



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

**Comments by the Government of the Republic of Korea* to the conclusions and
recommendations of the Committee against Torture (CAT/C/KOR/CO/2)**

[27 June 2007]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services

Paragraph 7

Despite the existence of legislative and administrative measures to prevent and prohibit torture and forms of other ill-treatment, the Committee remained concerned at continuing allegations of torture and intimidation committed by law enforcement officials, in particular in relation to the use of excessive force and other forms of ill-treatment, during arrest and investigation, and in detention and correctional facilities.

The State party should give higher priority to efforts to promote a culture of human rights by ensuring that a policy of zero tolerance is developed and implemented for all law enforcement personnel, as well as for all staff in detention and correctional facilities. The State party should also intensify its efforts to reinforce human rights education, awareness-raising and training activities in general, and with regard to the prohibition of torture in particular.

1. In May 2006, the Ministry of Justice established the Human Rights Bureau to conduct preliminary inspections to prevent human rights violations in the law enforcement process under the Ministry, including investigation, correction, and immigration. When a case arises, the Human Rights Bureau has the capacity to conduct prompt investigations and to take remedial measures for the victims.

2. In May 2006, Human Rights Violations Hotline Center was launched within the Human Rights Bureau for the investigations on human rights violations and the remedies related to law enforcement process of the Ministry of Justice. 207 cases were reported between the period of May and December 2006; 23 out of the 45 investigated cases were accepted and provided with remedy. From May 2006 to February 2007, 73 (51%) facilities of the 147 detention and protective facilities under the Ministry of Justice were inspected for the prevention of human rights violations (surveyed 637 detainees and interviewed 234 detainees).

Remedy includes rectification of unfair punishment, change of facility rooms, and improvements on medical treatment for the detainees.

3. For the better human rights protection of the people in the investigation process, 'Investigation Standards on Human Rights Protection' were revised in June 2006, implementing a new system to expand human rights protection, such as the notification by telephone immediately after the arrest, the decision on custody in accordance with the custodial investigation standards, the greater permission of the guardian participation in the investigation procedure, and the provision of mandatory break time during a long investigation.

Relevant provisions of the 'Investigation Standards on Human Rights Protection'

a) Article 20 (Prompt notifications of arrests, etc.)

In addition to the written notification specified in Paragraph 1, additional notifications are given by telephone or facsimile immediately after being brought in through the arrest or apprehension. However, this does not apply to special circumstances such as accomplice runaway or destruction of evidence or to those who have been notified as prescribed in Paragraph 1 at the time of the arrest or apprehension.

b) Article 16 (Standards on custodial investigations)

(i) The prosecutor shall decide with strict fairness and prudence on making

a custody in accordance with the Standards on Custodial Investigations, which have been formulated and implemented to consolidate the rule of law and to raise the trust of the people on criminal justice.

- (ii) The prosecutor shall pay attention to the following in the decision of making a custody :

Shall thoroughly examine whether the criminal charge of the suspect has been elucidated by objective evidence.

Shall prudently decide if there are reasons for the custody, such as concerns for runaway or destruction of evidence by comprehensively considering the character of the criminal offense, the anticipated length of the sentence, the character and conduct of the suspect, the criminal records, the family relationship, the occupation, the social relationship, and the situation after the criminal offence.

Shall not come to a conclusion on the concerns for run-away or destruction of evidence on the grounds of the suspect's denial of his/her offence, the suspect exercising the right to remain silent or the media attention that particular case receives.

- c) Article 47 [Presence of a person in trust relation such as family]

- (i) In the case of the victim or other witnesses come under any of the following, the prosecutor shall permit presence of a person unless it interrupts the investigation or is against his/her intention.
- (ii) Concerns over the exercise of rights of a person due to being under-aged or physically/mentally disabled.
- (iii) Those in need of psychological stability.

4. Article 42 [Provision of breaks]

a) In the case of a long investigation, the prosecutor shall permit sufficient breaks during the investigation so as for the suspect to recover from fatigue.

b) In the case of the suspect requesting a break during the investigation, it shall be permitted taking into consideration the time taken for the investigation and his/her health status.

c) In the case of discovering health abnormalities of the suspect, the prosecutor shall take necessary measures such as medical consultation or provision of rests.

d) Provisions of paragraph 1 or 3 shall be applied to in the case of investigating the concerned parties such as the person being investigated before arrest, the victim or the witness.

5. For the intensive implementation of the 'Investigation Standards on Human Rights Protection', the "Report Guideline for Human Rights Supervision" has been instructed to each Public Prosecutor's Office in March 2007, containing the following; half year reports and inspections conducted on the implementation of the Investigation Standards to the Ministry of Justice and the Supreme Public Prosecutor's Office; thorough supervision of the implementation of the Investigation Standards by the Supreme Public Prosecutor's Office and the prosecutors of

respective High Public Prosecutor's Office; and inspections conducted by the Inspector General's Office and the Human Rights Protection Division of the Ministry of Justice when internal inspections are considered insufficient.

6. As of April 1, 2006, the National Intelligence Service established the 'Investigation Standards on Human Rights Protection' and it has been implementing. An internal human rights supervision system has been developed with the establishment of the "Human Rights Promotion Team" within the Security Investigation Bureau in April 2006, assigning an officer to take full charge of the human rights protection. The investigation time of the suspect is strictly regulated through transferring the suspect to a nearby police station after 8pm, and transporting him/her again to the investigation room at the National Intelligence Service at 9am on the following day.

7. For the improvements of the environment for the suspect investigation, investigation rooms at the National Intelligence Service Complex have been allocated above the ground, installed closed-circuit televisions (CCTV) in investigation rooms to record the entire investigation on the suspect, under his/her consent, and assigning the counsel interview room next to the investigation building to facilitate the detection of problems and lodge of objection in the investigation process.

8. In October 2005, "Duty Regulations for Police Officers on Human Rights Protection" were established to prevent human rights violations by all police officers including those working in the police cells. Police officers who commit violent and cruel acts such as torture shall be punished in accordance with the Criminal Act.

a) Article 8 (Prohibition of violent and cruel acts, etc.), Paragraph 1 of "Duty Regulations for Police Officers on Human Rights Protection" : The police officer shall not pose a threat nor commit unreasonable violation to the body of the suspect including acts of assault or cruelty, instigate or aid such acts in the entire process of the duty performance.

b) Under the current administration, there has been one case on assault for harming a detainee, and the offender has been imposed of criminal punishment in accordance with the Criminal Act.

9. For the prevention of torture, human rights education has been reinforced for the public officials of the Ministry of Justice. The Ministry's Human Rights Bureau is responsible for the human rights education on the public officials of legal administrative affairs, offering more professional and effective human rights educational training.

10. Details of the human rights education for the public officials of the Ministry of Justice are as follows:

a) On 23 March, 2007, a workshop was held to strengthen the human rights-mindedness of high level officials of the Ministry of the Justice and the Prosecutor's Office. Oh-Gohn Kwon, judge of the International Criminal Tribunal for the former Yugoslavia (ICTY), gave a special lecture on "International Human Rights Standards".

b) Regular human rights education is provided to investigators, prison officers and public officials of immigration control. (A total of 15 sessions in 2006).

c) Human rights education has been selected as a mandatory subject for

advancement, training courses. Also, human rights education programmes, which have taken into consideration the characteristics of each field of legal affairs have been developed and implemented.

- (i) 2006 : Developed a human rights educational programme for corrections officials
- (ii) 2007 : Developing human rights educational programme for immigration control officials

11. At the Graduate School of the National Intelligence Service, a subject entitled “Theory of Criminal Investigation Process” is offered to promote understanding of various types of rules, laws, and regulations including the Criminal Procedure Act, Duty Regulations for Special Judicial Police Management, and Duty Regulations for Investigators. In particular, basic principles of the criminal law such as the Principle of the Exclusion of Illegally Obtained Evidence and the Miranda Rule are taught to raise awareness of proper legal procedures. The importance of human rights, cases of violations and preventive measures are taught through special lectures given by human rights experts including human rights lawyers.

12. . The police authority has set up human rights education courses in the police educational institutions and all local police academies nationwide to strengthen human rights education, allowing all police officers to complete 10 hours of human rights education annually. For more substantial human rights education, programmes to enhance the methods of participative education and human rights sensitivity are being developed in cooperation with the National Human Rights Commission and human rights organizations.

Paragraph 9

The Committee notes with concern that the right to have counsel present during interrogations and investigations is not presently guaranteed by the Criminal Procedure Act and is only permitted under guidelines of the public prosecutor’s office.

The State party should take effective measures to ensure that fundamental legal safeguards for persons detained by the police are respected. In this regard, the Committee recommends the adoption of the relevant amendments to the Criminal Procedure Act, currently pending before the National Assembly, guaranteeing the right to have legal counsel present in interrogations and investigations.

13. The revised bill of the Criminal Procedure Act to ensure the presence of counsel during suspect interrogations was passed by the National Assembly on 30 April 2007.

- a) Relevant provisions of the revised Criminal Procedure Act
- b) Item 2 of Article 243 (Counsel’s presence, etc.)
 - (i) In accordance with the request of the suspect, the suspect’s counsel, the legal representative, the spouse, the lineal relatives or the siblings, the prosecutor or the judicial police officer must have the counsel interview the suspect or have the counsel present during the suspect interrogation unless there are justifiable reasons to do otherwise.
 - (ii) In the case of more than two counsels wishing to be present in the

interrogation, the suspect designates one counsel. If the designation does not take place, the prosecutor or the judicial police officer may do so.

- (iii) The counsel present in the interrogation may make a statement after interrogation. The counsel, however, may raise an objection during interrogation on the unreasonable interrogation methods and state opinions with the approval from the prosecutor or the judicial police officer.
- (iv) In accordance with paragraph 3, interrogatories of criminal suspects, which describes the counsel's opinions must be read, signed and sealed by that counsel.
- (v) The prosecutor or the judicial police officer must record whether or not the counsel was present and the details of the restrictions in the interrogatories of criminal suspects.

Paragraph 13

The Committee is concerned about the number of persons held in 'substitute cells' (detention cells in police stations), which are reported to be overcrowded and in poor conditions.

The State party should limit the use of 'substitute cells', clarify their functions, ensure that they provide humane conditions for those detained, and complete the proposed construction of new detention facilities. The Committee also urges the State party to ensure that all detention facilities conform to international minimum standards.

14. Among 11 substitute cells nationwide, substitute cells in Eui-Sung and Young-Deok were closed in March 2007. For the closing of the substitute cells in Young-Wol, Mil-Yang, and Hae-Nam Police Stations, new prisons are under construction in the respective area, aimed for completion in 2009.

15. For the new construction projects of Jung-Eup, Sok-Cho, and Sang-Ju Prisons planned for completion by 2012, consultation with relevant authorities and selection for proposed sites are in progress with a view to closing substitute cells in the respective police station. For the closing of the substitute cells in the Young-Dong, Guh-Chang, and Nam-Won Police Stations, new construction projects for correctional facilities are expected to proceed in stages until 2018.

16. On 23 January, 2007, the "Task Force on Substitute Cells" was formed, composed of members from the Correctional, Public Prosecutors, and Human Rights Bureaus of the Ministry of Justice as well as the National Police Agency. Through periodic meetings, the Task Force plans to make recommendation on improving the conditions of substitute cells.

17. In September 2006, "Standard Regulations for Detention Facilities" were revised, expanding the area per person of the shared cells in the accommodation unit of the correctional facilities from 2.47m² to 2.58m². Approximately 1.6 trillion won will be injected to 10 correctional facilities for reconstruction or establishment from 2007 to 2019.

18. In March 2006, the police authority revised the “Standard Regulations for the Design of Police Cells” to conform to international minimum standards, making their utmost efforts to ensure humane environment for the detainees.

Paragraph 14

The Committee is concerned about the high number of suicides and other sudden deaths in detention facilities. It notes that detailed investigations have not been conducted into the link between the number of deaths and the prevalence of violence, torture and other forms of ill-treatment in detention facilities.

The State party should take all necessary steps and reduce the number of deaths in detention facilities. Adequate provision of and access to medical care should be provided, and suicide prevention programmes should be established in such facilities. The Committee also recommends that the State party conduct a comprehensive analysis on the link, if any, between the number of such deaths and prevalence of torture and other forms of ill-treatment in detention.

19. The Ministry of Justice has made every effort for the prevention of suicide in detention facilities, such as the early identification of suicide-prone detainees through utilising scientific and rational methods such as the correctional psychology assessment and the provision of counselling services

20. Highly suicidal detainees including those with past suicide attempts are monitored 24-hours a day or are detained in the living area equipped with a closed-circuit television (CCTV), reinforcing the observation of their movements. Also, psychiatric treatment is provided to the suicide-prone detainees. For the identification of suicide-prone detainees, 20 clinical psychologists and 9 emergency medical technicians (Grade 1) were officially employed in December 2006, and the government plans to gradually increase the medical personnel including psychiatrists, mental health nurses, clinical psychologists, and emergency medical technicians by 2010.

21. For the suicide prevention of detainees, educational training has been provided to corrections officials through non-governmental organizations such as the Suicide Prevention Centre (Lifeline); a total of 1,844 officials completed the educational training between 2006 and March 2007. A five-year plan to foster 40 emergency medical technicians (corrections officials) each year started in 2006 to respond to emergency situations occurring during the night and on holidays.

22. According to the “Inspection Chart for Suicide Prevention in the Correctional Facilities”, comprehensive inspections are conducted more than once a month as a complementary measure. In addition, the “Committee for Suicide Prevention” has been formed and is currently in operation, composed of two external personnel including a psychiatrist in every correctional facility.

23. In order to prevent sudden deaths, critical patients with cardiac and respiratory disorders are provided with intensive care and are immediately transferred to an external hospital in case of an emergency. Proper treatments are also provided through the suspension of the execution of

the sentence/arrest. Broadcast education on common medical knowledge about health management is also offered.

24. In the case of a detainee's death such as suicide in the correctional facility, thorough investigations on all matters are conducted including the causes of death, presence of violent acts, and appropriate measures are taken based on the result. There have been no cases of suicide or death due to violent acts committed by the officials.

Paragraph 15

The Committee expresses its concerns at the number of suicides in the military and at the lack of precise information on the number of suicides caused by ill-treatment and abuse, including hazing, at the hands of military personnel.

The State party should prevent ill-treatment and abusive measures in the military. It is encouraged to conduct systematic research into the causes of suicides in the military and to evaluate the effectiveness of current measures and programmes, such as the ombudsman system, to prevent such deaths. Comprehensive programmes for the prevention of suicides in the military may include, inter alia, awareness-raising, training and education activities for all military personnel.

25. The number of suicides in the past 6 years (2001-2006) caused by the abuse and violation of human rights committed by senior soldiers in the military are as follow:

Year	Total	Army	Navy	Air Force
2001	5	5	-	-
2002	8	5	-	-
2003	5	4	1	-
2004	1	1	-	-
2005	4	4	-	-
2006	8	8	-	-
Total	31	30	1	0

Note : The majority of soldiers serve in the army for the fulfillment of the military duty. Soldiers in the navy and the air force go through a selection process for their service.

26. Since 2003, the army has operated the "Vision Camps", consisting of individual and group psychological treatment programmes for soldiers prone to suicide and maladjustment in order to prevent suicides and encourage adjustment to the military service. From 2003 to 2006, a total of 1,300 educational sessions were been offered to 25,406 soldiers; 390 were identified as unfit for military service and were discharged from military service.

27. Between July 2005 and December 2006, as a pilot project, 6 personnel including civil experts and those with military experience were employed for the prevention of suicide through the guarantee of basic rights, counseling and alleviation of the individual hardships of the soldiers. Such project proved to be effective in terms of reducing the number of suicides and general accidents. To expand the project, the Ministry of Defense is in the process of allocating

counselling officers at all regimental levels by the year 2012. In addition, advanced barrack camps for privates with sergeants as well as educational programmes on suicide prevention are currently in operation.

28. Suicide prevention efforts are made in the Navy, instructing the suicide prevention measures (February 2006). And in the Air Force, a guidebook for educational purposes to prevent suicide within the barracks was produced.
