



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

**Fifth periodic report submitted by the Republic of
Korea under article 40 of the Covenant pursuant
to the optional reporting procedure, due in 2020^{*}, ^{**}**

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* The present document is being issued without formal editing.

** The appendix to the present report is on file with the secretariat and is available for consultation. It may also be accessed from the web page of the Committee.



Issue 1

A. National Action Plan for Promotion and Protection of Human Rights

1. The Government of the Republic of Korea (hereinafter “Government”) established the 3rd National Action Plan for the Promotion and Protection of Human Rights (2018–2022, hereinafter “NAP”) in August 2018. The 3rd NAP, drafted through two public hearings and 18 meetings in participation with relevant civil societies and ministries, contains policy tasks to implement the Concluding Observations on the Fourth Periodic Report (hereinafter “Concluding Observations”) of the Human Rights Committee (hereinafter “Committee”). Major tasks include a review of alternative services for conscientious objectors, an improvement in legality and responsibility of law enforcement at the scene of rallies, a guarantee of peaceful demonstrations under the principle of non-application of general obstruction of traffic, and a revision to the laws on anti-discrimination. Also included in the recommendations by treaty bodies, including the Committee as appendices, the 3rd NAP may be referred to when public officials execute policies.

B. Information on Implementation of Concluding Observations Not Included in List of Issues Prior to Submission

2. Regarding Article 17(c) of the Concluding Observations, the Government operates various policies to support single-parents, including unmarried mothers, such as educational expense support and allowances for self-support and guaranteeing the right to learn. The *Manual on Consultation with Teenage Single Parents for Teachers* was prepared and distributed to schools at every level to protect the right to learn of single mothers and eradicate discrimination by improving the understanding of teenage single mothers. Dedicated welfare facilities are being operated for teenage single parents, including single mothers, to juggle childcare, study, and prepare for self-support. The Government also subsidizes low-income single-parent and grandparent families for childcare. The Government prioritizes single-parent families when offering various types of public rental housing (for details, see Appendix Table-1).

3. Regarding child allowance in paragraph 17(c) of the Concluding Observations, the Government does not offer it in a discriminatory manner just for the reason of being born to a single mother. The child allowance was introduced to improve the fundamental rights and welfare of children in 2018. At that time, it was given to children under six years of age from households in the bottom 90 percent of the income bracket. But the policy has been improved to provide it to all children under age seven.

4. Regarding paragraph 35(c) of the Concluding Observations, most articles in the United Nations Standard Minimum Rules for the Treatment of Prisoners (hereinafter “Mandela Rules”) were reflected in the laws related to correction and are currently being executed in the field. Specific steps the Government has brought to formulate imprisonment policies into line with the Mandela Rules since 2015 are as follows:

(a) Regarding Rule 58 (Contact with the outside world), the Government has adopted “smart meetings” under which requesters may easily have a meeting with convicted prisoners using a smartphone since February 2016, expanding prisoners’ rights to contact the outside world and supporting family recovery. With more servers, smart meetings may soon become accessible to unconvicted prisoners;

(b) Regarding Rules 24 through 35 (Health-care services), 42 correctional institutions as of September 2019 offer remote medical services to help prisoners access hospitals outside of the institutions. Prisoners have undergone an annual medical examination with 22 items since 2005, while the number of items was increased to 31 in 2019. The annual number of prisoners who had a medical examination in 2018 stood at 38,943, an increase from 20,643 in 2005;

(c) Regarding Rules 12 through 17 (Accommodations), the Government has consistently improved facilities and living environments by installing LED lights and

upgrading the heating system and toilets at correctional institutions across the nation. The Government will continuously put efforts into reflecting the Mandela Rules in the correctional administration comprehensively.

C. Measures to Implement the Committee’s View on Optional Protocols

5. To facilitate the implementation of the Committee’s views on the Optional Protocol to the International Covenant on Civil and Political Rights (hereinafter “Covenant”), the Government has translated the views into Korean and published them in the official gazette since 2005. Furthermore, the Government is preparing to enact the Human Rights Framework Act (hereinafter “HRFA”) as its National Agenda. The Act will contain a domestic implementation mechanism for recommendations of international human rights institutions, including the Committee’s views. Notwithstanding, the full compliance with the recommendations may not be probable given a practical limitation that the views can hardly invalidate contradicting final and conclusive decisions of Korean courts.

6. To implement the views on conscientious objection, the Government has made efforts to design an alternative service system to pursue freedom of conscience and “military obligation” by forming an independent expert advisory group, holding public hearings, and conducting public opinion polls. As a result, it enacted a bill to adopt an alternative service. The details of the bill and other implementation measures may be referred to as the answer to Issue 21.

Issue 2

A Development of a Legal Framework to Protect the Rights and Dignity of Laborers in the World of Work

1. Prevention of Workplace Harassment

7. The Government amended the *Labor Standards Act* (hereinafter “LSA”) in July 2019 to protect workers from workplace harassment. The amended Act defines workplace harassment as “behaviors that employers or employees cause physical or mental suffering to other employees or deteriorate the work environment beyond the appropriate scope by taking advantage of superiority in rank, relationship, etc. in the workplace” and prohibits such behaviors. When an employer receives a report on or is aware of workplace harassment, the employer shall, without delay, investigate the case. If workplace harassment is verified, the employer shall take appropriate disciplinary actions against the perpetrator. For the effective execution of the Act, the Ministry of Employment and Labor (hereinafter “MOEL”) designated labor inspectors dedicated to workplace harassment in 47 regional employment and labor authorities and has operated eight specialized counseling centers across the nation from 2020. As of March 31, 2020, 3,347 petitions on workplace harassment were received, while 2,739 were processed. For detailed statistics, see Appendix Table-3. The Government plans to enhance the relevant policies to ensure that employers comply with the legal obligations to investigate harassment complaints and take adequate measures promptly.

2. Protection of Customer Service Employees

8. The Government amended the *Occupational Safety and Health Act* (hereinafter “OSHA”) in October 2018 to make employees providing services for customers (hereinafter “customer service employees”) legally protected from harassment such as verbal abuse by customers. According to the amended Act, any employer shall take preventive measures such as posting a notice asking customers not to use verbal abuse. In case a health problem occurred or is highly likely to occur with a customer service employee due to verbal abuse or violence by a customer, the employer shall immediately suspend operations to separate the victimized employee from the place of danger or provide a break, support treatment, and counseling if necessary.

3. Expansion of Safety and Health Measures

9. To fulfill workers' right not to be threatened with their life and safety within their workplace, the Government wholly amended the OSHA in January 2019.

10. The amended Act revised the definition of the persons protected under the OSHA, now including specially-employed laborers, e.g., "gig" workers, and delivery workers. The Government will keep striving to expand the scope of the persons protected given newly-formed labor relations following social and economic changes.

11. The amended Act prohibited in-house sub-contracting on specific hazardous work to prevent passing on risks to sub-contracted laborers and enhanced the liability of contractors with practical control and management authority over workplaces to prevent accidents of sub-contracted laborers. The scope of the places where contractors shall take safety and health measures have been expanded into 21 dangerous places that contractors control and manage.

12. The Government took measures to protect workers at the industrial site as follows: The *Guidelines on Installation and Operation of Recess Facilities at Places of Business* were drafted and distributed in August 2018 for workers who hardly take a break due to the lack of recess areas. The guidelines for outdoor workers exposed to heat or coldness were also handed out. Small "unlicensed construction works" not formerly covered by *Industrial Accident Compensation Insurance* are now eligible. The Government also reduced the burden of proof of laborers and eased requirements in approving occupational disease to be covered by the *Industrial Accident Compensation Insurance*.

13. Furthermore, the Government inspects whether or not workplaces that employ many foreign laborers provide health and safety education and protective equipment and take health and safety measures, including medical examinations. It also provides instructors (interpretation provided) so that foreign laborers are given customized industrial health and safety education focusing on practical exercise and case studies about hazardous factors (falling, crashing, caught in, etc.) before getting a job. Health and safety materials translated into 16 languages were released.

4. Efforts to Improve Labor Human Rights of Foreign Workers

14. To protect foreign laborers in the fields of agriculture, livestock, and fisheries, the Government drafted the *Guidelines on Standard Employment Contract Form for Agriculture, Livestock and Fisheries Sectors* (hereinafter "GSEC," agriculture and livestock industry in October 2015, and fisheries industry in April 2017) to secure their working and recess hours and holidays.

15. The foreign manpower allocation method under the Employment Permit System (hereinafter "EPS") was revised to promote the labor human rights of foreign workers in January 2020, encouraging employers to improve labor conditions by granting higher advantages to those following the GSEC. In addition, as the places of business in which an industrial accident occurred or of which accommodation facilities do not meet the standards get greater disadvantages, the system makes such businesses difficult to be allocated with foreign laborers and, as a result, induces employers to strengthen their efforts.

B. Specific Cases in which Local Courts Cited Provisions of Covenant

16. With continuous improvements in the domestic recognition of international human rights treaties, the number of judgments applying or referring to international human rights treaties increases overtime. Major recent cases are as follows:

(a) On November 1, 2018, regarding whether or not conscientious objection constitutes a "justifiable ground" provided in Article 88(1) of the *Military Service Act* (hereinafter "MSA"), the Supreme Court stated that conscientious objection constitutes "justifiable grounds" on the basis that General Comments No.22 of the Committee stipulates that "the right to conscientious objection can be derived from Article 18" of the Covenant,

and on the basis that the Covenant has an identical effect as that of a domestic law pursuant to Article 6(1) of the Constitution (2016Do10912) as an opinion concurring with the majority;

(b) On September 21, 2018, the Daegu High Court, regarding the Plaintiff's argument that not being able to take a graduate school exam scheduled on Saturday for a religious reason constitutes grounds for a make-up exam, accepted the argument thereof by stating "the Constitution stipulates that all citizens shall enjoy the freedom of conscience and religion, and Article 18 of the Covenant to which Korea is a signatory also guarantees the freedom of conscience and religion. Such freedom of conscience and religion shall be highly respected compared to other basic human rights given their nature" (2018Nu3005).

C. Major Matters Not Included in Answers to List of Issues Prior to Submission among Other Development of Legal and Institutional Framework for Improvement and Protection of Human Rights

17. The Court of the Republic of Korea (hereinafter "Court") introduced a statement-assistance system for persons with disabilities and others by amending the applicable laws on February 3, 2016. The system thereof contributes to guaranteeing the right to access justice of the socially disadvantaged. The Court also installed the One-Stop Platform, or a "justice-access center," which may systematically introduce and associate various legal aid and even pro bono activities within as well as outside of the Court at the Suwon Court Complex and also at the Jeonju District Court.

18. With the intent of preventing elder abuse, the Government amended laws in 2018 to make human rights education mandatory for persons who establish and operate welfare facilities for senior citizens or long-term care institutions, have institutions such as welfare facilities employ a person obliged to report elder abuse, make care hospitals provide education on prevention of elder abuse, and make it an obligation to report elder abuse.

Issue 3

19. The Republic of Korea (hereinafter "ROK") amended the National Human Rights Commission of Korea Act (hereinafter "NHRCA") on February 3, 2016 to secure diversity in the composition of commissioners for human rights (hereinafter "commissioners") and procedural transparency in appointing commissioners. Candidates and opinions shall be collected from various social groups to guarantee transparency. Specific qualifications for commissioners were also set, including enabling human rights advocates to be appointed based on their career. To guarantee the independence of the National Human Rights Commission of Korea (hereinafter "NHRC"), the provision under which no commissioner shall assume any legal responsibility for his/her remarks made in the course of performing his/her duties was inserted. The amended Act also stipulates that when the NHRC is set forth, independent and effective performance of the NHRC's duties shall be prioritized as much as possible.

Issue 4

A. General Framework on Business and Human Rights

20. The Government prepared a separate chapter on business and human rights when drafting the 3rd NAP. This chapter includes a specific agenda, including promoting corporate responsibility to respect human rights, preventing human rights violations against laborers abroad, and securing the safety of consumer products. The Government is gradually implementing the tasks. It plans to incorporate more effective policy tasks in developing the 4th NAP, based on the recommendations of international human rights bodies on business and human rights. That said, establishing an independent NAP for "business and human rights" will also be considered, reviewing the strengths and weaknesses of the option as it

may be less reflective of the interdependency of various human rights policies than the comprehensive NAP.

21. The Government is developing the *Guidelines on Integrating Human Rights into Business Management*, an instruction for companies to implement international human rights norms in the field. The Guidelines are intended to express the Government's expectations on businesses to respect international human rights norms (hereinafter "human rights-based business management"). The Government also plans to institutionalize the disclosure of non-financial (ESG) information gradually. To seek practicality of remedy procedures, the Government put a priority on adopting a class-action system, which has been introduced only to the securities sector and the consumer damage sector. In May 2020, the Ministry of Justice (hereinafter "MOJ") and the NHRC also signed an MOU to research innovating laws and policies to widespread human rights-based business management.

22. The Government is promoting the expansion of human rights-based business management, starting from public institutions. All ministries and metropolitan municipalities decided to review human rights-based business management when assessing public institutions under their supervision. Such measures of assessment were adopted in compliance with a recommendation by the NHRC.

B. Policies Regarding Sustainable Management

23. The Government is supporting domestic companies to reflect responsibilities for economic, social, and environmental factors in their business for sustainable development. It also investigates the level of sustainable management, including respect for human rights and anti-discrimination policies, and provides consulting on the items with poor performance for each company. To support such policies, the Government amended the *Industrial Development Act* under which the Minister of Trade, Industry, and Energy may designate "support centers for sustainable management" to promote the sustainable management of enterprises efficiently.

C. Policies Regarding Ethical Management

24. The Government has published the Business Ethics Briefs, a webzine, since 2005, providing about 7,400 persons in companies and economic organizations with the latest information on integrity and ethical management. The guidance for anti-bribery management systems (ISO37001) was also produced and distributed to companies in 2017. The Government also developed a website of the "corporate integrity management e-learning center" in 2017 where corporate employees and executives easily access business ethics anytime, anywhere, with 13 animation and video contents uploaded.

D. Improvement Regarding NCP

25. The Government amended the operating rules of National Contact Points (hereinafter "NCP") in February 2017 and November 2018, which recommend multinational enterprises to comply with the *OECD Guidelines for Multinational Enterprises* (hereinafter "GME"). First amended was the number of commissioners increased to include external experts as non-governmental commissioners with the latter amendment stipulating the candidate recommendation process. The Korean National Contact Point currently consists of four ex-officio governmental commissioners and four appointees of non-governmental commissioners. The Government will also hold meetings, seminars, and briefing sessions on the GME and remedy for victims from multinational companies' overseas activities.

E. Measures Taken to Ensure Victims of Corporate Activities Obtain Appropriate Remedies

26. With the increasing number of Korean companies expanding to South East Asia, the Government announced government-wide countermeasures in December 2019 to promote fair labor management and human rights-based business management abroad. The countermeasures are mainly about having local missions serve as a control tower on the labor and human rights issues of companies operating there through establishing an office dedicated to such mission in major local missions, actively supporting CSR activities of companies and providing more information such as local labor laws.

Issue 5

A. Steps Taken to Combat Discrimination against Ethnic Minorities and North Korean Refugees

27. In order not to spread discriminatory perceptions against specific race, ethnicity, nationality, and others through mass media, the Korea Communications Standards Commission (hereinafter “KCSC”) deliberates the content of broadcast programs aired pursuant to the *Act on the Establishment and Operation of Korea Communications Commission* (hereinafter “AKCSC”). Especially under Article 31 (Respect for Cultural Diversity) of the *Regulations on Broadcast Deliberation* (hereinafter “RBD”), the KCSC deliberates a broadcast program that incites prejudice and discrimination against specific race, ethnicity, nationality, and others and punishes the responsible broadcasting business entity and person. Furthermore, the KCSC makes a request for correction on information online after deliberating discriminatory expressions against specific groups with no grounds. For statistics, see Appendix Table-4.

28. The Government unfolds a campaign raising awareness of cultural diversity to eradicate discrimination based on all grounds underlying cultural difference such as race, religion, language, region, gender, and generation. With the “Rainbow Bridge Project” started in 2012, the Government has supported programs to give minorities more opportunities to express their culture and promote mutual communication and exchange (Diversity Theatre Festival, Diaspora Film Festival, etc.). Until 2019, a total of 224 programs have been operated in 26 regions across the nation, and about 290,000 persons have participated. The Government designates a “day of cultural diversity” pursuant to the *Act on the Protection and Promotion of Cultural Diversity* and holds a nationwide week-long event from May 21 to 27 every year to promote the value of cultural diversity.

29. For North Korean refugees to integrate into the society without being discriminated against, the Government helps them join the Settlement Support Center for North Korean Refugees (Hanawon) and settle down by providing basic social adaptation education and money to encourage settlement from when they arrive in South Korea. The central and local governments and the private sector closely coordinate to support them after they move into their residences. Specifically, the Foundation of Support for Residents Escaping from North Korea and Local Adaptation Centers operated by the Ministry of Unification (hereinafter “MU”) support the settlement, improve the awareness of North Korean refugees, and provide psychological and legal counseling. North Korean refugees are given equal social security benefits, and the Government operates the system giving the refugees vocational training, employment support payment, and special admission to colleges.

30. In order for adolescents from North Korea not to be discriminated against and to be given formal education, the Government provides customized education support, such as transfer to formal school, one-on-one mentorship for adapting to education, and everyday life, career education, and professional counseling. The results show that the primary and middle school dropout rates of those students decreased from 10.8% in 2008 to lower than 3% recently. Also, with education for general students to understand North Korea, the Government endeavors to create an environment where they grow together as members of society.

B. Other Steps Taken to Combat Discrimination on Any Ground

31. In 2016, the Ministry of Gender Equality and Family (hereinafter “MOGEF”) and the KCSC, a broadcast deliberation institution, signed an MOU and put efforts into raising awareness on gender equality via mass media. As a result, the RBD was amended to include gender equality content in 2017. Currently, the KCSC deliberates a broadcast program that incites prejudice and discrimination against specific gender and punishes the responsible broadcasting business entity and person. The Government strives to improve the awareness of gender equality by conducting a content analysis of conventional media (terrestrial broadcasting and cable TV) as well as new media from a gender-based perspective and launching media literacy education.

32. In order for persons with disabilities not to be discriminated against or excluded in the world of work, workplace education for improving the awareness of persons with disabilities became mandatory in May 2018. Accordingly, all business owners and employees shall receive “workplace education for improving awareness of persons with disabilities” once a year, for at least one hour. According to the statistics in 2017, the number of business entities required to implement the education was 4.02 million, while the number of employees subject to the education reached as many as 21,627,000.

33. The Court has launched a “window for socially disadvantaged persons including the disabled, foreigners, and North Korean refugees” at 2–6 courts every year since 2014, and has allocated counselors with legal expertise to provide preferred counseling and legal aid services. It also implements the *educational program for raising awareness on persons with disabilities* every year for the members of courts at every level to stamp out discrimination. For the promotion of gender equality culture within the judiciary, a judge training course by career has been required to include gender-sensitive education since March 2016.

C. Progress in Review of Comprehensive Anti-Discrimination Legislation

34. The Constitution and a number of individual laws stipulate the principles of equality and prohibition of discrimination as what is described in the Fourth Periodic Report (CCPR/C/KOR/4, para. 376–377). The 3rd NAP, established in 2018, includes the task of “revising the laws on anti-discrimination to protect the right to equality.” On June 29, 2020, the members of the National Assembly proposed an anti-discrimination legislation prohibiting any direct or indirect discrimination or harassment based on 23 grounds including sexual orientation, religion, and political belief. On June 30, the NHRC announced a similar draft of the “Equality Act” and recommended its legislation to the National Assembly. The Government will fully support such legislative discussions and deliberate ways to effectively amend the current legal framework by examining international human rights standards, foreign legislations, and domestic laws.

D. Sanctions against Acts of Discrimination and Remedies for Victims

35. Under the SCA, as every citizen may claim damages to the court when public officials or private persons entrusted with public duties inflict damage by intention or negligence in performing their official duties, in violation of the statutes, a victim may claim state compensation to the court when a public agent is involved in unlawful discriminatory acts. Pursuant to domestic laws, all citizens may claim damages to the court when their rights are infringed and damaged due to illegal acts by intention or negligence of other private persons.

36. Apart from that, those who violate individual laws stipulating the principles of equality and non-discrimination shall be sanctioned. For example, persons with disabilities may receive remedy against direct or indirect discriminatory acts pursuant to the *Act on the Prohibition of Discrimination against Persons with Disabilities, Remedy against Infringement of Their Rights, etc.* The Act stipulates that any person who commits malicious discriminatory acts against persons with disabilities may face criminal punishment. Regarding compensation, the Act also includes the provision for shifting the burden of proof to discriminators that there was no intention or negligence for discrimination. In case of abuse

against persons with disabilities, advocacy agencies established pursuant to the *Act on Welfare of Persons with Disabilities* give medical and psychological support and legal aid that victims need.

37. In accordance with the *Framework Act on Gender Equality* and the *Equal Employment Opportunity and Work-Family Balance Assistance Act* (hereinafter “EEA”), an employer that commits gender-based discrimination regarding age limit, retirement, and dismissal of his/her employees, fails to provide equal pay for equal-value work, and dismisses or takes any other disadvantageous measures against an employee due to childcare leave may face criminal punishment.

Issue 6

A. Measures Taken to Protect the Rights of LGBTI

38. Discrimination, hate speech, and violence which amount to crimes such as insult, defamation, and assault are held accountable under the laws. The fact that these crimes are committed because of discrimination constitutes a “blamable motive” in the determinants of judicial sentencing. For online hate speech, the *Act on Promotion of Information and Communications Network Utilization and Information Protection, Etc.* stipulates “defamatory information” and “repetitive information that incites fear or anxiety” as illegal information, and therefrom stipulates the responsibilities of online service providers.

39. To prevent the propagation of prejudice against specific gender or sexual minorities through mass media, the KCSC deliberates the content of broadcast programs aired pursuant to the AKCSC. In particular, Article 21 (Human Rights Protection), Article 29 (Social Integration), and Article 30 (Gender Equality) of the RBD stipulate that a broadcast program shall not violate human rights unfairly, and the KCSC deliberates a broadcast program that incites prejudice and discrimination against specific gender and others and imposes sanctions against the responsible broadcasting business entity and person.

40. The *Unit Management Directive* (hereinafter “UMD”), a directive to root out discrimination and violence within the military, prohibits battery, cruel treatment, insults, abuse, sexual harassment, violence, and others against LGBTI. Occurrences require an immediate report and has the responsible person severely punished. Under the Directive, forcing soldiers who came out of the closet to be discharged or to use Camp Green or hospitalization to isolate them shall be prohibited. Furthermore, commanders should make human rights education for soldiers include LGBT rights pursuant to the Directive.

41. Grounded on the applicable laws, the Ministry of National Defense (hereinafter “MND”) assigns counselors specialized in resolving soldiers’ sexual harassment grievances. Sexual minorities in the military are equally given protection for being victims of sexual violence and systematic post-management by counselors, while the victim’s personal information is kept in secrecy. Such protection and post-management for victims include counseling for their psychological stability, introduction to the reporting procedure regarding sexual violence cases and medical institutions for treatment of victims, and services that include counselors accompanying victims when they attend an investigation by the investigators and a witness examination at the court.

42. The Government improved the *Measures on Treatment and Management of Accommodated Sexual Minorities* to correctional institutions in April 2020 in cooperation with the NHRC, having the correctional facilities to comprehensively consider the inmates’ gender identity and physical sex attributes and opinions from inmates themselves, medical specialists, and other civil experts.

B. Facilitation of Access to Legal Recognition of Gender Reassignment

43. The Court deleted the consent statement of parents, which has been a required attachment in the application for gender reassignment set forth in the *Guidelines on Proceedings of Cases of Application to Gender Reassignment Permits of Transsexuals, etc.*

C. Measures in Connection with Military Criminal Act

44. The Republic of Korea Armed Forces prohibits discrimination grounded on sexual orientation (Article 253 of the UMD). The crime of indecent act provided in Article 92-6 of the *Military Criminal Act* (hereinafter “MCA”) is only applicable in the case of indecent acts disrupting military discipline. The Armed Forces carefully enforces the MCA to prevent human rights violations based on the homosexuality of soldiers according to Article 253 of the UMD.

45. The statistics of the investigation conducted under Article 92-6 of the MCA for the past five years is as follows:

Category	Total	Non-prosecution	Others (under investigation, transfer to civilian justice system)	Prosecution						
				Imprisonment	Suspension of Execution	Fine	Suspension of Sentence	Not Guilty	Transfer	Others (in trial)
2015	6				2		2		2	
2016	8				1		2		5	
2017	28	16		1	5		1		1	4
2018	11	9			2					
2019	4	4								

46. The provision of the MCA regarding the crime of an indecent act is intended to maintain military discipline, and the Constitutional Court has also found it constitutional several times. However, as some point out that the requirements for the crime of an indecent act are not clear and discriminatory factors against homosexual persons exist, the Constitutional Court is recently in the process of the adjudication on the constitutionality of the Act. The Government will take action based on the subsequent decision of the Constitutional Court. To prevent discriminatory punishment, the MND and the Armed Forces minimize indictment for the crime of an indecent act by strictly deciding whether or not to constitute the crime at the stages of investigation and indictment.

Issue 7

A. Effort to Combat Gender Discrimination in the World of Work

47. The Government has made various efforts to eradicate discrimination against women in the workplace in both the public and private sectors. Firstly, the Government announced and has pushed forward the *Measures to Solve Gender Discrimination in Employment* in collaboration with the relevant ministries in July 2018. Based on the 2018 survey of public institutions and financial circles, an intensive labor inspection was carried out against the doubtful business places which seem to have engaged in employment discrimination. The Government has newly established and operated an Anonymous Reporting Center for Gender Discrimination in Employment since September 2018 and plans to introduce corrective measures against gender discrimination in workplaces by the Labor Relations Commission, including suspending the discriminatory act, adjusting working conditions, and providing an adequate level of compensation (up to triple damages).

48. Secondly, the Government strives to eradicate gender discrimination in working conditions by guaranteeing equal pay for equal-value work. The gender wage gap in the Republic of Korea mainly originates in structural factors, including career interruption due to childbirth, higher ratio of female low-wage workers, and unfair wage discrimination. In response, the Government designates companies of a certain size or larger subject to proactive employment improvement measures (AA), and requires all those business places to submit their wage status. The Government will have the business with poor performances

in AA participate in a mandatory consulting process including interviewing the CEO from 2020. Furthermore, from January 2019, the provision on criminal punishment against employers in violation of the principle of equal pay for equal-value work is applicable to the whole business place. The Government also plans to introduce the “corporate wage distribution disclosure system” which discloses wage information of private companies.

B. Measures Taken to Increase Female Representation in the Public and Private Sectors

49. As for the presence of women in politics, the amended *Political Parties Act* increased the number of female members of the National Assembly and city, provincial, and metropolitan councils as described in the Third Periodic Report (CCPR/C/KOR/2005/3, para. 69). The ratio of female members of the National Assembly has continuously increased from 5.9% in the 16th National Assembly (in 2000) to 17% in the 20th National Assembly (in 2016). For statistics on the number of female members in the National Assembly, see Appendix Table-5.

50. In seeking gender equality in the public sector, the Government has adopted a quota system for gender-equal employment that sets the target ratio of men and women. The Government has also built the Improvement Plan for Female Representation in the Public Sector (2018–2022) with challenging but viable targets aimed at engaging more women in high-ranking positions. Specific efforts include expanding a “female human resources DB” pool and using it to recommend female candidates for government committee members and open positions. The result was full achievement of goals set for 12 fields in 2019, and notably, early achievement of the 2022 goals in six areas, including senior executives of public organizations (21.1%) and directors of central government ministries (20.8%). For details, see table below. Besides, the Government adopted the level of “women’s authority in decision making” as an index in major governmental assessments.

Table: 2019 Departmental Implementation of Improvement Plan for Female Representation in Public Sector

Position	2018	2019		2020 Goal (%)	2021 Goal (%)	2022 Goal (%)	
	Record (%)	Goal (%)	Record (%)				Achievement Rate (%)
1. High-ranking Public Official	6.7	7.2	7.9	109.7	8.2	9.6	10.0
2. Director of Central Gov’t	17.5	18.4	20.8	113.0	21.0	22.5	25.0
3. Director of Local Gov’t	15.6	15.9	17.8	111.9	18.6	20.0	21.0
4. Senior Executive of Public Organizations	17.9	18.4	21.1	114.7	21.8	22.4	23.0
5. Manager of Public Organizations	23.8	24.1	25.1	104.1	25.4	26.6	28.0
6. Manager of Local Public Corp.*	6.9	8.1	9.1	112.3	9.3	9.6	10.0
7. Professor of National Univ.	16.6	17.0	17.3	101.8	17.5	18.1	19.0
8. Principal & Vice Principal	42.7	43.0	44.1	102.6	44.3	44.7	45.0
9. Military Officer	6.2	6.7	6.8	101.5	7.4	8.1	8.8
10. Police Officer	11.7	12.6	12.6	100.0	13.4	14.2	15.0
10-1. Manager (added)	5.9	6.1	6.1	100.0	6.3	6.6	7.0
11. Coast Guard	12.0	12.6	12.7	100.8	13.2	13.8	14.4
11-1. Manager (added)	2.2	2.3	2.5	108.7	2.6	2.7	2.8
12. Gov’t Committee	41.9	40.0	43.0	107.5	40.0	40.0	40.0

* (2018) Local Public Corporations with 300 or more employees (25) → (2019) All Local Public Corporations (151).

51. In the private sector, however, over all listed corporations (2,148 companies) as of the first quarter in 2020, findings showed that the ratio of female executives was a mere 4.5% and only 33.5% of those enterprises had one or more female executives. Therefore, the Government expanded efforts to enhance female representation to the private sector. In March 2019, the Government signed an agreement on the *Partnership for Gender-Equal Inclusive Growth* with 10 economic groups and has pursued joint projects. The Government has also unfolded a campaign to enter into autonomous agreements with companies which voluntarily seek seating more women at the executive level, and this resulted in the signing of 19 agreements with 71 companies by July 2020. It also provided corporate CEOs with lectures about gender diversity to raise awareness and conducted comprehensive research on the current gender ratio of executives in all listed corporations and barriers in increasing the number of female executives in major industries. Furthermore, customized consulting for better gender balance has been provided from November 2019, and at the end of the year, 27 companies were supported. As such, the Government is calling for actual change while respecting the autonomy of the private sector.

Issue 8

A. Measures for Rigorous Law Enforcement on Perpetrators of Domestic Violence

52. The Government amended the *Act on Special Cases Concerning the Punishment, etc. of Crimes of Domestic Violence* (hereinafter “SADV”) to specify that a police officer on the scene may arrest a flagrant offender and to impose criminal punishment, not a fine, on those who violate any tentative measures, including a restraining order. Also, victim protective orders newly include “restraining the right to visit the perpetrator’s child” and those who have been convicted of the crime of domestic violence shall face criminal punishment unless not complying with the order for a lecture. The prosecutors adopted the *Guidelines on Investigating Domestic Violence Cases and Victim Support* under which those who are habitual offenders, those who used a deadly object, and those who recommitted domestic violence with two or more previous records within the past three years shall be detained during the investigation in principle.

53. The statistics of the prosecution of persons who violated the SADV is as follows:

Year	Category											
	Receipt	Total disposition	Prosecution		Non-prosecution					Refer to the competent court of home protection cases	Others*	
			Claim for formal trial	Claim for summary order	No suspicion	Suspension of Indictment	Crime not established	No right of arrangement	Dismissal			
2015	47 007	46 545	1 748	2 222	1 245	4 802	63	17 316	11	18 207	931	
2016	54 191	53 237	1 793	2 734	1 500	4 510	67	21 185	11	20 311	1 126	
2017	47 036	46 912	1 609	2 880	1 450	3 779	57	17 998	14	17 184	1 941	
2018	39 183	39 188	1 550	2 618	1 440	2 852	73	14 584	13	14 253	1 805	
2019	53 364	53 238	1 840	3 153	2 178	3 798	69	19 380	16	19 818	2 986	

*Others: Stay of prosecution, stay of indictment due to absent witness, refer to the competent court of home protection case, prostitution protection case and child protection case and another competent court.

54. The statistics of trials for the violation of the SADV is as follows:

Year	Category No. of received cases (No. of persons)	No. of proceeded cases (No. of persons)							
		Total	Imprisonment	Suspension of execution	Pecuniary punishment	Suspension of execution (pecuniary punishment)	Suspension of sentence	Acquittal	Decision of transfer, etc.
2015	25	22	4	4	9	-	-	5	
2016	56	49	4	20	21	1	-	3	
2017	41	42	7	12	20	-	1	2	
2018	63	51	10	17	18	2	-	2	
2019	63	64	17	19	21	-	1	6	

Note: 1. Materials about the “violation of the SADV” out of offenses other than criminal code at first instance criminal trial; 2. Suspension of execution (pecuniary punishment) has been applied since January 2018.

Table: Home Protection Cases

Year	Category	Decision				
		Receipt	Total	Protective disposition	Non-disposition	Others
2015		20 131	16 868	8 917	7 319	632
2016		22 482	21 802	11 368	9 792	642
2017		18 971	20 622	11 562	8 802	258
2018		19 739	18 448	10 936	7 310	202
2019		23 699	23 139	13 360	9 579	200

B. Measures for Rigorous Law Enforcement on Perpetrators of All Acts of Violence against Women

1. Development of Legal Framework

55. In January 2019, the *Act on the Protection of Children and Youth against Sex Offenses* newly inserted the provision to punish a person who has illicit sex with or commits any indecent act against a child or youth aged 13 to 16 by taking advantage of his/her destitute conditions. Furthermore, in May 2020, the age of statutory rape was increased from a child under the age of 13 to 16 to expand the protection of minors.

56. For more stringent punishment against sexual crimes by taking advantage of being in a superior position, the statutory punishment against the crimes of sexual intercourse and an indecent act through occupational fraudulent means or by a threat of force and against rape was strengthened in 2018 and 2020. In March 2020, the SASC was amended to strengthen punishment against acts including producing and distributing deep fake videos.

2. Investigators’ Policies for Rigorous Law Enforcement

57. As new types of violence against women, such as digital sex offenses, have emerged, and the types of violence against women which have been in the loophole of the existing system have risen up to the surface, investigators have endeavored to combat gender-based violence and to punish the perpetrators.

58. The Supreme Prosecutors’ Office (hereinafter “SPO”) instructed and educated a strict response to gender-based violence by organizing and operating a taskforce on violence against women and children, holding a joint workshop with the relevant institutions and providing capacity-building education to prosecutors dedicated to crimes against women and

children. It also plans to respond to the digital sex offenses severely by making a drastic improvement in the standard for case processing of persons who commit a crime related to videos of sexual exploitation (enforced on April 9, 2020; see Appendix Table-6).

59. The police have also put efforts to ensure safety for women. The National Police Agency (hereinafter “KNPA”) established a team led by the Director of Women Safety in May 2019 to eradicate violence against women. In the first half of 2018, all the District Police Agencies across the nation launched the Investigation Team Dedicated to Cyber Sex Offenses and the Special Investigation Team on Crimes against Women. It also mounted an intensive crackdown on malignant crimes against women, including sex offenses, domestic violence, etc., in the first half of 2018. In the second half of 2018, with the Special Crackdown on Criminals of Cyber Sex Offenses, a total of 3,847 criminals who distributed illegal pornography were arrested, 150 DNSs were blocked, and 92 webpages were shut down. In 2019, the Intensive Crackdown on Webhard-Cartels was also carried out. The Government will continue an intensive crackdown along with expanding personnel providing training on gender sensitivity.

C. Measures of Redress Granted for Victims

1. Policies to Protect Victims of Domestic Violence

60. The Government announced the Preventive Measure against Domestic Violence in late November 2018, focusing on four areas: (i) the safety and human rights protection of the victims; (ii) punishment of the perpetrators and prevention of repeated crimes; (iii) support for the victims; and (iv) preventing and raising awareness on domestic violence (for details, see Appendix Table-7).

61. In 2019, the Government allocated 8.4 billion KRW of their government budget to 128 domestic violence counseling centers which provide consultation, temporary protection, treatment and recovery, legal aid, and accompanying victims to investigations (for details on the work of the centers, see Appendix Table-8). Furthermore, as of 2018, 66 shelters across the nation are under operation to support the victims of domestic violence to be protected in a stable place, with 314 rental houses given to them to live in cohabitation. The victims of domestic violence who leave the shelters are subsidized with self-reliance allowances and medical expenses (for the status of shelters and their performance, see Appendix Table-9, 10).

62. The MOJ specifies the Special Rules for Immigrants through Marriage Victimized by Domestic Violence in the *Immigration Act* (hereinafter “ImA”) (Article 25-2 of the ImA) and marriage migrants whose marriage is severed due to domestic violence are permitted to stay in the Republic of Korea regardless of whether they raise a child.

2. Victim Protection Policies of Violence against Women in Any Form

(a) Legal Framework

63. As explained in the Fourth Periodic Report (CCPR/C/KOR/4, paras. 70, 77), the ROK enacted the *Sexual Violence Prevention and Victims Protection Act*, building a foundation for victim protection and supporting policies. The Government also amended the *Civil Act* to suspend the extinctive prescription of the right of the minors who were sexually infringed to claim compensation for damage until they reach an adult age.

(b) Policies for Supporting Victims

64. The Government provides services to victims, including consultation, temporary protection, treatment and recovery, legal aid, and escorting to investigators, at various support facilities.

65. Specifically, when victims of violent crimes, including domestic and sexual violence, incur an injury, criminal injury relief funds or medical subsidies for physical injury are granted, and medical expenses for mental status and living, school and funeral expenses are also given if necessary. For victims of violent crimes and their families, the “Smile Center,”

an institution that provides psychological treatment to heal trauma caused by criminal injuries, is being operated. As of now, 14 centers across the country are operated based on the national treasury, and its numbers are on the rise every year.

66. Especially for persons victimized by sex offenses, domestic violence, and prostitution, the Government operates the Comprehensive Support Center for Sexual Violence Victims (Sunflower Center) providing a one-stop service including counseling, treatment, legal aid, and investigation support 24 hours a day and seven days a week. As of the end of 2019, 39 Sunflower Centers are in operation and received 26,585 cases. The total number of services provided was 413,177, a 3.6% increase from the previous year (for specifics, see Appendix Table-11).

67. Considering the diversity and distinctiveness of the damage, the Government has established more facilities supporting self-reliance of the disabled which provide self-reliance education, vocational training, and job information for the disabled victimized by sex offenses.

68. Since 2018, the Government has operated the “Digital Sex Offense Victim Supporting Center” which provides counseling, support for investigation (evidence collection), deleting the data and the introduction of legal and medical support for those injured damaged by online sex offenses. For migrant women who are vulnerable due to a language barrier and unstable status, the Government provided counseling and support in 2019 through the five newly established counseling offices for migrant women victimized by violence.

69. The Counseling Office for Sexual Violence also provides counseling, referrals to medical institutes, shelter, and legal aid institutions, and escorting to investigations and trials. In addition, shelters are being operated especially for victims of sex offenses who have difficulties in normal school or social life offering residence, food, counseling, self-reliance education, and job information (for the status of the Counseling Offices and shelters, see Appendix Table-12, 13).

70. The Government also provides free legal aid in civil, domestic, and criminal cases (for the statistics of legal aid for victims of violence against women, see Table-14, 15). Furthermore, victims may receive free litigation aid via the Korea Legal Aid Corporation (hereinafter “KLAC”) and primary legal counseling from Legal Home Doctors (attorneys-at-law) dispatched to 65 regions across the nation (for the records of legal aid for domestic violence victims by the KLAC, see Table-16).

D. Measures Taken to Raise Awareness about Domestic Violence

71. The Government amended the *Act on the Prevention of Domestic Violence and Protection, etc. of Victims* on July 30, 2013, to broaden the scope of institutions required to provide domestic violence prevention education by including all government agencies.

72. Especially for law enforcement officials, the Institute of Justice offers professional education every year for prosecutors called the “professional course on the investigation of crimes against women and children” including a course on domestic violence. Courts at every level have also given the “education to prevent sexual harassment, prostitution, sex offenses, and domestic violence” twice a year since 2014.

73. To make every citizen recognize that physical assault, emotional violence, and economic control constitute domestic violence, the Government designated the Day of Domestic Violence Prevention (Bora Day: 8th of every month) and the Week for the Elimination of Domestic Violence (November 25-December 1 every year) while raising public awareness against domestic violence by running a campaign and airing a video about the prevention of domestic violence via mass media and YouTube.

E. Steps Taken to Adopt Comprehensive Strategy against Gender-Based Violence in Any Form

74. The *Framework Act on the Prevention of Violence against Women*, which specifies the responsibility of the central and local governments to prevent violence against women and protect and support victims and stipulates the comprehensive and systematic pursuit of policies to prevent violence against women, was enforced in December 2019. The Act encompasses gender-based violence in all its forms by defining violence against women as “gender-based violence against women that infringes the right to physical and mental health, safety, etc.” Pursuant to the Act, the 2020 1st basic plan to prevent violence against women and its annual implementation plan has been established.

75. The Government puts forward an enactment or an amendment to the applicable laws to combat various violence against women and to fix loopholes. In February 2018, the Government disclosed the *Comprehensive Countermeasures to Prevent Damage from Stalking and Dating Abuse* and prepared the legislation of the *Act on Punishment of Criminal Stalking, etc.* (hereinafter “APCS”) in November 2020. The legislation of the APCS specifies the “definition” and the “type” of criminal stalking and has the perpetrator face the enhanced punishment. Under the Act, the police may take emergency measures including separation of the alleged offender from the victim, while the court, when a possible repetition of the crime is acknowledged, may take a tentative measure including a restraining order and a ban on communicating with the victim. The Government will complete its effort to legislate the bill in the 21st National Assembly which started its term in 2020.

F. Measures Taken to Combat Sexual Harassment in the Workplace

1. Legal Framework

76. The Government has taken measures to combat sexual harassment in the workplace based on the EEA. In particular, it strengthened employers’ obligations with the amendment to the EEA in 2017 and the *Act on the Promotion of Employees’ Participation and Cooperation* on April 16, 2019. The revisions newly insert the obligation of employers to take protective measures for the victims of sexual harassment and to strengthen criminal punishment in the case of disadvantageous treatment against the reporter or the victim. The Center for Anonymous Report of Sexual Harassment in Workplace has operated since March 2018.

2. Policies and Measures

77. The Government formulated and implemented the *Measures to Combat Sexual Harassment and Violence in the Workplace* in collaboration with relevant ministries in November 2017. Also, a Government-wide Committee to Combat Sexual Harassment, Violence, and Digital Sex Offenses in participation with the government agencies and the private sector was launched. Furthermore, for the prompt remedy of victims, counseling centers for equality in employment run by civil organizations were increased in numbers to address local differences in accessibility (15→21 centers). The state party also plans to introduce corrective measures that can be imposed by the Labor Relations Commission, including the suspension of a disadvantage inflicted on a victim and enabling adequate compensation. Additionally, it plans to amend the EEA to have the CEO subject to criminal prosecution as a perpetrator of sexual harassment, to address the issue that if a perpetrator is a representative director of a corporation, only indirect sanctions, such as a disciplinary action, is applicable under the current EEA.

78. In addition, to strengthen monitoring, the grounds for special labor supervision on the business places where scandalous workplace sexual harassment occurred were stipulated in September 2019. The Government also imposes corrective measures and penalties on the business places which provided no education to prevent sexual harassment.

79. The public sector takes various measures against sexual harassment by providing education and operating an in-house office dedicated to eradicating workplace sexual harassment. When the MOGEF reviewed education and preventive measures against sexual

harassment in the public sector, 99.8% of 17,556 public institutions provided such education as of the end of 2019, and most of the institutions already established guidelines to deal with sexual harassment within the organization (99.9%) and the counseling window for such victims (99.6%). Furthermore, an independent report center for sexual harassment and violence is run outside the institutions, supporting them to handle sexual harassment and violence cases not resolved on their own.

G. Measures Taken to Combat Use of Spycams in Public Bathrooms in a Manner Infringing on Women’s Privacy

80. The Government agencies jointly announced the *Comprehensive Countermeasures to Prevent Damage of Digital Sex Offenses* in September 2017. It revised the concept of “publicly used places” subject to the prohibition of intrusion with intent to satisfy sexual urges into “any publicly used place used by many and unspecified people including a toilet, public bath, bathroom, sweating room, breastfeeding facilities, and dressing room” under the SASC in September 2017, to specify that an intrusion upon a public toilet for sexual purposes may face punishment. The Act was also amended and implemented to put heavier punishment on the acts unlawfully taking and distributing photographs and to punish the persons who distribute its duplicates.

H. Steps Taken to Comply with Constitutional Court Ruling on Abortion

81. In April 2019, the Constitutional Court decided nonconformity to the Constitution on the crime of abortion provided in the CrA. Since then, the relevant Ministries have collected opinions of stakeholders and experts, held meetings and operating advisory bodies in various fields, and consequently submitted to the National Assembly the bill including the time periods, grounds, and procedural requirements for legal abortion in November 2020.

82. Before the laws are amended, the Government tries to provide accurate information about abortion and hire more professional counselors in the Counseling Office for Emergency Pregnancy to help address physical and mental difficulties after the operation. Furthermore, more contraception education will be provided for adolescents out of schools and adults. The Government also plans to consider allowing the use of medicine for a spontaneous loss of a pregnancy as the aforementioned legislation takes place.

Issue 9

83. Article 2 (Definitions) of the *Act on Counter-Terrorism for the Protection of Citizens and Public Security* (hereinafter “CTA”) enacted and implemented on March 3, 2016 defines “terrorism” as any of the following conduct carried out for the purpose of impeding the exercise of the authority of the State, a local government, or a foreign government, or to cause it to conduct any affair which is not obligatory on it or threaten the public. The definition of “terrorism” in the CTA referred to the *International Convention for the Suppression of the Financing of Terrorism* and the UN Security Council resolution against the proliferation of weapons of mass destruction. It also incorporated Article 28 of the Report of the Special Rapporteur on countering terrorism (A/HRC/16/51), which the Committee mentioned in the previous Concluding Observations, and Article 3 of the UN Security Council Resolution 1566 (2004):

- (a) Killing a human or posing a risk to a person's life by causing bodily injury or arresting, confining, kidnapping, inducing, or taking hostage of a person;
- (b) Any of the following conduct engaged in an aircraft:
 - (i) Crashing, capsizing, or damaging an aircraft in flight, and any other act of destruction that may endanger the safety of an aircraft in flight;
 - (ii) Hijacking an aircraft in flight or forcing its flight by violence, threat, or any other means;

- (iii) Impeding the safe flight by damaging aviation facilities related to the flight or by impeding the operation of such aviation facilities;
- (c) Any of the following conduct related to a ship or a marine structure;
 - (i) Destroying a ship or marine structure in operation or inflicting damage thereon to the degree that endangers the safety thereof;
 - (ii) Seizing a ship or marine structure in operation or coercing a ship to operate by violence, threat, or any other means;
 - (iii) Destroying, seriously damaging, or causing the malfunction of any equipment or facility related to the operation of a ship with intent to endanger the safety of the ship in operation;
- (d) Placing, detonating, or using in any other way a biochemical, explosive, or incendiary weapon or device made to cause death, serious injury, or serious material damage or having such power on any of the following vehicles or facilities;
 - (i) Vehicles used by the public for transporting humans or goods, such as trains, trams, and motor vehicles;
 - (ii) Facilities or roads used for the operation of the vehicles falling under subitem (i), parks, stations, and other facilities used by the public;
 - (iii) Facilities to supply electricity or gas, waterworks supplying drinking water for the public, facilities for the use of telecommunications, and other facilities provided for common use or used by the public;
 - (iv) Facilities for processing, transporting, or storing of raw materials of oil, flammable gas, coal, other fuels, etc. to manufacture or refine them or to make fuel therefrom;
 - (v) Structures, aircrafts, and ships to which the public can have access, excluding the facilities falling under subitems (i) through (iv);
- (e) Any of the following acts related to nuclear materials, radioactive materials, or nuclear facilities;
 - (i) Harming human lives, bodies, or property, or otherwise disturbing public safety by destroying a nuclear reactor;
 - (ii) Endangering human lives or bodies by wrongfully manipulating radioactive materials, etc., a nuclear reactor and its related facilities, nuclear fuel cycle facilities, or radiation generating devices;
 - (iii) Accepting, carrying, possessing, keeping, using, transporting, remodeling, disposing of, or dispersing nuclear materials;
 - (iv) Emitting radioactive materials or exposing radiation by destroying or damaging nuclear materials or nuclear facilities or causing such destruction or damage, or by impeding normal operation of nuclear facilities.

84. Cyber terrorism is not included in the definition provision of the current CTA, and there exists no domestic law which puts aggravated punishment specifically on cyber terrorism or allows disposition beyond the laws and regulations on criminal investigation.

85. It is ensured that the counter-terrorism act and its practice are applicable to terrorism alone with Article 2 of the CTA clearly and specifically defining terrorism, terrorist groups, terrorist suspects, and counter-terrorism activities. The collection of information on suspected terrorists, such as their entry or departure, financial transactions, and telecommunications, shall be subject to the requirements and procedures provided in other laws including the *ImA*, the *Customs Act*, the *Protection of Communications Secrets Act*, etc. Additionally, the Government handles the crime of terrorism pursuant to the procedure provided in the Criminal Procedure Act (hereinafter “CPA”) which prescribes due process regarding arrest or detention, access to counsel, presumption of innocence, special protection of minors, and the *non bis in idem* principle.

86. There are comprehensive means to protect human rights and prevent the risks of arbitrary interference with privacy, including the counter-terrorism human rights protection office to prevent the violation of basic human rights affected by counter-terrorism activities and the provision of aggravated punishment when public officials of intelligent and investigative institutions make false accusations, commit perjury, or forge evidence of the crime of forming terrorist groups.

Issue 10

87. The Government respects the purpose of the Second Optional Protocol that the State shall take all necessary measures to protect the lives of persons, and has not executed the death penalty since 1997, recognized as a *de facto* abolitionist state by the international community. However, as the death penalty is a significant issue related with the foundation of the punitive authority of the state, the Government plans to comprehensively review the public opinion about the death penalty, its function in terms of criminal justice, overseas trends, and related recommendations by international institutions.

Issue 11

A. Efforts to Prevent Suicides

88. The Government has formulated a five-year basic plan to prevent suicides since 2004. The Government drafted the *Master Plan for the Prevention of Suicides* in 2018 with the participation of 19 ministries. The Plan includes 62 tasks in six areas as of 2019. The Plan was based on five years of thorough research on 70,000 persons who died by suicide. It is mainly about the following: i) to nurture “life guardians against suicides” in local communities in identifying the persons at high risk, ii) to strengthen the connection between social security services and mental health services, iii) to intensify examination on depression within the national health examination, iv) to ensure access to mental health services, including a hotline devoted to suicide prevention, v) to prohibit the online distribution of harmful information about suicide, vi) to expand post-management on persons who attempted suicide, and vii) to take measures to prevent suicides by groups at high risk for suicides.

89. Institutional infrastructure for the prevention of suicide is continuously expanded. For effective government-wide policies, the Government launched the Suicide Prevention Policy Committee in which the Prime Minister serves as the chairperson, joined by 12 ministries and related civil experts. It plans to address the fundamental cause of suicide by enhancing social security and support for high-risk groups. It also conducted two complete surveys on every death by suicide (first: 2013–2017, second: 2018–2019) to identify the underlying cause. Based on the findings thereof, the Government will enhance its crisis intervention given each risk factor and inherent vulnerability of target groups.

B. Statistics on Number of Suicides

90. The updated disaggregated statistics on the number of suicides is as follows (announced in September 2019).

Suicide Rate and Number of Deaths in Suicide by Gender and Age in 2018 (persons per 100,000 persons, persons)

	Gender			Age								
	Total	Men	Women	1-9	10-19	20-29	30-39	40-49	50-59	60-69	70-79	80 or over
Suicide Rate	26.6	38.5	14.8	0.0	5.8	17.6	27.5	31.5	33.4	32.9	48.9	69.8
No. of Deaths in Suicide	13 670	9 862	3 808	0	301	1 192	1 998	2 676	2 812	1 880	1 664	1 147

91. The status of suicides in the military is as follows:

	2016	2017	2018	2019
No. of Deaths in Suicide	54	51	56	62
Gender				
Men	52	50	56	60
Women	2	1		2
Age				
20-29	34	37	37	43
30-39	12	6	9	10
40 or over	8	8	10	9

Issue 12

A. Punishment on Torture and Ill-Treatment

92. Article 125 of the CrA punishes an act of violence or cruelty against a criminal suspect or others, committed by a person who performs or assists activities concerning judgment, prosecution, police, or other functions involving the restraint of the human body. The provision classifies all acts of torture or ill-treatment as criminal offenses, as “violence” mean the exercise of force and “cruelty” means all kinds of acts inflicting mental or physical pain. As torture may also be punished under Article 124 (Unlawful Arrest and Unlawful Confinement) of the CrA, Article 4-2 (Aggravated Punishment of Arrest, Confinement, etc.) of the *Act on the Aggravated Punishment, etc. of Specific Crimes* (hereinafter, “AAP”) and others, the Government will closely review if a new provision defining torture is necessary.

93. The status of torture or ill-treatment cases investigated and prosecuted upon receipts including litigation between 2014 and 2018 is provided in the Table below.

Table: Status of Receipts including Litigation and Prosecution related to Torture or Ill-Treatment (2014-2018)

	Receipt	Proceedings						
		Total	Claim for formal trial		Claim for summary order	Non-prosecution	Etc.	
			Detained	Not detained				
2014	(1)	403	399	0	3	0	392	4
	(2)	970	955	0	1	0	885	69
	(3)	0	0	0	0	0	0	0
	(4)	171	190	0	0	0	178	12
2015	(1)	402	450	0	0	0	443	7
	(2)	853	877	0	1	0	798	78
	(3)	0	0	0	0	0	0	0
	(4)	123	153	0	0	0	153	0

		Proceedings						
		Receipt	Total	Claim for formal trial		Claim for summary order	Non-prosecution	Etc.
				Detained	Not detained			
2016	(1)	463	451	0	0	0	442	9
	(2)	885	881	0	2	0	811	68
	(3)	3	3	0	0	0	3	0
	(4)	165	157	0	2	0	144	11
2017	(1)	564	595	0	0	0	572	23
	(2)	1 017	1 043	0	1	0	923	119
	(3)	0	0	0	0	0	0	0
	(4)	103	124	0	1	0	112	11
2018	(1)	703	721	0	0	0	650	71
	(2)	1 021	1 051	0	2	0	911	138
	(3)	5	5	0	0	0	5	0
	(4)	119	122	0	1	0	117	4

B. Limits on Use of All-Night Interrogations

94. The KNPA prohibits all-night interrogations in the *Rules on Criminal Investigation*, a KNPA directive, to protect human rights under the investigative procedures. The prosecutors also have enacted *Investigative Rules for Human Rights Protection* (MOJ Ordinance) on October 2019 which “prohibits investigations after 9 p.m. in principle” and allows such investigation only for exceptional cases when a “written request” by the person under investigation and permission by the human rights protection officer of the relevant prosecutors’ office is issued.

C. Remedies Provided for Victims of Criminal Torture Including Rehabilitation and Compensation

95. The Constitution and domestic laws guarantee the right to claim adequate compensation of the victims of torture or ill-treatment and the bereaved families, and accordingly, the victims or their families may claim for state compensation, criminal compensation, crime victim relief fund, or civil damage compensation. Nonetheless, there are no official statistics on state compensation paid specifically to the victims of torture.

96. Under the procedures of the Crime Victim Protection Act (hereinafter “CVPA”), the victims of criminal torture may be provided with financial support, including medical expenses, psychological treatment at the Smile Center, and legal aid. They may also receive litigation aid and primary legal counseling with Legal Home-Doctors dispatched across the nation. Nonetheless, there are no official statistics specifically on torture victims but on crime victims in general.

97. Furthermore, the Government selected the “establishment of legal grounds for torture prevention and victim support” as part of its National Agenda. To that end, the MOJ commissioned research on international human rights standards on torture prevention and remedies, including the Convention against Torture and laws of foreign countries, and drafted the *Bill on Torture Prevention and Compensation and Support for Torture Victims* based thereon and plans to put forward the legislation procedure.

98. The Government commenced the project supporting professional treatment service for the victims and their families struggling from mental and physical trauma caused by state violence in 2020. It conducted the commissioned *Research on the Measures to Establish the National State Violence Trauma Treatment Center* in 2019 and built the Center based on the

result. As of 2020, it started the project supporting treatment for the elderly who urgently need treatment.

D. Independent Mechanism to Investigate Allegations of Torture and Ill-Treatment

99. The authority of the NHRC as an independent national human rights institute is explained in the last Periodic Report (CCPR/C/KOR/4, para.123). The statistics of relevant petitions received and proceeded by the NHRC between 2016 and September 2019 is shown in Appendix Table-17, 18.

100. The Human Rights Bureau of the MOJ is operating the Human Rights Violation Reporting Center as mentioned in the last Periodic Report (CCPR/C/KOR/4, para.124). It conducts an independent investigation when a human rights violation, including torture and ill-treatment, is suspected throughout information collection activities, including a survey, on-site inspection, and intelligence collection, on various detention and protection facilities under the MOJ (prison, detention center, immigration detention center, immigration office, juvenile detention center, the Institute of Forensic Psychiatry, etc.); and may take remedy measures, including requests for criminal investigation, disciplinary action, guiding the victims to state compensation and legal aid, and recommendations to improve institutions, when an act of human rights violation is acknowledged.

101. Prosecutors' Offices at every level also have an Inspection Department or prosecutors in charge that investigate responsible public officials when ill-treatment occurs, which operates as an independent mechanism in no organizational or hierarchical relations with alleged perpetrators.

102. When acts of ill-treatment or torture (including mental harassment) is acknowledged, as Article 125 of the CrA stipulates the punishment on acts of cruelty, such acts are investigated by prosecutors and then indicted to the court. Such acts are also subject to disciplinary action pursuant to the applicable laws.

E. Comments on Reports of Torture and Ill-Treatment at Centre for Protection of DPRK Defectors

103. Some civic groups had raised an allegation about suppressive inspection and solitary confinement in the process of temporary protection and investigation of North Korean defectors. To remove any such risks, the Centre for Protection of DPRK Defectors (hereinafter "Centre") reformed the procedures by separating the criminal inspection department from protection and investigation of North Koreans in 2014, suspending the authority to inspect crimes from the investigators participating in the process, installing an open investigation room, and removing the practice of staying in a single room.

104. In particular, since October 2014, the Centre has appointed external lawyers recommended by the Korean Bar Association as human rights protection officers (hereinafter "the officers"). With independency, they give advice on human rights protection of North Korean applicants for protection, and engage in human rights protection activities for North Korean defectors, including human rights education for employees of the Centre. To be specific, the officers inspect the investigation and living rooms in the Centre and deal with petitions related to human rights raised by North Korean defectors. They also have the authority to meet with North Korean defectors after checking the suggestion box which can be opened only by them and to regularly talk with the defectors who applied for counseling. The authority and duties of human rights protection officers are stipulated in the *Enforcement Decree of the North Korean Refugees Protection and Settlement Support Act* (hereinafter "NKA").

Issue 13

A. Measures Taken to Address and Prevent Human Rights Abuses in the Military

105. To prevent violence, sex offenses, ill-treatment, and others in the military, the Government amended the MCA in 2016 to punish violence and intimidation between soldiers regardless of the consent of the victim. The standard for disciplinary action against violence and ill-treatment is newly established on March 29 to have stricter sanctions. Furthermore, the *Framework Act on Military Status and Service* (hereinafter “FAMS”) obligates training soldiers on human rights and the remedy procedure, etc. and stipulates the duty to report the case of violence or harsh treatment and the measure to protect the informant.

106. The MND has conducted mandatory training to prevent major types of violence since 2013. Training on gender awareness and equality has also strengthened and its completion is considered in promotions. It also established the *MND Gender Equality Committee* on September 2018, including external experts to raise gender awareness in the military. An Investigation on Sex Offenses in the Military was conducted in 2019 to diagnose the perception of soldiers, damage status, and needs for improved policies. And, more public officials specialized in addressing sexual violence were hired.

107. The Government selected the installation of the “Office of Human Rights Protection in Military” as part of its National Agenda, and is trying to launch the Office under the NHRC.

B. Statistics on Number of Complaints Received and Soldiers Detained in “Guardhouse”

108. The *Military Personnel Management Act* was amended to abolish detention in guardhouses in August 2020. The MND, accordingly, no longer detains people in guardhouses.

109. Statistics on investigation and punishment on human rights violation in the military and the status of guardhouse detention recently executed are shown in the following Table.

Table: Statistics on Investigation and Punishment on Human Rights Violation in Military (period: 01/01/16-31/10/19 / Unit: case)

	Year	Complaints	Results of Complaints Proceeded
		Proceeded/Received	No. of Complaints Accepted (No. of Requests for Investigation/Disciplinary Action)
MND	2016	23/23	10(0/1)
	2017	24/24	15(0/2)
	2018	32/32	5(0/2)
	2019	12/12	1(0/0)
Army	2016	18/18	2(0/0)
	2017	25/25	5(0/0)
	2018	29/29	8(0/0)
	2019	30/31 (1 in proceedings)	6(0/1)
Navy (Marine Corps. Included)	2016	3/3	3(0/0)
	2017	4/4	2(0/0)
	2018	7/7	3(0/2)
	2019	9/10 (1 in proceedings)	4(0/3)

	Year	Complaints	Results of Complaints Proceeded
		Proceeded/Received	No. of Complaints Accepted (No. of Requests for Investigation/Disciplinary Action)
Air Force	2016	11/11	1(0/0)
	2017	1/1	0
	2018	5/5	1(0/0)
		6/5	
	2019	(1 in proceedings)	2(0/0)

Table: Status of Guardhouse Detention in Past Five Years

	2014	2015	2016	2017	2018	2019
Army	13 696	11 910	10 185	8 468	6 666	3 765
Air Force	1 389	1 144	1 096	1 003	1 071	608
Navy	259	358	369	478	571	335
Total	15 344	13 412	11 650	9 949	8 308	4 708

C. Confidentiality of Complaints

110. Pursuant to the FAMS, the Government keeps the informant who files a report or petition confidential. A person who discloses the informant's personal information or any facts implying the informant's identity shall be subject to criminal punishment. No person shall give any job-related disadvantage, such as disciplinary measure, etc., to any informant by reason of the report, etc. The *Directive on Punishment against Soldiers and Civilian Military Employees* requires disciplinary action unless there are justifiable grounds, in cases where a person violates the rules by giving the informant disadvantageous treatment, or disclosing his/her personal information.

Issue 14

A. Measures Taken to Prevent and Eradicate Trafficking in Persons

111. The Government strives to prevent human rights violations, such as trafficking and labor exploitation, by having public institutions manage the overall process of employing immigrant workers. It provides employment education, including labor rights laws, before and after they arrive in the Republic of Korea for them to recognize their rights as well as translation and counseling services through the Counseling Center for Foreign Workers and the Korea Support Center for Foreign Workers (44 centers). For effective monitoring, it increased 1,178 labor inspectors between 2017 and 2019 (see Appendix Table-19). They pre-select business places with higher potential to exploit labor of vulnerable persons and conduct labor inspections on working conditions, including long work hours, violence, and minimum wage. When any violation is detected, employers face rigorous disposition, including criminal punishment. As a result, 22,574 and 26,082 places of business were inspected and a total of 58,692 and 70,009 violation cases were detected in 2017 and 2018, respectively.

112. To protect the human rights of migrant women granted with Art and Entertainment (E-6) visas, due to high concerns over possible trafficking, a joint crackdown group of ministries, including the KNPA, has conducted random inspection and crackdown on entertainment businesses where migrant entertainers are working. The MOJ, to prevent and eradicate trafficking against immigrants, not only with E-6 visa but under the Visa Exemption Agreement, operates the regular crackdown period on unlawful entertainment and massage businesses and illegal employment mediators. In November 2019, the Government signed an MOU with the Government of the Kingdom of Thailand to encourage orderly immigration,

and intergovernmental efforts will be continued to address the issue by signing MOUs with the Republic of Kazakhstan and the Socialist Republic of Vietnam.

113. Furthermore, to address difficulties in recognizing trafficking cases caused by agencies, such as a performance organizer representing foreigners in application for permission of stay, the MOJ abolishes the provision on agency of administrative task. Also, the foreigner who visits the Regional Immigration Service to apply for an extension of period of stay is required to complete the list of indicators identifying the victims of trafficking and to check whether being covered by health insurance. The MOJ will step up the effort by distributing guidance on seeking a remedy against human rights violations and contact information of related NGOs to immigrants who file for issue of visa, foreign registration, or an extension of period of stay.

B. Mechanisms to Identify and Support Victims of Trafficking

114. In the ROK, prostitution by the victims of sexual trafficking as well as compelled actions provided in Article 12 of the CrA is not punishable.

115. The prosecutors actively utilize the “Indicators of Identification and Protection of Victims of Trafficking” published by the NHRC and the “Guidelines on Human Rights Protection of Victims of Prostitution” sponsored by the MOGEF in inspection of the crime of prostitution. It also provides collective education for prosecutors dedicated to women and children on criminal procedures and identification of and support for victims twice a year.

116. The Government supports foreign victims of sex trafficking to receive counseling, medical and legal services, residence, etc. Victims of trafficking who meet the requirements under the CVPA may receive financial support, including medical expenses, psychological treatment at the Smile Center, and legal aid from the KLAC. They may temporarily stay in a protection facility and victims in danger of retaliation may be given GPS trackers. For communication of foreign victims during the investigation or the immigration process, the Government provides interpretation and translation services through Danuri Helpline and a person to accompany the victim to the investigation in trust.

117. Under the ImA, any public official that finds an undocumented resident in the course of performing his/her duties shall notify the head of the Regional Immigration Service. However, to prevent the situation where an undocumented foreigner cannot report criminal injury in fear of expulsion or where a crime occurs taking advantage of such a situation, the obligation to notify is exempted when remedying of an injury is deemed to be priority for the foreigner. Foreign victims of trafficking are also subject to the exemption. The Government expanded the scope of the rule to the whole officials and amended the *Enforcement Rules of the ImA* to clarify the legal grounds therefor.

C. Definition of Trafficking and Measures Taken to Punish Perpetrators of Trafficking Appropriately

118. The ROK introduced the crime of comprehensive trafficking in persons in the CrA on April 5, 2013. The provision on trafficking in persons (Article 289) was newly inserted to implement the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (hereinafter “Palermo Protocol”), and considering that trafficking constitutes crimes against humanity, the provision on universality (Article 296-2) was also inserted to punish a foreigner who committed trafficking outside the territory of the ROK. Meanwhile, the punishment on trafficking in children for the purpose of sex act is separately set forth in the APCY enforced in June 2013. The APST also stipulate punishment on forced prostitution and sexual trafficking.

119. Furthermore, in reflection of concerns and recommendations by international human rights organizations on the narrow definition of trafficking under the CrA and insufficient punishment on perpetrators, the Government is preparing a draft of the “Act on Prevention of Trafficking and Protection of Victims, etc.” It organized a taskforce led by the MOGEF in 2020 to draft the bill and will submit the bill to the National Assembly after examining the

definition of trafficking in the international norms, the protection for victims of trafficking including foreigners, and the needs to establish an inter-ministerial coordinating body.

120. Persons who committed trafficking have been strictly treated with detention in principle. The statistics on prosecution of trafficking criminals is shown in Table below:

Table: Status of Trafficking Cases (unit: person)

	Proceedings						
	Receipt	Disposition	Claim for formal trial		Claim for summary order	Non-prosecution	Etc.
			Detained	Not detained			
2015	468	487	81	76	0	150	180
2016	566	572	108	91	0	190	183
2017	452	416	78	65	3	121	149
2018	383	386	57	83	1	110	135
2019	395	406	50	72	0	116	168

D. Change in Employer under the EPS

121. When a migrant worker is, under social norms, not able to continue to work in the business on grounds not attributable to the worker, change in employer is permitted regardless of the number of times pursuant to the *Act on the Employment, etc. of Foreign Workers*. However, in other cases, a limit on change of workplace, to some extent, is inevitable given the characteristics of the system in which a visa is issued to a foreigner in assumption with an employment contract with a certain employer.

122. The Government has continuously improved the system by expanding the grounds for workers to change their employer and not to be counted as a change of business, to protect the rights of migrant workers. With such an improvement, the number of foreign workers who changed their employer has more than tripled (18,867 cases in 2016→51,913 cases in 2019). Especially in 2018 and 2019, the official notice on the *Reasons for Changes of Business Places Which is Not Attributable to Foreign Workers* was amended for three times to expand the scope of sexual harassment, sex offenses, and sexual violence (for specifics, see Appendix Table-20). However, allowing a change in employer without any limits may hinder the fulfillment of the purpose of the EPS to supply foreign workers to the firms in difficulty hiring domestic workers.

Issue 15

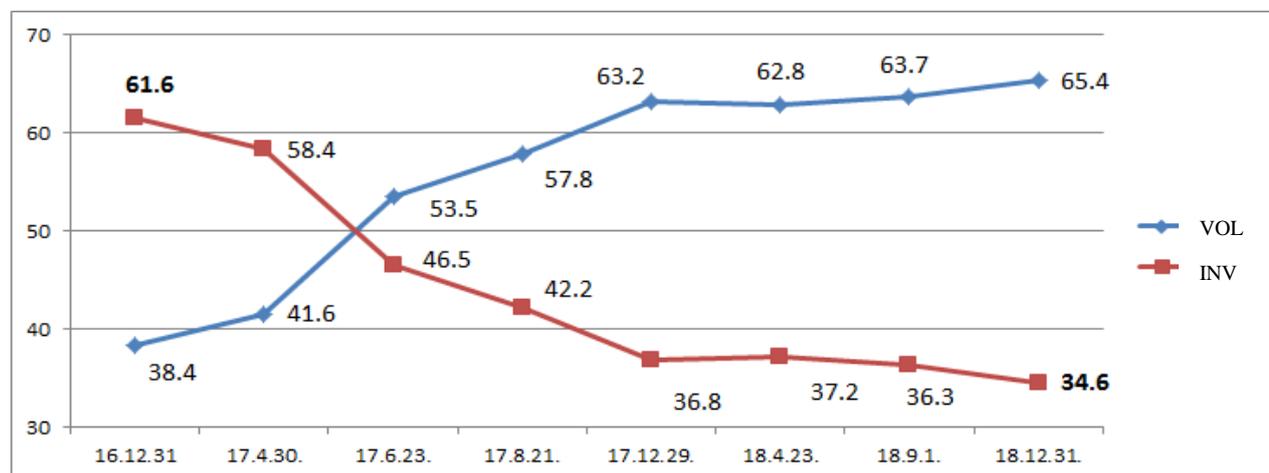
123. The Government wholly amended the *Act on the Improvement of Mental Health and the Support for Welfare Services for Mental Patients* in 2016, improving the procedure of involuntary hospitalization of mental patients.

124. To strictly follow the principle of necessity and proportionality, the Government introduced the system of diagnostic hospital admission for two weeks prior to hospitalization, and allows continuous hospitalization only where there is a consensus among two or more psychiatrists during the period of diagnostic admission on i) necessity for inpatient care and ii) necessity for hospitalization because the person is likely to harm his/her own health or safety or that of another.

125. It also introduced the system that a Committee for Examination on Legitimacy of Admission, comprised of legal professionals, psychiatrists, a mentally-ill person, and his/her family members, examines the legitimacy of hospitalization. The head of a psychiatric institution shall give notice to the Committee within three days from the date of hospitalization, and the Committee shall report its decision within one month. Under the amended Act, the investigators of the Committee may interview a person with mental illness,

face to face, upon request or by the power of the head of the committee, to better respect the will of the hospitalized.

126. The initial period of involuntary hospitalization shall not exceed three months, and deliberation of a Mental Health Deliberation Committee, comprised of legal professionals, psychiatrists, a mentally-ill person, and his/her family members, is required to extend the hospitalization period. After the enforcement of the amended Act on May 30, 2017, the ratio of involuntary hospitalization among the total in-patients in psychiatric institutions is changed as below. For detailed figures, see Appendix Table-23.



* Voluntary hospitalization refers to voluntary or consented admission to a hospital while involuntary hospitalization includes protective hospitalization (by legal guardians) or administrative hospitalization.

Issue 16

A. Steps Taken to Reduce Overcrowding and to Improve Detention Conditions in Police Cells

127. To address overcrowding, the MOJ is establishing and moving correctional facilities, remodeling underused places, and enlarging accommodating buildings. It also tries adjusting the classification of correctional facilities located in major cities and scattering inmates to other provinces. It puts efforts to reduce overcrowding by giving more opportunities of parole to exemplary prisoners, socially marginalized persons (patients, the disabled, the elderly, etc.), and persons who committed a crime to make ends meet. As a result, the occupancy rate to capacity has diminished from 114.5% in 2019 to 113.8% in 2018. For better treatment of protected juveniles, with modernization of facilities from 2013, the living quarters of five out of the total eleven juvenile reformatories across the nation were rebuilt to house four or less people from the previous 10 to 15 people.

128. The KNPA has improved the accommodation environment of 34 detention rooms between 2013 and 2019. In 2018, it made restrooms at all detention rooms human rights-friendly, and in 2019, reception rooms for counsels were built. The applicable rules were revised to guarantee the right to meet and communicate with visitors and counselors and medical treatment at a hospital and providing human rights education to detainee protection officers.

129. The Government shut down all substitute cells of the police station which raised worries over human rights violations, and all the unconvicted inmates will be transferred to correctional facilities by 2020. A substitute cell is a short-term detention facility keeping unconvicted inmates within the police station when there exists no correctional facility within its jurisdiction and the human rights institutions including the Committee against Torture have recommended its end. The Government has moved inmates at substitute cells to newly

built correctional facilities and plans to transfer all the remaining inmates at four substitute cells within 2020.

B. Statistics on Number of Persons Who Have Died in Detention

130. The number of persons who have died in places of detention and the causes of death is as follows. When an inmate dies, special judicial police officers of the correctional facility is ordered by prosecutors to take steps, including an autopsy. When the death of the inmate is attributable to the violation of duties of prison officers, the regional correction headquarters, a superior supervisory institute, implements on-site investigation on the deaths and what exactly the officers did on duty. For the last three years, out of 98 deaths in detention, an autopsy was performed for every case to clear up any doubts about the cause of death unless bereaved families refused to consent or doctors saw it unnecessary. Among which, investigations were conducted for 18 cases, including suicide, and for three cases in which unreasonable line of work was spotted, sanctions, such as discipline, were imposed on the officials.

Deaths in Detention (with Cause of Death) and Investigation Findings (unit: person)

Category Year	Cause of Death								
	Total	Disease							
		Subtotal	Cardiovascular	Digestive	Respiratory	Liver Disease	Cancer	Others (Infectious Disease, etc.)	Suicide
2017	22	20	14		1	2	2	1	2
2018	40	33	22	1	2	1	1	6	7
2019	36	28	11		4	2	4	7	8

C. Use of Solitary Confinement and Protective Devices

131. According to the resolution of the disciplinary committee, solitary confinement for up to 30 days is imposed based on the gravity of the violation, and when there are grounds for aggravation, up to 1/2 of the period may be increased. The MOJ is looking for ways to shorten the maximum period in conformity with international human rights standards.

132. As for the use of protective devices, the requirements are strictly set in the *Administration and Treatment of Correctional Institution Inmates Act* (hereinafter “CIIA”). Camcorders, body cameras, and other video equipment have to be used in principle when using protective devices or compulsory force. Article 183 of the Enforcement Rules of the same Act requires the corrective institutions to record and review three times a day whether protective devices were used, and they are also obliged to observe and record the status of inmates wearing a protective device every hour.

133. Inmates may, when considering the use of solitary confinement or protective devices against them to be unlawful and unfair, take various steps to seek remedy by raising a complaint to the NHRC, a petition to the Minister of Justice, an administrative trial, a state compensation, a criminal accusation, and others.

Issue 17

A. Detainee’s Access to Counsel

134. In the ROK, the right to counsel is guaranteed in any type of criminal investigation, regardless of whether the suspect is in custody, provided that it may exceptionally be limited when the counsel unlawfully hinders the investigation. The reasons for such limits are clearly specified in the *Rules on Access and Participation of Counsel* and the *Operating Guidelines*

on *Participation of Counsel in Interrogation of a Suspect*, preventing any inappropriate exclusion of counsel.

135. The SPO amended the Operating Guidelines above in December 2017 to insert the provision under which counsel may raise an appeal against unfair interrogation during the interrogation, and enforced the *Guidelines on Meeting and Communicating of Counsel with Suspect, etc.* in May 2019 which thoroughly reiterate the counsel's right to meet and communicate with detainees. In October 2019, it announced the measures mainly about minimizing the limits on participation of counsel in investigation, granting counsel opportunity to make a direct oral statement to prosecutors. Stipulating these measures, in November 2019, the *Operating Guidelines on Participation of Counsel in Interrogation and Investigation* (SPO's Established Rules) was enforced. In January 2020, the *Public Prosecutors' Office Rules* (MOJ Ordinance) were revised to allow counsels to take notes without restriction during interrogation and to clarify the reasons to limit the participation of counsel as the destruction of evidence, an accomplice to an escape and damage to an important witness.

136. Especially for detainees, Article 12(4) of the Constitution stipulates that any person who is arrested or detained shall have the right to prompt assistance of counsel, whereas Article 84 of the CIIA regulates that a correctional officer may not take part in a meeting with counsel, and that time and frequency of the meeting shall be unlimited.

137. The Government submitted an amended bill of the *Legal Aid Act* and the CPA under which a court-appointed defense attorney is provided when minors, those of deaf and hard-of-hearing and the mentally and physically disabled or felony suspects convicted of capital punishment, life imprisonment or longer imprisonment than three years are arrested.

B. Rights Protection for North Korean Defectors

138. The investigation of North Korean defectors by the National Intelligence Service (hereinafter "NIS") is an administrative procedure to determine whether to protect and support them pursuant to the NKA, not for punishment. The Government deems temporary protection for North Korean refugees not as forced detention since it may be commenced or ended on the free will of the defectors who applied for the protection.

139. Nevertheless, the NIS helps the defectors fully receive the assistance of legal experts in the process of temporary protection and investigation by appointing external attorneys as human rights protection officers to monitor human rights violations and to ensure the defectors in need of legal assistance to receive one-on-one counseling.

140. The Government revised the *Enforcement Decree of the NKA* in February 2018 to shorten the period of temporary protection of North Korean defectors which had been up to 180 days from their entry to "up to 90 days from their entry in principle." The NGO report submitted to the Committee in June 2019 states that "even though the revisions reduced the maximum investigation period to three months, indefinite detention is still possible with no limit of the period for decision on protection" but this is not true. Upon the end of the temporary protection and investigation at the NIS's Centre, the defectors leave to the Hanawon operated by the MU. The determination on whether to protect North Korean defectors falls under the authority of the Minister of Unification, not the NIS, and is made while they are living in the Hanawon. Accordingly, upon the end of the temporary protection and investigation, they immediately start to live in the Hanawon, so indefinite protection is not possible. The actual period of temporary protection for the defectors is about 60 days on average.

141. Pursuant to the established NIS's internal guidelines mandated by the Enforcement Decree of the NKA, North Korean defectors may contact their family members via phone call or meeting during the temporary protection.

C. Measures Taken to Ensure that Review of Deportation Has Suspensive Effect Before North Korean Defectors are Deported to Third Countries

142. North Koreans who applied for temporary protection according to the NKA have never been deported to the third countries.

Issue 18

A. Improvement of Conditions of Immigration Detention Facilities and Regular Monitoring

143. For physical and mental health of the foreigners under detention, an in-house physician regularly conducts medical consultations, and they are allowed to receive external treatment if they want. Psychology counselors have been dispatched to three detention facilities since April 2019 (see Appendix Table-2). The foreign detainees can exercise outdoors, five times a week, and the *Donggam Program* offers various courses for mental relief (for the details of the Program, see Appendix Table-22). A certified hygienist manages the overall sanitary in the facility. The Government also allows foreigners to use a PC with Internet access at immigration detention facilities from August 2018.

144. The NHRC may investigate claims of a human rights violation or a discriminatory act by its authority or by request of a detained foreigner, and may visit detention facilities and meet detainees any time if needed. The Human Rights Bureau of the MOJ also regularly inspects the detention facilities. Immigration and other detention facilities install a public telephone and provide contact information on the Embassies and on the remedy institutions. Some facilities also designate officials to help foreigners address their grievances such as overdue wages before they go back to their country. In particular, the Hwaseong Immigration Processing Center helps the detainees get paid by raising a petition directly or via a labor attorney to the MOEL and aids the remedy procedure afterwards including litigation.

B. Limit on Period of Immigration Detention

145. As of 2019, the detention period on average was 9.6 days, a decrease from 10.1 days. The following measures are taken to shorten the detention period. The procedure applied when the protection period of longer than three months which requires approval from the Minister of Justice was strengthened. Starting from 2020, a person with the authority to extend of detention period must have a direct meeting with a detainee and listen to the opinion of the detention facility. Whether to prolong the protection period of a foreign detainee for one year or longer shall be deliberated once again by the Deliberation Committee on Long-Term Immigration Detention including independent experts.

146. A temporary lift of detention is considered as an alternative to detention for a detained foreigner with humanitarian reasons such as illness, the need to collect debt, or to meet family members in the Republic of Korea. An MOJ Directive, the *Regulations on Processing Temporary Release from Detention*, is undergoing amendment under which preferential consideration in the lift would be whether such detained foreigners are the elderly or minors who are eligible for special protection under the ImA. The Government will put more efforts to implement an alternative to detention for refugee applicants and litigation performers.

C. Detention of Children

147. Pursuant to the *Rules on Immigration Detention*, the Government strictly restricts the detention of children aged 14 and under and restrains the holding of those aged 18 and under as much as possible. It also prevents long-term detention even of those who are inevitably detained for a criminal offense through a regular meeting with a specially-designated public official, and inevitably detained children shall be given special care, including by designating a special room with subsidiary facilities. The period of detention is also minimized by

temporarily lifting the detention of the child or the parent. The ImA is being revised to stipulate the principle of prohibiting the detention of criminal minors. The detention period of foreign children is shown in Table below:

Table: Status of foreign minors by detention period (unit: person)

	2015	2016	2017	2018	2019
Total	54	70	55	78	69
One day or shorter	9	13	4	7	6
10 days or shorter	33	47	35	54	46
Between 11 and 20 days	7	6	12	16	9
Between 21 and 30 days	2	4	4	1	4
31 days or longer	3	-	-	-	4

* “One day or shorter” refers to the case where the detention is lifted right after the detention is imposed.

* There exist some cases where those tried in violation of the criminal code are unavoidably detained for 31 days or longer.

D. Waiting Facilities in Airports or Other Ports of Entry

148. There is no detention facility for foreigners, including refugee applicants at airports or other ports of entry, run by the Government. Nonetheless, there exist open facilities where foreigners who have to leave the Republic of Korea as their entry is rejected or who are awaiting a decision on their refugee status can stay for a while. Recently, a family who was not referred to the refugee status screening procedure had to stay at an airport for a long time, however, it cannot be said the State detained them at the airport as they failed to meet the legal requirements for entry and they did not make a departure even though they could depart to another country based on their will.

Issue 19

A. Measures Taken to Address Corruption in Judiciary

1. Strengthening Integrity and Responsibility of Judges

149. The Court has the Inspector General for Judicial Ethics under the National Court Administration (hereinafter “NCA”). The Inspector General supervises inspections and corruption prevention over the members of judiciary. To enhance independence and expertise of the inspection, the *Court Organization Act* was amended to openly recruit the Inspector General and to put the bureau directly under the Chief Justice.

150. The Court operates the Public Service Ethics Committee of Supreme Court (hereinafter “PEC”) and the Court Inspection Committee (hereinafter “CIC”) in which external committee members are included to secure objectivity, transparency, and neutrality. The PEC deliberates the cases related to judicial ethics referred by the Chief Justice, irregularities of judges, etc. The CIC deliberates the inspection cases drawing public attention including the cases of bribes, sex offenses, etc., and then, passes along the results to the persons entitled to request disciplinary action and recommends necessary actions.

2. Institution and Efforts to Strengthen Integrity

151. The judiciary institutionalizes registration and disclosure of property, blind trust of stocks and restrictions on the employment of a retired person by relevant institutions to improve integrity of its members. It also continues its efforts to raise ethical awareness by offering education on occupational ethics and corruption prevention and provide guidelines and interpretation to judges and court public officials.

3. Measures against “Abuse of Authority of Judicial Administration”

152. The Prosecutors indicted 14 former and incumbent judges, including the former Chief Justice, in the case where judges of the NCA used trials as a means to negotiation with Cheong Wa Dae (Presidential Office), the National Assembly, and the Government while suppressing other judges opposed to them, thereby infringing judicial independence (hereinafter, “Judicial Power Abuse Case”), and the case is currently under review of the court.

153. In response to the Judicial Power Abuse Case, the new Chief Justice announced a public apology on May 31, 2018, imposed disciplinary action on eight judges on December 27, 2018 and requested additional disciplinary action on 10 current judges, including three chief judges of high courts and seven chief judges of district courts, on May 9, 2019.

154. The Court considers the cause of the Judicial Power Abuse Case that the Chief Justice could arbitrarily make decisions on judicial administration with no checks while judges unquestioningly accepted such a decision in a bureaucratic manner. Therefore, it revised its system to ensure that decisions on judicial administration are made transparently in a collegiate decision-making agency in participation of multiple judges and external figures and that judges do not work at a bureaucratic institute for the Chief Justice.

155. To be specific, it launched the “Judicial Development Committee” engaging multiple external figures to identify initiatives for reform, and requested the changes to the laws to implement the initiatives including establishing the Judicial Administration Council, a collegiate decision-making organization. In September 2019, the Judicial Administration Advisory Council, a horizontal, standing advisory group on judicial administration was installed. And it officially recognized National Judicial Representative Forum comprising judges from local courts, thereby officializing democratic and participatory judicial administration. Efforts are also being made to have no more full-time employed judges at the NCA, a bureaucratic judicial administration institute, after 2023.

156. The scheme in which judges themselves recommend candidates for a chief judge has been adopted. The scope of disclosure of judgment documents is extended in pursuit of transparency and fairness through proper monitoring on judicial action.

B. Measures Taken to Guarantee Independence of Judiciary and Right to Fair Trial and Due Process

157. The Constitution and the COA guarantee the independent status of judges as explained in the Third Periodic Report (CCPR/C/KOR/2005/3, paras.43).

158. The Government’s efforts and the mechanisms of court-appointed defense attorney, application for an adjudication, reopening of proceedings, etc. to protect the right to a fair trial are stated in the First, Second, and Third Periodic Reports (CCPR/C/68/Add.1, paras. 198–214; CCPR/C/114/Add.1, paras. 43, 153; CCPR/C/KOR/2005/3, paras. 231–239).

159. Major institutional improvements to guarantee a fair trial have been made since 2015 as follows: i) in 2015, the Regulation on Criminal Procedure was amended to provide grounds for criminal victims to freely make statements on the case orally or in writing; and ii) with the amendment to the Civil Procedure Act, the statement-assistance system to help the socially marginalized go through litigation was adopted to realize *Prinzip der Parteigleichheit*.

C. Impact of Improper Solicitation and Graft Act and Other Anti-Corruption Measures

160. The *Improper Solicitation and Graft Act* (hereinafter “ISGA”) enforced in September 2016 has made the country take a step forward in transparency.

161. The purpose of the ISGA is to ensure that public servants, etc. perform their duties in a fair manner and to secure public confidence in public institutions by prohibiting any

improper solicitation made to public officials, etc. and by prohibiting public servant, etc. from receiving money, goods, etc.

162. The updated result of the survey on integrity conducted by the Anti-Corruption and Civil Rights Commission (hereinafter “ACRC”) shows that the enforcement of the ISGA substantially curtailed the practice of improper solicitation and graft as the rates of corruption experience was reduced (1.8% in 2016 → 0.5% in 2019). According to another survey in 2018, 70.7 percent of entrepreneurs evaluated that the ISGA also makes positive effects on corporate culture. The result shows that the SMEs has been reducing unnecessary expenses for offering recreation, etc. to authorities, and increasing expenses needed for sales increase after the ISGA enforcement.

163. The ACRC’s survey on the perception of the ISGA in 2019, 87.7% of the general public saw the ISGA improving social awareness and practices. 79.5% responded that they now perceive offering and receiving solicitation, entertainment, or gifts of public servants, which had been standard practice, as an “improper act.” Most of the public servants answered that they clearly perceive the impacts of the ISGA on anti-corruption from reduced solicitation and expenses for food, gifts, and congratulatory or condolence money in connection with their duties.

164. In addition to the ISGA, the Government implements various policies to prevent corruption. While the ISGA prevents impediment to fairness of public duties by the private sector, the Code of Conduct for Public Servants amended in April 2018 expressly prohibits improper solicitation of a public servant to a civilian. This intends to root out a public servant’s act that seeks advantage of his/her status and authority. The Government also prepares for the enactment of the *Interest Conflict Prevention Act for Public Servants* including eight code of conducts to prevent public servants from seeking private interests.

165. In the meantime, the *Public Service Ethics Act* (hereinafter “PSEA”) amended in March 2015 strengthened the restrictions on the employment of a retired public servant as follows: i) the period of employment restriction of a retired public servant is extended from two to three years after his/her retirement, ii) senior executive public servants is restricted from being employed by corporates relevant to any duties of the organization he/she belonged to, which is expanded from the duties of the department the person has been affiliated to, and iii) senior executive public servants shall openly report the employment history for ten years from his/her retirement. Furthermore, the PSEA amended in December 2019 (to be enforced in June 2020) allowed each organization to restrict high-level officials in a department likely to involve conflicts of interest from acquiring stocks of relevant companies. Additionally, when a retiree makes solicitation to an incumbent public servant, not only the recipient but also anyone with knowledge of the fact may report to the head of the institution.

Issue 20

166. National investigators, including the NIS, prosecutors, and the police, are executing telecommunications investigations under strict requirements in the PCSA. Before performing wiretapping, intelligence and investigative agencies are required to obtain permission from district courts for criminal investigation, and in cases for national security, they shall obtain permission from high courts, and when the concerned party is a foreign national, obtain approval from the President. Upon the request from the National Assembly, the agencies shall file a report on the number of cases in which communication-restricting measures were permitted, approved, implemented, or notified, while the National Assembly may conduct on-the-spot inspection of wiretapping facilities. Persons who conducted illegal wiretapping shall be punished by imprisonment for from one to ten years.

167. User information may be requested to telecommunications business operators only for the purposes of “preventing harm to a trial, an investigation, the execution of a sentence, or national security,” and is being collected proportionally to the minimum extent only when it is inevitable to find a clue at the initial stage of investigation or to specify a suspect. The provision of user information is monitored as telecom businesses shall report to the Minister of Science and ICT twice a year, and the Ministry reviews the report and their data management practices.

168. The Government enforced the amended PCSA in December 2019, which now i) restricts the total period of communication-restricting measures (no limit → one year), ii) allows investigation of base stations only as a last resort when it is otherwise impracticable to achieve the purpose of the investigation such as preventing the execution of a crime, arresting the criminal, or collecting the evidence, iii) expands the scope of notification to the information holder (no notification when charges dropped or during investigation → notification), and iv) grants information holders the authority to apply for notification about the grounds of the provision of communication confirmation data. This raised transparency of telecommunications investigation and strengthened the supervisory system over investigators. The amended PCSA for stricter control over packet wiretapping (under which investigators may store and use acquired materials given approval from the court) was enforced in March 2020.

Issue 21

A. Number of Conscientious Objectors Who Remain in Prison

169. After the Supreme Court decision on conscientious objection on November 1, 2018, all the conscientious objectors were released on parole by February 28, 2019. As of November 2019, no persons are imprisoned for conscientious objection.

B. Expunction of Criminal Records and Compensation

170. The Government has taken necessary measures including expunging criminal records under the applicable laws such as the *Act on the Lapse of Criminal Sentences*. When a case is finalized with acquittal, the suspect may claim compensation for the detention period against the Government and apply for the announcement on the intent of the not guilty decision to restore his impaired reputation via Internet, etc. under the procedure provided in the *Act on Criminal Compensation and Restoration of Impaired Reputation*.

171. The Government granted 1,879 conscientious objectors a special parole by exempting one on parole from executing the rest of the punishment, releasing 1,878 from disqualification for appointment as an executive or a public official.

C. Progress in Introduction of Alternative Service and Constitutional Court Decision

172. The Constitutional Court ruled nonconformity to the Constitution on Article 5 Categories of Military Service of the MSA which does not stipulate alternative services for conscientious objectors. The Supreme Court reversed and remanded the original court's decision which had found conscientious objectors guilty with it interpreting conscientious objection as a "justifiable ground" for military objections on November 1, 2018.

173. After the Constitutional Court's decision, the MND prepared a measure of alternative service for 36 months in correctional institutions of which working condition is similar to that of the military but where persons are not obliged to take up arms. The period of 36 months was set as the same with the period for others subject to alternative service, such as industrial technical personnel, public health doctors, etc. who require 34–36 months. The Act on the Assignment and Performance of the Alternative Service was enforced in June 2020.

D. No Public Disclosure of Personal Information

174. The Military Manpower Administration disclosed personal information of military service dodgers from July 2015 under the procedure provided in the MSA, however, it no longer discloses the list of conscientious objectors.

Issue 22

A. Decriminalization of Defamation

175. Decriminalizing defamation and abolishing imprisonment for relevant cases need to be carefully reviewed comprehensively considering not only freedom of expression but a potential risk to the victim's rights as the crime of defamation serves as a restriction against defaming a person by alleging his/her personal information, i.e., criminal record, and damaging his/her daily life and thereby functions to protect privacy of victims. And when the alleged facts are correct and for public good, the accused is not punished under the CrA to respect the freedom of expression. As several bills were proposed to the National Assembly for its improvement, the Government will support the legislative discussion on defamation considering freedom of speech, a possible gap in victim protection, foreign legislations, and the decisions of the Constitutional Court.

176. To prevent indiscriminate accusation for defamation, the Prosecutors have a system to dismiss a case without investigation when the suspicion at issue is not worth being punished. And when investigating a case where a victim of a sex offense is accused for defamation, considering that such an accusation causes secondary damage on the victim and psychological pressure thereby disrupts his/her statement of damage, the SPO ordered each office to meticulously review whether a behavior of alleging facts about his/her damage constitutes the grounds for justification (Article 310 of the CrA), for sex offense cases related to the Me Too movement.

B. Comment on Article 7 of the National Security Act and Reports of Arbitrary Arrest and Detention under the Act

177. The Constitutional Court and the Supreme Court recognize the constitutionality and the necessity of Article 7 of the *National Security Act* (hereinafter "NSA"). The NSA includes the element of crime that "with the knowledge of the fact that it may endanger the existence and security of the state or democratic fundamental order" and is applied only to the cases "with a clear risk that actually damages the existence and security of the state or democratic fundamental order" according to the established precedent of the court.

178. Article 1(2) of the NSA stipulates the principle of strict construction and application by prohibiting an overly-broad interpretation thereof. Based on the Act and the precedents (CCPR/C/KOR/4, paras. 286–287), the Government protects the freedom of expression, assembly, and publication to the most extent and prevents the occurrence of arbitrary arrest and detention by limitedly applying the act only when there is a "clear risk that actually damages democratic fundamental order." Indeed, the number of cases indicted pursuant to Article 7 of the NSA was 40 in 2015, 17 in 2016, 14 in 2017, 3 in 2018 and 3 in 2019, a 92.5% decrease for the last five years.

Issue 23

A. Withdrawal of Reservation to Article 22 of Covenant and Guarantee of Labor Force including Public Officials to Join Trade Unions

179. The Government seeks to address the restrictions on the right of public officials, teachers, etc. to join trade unions under domestic laws, which hindered the withdrawal of reservation to Article 22 of the Covenant and to strengthen the protection of the rights.

180. The Government enacted and has enforced the Act on the Establishment, Operation, etc. of Public Officials' Unions (hereinafter "APOU") and the Act on the Establishment, Operation, etc. of Teachers' Unions (hereinafter "ATU") as special acts, in reflection of the fact that public officials are in a special position taking responsibility for the public and opinions of various stakeholders on the labor rights of public officials and teachers. The

APOU and the ATU have not been applied to (i) public officials in grade 5 or higher, most of whom are included in the scope of employers, (ii) fire officers who perform duties directly linked to the lives of persons and are specially required to be under a strict order, and (iii) the fired, who are not public officials or teachers in active duty, without working condition to be improved through collective bargaining.

181. Nonetheless, the Government selected the ratification of the ILO Convention as National Agenda in 2017, and sought to revise the laws to ratify the Convention on Freedom of Association (Nos. 87 and 98). The Economic, Social, and Labor Council (hereinafter “ESLC”), comprised of the Government, management, and labor, led a social discussion between July 2018 and May 2019. The Government submitted the agreement on the ratification of the ILO Convention and the amendment of the APOU and the ATU to the National Assembly in October 2019. The aforesaid amendments, mainly about fulfilling the right to assembly of public officials and teachers in compliance with international norms, allows retired public officials, fire officers, and college faculty to join unions and deletes the restriction on joining union based on public officials’ ranks. As a result, the ATU was amended to allow college faculty to establish and join unions.

B. Measures Taken to Enable All Sectors of Labor Force to Join Trade Unions and to Remove Any Restrictions on Registration of Trade Unions

182. The Government drafted a bill that enables the unemployed and the fired from private companies to join labor unions to the National Assembly in October 2019. It also tries to protect labor rights of specially employed workers, e.g., gig workers, who have not corresponded to the legal concept of workers as one of the National Agenda. The Government issued a certificate of establishment to the labor union of delivery service workers, a typical example of the specially employed, twice in November 2017 and February 2018, and also issued the one to the union of workers who provide water purifier installation service in April 2019. The ESLC will continue discussion on improving labor rights of specially employed workers.

183. In the meantime, the labor rights of foreign workers are also protected regardless of the legality of their stay in the Republic of Korea. The Supreme Court decided that foreign workers, regardless of their visa status, may establish or join a labor union in 2015, and the Government accordingly issued a certificate of establishment for a labor union comprised of migrant workers in August 2015. As of now, various migrants’ trade unions including the Seoul-Gyeonggi-Incheon Migrants’ Trade Union, the Migrants’ Trade Union and the Migrants’ Construction Trade Union are actively operating.

Issue 24

A. Dissolution of Political Party and Principle of Proportionality

184. Basically, a political party shall be assessed from election by the people who are sovereign, but the Government may bring an action against it in the Constitutional Court, if the purposes or activities of the political party infringe the fundamental democratic order (Article 8(4), Article 89, subparagraph 14 of the Constitution). Regarding such an action, the Constitutional Court decided that even if all requirements are fulfilled, a decision to dissolve a political party could be constitutionally justified, only where there is no alternative means, and where social benefits that could be gained through such a decision exceed the disadvantage incurred by the decision to dissolve the political party. As such, the ROK has the institution under which a political party may be dissolved only as an exceptional and last-resort means, and of which process fully reflects the principle of proportionality.

B. Prohibition of Teachers' Unions from Engaging in Political Activity

185. As teachers are required to seek independence and impartiality in performing their duties, the Constitution and laws stipulate political neutrality of education and teachers. Considering that teachers' political partiality may affect the right to education of students, as well as their collective expression of political opinion may have a great ripple effect, fully allowing political activities of teachers' unions may disrupt the political neutrality of education.

C. Denying of Right to Vote to Persons Sentenced to Imprisonment

186. The *Public Official Election Act* (hereinafter "POEA") disfranchises a person who is sentenced to imprisonment with or without prison labor for at least one year but whose sentence execution has not been terminated nor decided to be exempted.

187. The current POEA only temporarily restricts the right to vote only for those sentenced to imprisonment for at least a year. The provision was improved as the current one in 2015 after the Constitutional Court had decided nonconformity to the Constitution on the former POEA which had completely and uniformly restricted the right to vote of prisoners, through a thorough discussion at the National Assembly. It also needs to be considered that the judges in the ROK decides a term of imprisonment strictly grounded on the laws and the Sentencing Guidelines deliberated by the independent Sentencing Commission. Thus, the Government observes that the current POEA, which only temporarily restricts the right to vote based on the sentence, has reasonable grounds and is deemed not as an unjustifiable restriction.

188. The National Election Commission continues to pay attention to the recommendations by international institutions and will submit an amendment opinion of the POEA, if necessary.

D. Denying the Right to Vote to Persons Sentenced to Medical Treatment and Custody

189. According to the Act on Medical Treatment and Custody, the right to vote under medical treatment and custody shall be suspended until the custody terminates. To observe whether such a restriction is justifiable, it shall be noted that the persons sentenced to medical treatment and custody are those who had committed a felony and were sentenced to the disposition given their mental abnormalities. However the MOJ understands that the view that restoring their right to vote may help their return to society has its reason, and sees the necessity of an in-depth discussion.

Issue 25

A. Training of Riot Police

190. A four- to ten-week "intensive training" period is designated, each half year, to train all police units in education on human rights and safety to simulation training for on-site response, step by step. The human rights and safety education is provided by external lawyers and the NHRC's investigators invited as lecturers. The simulation training is a discussion-based course during which unit members work on response methods over a set situation for themselves and draw the legal grounds and limits thereof. Apart from the intensive training, each unit is repeatedly given human rights and safety education about measures to protect human rights in the scene of demonstrations and exercise of an appropriate level of force in principle of proportionality.

B. Steps Taken to Amend Assembly and Demonstration Act to Ensure Compliance with Article 21 of the Covenant

191. In the 20th National Assembly (May 30, 2016–May 29, 2020), 22 amendment bills of the *Assembly and Demonstration Act* (hereinafter “ADA”) were proposed to balance freedom of peaceful assembly and public security. In May 2020, the National Assembly passed the amended Act which no longer prohibits a protest near the National Assembly building, the official residence of the Prime Minister, and all levels of courts but secures it unless it impedes the function and role of such institutions.

192. Along with the amendment, the police minimizes the issue of banning demonstrations even if the report thereon contains a flaw, but instead considers a notice of supplementation or restriction first to guarantee the freedom of assembly to the fullest. As a result, the demonstrations issued with a banning notice in 2018 account for as few as 0.01% of the reports, while six out of nine cases were notified with the ban just because two or more demonstrations were reported to be held at the same time and same place, so the ones reported later were banned. As for an assembly at night, no demonstration has been banned or restricted just for the reason being held at night since January 2017.

C. Right to Peaceful Assembly of LGBTI Persons

193. As a citizen of the ROK, LGBTI persons equally enjoy the right to assembly guaranteed by the Constitution and the Covenant. The police supported the Queer Culture Festival to be unfolded peacefully by mobilizing its force and equipment against the opposition of some groups. While a conflict with an opposition group confused the First Incheon Queer Culture Festival held in 2018, the Second Festival was successfully held thanks to the cooperation with the relevant institutions including the Incheon Police Agency and regional human rights groups. The Jeju Special Self-Governing Province has cooperated with the Jeju Queer Culture Festival to be permitted to report an assembly without causing a potential conflict and to use a place therefor since 2017.

D. Regulations on Use of Force by Police and Investigation into Death of Farmer Baek Nam-Gi

194. For the protection and enhancement of human rights, the *Regulations on the Standards for Using Dangerous Police Equipment* were amended in January 2020. The amendment strictly specified the requirements for the deployment and use of a water cannon so that it would be no longer used in the scene of assembly and demonstration and only used in the face of urgent danger, such as civil unrest or direct attack on the nation’s important facilities, and at the behest of a commissioner of district policy agency. And it also strengthened the standard for water pressure by distance.

195. The prosecutors considered the case where farmer Baek Nam-Gi took a direct hit from the water cannon, fatally injured and died on November 14, 2015 to be an abuse of public power that seriously damaged a citizen by violating the operation guidance of a water cannon and neglecting the relevant order and supervision, and indicted the former commissioner of the Seoul Metropolitan Police Agency, the former chief of Seoul’s fourth riot battalion and two officers who operated the water cannon trucks for professional negligence resulting in death on October 17, 2017. All the defendants were convicted in the second trial on August 9, 2019. The former commissioner appealed on August 13, 2019 and the Supreme Court proceeding is currently in progress, while the rest of the defendants are finalized with conviction.

196. A claim for state compensation that the bereaved family of farmer Baek Nam-Gi filed against the Government was finalized with the ruling of recommending a compromise on January 22, 2018, and the Government paid the bereaved family with KRW 490 million (about USD 410,000) as the amount of compensation, including the solatium.

E. Measures Taken to Ensure that Organizers of or Participants in Demonstrations, in Particular Journalists and Human Rights Defenders, are Not Criminalized for Exercising Their Right to Freedom of Assembly

197. The SPO guarantees a peaceful assembly and only addresses unlawful and violent collective behavior. It listens to the general public even when investigating unlawful and violent actions by heeding to the Citizen Prosecutorial Committee comprised of local citizens. Meanwhile, the KPNA shifted its paradigm of police administration from “crowd control” to “guaranteeing the right to assembly” and is deeming a demonstration of which registration or progress has a minor flaw to be a peaceful one.

Issue 26

A. Statistics on Number of Refugees, Humanitarian Status Holders, and Stateless Persons

198. Statistics on the number of refugee applicants, refugees, and humanitarian status holders as of the end of December 2019 is as follows:

Year	Application	Recognition (Protection)			Non-recognition	Withdrawal
		Subtotal	Recognition	Humanitarian stay		
1994–2019	64 358	3 239	1 022	2 217	25 351	10 184

199. The number of stateless persons staying in the Republic of Korea is 166 in total as of the end of February 2020, and the statistics thereon is broken down as follows:

(unit: person)

	Total	Non-renouncement of original nationality after naturalization	Statelessnes when arrived	Revocation of nationality	Overseas Chinese who escaped from the North	Refugees who came to the South	Others
Long-term stay (long-term visa for at least 91 days: foreign registration)	105	19	29	29	11	10	7
Short-term stay (short-term visa for up to 90 days: non-registered)	61	Entry with tourism (B-2) or short-term visit (C-3)					

B. Measures Taken to Combat Discrimination and Hate Speech

200. Discrimination and hate speech which amount to crimes being punishable and the responsibilities of ISPs regarding spread of such speech are the same as the answer to ISSUE 06. The fact that the KCSC deliberates and corrects broadcast program or online speech that incites prejudice and discrimination corresponds to the answer to ISSUE 05. Meanwhile, in June 2020, the NHRC recommended the enactment of an *Equality Act*, which prohibits a labeling or an advertisement which expresses or incites hatred and discrimination causing physical and psychological suffering. The Government will support relevant discussions in the National Assembly.

201. Article 18 of the *Framework Act on Treatment of Foreigners Residing in the Republic of Korea* stipulates the responsibilities of the Government for taking necessary measures such

as education and promotion to make sure that Korean nationals and foreigners in the Republic of Korea understand and respect each other. Accordingly, the Government has been committed to addressing discrimination and hatred through better understanding of foreigners by producing and distributing videos on communication between Korean nationals and foreigners, creating educational content for mutual understanding of each other's culture and educating public officials. The government is celebrating the legally designated "Together Day" through national and local events.

C. Measures to Ensure Access to Documentation and Basic Services

202. The Government's plan to introduce a universal birth registration system is elaborated in the answer to ISSUE 27.

203. Refugee applicants are eligible for subsidization of living costs and provision of education and residential facilities during refugee screening. Living costs are granted, within the assigned budget, mainly to the vulnerable in consideration of income, assets, whether being with a child or pregnant and whether having a serious disease, for up to six months following the date of their refugee application. Pursuant to the *Refugee Act* (hereinafter "ReA"), they may be given basic medical examination and if needed costs for emergency medical support.

204. Recognized refugees are granted social security services and basic living security pursuant to the ReA. "Refugees desiring re-settlement" who had stayed at an overseas refugee camp and desired to settle in the Republic of Korea and entered thereto recommended by the UNHCR may join an immigration center for up to six months after their arrival and receive early settlement support, including education on the Korean language, vocational training, and a medical examination.

205. Especially for education, the *Enforcement Decree of the ESEA* includes grounds for admission to school to ensure all children, regardless of their nationality or immigrant status, have access to education. For their earlier adaptation, Korean language classes (326 classes in 2019) are operated for intensive courses on Korean language and culture while college students' mentorship programs (4,309 persons in 2018) help them develop basic academic skills. All schools are recommended to provide multicultural education for at least two hours a year to encourage students to embrace multiculturalism and policy schools (643 schools as of 2019) incorporate multicultural education in their curriculum for its further expansion. The number of teachers who completed training on multicultural education reached as much as 133,794 as of 2018.

D. Rights Afforded to Non-Citizens in Amendment Bill of Constitution

206. The *Amendment Bill of Constitution* proposed by the President of the ROK in March 2018 expanded the scope of the holders of fundamental human rights from "citizens" to "persons." Accordingly, Article 2 of the Constitution was changed from "rights and duties of citizens" to "basic rights and duties," and the subject to human dignity, the right to pursuit of happiness, the right to equality, the right to liberty, the prohibition of double jeopardy and collective punishment, the right to privacy, freedom of conscience and religion, academic, and artistic freedom, the right to petition, and the right to justice was also changed from "citizens" to "persons." In addition, the grounds for the prohibition of discrimination, which has only been recognized upon interpretation, "race" is explicitly stipulated by adding "disability, age, race, and region" to the existing grounds of "sex, religion, or social status."

207. The amendment bill above was presented to the plenary session in May 2018 but the National Assembly failed to take a vote thereon due to a lack of quorum.

E. Information on Draft Amendment Proposal of ReA and Measures Taken to Improve Refugee Status Determination Procedure

208. As the number of refugee applicants is rapidly increasing, the Government endeavors to establish a system satisfying international norms. The number of refugee officers was increased from as few as 18 in 2015 to 91 in 2019. In cooperation with international organizations including the UNHCR Representative in the ROK, the Government continues to provide capacity building programs to improve the quality of interview. There are 173 interpreters for 24 languages with a specific qualification to support refugees in the course of interview, and the interpreters are educated on the procedure of recognizing refugees and practice of refugee interpretation, and are required to take continuing education at least once during the period of service (three years). The Government also seeks to amend the ReA to repair its defects in the enforcement based on opinions of experts and research on foreign cases.

Issue 27

209. The Government is currently preparing for the legislation to introduce the universal birth registration system. The MOJ held a forum to introduce such a system in participation of independent experts and government officials in November 2018. In December 2018, it launched an advisory group for the implementation of the birth registration system, comprising eight external experts including attorneys-at-law and professors, and had ten meetings. At the meetings, they discussed the subject of the birth registration system, the measure to introduce it, necessary documents and procedure, and the way to apply therefor, and now the bill is being drafted. The finalized bill will be submitted to the National Assembly.

210. Meanwhile, the Government publicly announced in May 2019 that it would introduce a “birth notification system” under which a Government agency is notified of childbirth information by medical institutions to strengthen capacity to identify and protect children at risk.
