



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

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**Committee against Torture**

**Sixty-sixth session**

23 April–17 May 2019

Item 4 of the provisional agenda

**Consideration of reports submitted by States parties  
under article 19 of the Convention**

**Concluding observations on the combined third to fifth  
periodic reports of the Republic of Korea**

**Addendum**

**Information received from the Republic of Korea  
on follow-up to the concluding observations\***

[Date received: 15 February 2019]

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



1. The Government of the Republic of Korea had a constructive dialogue with the Committee against Torture (hereinafter “the Committee”) on the third to fifth periodic reports on implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 2 and 3 May 2017. The Committee adopted its concluding observations (CAT/C/KOR/CO/3-5), which were made public on 11 May 2017.

2. In paragraph 49 of the concluding observations, the Committee requested the Republic of Korea to provide, within one year, relevant information on the implementation of the Committee’s recommendations made in paragraphs 14 (d) (outcome of the investigations undertaken by the Prosecutor’s Office and the National Police Agency in relation to the death of Mr. Baek Nam-Gi), 14(e) (outcome of investigation on the excessive use of force against the families bereaved by the Sewol Ferry accident), 26 (closure of substitute cells), and 36(b) (establishment of the office of military ombudsman) of the concluding observations. The Government of the Republic of Korea respectfully submits the requested information to the Committee.

### **Outcome of the Investigations in relation to the Death of Mr. Baek Nam-Gi**

3. The Prosecutor’s Office of the Republic of Korea prosecuted the former chief of Seoul Metropolitan Police Agency, the former Commander of 4th Mobile Corps of Seoul Metropolitan Police Agency, and two officers in the Mobile Corps for death by occupational negligence, based on its findings that a direct hit from a high-pressure police water cannon inflicted the death of Mr. Baek Nam-Gi from skull fracture, and this amounted to the excessive use of force by the police such as the violation of operational guideline on the use of water cannons and the negligence in the duty of supervision.

4. The case was heard at three trial preparation hearings and six hearings in the first court from 7 November 2017 to 17 April 2018. On 5 June 2018, except the former Seoul Metropolitan Police Chief, all the defendants were found guilty. The court found the chief of police not guilty as he was not able to identify the details of the situation at the moment for his absence at the scene and his liability was hard to be proven since he did not directly command the use of water cannon. The prosecutor’s office filed an appeal against the judgement of the first court on the entire defendants on 8 June 2018, arguing that the “not guilty” judgement was the result of misunderstanding of the relevant facts and legal principles and its sentencing on the other defendants was lenient compared to their liabilities.

5. Aside from the legal proceedings, on 25 August 2017, the National Police Agency formed a Fact-Finding Commission on Human Rights Violations, two-third of whose members were external experts. The Commission took up the investigation for six months from 1 February through 20 August 2018 into the police practices of managing assemblies and demonstrations, the situations at the time of the injury of Mr. Baek Nam-Gi as a result of the use of water cannon, and appropriateness of the emergency response for the injured. On 20 August 2018, the Commission announced its findings that the police used water cannon on the day of the death of Mr. Baek Nam-Gi despite the lack of safety inspection and the insufficient training of riot police assigned to control water cannons. The Commission concluded that the act of direct and sustained targeting of one person with no clear and present danger and the order without due care to use water cannon was the violation of right to physical integrity. The Commission made eight recommendations, including the police extending an apology to the bereaved family.

### **Outcome of Investigation on Excessive Use of Force against the Families Bereaved by the Sewol Ferry Accident**

6. There has been no known investigation undertaken by the Prosecutor’s Office and the National Police Agency over the allegations of the excessive use of force against the families bereaved by the Sewol Ferry accident during the one-year memorial assembly.

7. The Government of the Republic of Korea is making its utmost efforts to protect the right to freedom of peaceful assemblies and prevent the excessive use of force against protesters in the management of assemblies and demonstrations. The use of force by law enforcement officers in managing assemblies and protests is restricted to the necessary minimum based on such legal grounds as the Act on the Performance of Duties by Police

Officers and the Presidential Decree on the Standard Regulations for the Use of Hazardous Police Equipment, and each police unit educates officers about human rights and safety education in association with the use of force on site.

#### **Closure of Substitute Cells**

8. A “substitute cell” refers to a facility holding unsentenced detainees in a police station whose jurisdiction does not have a regular detention or correctional centre. The government has continued its endeavour to close the remaining substitute cells in a prompt manner by establishing correctional centres in those regions with no regular centres since 2000. The result was a decreased number of substitute cells from 16 in 2000 to 4 in 2018. In the jurisdiction of the two police stations among the remaining four with substitute cells, new correctional facilities are under construction. After their completion, the existing substitute cells will be closed and their functions will be taken over by the new correctional centres. The establishment of the correctional facilities to shut down the other two substitute cells is being delayed due to budgetary constraints and opposition by residents.

9. From 2015, the Government has carried out the improvement of the general conditions of detention rooms to protect the rights of unsentenced detainees inevitably locked up in substitute cells in the meantime. As of August 2018, sanitary facilities of all four substitute cells are properly screened to protect privacy, and female police officers are assigned to three of the four cells. To have female officers assigned to the remaining one substitute cell, the government is working on to increase the number of guards of the detention rooms.

#### **Establishment of Military Ombudsman**

10. The new administration put the “establishment of the office of military ombudsman” on the list of 100 priority tasks under the five-year national policy agenda announced in August 2017. The Ministry of National Defense has worked together with the National Human Rights Commission of Korea (NHRCK) since January 2018 to expedite the enactment of registration on the setup of military ombudsman. They are seeking a system that could ensure independency, transparency and credibility of the mandate of human rights protection in the military context. Three bills of which focus is to establish the office of military ombudsman under the NHRCK were proposed by national assembly members and are currently pending before the relevant standing committee of the National Assembly.

11. The Ministry of National Defense is operating a wide range of internal remedy mechanisms with a view to actively responding to human rights abuses in the military, including the appointment of military human rights officers within the Ministry, investigation on the allegations of military human rights violations, and “MND Help Call” which receives reports and offers counselling services. The Ministry is also putting efforts to enhance human rights situations in the military by forming a Military Human Rights Advisory Committee composed of external experts in January 2017 and commissioned a research project to diagnose the current status of human rights in the military in April 2017.

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