



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

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COMMITTEE AGAINST TORTURE
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**List of issues to be considered during the examination of the second periodic
report of the REPUBLIC OF KOREA (CAT/C/53/Add.2)**

Article 1

1. In view of the absence in Korean legislation of a definition of torture, as defined in article 1 of the Convention, please provide information on the specific provisions of the Criminal Code and other relevant acts that are considered sufficient to punish those who commit torture. In particular, please provide information on criminal law provisions concerning offences such as attempted acts of torture, the commission of torture or an order to commit torture issued by a person in authority and the penalties imposed for any of these offences, including disciplinary measures. Has any case been concluded in which torture was found to have been committed by State officials, or with their consent or acquiescence, with the intent to punish a third party, or as an act of discrimination?

Article 2

2. Please provide updated information on any revisions to the National Security Law that have been made since the submission of the report. Please indicate how many persons have been detained for violating the Law since November 2002 and how many of these persons were released, how many were tried and the results of those trials, and how many are currently being held under the Law. Please also provide any available information as to how many of the convictions under the National Security Law were based on confessions.

3. Please inform the Committee of the results of the five commendable changes to human rights practices outlined in paragraphs 8-13 of the State party report and any updated information on these since 2000.

4. Please inform the Committee of the status of the draft amendment to the Penal Procedure Code mentioned in paragraph 112 of the report. Specifically, did the State party adopt the amendments allowing a lawyer to be present during interrogations, as specified in the guidelines of the Directive for Human Rights Protection during Investigation Procedures of January 2003? Please also update the Committee on the status of the proposed amendments to the Penal Procedure Code that would require all suspects to be examined by a judge before detention when a warrant of detention is requested.

5. Please provide information on the monitoring of detention facilities and the investigation of human rights violations since 2000, when the Supreme Public Prosecutors' Office designated a department within each district prosecutor's office to perform these duties. Please indicate if sufficient human and financial resources are available for these new functions; whether unhindered access is guaranteed to all places of detention; the frequency with which such visits are carried out, their findings, and the actions taken as a result thereof.

6. Please provide information on the steps the State party has taken to guarantee rights of persons in police custody from the very outset of detention. Please comment on allegations by international non-governmental organizations that undocumented migrant workers have had their rights to legal counsel denied while in detention.

7. Please provide updated information on the findings of the Truth Commission regarding the 19 cases recognized as suspicious deaths caused by illegal activities committed by law enforcement authorities (paragraphs 66 and 67 of the State party report). What has happened with regard to the prosecution of the police officers involved, and with regard to redress for the families of the victims? Please also provide additional information on the work of the Truth Commission through 2004, including the implementation of the Special Act to Find the Truth on Suspicious Deaths and the Act on the Restoration of the Honour and Compensation of Persons Engaged in the Democratization Movement.

8. Please provide information regarding the measures taken to prevent gender-based breaches of the Convention, including specific legislative and administrative measures, such as training, licensing and re-evaluation of personnel who interact with persons in custody, to prevent gender-based and sexual violence. Please indicate whether sexual violence is monitored in places of custody (e.g. pretrial detention facilities, prisons, psychiatric and other institutions), how this monitoring is done and what its findings are.

Article 3

9. Please provide updated information on legal guarantees that exist to meet the requirements of article 3 of the Convention in cases of expulsion or refoulement of foreigners? Which authorities are competent to decide on such cases? Please indicate what judicial remedies are available against an expulsion or refoulement order and if these have a suspensive effect.

Article 4

10. Please provide data for the period 2000-2004 with respect to persons tried and convicted, including the punishments received, for the crime of torture according to the Criminal Code and relevant special legislative acts. Please also provide statistical data, as disaggregated as possible

(e.g. by ethnicity, gender and age of victims), on complaints related to torture and ill-treatment allegedly committed by law enforcement or other officials, or with their acquiescence, and any related investigations, prosecutions, and sentencing.

Article 10

11. Please indicate whether there are programmes to train medical personnel who are assigned to identify and document cases of torture and assist in the rehabilitation of victims.

Article 11

12. It is noted in the report that inspections were conducted in 24 prisons in 2001. Please inform the Committee of the results and findings of such inspections, and provide updated information on additional prison inspections in the previous three years. Please indicate whether and under what conditions independent monitors are permitted to inspect prisons and other places of detention or custody.

13. It is also noted in the report (para. 57) that a site survey of detention and protective facilities was performed by the NHRC in 2002. Please provide information on the findings of the site survey and on any recommendations addressed to the authorities by the NHRC. Please also provide information on any additional findings and recommendations by the NHRC following site surveys conducted since that time.

14. Please provide information on the effectiveness of the Directive on Eliminating Human Rights Abuses in Correctional Facilities as well as on the restriction on the use of restraining tools by the Ministry of Justice.

15. Please provide information on the revised Rules on Detention and Transportation of Suspects of the National Police Agency following the decision of the Constitutional Court in July 2002 that excessive body searches were unconstitutional. In particular, please clarify what rules govern such searches and any new cases regarding this issue.

Articles 12 and 13

16. Please explain the large discrepancy between the number of complaints filed against public officials on charges of violence and other cruel acts (2,434), and the number of officials found guilty (43) in the period 1998-2002. Please provide updated information for the period 2003-2004, including information on the sanctions imposed.

17. It is noted in the report (para. 115) that the NHRC can initiate an investigation upon receiving complaints. Please indicate if the NHRC has unhindered access to places of detention and the possibility of meeting in private with detainees when it carries out such investigations. Please also provide updated information for the past three years on the number of petitions related to torture and cruel, inhuman and degrading treatment filed with the NHRC, indicating the number of cases investigated, the results of the proceedings, both at the penal and disciplinary levels, and the remedies provided by the NHRC. Are investigations by the NHRC carried out in parallel to investigations by the district prosecutors' offices? How do such investigations differ from each other?

18. Please provide information on the outcome of the investigations related to the death of a murder suspect during interrogation described in paragraph 31 of the State party report. Please also inform the Committee about the outcome of the trials referred to in paragraph 32 of the report, including information on the current situation of the accused and what, if any, penalties were applied. Please provide updated information on the number of deaths in custody, including the reasons, and the results of any investigations into them. Please also provide further information on the investigations, including their outcomes, into the suspicious deaths in prisons and detention facilities mentioned in paragraphs 70-72 of the report.

Article 14

19. According to article 29-1 of the Constitution, a person may claim just compensation for damages sustained from an unlawful act committed by a public official in the course of carrying out official duties. Please provide updated information on the number of such claims made in the past five years, on the compensation that was granted, on the role of the NHRC and whether it is the sole body that has the responsibility of deciding upon such claims (in particular their monetary size and other components). Please also provide information on the types of unlawful acts committed.

20. Following the promulgation of the Act on Restoration of the Honour and Compensation of Persons Engaged in the Democratization Movement in January 2000, please provide updated information on the number of petitions for the restoration of honour received and those found to merit compensation, and the amounts of compensation provided. The State party report illustrates, in table 7, the number of cases and amount of compensation given to victims under the National Reparation Act for the period 1996-2002. Please update this table through 2004 and also include a breakdown by crime, age and gender.

21. The Committee notes that the relatives of soldiers who commit suicide as a result of violence and cruel acts committed by senior officials qualify for compensation. Please provide data on the number of such suicides for the period 2000-2004. Please also provide information on measures taken to prevent violence and cruel, inhuman and degrading treatment, including hazing and other acts in breach of the Convention, from occurring in the military and to hold those responsible accountable. Please also indicate the number of petitions submitted as a result of the changes to the Military Criminal Administration Act described in paragraph 76 of the State party report, and the results, if any.

Article 15

22. Please explain how the provision of article 12 of the Constitution, according to which a statement which has been made as a result of torture shall not be invoked as evidence of guilt in any proceedings, is guaranteed in practice. Please provide any additional information on the inadmissibility of such evidence, including illustrative examples, and explain who bears the burden of proof in such cases.

Article 16

23. Please provide updated information on the number of imprisoned persons and the occupancy rates in comparison with the accommodation capacities for the period 2000-2004.

24. Please provide information concerning the regime for persons serving life sentences, including on the reported use of handcuffs and other measures of restraint for extended periods.
25. Please explain the conditions governing solitary confinement.
26. Please provide updated information on the implementation of legislation adopted to prevent domestic violence against women. Please provide information on any other measures taken to prevent domestic violence and to investigate reported cases.

Other

27. Please provide data on the number of persons, in particular women and children, who are trafficked for purposes of prostitution to and from the Republic of Korea. Please provide information on the measures, including preventive and rehabilitation measures, which have been taken to protect persons subject to trafficking for purposes of prostitution and other forms of sexual exploitation. The effectiveness of these measures should also be described.
28. Please provide information on the legislative, administrative and other measures the Government has taken to respond to any threats of terrorism, and please indicate if, and how, these measures have affected human rights safeguards in law and practice.
29. Please indicate whether there is legislation in the Republic of Korea aimed at prohibiting the trade in and production of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. If so, please provide information about its content and implementation. If not, please indicate whether the adoption of such legislation is being considered.
30. The Committee notes information provided in the State party report on discussions between the ministries and agencies of the Republic of Korea related to the possibility of accepting the competence of the Committee as defined in articles 21 and 22 of the Convention. Please provide updated information on the development of these discussions.
31. Does the Republic of Korea envisage ratifying the Optional Protocol to the Convention against Torture? If so, does the Republic of Korea envisage setting up or designating a national prevention mechanism which would conduct periodic visits to places of deprivation of liberty in order to prevent torture or other cruel, inhuman or degrading treatment or punishment?
