

REPUBLIC OF KOREA

CAT A/52/44 (1997)

44. The Committee considered the initial report of the Republic of Korea (CAT/C/32/Add.1) at its 266th and 267th meetings, held on 13 November 1996 (see CAT/C/SR.266 and 267), and adopted the following conclusions and recommendations.

1. Introduction

45. The Committee welcomes the detailed and timely report of the Republic of Korea, which on the whole conforms to the Committee's guidelines. The Committee also thanks the State party for its responses to the concerns expressed by the Committee.

2. Positive aspects

46. The Committee welcomes the positive changes since 1993 towards improving and enhancing human rights and achieving the minimal international standards, as demonstrated, *inter alia*, by the State party's ratification of a series of international treaties concerning human rights and by its willingness to build a society characterized by respect for human dignity and to move towards the democratization of society.

47. The Committee notes that some relevant laws, regulations and institutions have already been amended in the spirit of human rights enhancement.

48. It is encouraging that the civilian Government granted amnesty to and restored the rights of a large number of citizens and thus contributed to the more liberal political climate.

49. The Committee notes with satisfaction the efforts of the Republic of Korea to expand the scope of legal aid available to the economically underprivileged.

50. The Committee is also encouraged that, at least in a few cases, public officials who have tortured prisoners have been convicted and that, in some cases, courts have ruled that confessions obtained under duress during interrogations are inadmissible as evidence.

51. The Committee also appreciates the frankness of the report, which shows the Republic of Korea's consciousness of the problems that remain to be solved and its awareness of the need for further improvements to be made with regard to inadequate and unacceptable practices and institutions.

52. The Committee notes with satisfaction that the Republic of Korea has concluded mutual judicial assistance treaties on criminal matters with Australia and Canada and has signed such treaties with France and the United States.

3. Factors and difficulties impeding the application of the provisions of the Convention

53. The Committee is aware of the security problems and the tense situation on the Korean peninsula.

54. The Committee has tried to take this fact into consideration in formulating its conclusions and recommendations. However, it must be emphasized that no exceptional circumstances can ever provide a justification for failure to comply with the terms of the Convention.

4. Subjects of concern

55. The Committee is concerned that the Republic of Korea has not incorporated a specific definition of the crime of torture in its penal legislation in terms consistent with the definition contained in article 1 of the Convention.

56. The Committee notes with deep concern that continued reports from non-governmental organizations show that many political suspects still go through the "torture procedure" during interrogation, in an attempt to extract confessions from them. The sleep deprivation practiced on suspects, which may in some cases constitute torture and which seems to be routinely used to extract confessions, is unacceptable.

57. The Committee is also concerned that the legal system facilitates long periods of interrogation of suspects before they are charged.

58. The Committee is equally concerned at the State party's continued failure promptly and impartially to investigate and prosecute those responsible for acts of torture and ill-treatment. It is unacceptable that only formal complaints of the victims of torture are investigated.

59. While taking into account that the implementation of the National Security Law is the result of security problems on the Korean peninsula, the Committee emphasizes that the Republic of Korea must ensure that the provisions of the National Security Law are not implemented arbitrarily. The vagueness of its provisions gives rise to a great danger of arbitrariness.

60. The report of the Republic of Korea mentions a single specific case concerning the obtainment of redress for a crime of torture. The Committee expresses its concern that the existing procedures for obtaining redress or compensation are not effective.

61. It is a matter of concern that suspects may be detained for up to 10 days without a remand order or any form of approval by the courts.

5. Recommendations

62. The Republic of Korea should enact a law defining the crime of torture in terms consistent with article 1 of the Convention.

63. The national laws should be further reviewed in the light of the Convention and other standards for the protection of human rights in general.

64. Education of police investigators, public prosecutors, other law enforcement personnel and medical personnel regarding the prohibition against torture should be fully included in their training, in accordance with article 10 of the Convention, with special emphasis on the definition of torture as contained in article 1 of the Convention and on the criminal liability of those who commit acts of torture.

65. An independent governmental body should take over the inspection of detention centres and places of imprisonment. Public prosecutors, who are also part of law enforcement personnel, which may itself be subject to investigation of the crime of torture, should not be the main inspection figures.

66. The Committee recommends that the allegations of ill-treatment which have been brought to its attention be duly investigated and that the results of such investigations be transmitted to the Committee.

67. The 30- or 50-day maximum period of detention in police premises for interrogation purposes before the suspect is charged is too long and should be shortened.

68. The Committee recommends that counsel be permitted to be present during interrogation, especially since such presence would be in furtherance of the implementation of article 15 of the Convention.

69. The Committee hopes that the Republic of Korea will review its reservation and make the declarations concerning articles 21 and 22 of the Convention.