



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

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## Committee on the Elimination of Racial Discrimination Ninety-seventh session

### Summary record of the 2692nd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 4 December 2018, at 10 a.m.

*Chair:* Mr. Amir

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Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

*Combined seventeenth to nineteenth periodic reports of the Republic of Korea  
(continued)*

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*The meeting was called to order at 10 a.m.*

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention** *(continued)*

*Combined seventeenth to nineteenth periodic reports of the Republic of Korea (continued)* (CERD/C/KOR/17-19; CERD/C/KOR/Q/17-19)

1. *At the invitation of the Chair, the delegation of the Republic of Korea took places at the Committee table.*

2. **Ms. Shin Yujung** (Republic of Korea), replying to questions raised at the previous meeting, said that, although national law did not reflect the definition of racial discrimination set forth in article 1 (1) of the Convention, discrimination based on race, colour or national or ethnic origin was prohibited under article 11 (1) of the Constitution. Persons who suffered racial discrimination as defined by the Convention might submit a petition to the National Human Rights Commission of Korea, in accordance with the National Human Rights Commission of Korea Act.

3. Furthermore, the Government would take account of the definition of racial discrimination provided in the Convention as part of its ongoing effort to pass an anti-discrimination law, which had been set as a task under the Third National Action Plan for the Promotion and Protection of Human Rights with a view to upholding equality rights. In that context, the Government planned to conduct research on foreign and domestic laws and international human rights standards on discrimination. However, given that objections to the proposed anti-discrimination law had been raised in some quarters, there was a need for an implementation plan that included civil society stakeholders.

4. Regarding statistics on investigations carried out, convictions and sanctions, as well as reparation provided to victims, it should be noted that racial discrimination and hate speech were not currently punishable as separate offences, and therefore statistical information on criminal penalties imposed for such acts was not available. However, racial discrimination was strictly punished insofar as it constituted an offence of insult or defamation under the Criminal Act.

5. **Ms. Jeong Minji** (Republic of Korea) said that, although the Government had not formulated a specific plan to eradicate racism in accordance with the Durban Declaration and Programme of Action, it had adopted the National Action Plan for the Promotion and Protection of Human Rights, which encompassed all areas of human rights and included some measures to address racial discrimination, including implementation of the Second Basic Plan for Immigration Policy in the framework of the Second National Action Plan (2012–2016). As a result, improvements had been noted in migrants' social integration and in the treatment of asylum seekers. Businesses that employed foreigners had continued to receive guidance and supervision, while unregistered foreigners and their children had received greater medical support. Entry to public education had been facilitated for foreign students, and support for foreign sex trafficking victims had been improved.

6. Under the Third National Action Plan (2016–2018), domestic legislation and systems would be studied in order to identify discriminatory practices or environments; the Plan addressed matters such as the enforcement of immigration laws, detention and the protection of detainees' human rights, guarantees for the legal status of marriage migrant women, the social integration of migrants, and the labour conditions of foreign workers. The Government would also strengthen its review of online racial and cultural discrimination and hate speech, and would take steps to prevent human rights infringements by Korean companies that operated overseas.

7. **Mr. Park Juhyun** (Republic of Korea), responding to the suggestion that the Government should replace terms such as "illegal immigrants", said that the Government used the term "illegal sojourn" to encompass several situations, including visa overstay, failure to register as a foreigner, illegal entry and other due process violations. The adjective "illegal" was used not to describe persons, but rather a status that was in violation of the law.

8. **Ms. Shin Yujung** (Republic of Korea) said that on several occasions the Ministry of Justice had distributed fact-checked explanatory materials to counter online hate speech and fake news, and had also undertaken awareness-raising through social channels. With regard to fake news about Yemeni refugees on Jeju Island and racist hate groups and media reports, the Supreme Prosecutors' Office would closely examine whether a criminal offence of insult or defamation had taken place and, if so, take stern action. Prosecutors specializing in defamation were able to take action through an investigation control system in response to illegal fake news and false information.

9. **Ms. Cho Sunkyong** (Republic of Korea) said that multicultural education was provided to prevent prejudice and discrimination against multicultural families and to ensure respect for cultural diversity, and had been extended to community centres, immigration offices and other service providers that frequently interacted with immigrants. In 2017, following the amendment of the Support for Multicultural Families Act to strengthen understanding about multiculturalism and to build guidance capacity within the public education system, multicultural understanding had become a mandatory requirement for kindergarten and primary and secondary school teachers. Furthermore, to improve the multicultural awareness of school-age children, multicultural and human rights education were being provided as part of education activities, while all educational content about homogeneity had been removed from the curriculum. The Government also planned to strengthen preventive education to combat discrimination and prejudice against immigrants. In 2014, the Act on the Protection and Promotion of Cultural Diversity had been enacted to ensure non-discrimination in respect of cultural expression, and various policies were being implemented to that end. Given that the number of foreign residents living in multicultural families had increased, the Government had taken steps to prevent cultural conflicts, including by promoting commemorative events during the week of World Day for Cultural Diversity for Dialogue and Development.

10. Given that the number of international marriages involving nationals of the Republic of Korea had increased rapidly since the early 2000s, the Government had passed the Support for Multicultural Families Act in 2018 to address related issues and to combat social prejudice. In 2011, the Act had been amended to extend the scope of the support provided so that it included the families of naturalized citizens. Since 2014, foreign families were also allowed to participate in various programmes offered by Multicultural Family Support Centres throughout the country.

11. **Mr. Choi Junhoe** (Republic of Korea) said that the monitoring of broadcasts for racist hate speech was carried out by a civilian independent organization called the Korea Communications Standards Commission. Article 100 of the Broadcasting Act provided for fines, disciplinary action against persons in charge of broadcast programming, cautions or warnings, restrictions on appearances by performers and other sanctions. However, ex post monitoring, sanctions and other Government regulations were deemed insufficient to eradicate racial discrimination, so guidelines would be prepared to create an enabling environment for service providers to have self-regulation, while the education of producers and other personnel would be bolstered.

12. **Mr. Hwang Jungho** (Republic of Korea), responding to questions on the Employment Permit System and the formation of trade unions by migrant workers, said that under the System, foreign workers signed labour contracts setting their statutory working conditions before they entered the Republic of Korea, and thus changes of workplace were, to an extent, inevitably restricted. However, the Government recognized that foreign workers should not be unfairly prevented from changing their workplace, and had gradually made it easier for them to do so. In the event of employer-worker disputes, procedures were available to facilitate prompt decisions on whether a change could be allowed. Foreign workers who were treated illegally or unfairly might change their workplace without it counting towards the number of permitted workplace changes, while the permitted grounds for workplace changes had been expanded and now included housing-related concerns. In that regard, one recent change to the Employment Permit System was that, when foreign workers signed their employment contract, they would be given information about the housing provided. The Government ensured the equal right of all workers, regardless of nationality, to form and join labour unions, and foreigners who were defined as workers

under the Trade Union and Labour Relations Adjustment Act, regardless of their employment eligibility, might freely form or join labour unions.

13. **Ms. Jeong Minji** (Republic of Korea) said that the Immigration Act, the Nationality Act and social security laws contained provisions that were not fully aligned with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, meaning that it would be difficult to ratify that Convention in the short term. However, recognizing that migrant workers were socially vulnerable, the Government protected their labour rights and worked to protect them from social exclusion and discrimination during their stay in the Republic of Korea. In that context, it was broadening the scope of the protection provided, so that migrant workers had access to various services.

14. **Mr. Park Juhyun** (Republic of Korea) said that, according to Ministry of Justice figures, approximately 22,000 foreigners had been deported in 2015; 29,000 in 2016; and 27,000 in 2017. Comparable numbers had been held in detention in those years.

15. **Mr. Kim Jeongdo** (Republic of Korea) said that births of children of foreigners in the Republic of Korea could be registered at the diplomatic mission of their parents' country, regardless of their legal status. If the child's parents were recognized refugees and therefore could not register the birth with their country of nationality, alien registration and residence permits would be granted upon presentation of a hospital-issued birth certificate proving parentage. Plans had been put forward to discuss universal birth registration in the National Assembly, and the Ministry of Justice had begun to conduct research and to collect and study public opinions on various aspects of that topic.

16. Regarding efforts made to facilitate the naturalization process, amended rules on the enforcement of the Nationality Act would enter into force in December 2018. Regulations were being streamlined on an ongoing basis, while the naturalization review process could be shortened on humanitarian grounds.

17. **Mr. Hwang Jungho** (Republic of Korea), responding to concerns raised by the Committee about the enforcement of the minimum wage, said that labour laws, including those on the minimum wage, were applied equally to nationals and foreign workers. Foreign workers employed in agriculture and fisheries were covered by the Minimum Wage Act. The Government checked to ensure that employment contracts signed by foreign workers contained the appropriate minimum wage provisions, and that employers complied with them. Judging that some workplaces did not adhere to the regulations, the Government intended to conduct intensive supervision of small-scale workplaces to make sure that foreign workers did not receive less than the minimum wage.

18. The employment of foreign workers was monitored by the Government in the framework of the Employment Permit System and through regular labour inspections. Any violations of labour law were punished in accordance with the relevant legislation. In 2017, a total of 3,069 workplaces had been inspected and 7,053 violations had been found. The authorities had taken corrective measures in 6,251 cases and judicial action in 12 cases; they had imposed fines in 264 cases and had ordered the restriction or cancellation of employment in 134 cases. Judicial action had rarely been taken because the majority of violations had been relatively minor and had warranted corrective measures only. However, repeated minor violations by an employer would result in judicial action being taken.

19. The restrictions on changes in workplace were designed to ensure that foreign workers did not find themselves unemployed for long periods and face the risk of their visa expiring. If foreign workers applied to change workplace, the job centre immediately made arrangements to allow them to do so. In 2017, 55,000 persons had applied to change workplace; of those, 95.5 per cent had been re-employed within the given time frame.

20. Certain labour law provisions, such as those concerning working hours, did not apply to workers in the agricultural and livestock industries. In order to protect the rights of those workers, the Government devoted at least 30 per cent of all workplace inspections to those industries. Moreover, employment contract guidelines for those industries had been issued to prevent the imposition of excessively long working hours.

21. The health insurance coverage rate among foreign workers was relatively low because most foreign workers were employed in workplaces that were too small to register as businesses. The Government would continue to perform checks to ensure that foreign workers who were eligible for health insurance were appropriately covered.

22. **Mr. Park Juhyun** (Republic of Korea) said that there had been no cases in which foreign workers had been deported or targeted by law enforcement officers solely on account of their involvement in trade unions.

23. **Ms. Shin Yujung** (Republic of Korea) said that the Ministry of Oceans and Fisheries was responsible for monitoring working conditions on deep-sea vessels to ensure compliance with labour legislation. Any violations of that legislation were punished, regardless of the victim's race or nationality.

24. **Mr. Park Juhyun** (Republic of Korea) said that the number of undocumented immigrants and migrant workers had totalled 31,237 in 2017, compared with 29,814 in 2016 and 19,925 in 2015.

25. **Mr. Kim Jeongdo** (Republic of Korea) said that there were 39 refugee status determination officers and 25 public officials responsible for dealing with refugee status applications and appeals. In order to build the capacities of staff working on refugee-related issues, the Ministry had organized six training courses in 2018, in collaboration with the Office of the United Nations High Commissioner for Refugees (UNHCR). It had also organized two on-site training sessions, involving expert speakers, on topics such as religion and sexual orientation. Further training sessions would be held in 2019; those sessions would be tailored to suit a range of ability levels.

26. **Mr. Park Juhyun** (Republic of Korea) said that there was no legal limit on the length of time for which foreigners could be detained. However, after the first three months of detention, approval must be sought from the Ministry of Justice for each subsequent extension of three months. In 2018, the committee on the extended detention of foreigners had examined the situation of foreigners who had been detained for over one year; three of those persons had been temporarily released. As a result, the average length of detention of foreign nationals had fallen to 10 days as of the first half of 2018. Detention of foreign minors, including those facing deportation, was kept to a minimum. In cases where the guardian of a foreign minor had been detained, temporary release arrangements could be made.

27. **Ms. Jeong Minji** (Republic of Korea) said that human rights training was provided by the Ministry of Justice to immigration officers, prosecutors and investigators. Training on multicultural understanding and the prevention of human rights violations was provided to immigration detention facility officers and law enforcement officers.

28. **Mr. Park Juhyun** (Republic of Korea) said that there had been only one case in which a foreigner subject to a deportation order had been temporarily released from detention because the extension of the detention period had not been approved. However, a number of foreign detainees had been released in other circumstances, for example following an appeal against a deportation order. Children under 14 years old who were in an irregular migration situation were not detained, unless their sole guardian had been placed in detention, in which case they were permitted to remain with their guardian. Detention of child migrants aged 14 to 18 years old was kept to a minimum.

29. **Ms. Park Soohyun** (Republic of Korea) said that steps would be taken to improve the health insurance system for foreigners. Migrants who remained in the country for longer than a certain period of time would be required to obtain health insurance. Continuous efforts would be made to ensure that health insurance was available to all foreigners who were eligible for it. Under the Second Basic Plan for Immigration Policy, the Government planned to establish a framework for the management of homeless migrants. It also planned to review the provision of health insurance and medical care for undocumented child migrants.

30. **Ms. Cho Sunkyong** (Republic of Korea) said that foreigners received assistance under the Framework Act on Treatment of Foreigners Residing in the Republic of Korea and through support centres and social integration programmes. An interim ministerial

advisory body had been set up with a view to further aligning policies on immigration and multicultural families. A survey had been conducted in order to assess public awareness of multiculturalism and develop targeted awareness-raising measures. Steps were being taken to identify and address cases of discrimination against multicultural families. Media activity was being monitored and media guidelines would be drafted in order to combat discrimination.

31. Within the context of government policy, the term “multicultural family” served to ensure that specific support was provided to the relevant families. The Government was aware, however, that the term was sometimes used to marginalize and stigmatize those families. It had therefore held consultations with experts and marriage migrants with a view to developing measures to address that problem. A clear distinction would be drawn between formal and informal uses of the term and steps would be taken to improve monitoring of discrimination against multicultural families.

32. **Ms. Shin Yujung** (Republic of Korea) said that a wide range of offences covered by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime were punishable under national law, including abduction for the purposes of sexual or labour exploitation. Following a recommendation from the National Human Rights Commission of Korea, indicators for the identification and protection of trafficking victims had been circulated and were being used by the Ministry of Justice and by prosecutors nationwide.

33. **Mr. Joung Myoungsoo** (Republic of Korea) said that trauma therapy services were provided to foreign victims of crime. Support of that kind had been provided in 29 cases over the previous three years. Economic support was also available to such victims and had been provided in 303 cases over the previous five years.

34. **Mr. Hwang Jungho** (Republic of Korea) said that all women workers were covered by the law on equal employment opportunities, which provided for maternity leave. The issue of employment insurance for migrant workers was currently under discussion in the National Assembly. The possibility of providing unemployment benefits to migrant workers was an area that required further consideration. Women migrant workers were covered by labour legislation and had access to a range of services provided by migrant worker support centres.

35. Women migrants who had suffered sexual violence at work were permitted to change workplace promptly under an emergency scheme, whether the offender was the employer, a colleague or a relative of the employer. The Government did not discriminate against workers in the agricultural and livestock industries. An amendment to the legislation that established a separate minimum wage for such workers could violate not only domestic labour law but also the relevant International Labour Organization (ILO) convention, and could have a negative impact on the domestic labour market; a careful review of the situation was therefore needed.

36. **Mr. Kim Jeongdo** (Republic of Korea) said that a human rights component had been incorporated into the international marriage guide programme in March 2018 to ensure equality and respect for human rights within international marriages.

37. **Ms. Lee Kawon** (Republic of Korea), replying to questions posed concerning the right of migrant children to education, said that the Government promoted the entry of migrant children into the general school system through an integrated education programme in mainstream schools, which it considered to be much more effective than alternative schooling. The Government fulfilled its obligations under the Convention on the Rights of the Child by providing free and compulsory education for all children, irrespective of their residence status or nationality. Over 20,000 foreign children were currently enrolled in the general school system, their number having doubled in the space of five years. Foreign children attending mainstream schools had the opportunity to attend Korean language classes. Migrant children in the general school system, regardless of their immigration or residency status, were covered by their school’s insurance policy in the event of an accident. All children had access to free school meals and health check-ups.

38. **Mr. Park Juhyun** (Republic of Korea) said that, in order to guarantee the right of all children to education, the deportation of foreign children who had overstayed their visa was suspended until they had completed their studies. Children who were the subject of a deportation measure could, however, be granted permission to remain in the country in special circumstances.

39. **Mr. Kim Jeongdo** (Republic of Korea) said that, according to the Refugee Act, humanitarian status holders were persons who did not meet the criteria to be granted refugee status but whose lives and/or freedom were still at serious risk and had been granted permission to reside in the country on humanitarian grounds. Those persons had the right to work in order to maintain their livelihood and had access to certain refugee support services. Interministerial consultations were being held with a view to granting humanitarian status holders access to health insurance benefits from 2020 onward. Although the Refugee Act did not guarantee humanitarian status holders or applicants for refugee status the automatic right to family reunification, permission to remain could be granted to persons whose children and/or spouse were already residing in the country.

40. **Mr. Park Juhyun** (Republic of Korea) said that establishments where foreign entertainers performed were subject to unannounced inspections by law enforcement personnel. Newly arrived foreign entertainers in possession of an E-6 visa received information on basic law and order and how to prevent, respond to and remedy human rights violations as part of a general orientation course for immigrants. The requirements for obtaining an E-6 visa had been strengthened as a means of preventing ineligible foreign entertainers from entering the country unlawfully. Employers who had been punished for having engaged in sex trafficking, coercion or other unlawful acts were barred from applying for E-6 visas for foreign entertainers for up to a period of three years and were liable to receive a heavy fine.

41. **Ms. Shin Heesun** (Republic of Korea) said that the Government had taken a number of measures to facilitate the resettlement of refugees from North Korea. Upon their arrival in the Republic of Korea, those persons were provided with training to help them adapt to the way of life in the country and to better understand its society. They also had access to medical care, various social security benefits, a housing service and an employment support service to help them maintain their livelihood in the country. Those refugees would be eligible to apply for the citizenship of the Republic of Korea in due course. They likewise had the right to apply for relocation in a third country.

42. **Ms. Shin Yujung** (Republic of Korea) said that hate speech was punishable by law only if it constituted defamation or insult. Hate speech could also be deemed to be a motive for a crime at the sentencing stage. It would be difficult to define hate speech as a separate crime as it varied widely in terms of form and severity and could therefore attract a wide range of penalties.

43. **Mr. Kim Jeongdo** (Republic of Korea), replying to questions posed concerning the indicators used to measure the impact of the Government's immigration policy, said that a survey to measure client satisfaction with the immigrant counselling service was conducted by an external research organization each year. In 2017, the service had been given a score of 85.9 out of 100.

44. **Ms. Lee Kawon** (Republic of Korea) said that the national curriculum included both multicultural and human rights education. At the primary and secondary levels, social studies and civic and moral education and Korean language classes all touched upon multicultural understanding and mutual respect. Teachers were required by law to undergo training on multicultural understanding. A range of teaching materials designed to promote multicultural education had been developed and were being distributed in schools. The Government would continue its efforts to address prejudice against different cultures and races among school children and to promote multiculturalism in the future.

45. **Mr. Kim Jeongdo** (Republic of Korea) said that no statistical data on unregistered stateless persons were currently available.

46. **Ms. Shin Yujung** (Republic of Korea) said that no statistical data disaggregated by nationality on migrant women who were victims of domestic violence were available.

However, under the guidelines on the handling of cases of domestic violence and victim support developed by the Supreme Prosecutors' Office, those women had the right to legal counsel and to an interpreter during investigations. Information on the rights of victims of domestic violence had been published in English and three other languages. Foreign victims of domestic violence whose human rights had been violated were allowed to remain in the country until their case was settled.

47. **Mr. Park Juhyun** (Republic of Korea), responding to a request for statistical data on the number of foreign nationals detained in the Republic of Korea, said that some 21,600 foreign nationals had been detained in 2015 with that number rising to around 29,900 in 2016 and falling to approximately 29,100 in 2017.

48. **Ms. Shin Yujung** (Republic of Korea) said that foreign nationals could use the public telephones installed in immigration detention facilities to report violations of their human rights via the hotline set up for that purpose. Counselling services were available in English and Mandarin. The Human Rights Policy Advisory Panel, which encompassed subcommittees on economic, social and cultural rights, civil and political rights and minority rights, was composed of 30 people, including human rights advocates and lawyers, activists from non-governmental organizations and academics.

49. **Mr. Hwang Jungho** (Republic of Korea) said that race and skin colour were subsumed under "physical conditions" in the list of prohibited grounds of discrimination contained in article 7 of the Framework Act on Employment Policy. Persons who had been discriminated against on the basis of race or skin colour could seek damages under the National Human Rights Commission of Korea Act.

50. Under the current Employment Permit System, foreign workers who had been unfairly treated by their employer could change their workplace without it being deducted from the total number of workplace changes permitted. Around 390 cases in which foreign workers had requested such a change on the basis of unfair treatment had been recorded in 2017. Efforts were under way to expand the range of circumstances in which migrant workers would be allowed to change their workplace without it being counted against them. Employment legislation applied to both citizens of the Republic of Korea and foreign workers. Foreign workers who suffered wage discrimination could file a complaint with the competent authorities, which, upon confirming the existence of discrimination, could order corrective measures. In 2017, some 3,000 workplaces where foreign workers were employed had been subject to inspections and any violations identified had been addressed.

51. **Ms. Shin Heesun** (Republic of Korea) said that the recently established Korea-Africa Foundation was promoting the International Decade for People of African Descent through a number of educational and awareness-raising projects designed to promote mutual understanding between the Republic of Korea and countries in Africa.

52. **Mr. Kim Jeongdo** (Republic of Korea) said that the Refugee Committee had met six times in 2017 and had considered some 4,500 appeals. Applicants who had been denied refugee status could appeal the decision within 30 days. The Refugee Committee, which was composed of 15 members, was not a standing body, which could delay the consideration of appeals. The amendments proposed to the Refugee Act were aimed at doubling the Refugee Committee's membership and at giving it a permanent mandate. Subject matter and regional experts would be appointed to build upon the Refugee Committee's expertise and to guarantee the fairness of the appeals process. The possibility of allowing persons who had been denied refugee status to make a statement before the Refugee Committee was also being explored.

53. **Ms. Shin Yujung** (Republic of Korea) said that the HIV testing requirement for native English teachers on an E-2 visa had been abolished in 2017. Under the State Compensation Act, the payment of compensation for damages was contingent upon a compensation decision being handed down in favour of the claimant. As to the case of *L.G. v. Republic of Korea* (CERD/C/86/D/51/2012), she understood the petitioner to have filed an application for State compensation with the domestic courts in June 2018. The Government would monitor developments in the related legal proceedings and apply measures as appropriate.



54. **Mr. Kim Jeongdo** (Republic of Korea) said that the number of naturalized persons in the country, which had fallen slightly between 2014 and 2017, had begun to rise again in 2018. The number of applicants for naturalization had been increasing steadily since 2014. Therefore the number of naturalized persons was not related to any increase in hostility towards foreigners or minorities or to nationalistic sentiment.

55. **Mr. Hwang Jungho** (Republic of Korea) said that any media outlets that used hate speech and fake news to incite racial discrimination against refugees would face stringent sanctions. Such media outlets would be subject to thorough evaluation when they reapplied for approval to operate. Online media platforms would likewise be monitored for fake news and racist and discriminatory content.

56. **Mr. Kim Jeongdo** (Republic of Korea) said that, in the event of the State of which they were nationals having no diplomatic mission in the Republic of Korea, parents could register the birth of their children via diplomatic missions located in neighbouring countries such as Japan or China. Under article 2 of the Nationality Act, children born in the Republic of Korea to unknown or stateless parents acquired nationality at birth. Abandoned children found in the Republic of Korea were deemed to have been born in the country.

57. **Ms. Lee Kawon** (Republic of Korea) said that the Government recognized the need to grant children whose birth had not been registered access to social benefits. Efforts to build social consensus on that matter were under way.

58. **Mr. Park Juhyun** (Republic of Korea) said that the Government was considering taking legislative measures to define deportation as an administrative and not a judicial decision. As at June 2018, the average duration of pretrial detention for migrants was 10 days.

59. **Mr. Kim Jeongdo** (Republic of Korea) said that ethnic Koreans who had emigrated overseas prior to the establishment of the Government of the Republic of Korea and who had never acquired any other nationality could acquire the nationality of the Republic of Korea by birth. That included ethnic Koreans who had returned to the country after an extended period of residency in Japan.

60. **Ms. Shin Yujung** (Republic of Korea) said that, in 2013, a committee composed of representatives of the relevant ministries and civil society had convened four meetings with a view to enacting anti-discriminating legislation, but had not achieved its aim. One of the objectives under the recently announced Third National Action Plan for the Promotion and Protection of Human Rights was the enactment of anti-discrimination legislation, covering racial discrimination.

61. **Ms. Shin Heesun** (Republic of Korea) said that police officers now received six hours of regular human rights education every year, compared to four hours in the past. The scope of the human rights education programme would continue to be expanded to ensure sensitivity to human rights issues among police officers.

62. **Ms. Shin Yujung** (Republic of Korea) said that, although article 11 of the Constitution did not explicitly prescribe indirect discrimination, the Constitutional Court had in 1999 ruled that the article covered indirect discrimination. That view could be applied to cases of racial discrimination.

63. **Mr. Park Yuhyun** (Republic of Korea) said that the eligibility requirements for acquiring permanent residency status included having sojourned in the country for a certain period of time. However, if a foreign national made a special contribution or an investment above a certain threshold or hired a citizen of the Republic of Korea, the sojourn requirement did not apply. If a foreign national who had been living in the Republic of Korea then stayed overseas for more than three months, that period was excluded from the calculation of the period of sojourn.

64. **Mr. Kim Jeongdo** (Republic of Korea) said that foreign nationals who had migrated to the country to marry a citizen of the Republic of Korea were permitted to stay in the event of divorce or separation. If they were supporting the parents or family of the spouse or were raising children born to the spouse, they were also permitted to stay.

65. **Ms. McDougall** (Country Rapporteur) said that she was grateful to the delegation for its efforts to answer all of the Committee's questions. Based on the responses, it appeared that no investigations or prosecutions were initiated in relation to racist hate speech and that legislation in that area was inadequate. She wished to know whether any statistics were available on the number of cases in which racist hate speech had been considered an aggravating factor in sentencing. Given that it was possible to identify the Christian and other groups involved, she wondered why no one had been prosecuted for the incidents on Jeju Island. She would like the delegation to comment on the steps taken in the case of an interpreter working in refugee determination processes who had maliciously entered incorrect details on application forms, causing some 100 applications to be denied.

66. **Mr. Marugán** said that he did not see how the procedure by which migrant workers could change their workplace had actually been facilitated in practice. He did not understand the reasoning behind allowing migrant workers to move to a different workplace only in the event of unfair treatment; surely in such cases the response should be the imposition of penalties on the employer. He was grateful for the statistics provided on the number of labour inspection conducted and violations identified in 2016 and would be interested to hear how those figures compared to the data from 2006, when there had been half the number of migrant workers in the country. How was the labour inspection system being improved and how was the relationship between employer and employee being regulated to reduce the risk of exploitation, particularly of migrant workers? He would like the delegation to comment on reports that some employers would rather risk a fine than register their employees in the health insurance scheme, as the fines were so low.

67. The State party had acknowledged that wages and working conditions in the agriculture and fishing sector were poor. He understood that 70 per cent of those working in the fisheries sector were migrant workers and would be interested to know what the proportion was in the agriculture sector. While welcome steps had been taken to improve the asylum application procedure, there continued to be a shortage of staff in that area. He would be interested to hear whether the State party planned to introduce a system to protect vulnerable asylum seekers, such as persons with disabilities, lesbian, gay, bisexual and transgender persons, minors and single mothers. He wished to know whether there were plans to facilitate access to nationality of the Republic of Korea for refugees and holders of residence permits granted on humanitarian grounds. He did not see how the principle of the best interest of the child, as enshrined in the Convention on the Rights of the Child, could be respected if minors were being detained.

68. **Mr. Avtonomov** said that he would be grateful if the State party could indicate whether a third Basic Plan for Immigration Policy had been adopted and, if so, what its main objectives were. He would be interested to know whether there had been any evaluation of the results of the previous plan.

69. **Ms. Izsák-Ndiaye** said that she understood that there were plans to carry out consultations on the question of universal birth registration but it was not clear why they were needed. If the consultations were held, would they include those groups of the population that might be affected by the lack of registration? Given that the State party had received seven recommendations on the issue of birth registration during the most recent cycle of the universal periodic review, the Government should take a decision on the matter and ensure that the system was as inclusive as possible.

70. She would welcome clarification as to why the standardization of the minimum wage would be contrary to International Labour Organization standards and domestic legislation. While she welcomed the fact that education on multiculturalism was being provided in schools and through the media, it was important to focus not only on what was being taught but also on how it was being taught and by whom. She would be interested to know whether multicultural families and migrant workers represented themselves in the media, for example. She would be grateful for details of the results of the multicultural sensitivity and media monitoring surveys conducted. She would like to know how many of the total number of cases of trafficking mentioned by the delegation had resulted in convictions and whether victims of trafficking received psychosocial support in addition to economic assistance. She asked how victims were expected to prove that they had been subjected to sexual violence in the workplace in order to request a change of workplace.

71. **Mr. Calí Tzay** said that he would like to know why the State party had not taken concrete measures to promote cultural diversity and whether it had any plans to do so, including by increasing the budget currently allocated for that purpose. He would be interested to hear what was being done to address the problem of students avoiding schools and areas with a high concentration of persons with a migrant background. The Committee urged the State party to exercise caution when carrying out raids against undocumented migrants — a practice it did not condone — in order to avoid further fatalities. He wished to know whether the residence permits granted on humanitarian grounds could be extended to give holders of such permits greater stability and enable them to seek better working conditions. Lastly, he asked whether the State party had any plans to conduct an investigation into the situation of the Thai women who had entered the country under the visa extension agreement and, if not, why.

72. **Mr. Albuquerque e Silva** said that he would like the delegation to comment on the specific case of a Nigerian citizen detained in 2014 who had been denied access to his consular authorities by the police. Despite a judicial decision confirming the illegality of that act and the National Human Rights Commission's finding that it constituted a human rights violation, there was no indication that the State party had adopted any legal provisions to guarantee the right to consular notification and access to consular authorities, including access to a competent interpreter, for foreign nationals, particularly in criminal cases.

73. **Mr. Murillo Martínez** said that he wished to know whether the State party would consider making racial discrimination an aggravating circumstance in sentencing and reversing the burden of proof in cases involving racial discrimination. He urged the State party to redouble its efforts to contribute to the International Decade for People of African Descent, including providing support for a possible international declaration on the rights of people of African descent.

74. **Mr. Kang Jeong Sik** (Republic of Korea) said that detailed responses to the outstanding questions, which required in-depth consideration, would be provided in writing within 48 hours.

75. **Ms. Shin Yujung** (Republic of Korea), responding to the question on consular notification, said that, under the Vienna Convention on Consular Relations and Ministry of Justice rules on the protection of human rights, foreign suspects had the right to contact their consular authorities if they so wished.

76. **Ms. McDougall** (Country Rapporteur) said that, in her view, the State party had made little progress since the Committee's previous review and might well be facing a national crisis in the near future. The fact that the migrants, particularly undocumented migrants, who were creating the country's wealth by supplying the labour were being denied a fair share was very problematic and clearly unjust. The demarcation between those who enjoyed the country's prosperity and those who did not was very clearly along the lines of race, colour, national and ethnic origin and class. She hoped that the Committee had succeeded in highlighting how the social economy in the State party was incompatible with its obligations under the Convention and how, by aligning itself with the Convention, the Republic of Korea could begin to overcome injustices and create an integrated society with benefits for all. She thanked the delegation for its open-mindedness and the National Human Rights Commission of Korea for its insightful analysis. She hoped that the Government would hold consultations with the NGOs that had participated in the review process, as they had a deep understanding of the issues at stake.

77. **Mr. Kang Jeong Sik** (Republic of Korea) said that the delegation was grateful to the members of the Committee for their constructive comments and suggestions, each of which would be given full consideration by the relevant authorities. The Government had worked tirelessly to build a multicultural society free from discrimination, but it understood that much remained to be done. It would redouble its efforts and hoped to have more substantial progress to report at the next review. The reporting process under the Convention and consultations with the National Human Rights Commission and civil society organizations served as a valuable opportunity to review existing laws and institutions and identify areas for improvement. It was important for people's mindsets and the nation's law to be aligned.

In closing, he recalled a recent performance in Seoul by a choir made up of migrants, persons with disabilities, members of the lesbian, gay, bisexual, transgender and intersex community and other minorities, which had highlighted the harmony and beauty to be found in diversity. The Government would continue to strive for greater social integration and diversity.

*The meeting rose at 12.55 p.m.*