



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

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**Committee on the Elimination of Racial Discrimination**

**Information received from the Republic of Korea on follow-up to the concluding observations on its combined seventeenth to nineteenth periodic reports\***

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\* The present document is being issued without formal editing.



## **I. Introduction**

1. The Government of the Republic of Korea would like to extend its appreciation to the Committee on the Elimination of Racial Discrimination (CERD) for the constructive recommendations in consideration of Korea's combined seventeenth to nineteenth periodic reports at its ninety-seventh session held on 3 and 4 December 2018.

2. The Republic of Korea has been implementing the recommendations of the report through close coordination among all relevant administrative agencies. The follow-up measures of the Government over the past few years after the adoption of the Concluding Observations are as follows.

## **II. Follow-up information (CERD/C/KOR/CO/17-19)**

### **A. Follow-up information relating to paragraph 16 of the concluding observations**

3. In order to guarantee the right of all workers to participate in trade union activities without fear of deportation, the Government of the Republic of Korea guarantees the rights of migrant workers regardless of their legal status under the Trade Union and Labor Relations Adjustment Act (hereinafter "the Trade Union Act") and they cannot be deported by the reason of trade union activities.

4. Pursuant to the Trade Union Act, workers<sup>1</sup> are free to organize or join trade unions. If undocumented migrants are deemed as workers under the Trade Union Act, any migrant workers can also freely organize or join unions regardless of their documentation and eligibility for employment in the ROK.

5. The Supreme Court ruled that one provides labor to another party based on a subordinate relationship and receives wage, etc. in return, whether such foreigner can be included in the scope of "worker" prescribed under the Trade Union Act (Supreme Court en banc Decision 2007Du4995 on June 25, 2015).

6. As of December 2019, the Seoul-Gyeonggi-Incheon Migrants' Trade Union, the Migrants' Trade Union in Korea, the Korea Construction of Foreign Trade Union, etc. are operating as registered unions.

7. In order to ensure that victims can report violations without prejudice related to their immigration status and that victims have access to adequate remedies, the Ministry of Employment and Labor runs a system which allows any worker to seek a remedy for any damage caused by unfair labor practices, such as delayed payment, regardless of their nationalities or status of sojourn.

8. When any victim reports a case to the authority, they can designate a delegated person through whom they can seek a remedy without their physical visit to the authority. That is, anyone can report human rights violation cases without any infringement of their rights in relation to their status of sojourn:

- The number of cases reported by migrant workers marked around 45,000 cases (from Jan. to Nov. 2019);
- An employer is arrested for delay in payments to their migrant employees (in Jan. 2019).

9. Labor inspectors are also trained and instructed to equally guarantee the rights under the labor law for any worker regardless of their nationalities.

10. In January 2019, the Ministry of Employment and Labor reformed employment training courses for migrant workers prior to their arrival to Korea, providing information on how to protect their rights and not to be violated and how to deal with any damage

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<sup>1</sup> The term "worker" means any person who lives on wage, a salary, or any other income equivalent thereto, regardless of the person's occupation.

caused by employment conditions and industrial accidents. Furthermore, the Ministry also put guidance on how to report and deal with such damage, including remedy procedures.

11. Also in February 2019, the Ministry of Employment and Labor the permission for sexual abuse victims to transfer their workplace immediately (within three days from the date of report) and expand the scope of perpetrators of such assault, sexual harassment, etc. from existing employers to their spouses, direct ascendants and descendants, and co-workers.

12. The number of migrants deported following crackdowns from 2017 to November 2019 is as follows.

<i>Category</i>	<i>2017</i>	<i>2018</i>	<i>November 2019</i>
Detection following enforcement	31 237	34 555	34 943
Compulsory Deportation	26 694	31 811	32 550

13. Statistics on the cases of excessive exertion of force has not been managed by in the Government, but upon a request from an employer or a foreigner or a human rights group for an investigation on the use of force, the Government shall carry out the full investigation on the relevant case, judge if human rights violation occurred, and take countermeasure on the matter.

## **B. Follow-up information relating to paragraph 28 of the concluding observations**

14. In order to ensure that all children born in the territory of the Republic of Korea are registered, the Government is in the legislative proceedings for universal birth registration. The Ministry of Justice held a forum on measures to adopt the birth registration system in the presence of independent experts and government officials in November 2018, and discussed current birth registration system and its problems focusing on actual cases. In December 2018, the Ministry of Justice launched the Advisory Panel on Implementation of Birth Registration System, which consists of eight external experts including lawyers and professors, and held 10 consecutive advisory meetings. During the meetings, various issues including the scope of the birth registration system, a process to adopt the system, necessary documents and proceedings and the way of application were discussed, followed by the preparation of a draft bill. After the drafting process is completed, the relevant agencies such as the judiciary, the Ministry of Gender Equality and Family, and the Ministry of Health and Welfare will have consultations on the bill, thereby submitting the final bill to the National Assembly.

15. In May 2019, the Government publicly announced that it would adopt a “birth notification system” designed to mandate that all health-care providers should notify births to a national institution to identify and protect children at risk. The Ministry of Justice Committee on Improvement of Laws and Regulations for Inclusive Family Culture is now on a review for the overall birth notification system and keeps garnering opinions on concrete directions for improvement.

16. Regarding the children who were born out of wedlock, the Government notes that the procedure of “the acquisition of nationality by acknowledgement”, which can be applied to minor children born out of wedlock and either of whose parents holds Korean nationality, is considered far simpler than the existing procedures for the general acquisition of nationality. Generally, a foreigner can acquire the nationality of the Republic of Korea by obtaining permission for naturalization from the Minister of Justice. An adult foreign citizen either of whose parents holds Korean nationality is entitled to take “special naturalization” procedure, and obtain permission for naturalization from the Minister of Justice after its deliberation on whether they meet the requirements for naturalization through a written test and an interview while having their domicile in the Republic of Korea.

17. Nonetheless, “the acquisition of nationality by acknowledgement” is a system intended to help a minor born out of wedlock, whose parent-child relationship is acknowledged by either of their parents who holds Korean nationality, to acquire

nationality only with a simple notification to the Ministry of Justice, in consideration of the best interest of the child. The procedure is far simpler than that for those subject to naturalization, which may be deemed as a preferential treatment, and the system cannot be deemed as a barrier to the children in acquiring their nationalities.

18. Concerning the ratification of the Convention on the Reduction of Statelessness, since the Nationality Act of the Republic of Korea is grounded on the principle of personal jurisdiction; it is difficult to immediately ratify the Convention that the birthplace country is responsible for the acquisition of final nationality.

19. Nevertheless, the Nationality Act of the Republic of Korea has adopted jus sanguinis to both lines of parents and has also taken the supplementary birthplace principle for those whose parents are stateless or unidentified to acquire the nationality of the Republic of Korea. Consequently, the Government would like to clarify that there are no possibilities for existence of a stateless child by law, even though there might be a child whose whereabouts is difficult to be identified due to their lack of documentation or other reasons.

20. Furthermore, the ROK wants to emphasize that the domestic laws of the Republic of Korea meet the most requirements under the Convention for preventing congenital or acquired statelessness, including the 2011 amendment of the Nationality Act allowing the naturalized through marriage to have multiple nationalities.

21. The Government of the Republic of Korea would like to reiterate that it will continue to carefully consider the Committee's comments and recommendations, in the aspect of promotion and protection of human rights. We will cooperate with the Committee in its future endeavors to eliminate racial discrimination in all its forms and promote understanding among all races.

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