self-employment (Article 52 Paragraph 4), iii) birth registration and granting of nationality for all migrant workers' child (Article 29) and iv) regularization of the irregular situations of migrants (Article 69 Paragraph 1) are in conflict with the provisions of Immigration Act, Nationality Act, Act on Foreign Workers' Employment, etc. For this reason, determination whether to ratify the Convention requires a careful consideration.

F. Review of Artist/Athlete (E-6) Visa Regime and Exercise of Control on Related Actors

76. Upon consideration of the fifteenth to sixteenth periodic report, the Committee recommended the Republic of Korea to review the current E-6 visa regime and to exercise the necessary control on all categories of actors, including private business, related to it (para. 16 CERD/C/KOR/CO/15-16).

77. The Korean government strengthened the review standards for Artist/Athlete (E-6) visa issuance in order to prevent entertainers with an E-6 visa from falling victim to illegal acts such as forced/arranged sex trafficking. In November 2011, it established detailed standards to put restrictions on granting Visa Issuance Confirmation to illegal actors and developed a new online system to check criminal records; it toughened the review process for visa issuance by requiring invitees to have an interview with a consul if the inviters have never invited foreigners before or have lost contact with their invitees in the recent six months; in October 2013, it revised the Enforcement Rule of the Immigration Act to make sure that Visa Issuance Confirmation is not issued to establishments which have been punished for forcing/arranging sex trafficking in the past, prohibiting future employing of foreign entertainers; it has held the government-wide "Review Team Meeting on the Implementation of Sex Trafficking Preventing Measures" since December 2013 to discuss measures for continuous improvement of the Artist/Athlete (E-6) regime and put them into action; In September 2016, it was made mandatory for foreign entertainers to submit a career certificate, and facility requirements was strengthened to restrict visa issuance to establishments with confined spaces in order to prevent violation of human rights such as sex trafficking and human trafficking; and it has provided early adjustment programs for Artist/Athlete (E-6) visa holders to learn about human rights violation cases and remedy procedures thereof, and other information as part of efforts to prevent human rights violation that may arise from forced sex trafficking and other illegal acts.

78. In addition, the Korean government has continuously regulated and investigated on establishments where foreign entertainers perform. This aims to reinforce on-site

examinations and crackdowns on establishments in relation to recommendation of Artist/Athlete (E-6) foreign entertainers and visa issuance, and to place stronger administrative restrictions on law-violating establishments. It will continue to conduct joint crackdowns on a regular basis on establishments involved in unlawful acts and impose severe punishments if they are found to have engaged in forced sex trafficking, human trafficking, or other acts that infringe on human rights.

79. The Korean government operates Foreign Performers Recommendation System which screens visa applicants through a committee process as a pre-stage of issuing E-6 visa. The Committee is composed of members with professional knowledge to ensure expertise in its screening process, so that E-6 visa is not used as a means for sex trafficking or forced labor. Also, in order to thoroughly evaluate visa applicants in terms of musical instrument performance and authenticity, the Committee is operating advanced technology equipment to detect tampered or altered audio recordings and lip-synching.

80. In order to identify the problems of Foreign Performers Recommendation System, the Korean government conducted an on-site examination on the employers of foreign artists and took corrective measures for violators in 2014. Moreover, a meeting to discuss the prevention of side-effects of the E-6 visa regime was held in 2015 with the participation of stakeholders from nations which have the most applicants. The Korean government continues to improve the System by imposing penalties against violations and establishing a cooperation system with related organizations.

Article 6: Remedies and Compensation for Foreign Victims

A. Protection Measures for Foreign Female Victims of Domestic Violence, Sexual Violence, Human Trafficking or other Forms of Violence

81. Upon consideration of the fifteenth to sixteenth periodic report, the Committee urged the Republic of Korea to ensure that foreign women victims of domestic violence, sexual abuse, trafficking or other forms of violence can confidently access justice (para. 15 CERD/C/KOR/CO/15-16).

82. The Korean government revised the Immigration Act to establish Article 25-2 of Special Rules for marriage migrants in April 2011, and Article 25-3 of Special Rules for Victims of Sexual Violence in December 2014, to ensure that foreign female victims of domestic violence, sexual violence, human trafficking or other forms of violence can confidently access justice. Pursuant to the Act, where foreigners, including those married to Korean nationals, who are undergoing court proceedings, an investigation by an investigative agency, or procedure for the remedy of the right under other Acts due to domestic violence or sexual violence, apply for an extension of the period of sojourn, the Ministry of Justice may grant an extension of the period of sojourn until such procedure for the remedy of the right is completed.

83. In July 2013, the Supreme Prosecutors' Office stipulated a special provision on domestic violence against marriage migrants by establishing the "Guideline on Domestic Violence Case Processing and Assisting the Victims." The purpose of the Guideline is to facilitate access to judiciary procedures for foreign female victims of domestic violence. Also, should an investigation into a reported incident of domestic violence in a multicultural family require interpretation, a designated interpreter's services will be provided in order to ensure that the victim's statements are fully taken into consideration. Should the presence of persons with reliable relationship be necessary, counsellors from relevant agencies are ready to act in such role if need be. Moreover, should victims be in need of legal counsel regarding the civil or criminal procedures related to incidents of domestic violence, the Supreme Prosecutors' Office will provide them with the services of attorneys, including those working with the Multicultural Family Support Centers. Marriage migrants who are terminating their marriages on grounds of domestic violence will also be provided with assistance in various forms.

84. When a foreign woman reports crimes under the Act on the Punishment of Acts of Arranging Sex Trafficking or is investigated as a sex trafficking victim, any order for her deportation shall not be executed until it is decided whether a perpetrator shall be prosecuted or not. Moreover, after instituting a public prosecution against a case, a prosecutor may request a suspension of deportation order or a temporary release from detention for a fixed period of time to the head of an immigration office, taking into account the necessity for testimony, compensation or other circumstances. The foreign women in question may be granted access to support facilities during this period. Furthermore, as an additional measure to offer protection and assistance to foreign women, investigative agency officials questioning a foreign woman who is a victim of sex trafficking are required to notify the victim of her right to file a claim for reparation based on the Act on Special Cases Concerning Expedition, Etc. of Legal Proceedings. Moreover, the Ministry of Justice has reinforced its support for protecting foreign female victims of crimes by enacting a new provision within the Immigration Act on special measures available for victims of sexual violence. The new provision enables the Minister of Justice to permit extension of a foreign woman's stay if she applies for the extension while under investigation by an investigative agency or in a trial, or other legal remedy procedures for sexual offences under Article 2, Paragraph 1, of the Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes.

85. The amendment of the Crime Victim Protection Act, effective since 16 April 2015, stipulated that the State shall provide crime victims with information pertaining to their rights and support available to them. Accordingly, relevant information has been published in English, Chinese, Japanese and Vietnamese so that the information can also be provided to foreign victims of crime. Also, with the aim to further protect human rights of sexual violence victims, the victims are provided with state-appointed attorneys and statement assistants during the investigation stage. Also, professional translation and interpretation services are provided to ensure that the victims communicate unhindered with the investigative agencies, as well as their state-appointed attorneys.

86. The Korean government operates facilities to support immigrant women victims of sex trafficking and/or forced prostitution. Victims can stay at shelters and receive medical care and legal support, and interpretation service. Those who wish to return to their home country can also receive repatriation service.

87. Currently 25 shelters for foreign women victims of sexual violence, domestic violence, and forced prostitution are in operation or being established, increased by 7 from 18 in 2012. And two group homes to support housing, as well as one Rehabilitation Support Center for rehabilitation and self-support, are operating so as to help settlement in the Republic of Korea.

88. Also the Danuri Call Center makes arrangements for immigrant women who fall victim to violence so that they can get support via emergency hot line (112 or 119), counsellors, shelters and local multicultural centers. Free legal services are provided by the Korea Legal Aid Corporation, Korea Legal Aid Center for Family Relations, Korea Rape Crisis Center and KBA Legal Aid Foundation. Rehabilitation Support Centers provide services to help victims settle down in the Republic of Korea, including education on Korean language and computer skills, career exploration activities and vocational training and job placements. Support facilities are also in place for foreign victims of forced prostitution.

B. Eliminating Human Trafficking of Migrant Women and Assisting Female Victims

89. Upon consideration of the fifteenth to sixteenth periodic report, the Committee urged the Republic of Korea to ratify Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and to revise the Criminal Act and adopt national legislation which allows prosecution and adequately punishes the perpetrators of trafficking (para. 16 CERD/C/KOR/CO/15-16).

90. Pursuant to this recommendation, the Korean government completed key legislative groundwork for the ratification, including the amendment of the Criminal Act in April 2013 to criminalize human trafficking. It completed the domestic procedures for the ratification of the Convention and the Protocol in May 2015 and deposited the instrument of ratification with the United Nations Secretary-General in November 2015. The Convention and its Protocol came into force on 5 December 2015 and the Korean government is now actively implementing the Convention and the Protocol.

91. Following this recommendation, the Korean government amended the Criminal Act to include the criminalization of human trafficking and the aggravated punishment for human trafficking for the purpose of labor exploitation, sex trafficking, sexual exploitation, or the acquisition of body organs. Also, the amendment provides for the application of the Criminal Act on foreigners who commit the crimes such as child abduction or luring or human trafficking outside Korean territory. In January 2014, the Supreme Prosecutors' Office strengthened its standards to be more stringent in handling abduction or luring and human trafficking, including the modification to impose heavier sentences for crimes related to human trafficking. The following table shows the yearly data on case processing of human trafficking criminals from year 2011 to 2016.

Table 16
Cases of Human Trafficking Handled

(Unit: Persons)

Year	Total Handled	Prosecution			
		Indictment	Demand for Summary Order	Non-prosecution	Other
2011	342	111	7	124	100
2012	445	175	3	128	139
2013	387	107	3	128	149
2014	489	144	1	145	199
2015	468	487	157	150	180
2016	566	572	199	190	183

* Scope of crimes: violations of the Criminal Act (abduction for profit-making, women trafficking, human trafficking, etc.), violations of the Act on the Punishment of Acts of Arranging Sex Trafficking (forcing sex trafficking, etc.), violations of the Act on the Protection of Children and Juveniles from Sexual Abuse (coercive conduct, etc., trafficking), and violations of the Act on the Aggravated Punishment, etc. of Specific Crimes (abduction or luring for the purpose of overseas transferring, women trafficking, etc.).

** Non-prosecution: being cleared of suspicion, suspension of indictment, not constituting an offense, no state authority to prosecute, rejection.

*** Other: stay of prosecution in cases where the suspects' whereabouts are unknown, stay of prosecution in cases where the whereabouts of complainants, accusers, etc., are unknown, transfer of the case to a competent Juvenile Department of a district court, and transfer to another prosecutors' office.

92. Upon consideration of the fifteenth to sixteenth periodic report, the Committee recommended the Republic of Korea to revise the Criminal Code and adopt national legislation which allows prosecution and adequately punishes the perpetrators of trafficking, provides reparations to victims and ensures that fear of expulsion does not deter female migrants from reporting human trafficking and other forms of crimes (para. 16 CERD/C/KOR/CO/15-16).

93. The Korean government newly added Article 92-2 (Exemption from Obligations to Notify) to Enforcement Decree of the Immigration Act. In accordance with the enforcement of the provision, effective in October 2012, the "Guidelines on Exemption from Obligations to Notify" was established, which was implemented from March 2013. Under the provision,

officials in charge of helping victims of human trafficking and other forms of crimes, as well as remedies for human rights violations—officials from the prosecutors’ office, police officers, and public officials of the National Human Rights Commission of Korea—are exempt from the obligation to notify immigration authorities of personal information of the foreigners who are the victims. This has made it possible for foreign victims to report the crimes without fear of their identification being exposed. In this respect, it helps protect rights and interests of foreigners and prevent crimes. Still, undocumented immigrants who are not aware of the exemption regime often refrain from reporting crimes such as human trafficking due to fear of their identification being exposed. Therefore, the government plans to step up activities to raise awareness about the exemption regime in cooperation with the police and other agencies.

94. In addition, the Korean government has implemented measures to prevent human trafficking and other forms of crimes and to protect the victims of such crimes. In May 2007, the Korean government has established special rules for victims of crimes such as human trafficking to allow them to stay and work in the Republic of Korea until the remedy procedure — litigation or other procedures to seek remedy for forced sex trafficking, habitual violence or abuse or other crimes that resulted in severe damage is complete. Since May 2014, the government has run an initial adjustment support program for newly arrived foreign entertainers. Under the initial adjustment support program, in addition to information on life in the Republic of Korea and basic law and order, immigration offices throughout the country conduct education on cases of human rights violations, response measures, and remedy procedures for human rights violations. As of December 2016, a total of 4,349 foreign entertainers were registered aliens and 821 of them have participated in the program.

C. Preventing Discrimination against Foreigners in Correctional Facility or Immigration Detention Facility

95. The Human Rights Bureau of the Ministry of Justice conducts regular inspection of correctional facilities and immigration detention facilities to prevent any discrimination against foreigners in regard with provision of medical care, food or rationed goods. It established the Human Rights Violation Hotline Center providing a 24-hour service hotline in order to launch prompt investigation upon receiving any reports and issue remedial measures accordingly.

96. In particular, leaflets as well as informative videos in various languages for foreigners were made and distributed to reinforce the dissemination of the remedial procedures for human rights violations. Any discriminatory treatment of foreigners based on nationality, race, religion, etc. is being coped with through pro-active measures. As a result, a total of 8 cases were rectified in 2016: one case regarding assurance of the right to sleep through upgrading a night lamp, one case regarding surveillance camera installation in a women’s detention room, one case regarding improvement of hygienic environment, two cases regarding safety of detention facilities, two cases regarding addressing foreigners’ complaints, and one case regarding improved protection of portrait rights when being sent to a hospital outside the facilities.

D. Remedial Actions and Assistance Available for Foreign Victims

97. Foreign victims of all nationalities can not only file a claim against the perpetrators for reparations in regard to damage arising from a tort but also apply to the Korean government for monetary relief for criminal injuries provided in the Crime Victim Protection Act in accordance with the principle of reciprocity. Provided that the victims or their bereaved families meet certain requirements, the Korean government grants monetary relief for criminal injuries from an allocated budget.¹¹

¹¹ Until now, there has been no case in which a foreigner from a country under the principle of reciprocity (i.e. Spain and Canada) applied for monetary relief for criminal injuries.

98. There are Crime Victim Support Centers located nationwide that provide legal counselling, guidance on the legal aid, and emergency relief as well as assistance with job-seeking and cleaning up the crime scene for crime victims, foreigners and nationals alike. Foreign victims of crime who have suffered damages can, upon meeting the requirements, be provided with monetary relief for criminal injuries, medical expenses and emergency living expenses from 58 prosecutors' offices nationwide. In case the victim is unable to recover to lead a normal life because of mental sufferings inflicted by the crime, eight Smile Centers located nationwide (Seoul, Incheon, Busan, Gwangju, Daejeon, Daegu, Chuncheon and Jeonju) provide professional counselling and therapy.

99. To ensure that foreign crime victims have equal access to assistance, a Vietnamese, Chinese and English edition of the "Handbook for Victims of Crime" has been made available in counselling offices, victim support centers, local government offices and police stations nationwide. The handbook provides information on assistance provided by victim support groups and relevant agencies including the services of the Crime Victim Support Centers and legal aid organizations.

100. To protect human rights and provide remedy for foreign female victims of crimes such as domestic violence, an agreement is in place among the 58 Crime Victim Support Centers and local counselling centers for sexual violence and domestic violence to provide assistance to migrant women in an effective manner. In addition, the Ministry is in talks with the Korea Legal Aid Center for Family Relations for an arrangement on providing legal counsel and professional assistance in family affairs litigation for foreign victims of domestic violence.

Article 7: Education, Culture and Information Dissemination to Combat Prejudice Leading to Racial Discrimination

A. Paying Special Attention to Children of Multicultural Families

101. Upon consideration of the fifteenth to sixteenth periodic report, the Committee urged the Republic of Korea to pay particular attention to the children of such families who bear the heaviest consequences of lack of integration (para. 17 CERD/C/KOR/CO/15-16).

102. In line with the changing racial fabric of the Korean society and the recognition of the importance of understanding other cultures with a sense of tolerance, curricula for primary and secondary schools were revised in 2007 and 2009 to include education for international understanding, human rights and multiculturalism. Also, from 2006 through to 2007, complementary world maps and learning materials were developed and distributed to all primary and secondary schools across the country to help students understand the culture and history of diverse ethnicities. The primary and secondary school curricula revised in 2015 also include content on respect for human dignity and eradication of prejudice and discrimination based on race, thereby building a foundation for a systematic human rights education.

103. Additionally, training programs for teachers have been expanded in order to improve their perception on multicultural education and understanding on students from multicultural families. Furthermore, various contents to promote understanding of multiculturalism have been developed and distributed to ensure all students can get along regardless of their ethnicity or cultural difference. These contents are being utilized for the education on multiculturalism at school through relevant school curricula, as well as student clubs and field activities.

B. Human Rights Education for Law Enforcement Public Officials

104. Since the establishment of the Human Rights Bureau in May 2006, the Ministry of Justice has been conducting human rights education for public officials belonging to the Ministry of Justice. The Ministry of Justice implements training to improve human rights sensitivity targeted on law enforcement public officials belonging to the Ministry of Justice

following teaching and producing internal human rights instructors in each line of its service duties. It also consistently carries out human rights education through a group of external human rights lecturers, comprised of professors, lawyers, and human rights experts in various fields: these lecturers visit the affiliated organizations such as the Immigration Office to train immigration officials including those in charge of crackdowns on undocumented immigrants.

105. In regards to the training aimed to improve human rights sensitivity, prosecution investigators are trained about the prohibition of discrimination based on race during investigation procedures. Also, immigration officials such as those working in immigration detention facilities and in charge of crackdowns on undocumented immigrants are provided with trainings on understanding multicultural society and prevention of human rights violation. Correctional officials are trained on prevention of discrimination against foreign inmates. The education programs consist of contents that improve character and practical ability to respect human rights through first-hand approach with emphasis on experience and participation.

106. Consequently, the Ministry of Justice has improved human rights sensitivity among law enforcement officials, promoting understanding on multicultural societies and a system of international human rights norms including the International Convention on the Elimination of All Forms of Racial Discrimination, and spreading a social consensus on universal human rights which transcend nationality and race.

107. In addition, the Institute of Justice under the Ministry of Justice conducts education for law enforcement officials (including those in charge of crackdowns on and investigation of undocumented immigrants) on eradicating racial discrimination, major contents of which include social integration of immigrants, roles of public officials in multicultural society, training for multicultural sensitivity, understanding and tasks of Korean multicultural society, and policies for marriage migrants. A total of 101 officials received training in 2012, 120 officials in 2013, 115 officials in 2014 and 105 officials in 2015, and 122 officials in 2016.

C. Supervision on Incitement of Racial Discrimination by Mass Media

108. Upon consideration of the fifteenth to sixteenth periodic report, the Committee on the Elimination of Racial Discrimination issued a recommendation for the supervision of mass media to determine individuals and groups who disseminate ideas based on racial superiority and incite racial hatred against foreigners (para. 10 CERD/C/KOR/CO/15-16).

109. Based on the Rules on Broadcast Review in accordance with Article 33 of the Broadcast Law, the government reviews expressions and statements on broadcast media that instigates negative stereotypes against a particular race or that mocks or insults a particular race, and imposes sanctions on broadcasting business operators that are in violation of the relevant laws and regulations pursuant to Article 100 of the Broadcast Law.

110. Furthermore, in connection with hate speech against a particular race, there were several broadcasting programs that were reviewed and sanctioned: 2 cases in 2012, 4 cases in 2013, 7 cases in 2014, 3 cases in 2015 and 3 cases in 2016. In accordance with Article 100 of the Broadcast Law, broadcasting business operators are required to notify its viewers by broadcast the reasons for the sanction, the laws and regulations in violation and the results of the sanction and the results of the review, and sanctions are reflected upon the assessment of the broadcasting business operator and the deliberation for re-obtaining approvals and permits.

Table 17

Status of Deliberations on Hate Speech against a Particular Race for the Past 5 Years

(Unit: cases)

Category	2012	2013	2014	2015	2016	Total
Statutory sanctions	0	3	0	0	1	4
Administrative guidance	2	1	7	3	2	15

<i>Category</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>Total</i>
Total	2	4	7	3	3	19

Applicable provision: Article 31 of the Rules on Broadcast Review (Respect for Cultural Diversity).

111. While reviewing and imposing sanctions against hate speech against a particular race on broadcast media, the government provided ‘Guideline for Broadcasting Language’ in September 2015 in order to rectify discriminatory statements, distorted and lascivious expressions on broadcasting programs, and regularly carries out training programs for interested parties so that the Guideline may be voluntarily used in deliberations for broadcasting productions and broadcasting business operators’ own programs.

112. Furthermore, the Korea Communications Standards Commission reviews expressions and statements on the Internet that promote negative stereotypes against a particular race or that mock and insult a particular race in accordance with the Rules for Deliberation on Information and Communications. The Commission continues to eliminate expressions and statements on the Internet that promote negative stereotypes against a particular race or that mock and insult a particular race including through monitoring and receiving civil complaints.

Table 18

Status of Deliberations in relation to Racial Discrimination

(Unit: cases)

<i>Category</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>Total</i>
Correction Demand	18	0	2	2	22

* Applicable provision: Article 8 of the Rules for Deliberation on Information and Communications (violations, etc. of Good Morals and Social Order).

Part 4: Other Information Regarding the Recommendations of the Committee

A. Mandate of the National Human Rights Commission of Korea

113. Upon consideration of the fifteenth and sixteenth periodic report, the Committee reminded the Republic of Korea of its responsibility to ensure that the National Human Rights Commission of Korea (NHRCK) remain compliant with the Paris Principles, in particular with respect to its independence. The Committee also urged the Republic of Korea to respect the timing of the investigations by the NHRCK, to provide it with adequate financial resources and experienced human rights experts so as to enable it to carry out its mandate effectively, including promoting and monitoring the rights under the Convention (para. 18 CERD/C/KOR/CO/15-16).

114. The NHRCK was established in November 2001 as a national human rights organization independent from the government in compliance with the standards set out in the Paris Principles. As specified in Article 3 of the National Human Rights Commission of Korea Act, the NHRCK independently executes its duties under its authority. The NHRCK undertakes various activities including making recommendations for the improvement of policies, laws, institutions and practices, conducting a wide range of investigations on human rights conditions, providing recommendations on discriminatory practices, and carrying out and raising awareness of human rights education as well as cooperating with both foreign and domestic human rights organizations.

115. To bolster the status of NHRCK, the National Human Rights Commission of Korea Act was amended in February 2016, which ensures transparency in nomination and election process and diversity of human rights commissioners, and stipulates the functional immunity for any remarks or decision in the course of performing their duties. Article 18 of the act stipulates that matters necessary for the organizational aspects of the Commission

should be taken into consideration positively to ensure independence of the Commission and effectiveness of the execution of its duties. The NHRCK also announces the vacancy of a commissioner, receives recommendations of candidates from the public, and delivers the list to the appointing authorities in an attempt to diversify its composition.

B. Follow-up to Durban Declaration and Programme of Action

116. Upon consideration of the fifteenth and sixteenth periodic report, the Committee required the Republic of Korea to provide specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (para. 20 CERD/C/KOR/CO/15-16).

117. A separate comprehensive action plan has not been established in order to nationally implement the Durban Declaration and Programme of Action. However, the Second National Action Plan for the Promotion and Protection of Human Rights (2012-16), which was adopted to provide government-wide human rights policy directions, includes several implementation tasks to eliminate racial discrimination. In addition, the Second Basic Plan for Immigration Policy (2013-2017) was adopted on the foundation of the *Framework Act on Treatment of Foreigners Residing in the Republic of Korea*, in order to promote human rights of and prevent discrimination against foreigners including migrant workers and immigrant women. Furthermore, as explained above, measures have been taken to prevent racial discrimination and protect victims in accordance with laws and regulations, including the *Refugee Act*, the *Act on the Management of International Marriage Agencies*, the *Act on the Employment of Foreign Workers*, Article 25-2 (Special Rules for Marriage Migrants) and Article 25-3 (Special Rules for Victims of Sexual Violence) of the *Immigration Act*, and Article 289 (Criminalization of Human Trafficking) of the *Criminal Code*, etc.
