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COMMITTEE ON ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS  
Pre-sessional working group  
Geneva, 24-28 November 2008

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**List of issues to be taken up in connection with the consideration of the third periodic report of the Republic of Korea concerning the rights covered by articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/KOR/3)**

**I. GENERAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED**

1. Please provide specific and updated information on measures being taken by the State party to implement the recommendations contained in the Committee's concluding observations on the second periodic report of the Republic of Korea (E/C.12/1/Add.59).
2. Please indicate the extent to which non-governmental organizations and civil society have been involved in the preparation of the present report.
3. Please inform the Committee of the reason for the non-application of the Covenant as a norm of adjudication (E/C.12/KOR/3, para. 16) and what measures are being taken by the State party to raise public awareness and awareness among the judiciary and other public authorities of the rights set forth in the Covenant.
4. Please provide additional and updated disaggregated statistical data on the number of recognized refugees, persons granted permission to remain on humanitarian grounds and asylum-seekers living in the territory of the State party and on the number of application for family

reunification presented and approved since the submission of the previous report.

5. Please indicate to what extent the Covenant is taken into consideration in the State party's policies on economic and social development and in the State party's bilateral and multilateral trade policies.

6. Please also provide detailed information, including disaggregated statistical data, on migrant workers presently in the territory of the State party.

7. Please provide information on the impact of free trade agreements signed by the State party, including the Korea-United States Free Trade Area (FTA), on the enjoyment of economic, social and cultural rights, in particular on the reported threats to food safety.

8. The Committee requests the State party to provide statistical data on an annual comparative basis over the last five years, disaggregated by age, gender, ethnic or national origin and - where applicable - urban/rural residence, in its replies to the issues referred to in paragraphs 4, 6, 15, 26, 32, 34, 39 and 42 of the present list of issues. The Committee also requests the State party to provide the specific statistical information requested in paragraphs 11, 18, 19, 22, 24, 28 and 29 of the present list of issues.

## **II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1-5)**

### **Article 2, paragraph 2: Non-discrimination**

9. Please indicate the legislative and other measures to ensure enjoyment of economic, social and cultural rights by non-nationals without discrimination.

10. Please provide detailed information on the Anti-Discrimination Bill, including its status and the discrimination grounds which the proposed law would cover. Please also comment on the fact that 7 out of 20 provisions of the bill relating to grounds of discrimination, including nationality and sexual orientation, were eliminated from the last draft.

11. Please provide updated information on the effectiveness of the efforts made by the State party to reduce the delay in the refugee recognition review procedure in order for them to fully enjoy their rights enshrined in the Covenant (E/C.12/KOR/3, paras. 27 and 36). In this connection, please provide statistical information on the average length of waiting period for asylum-seekers over the past five years on an annual basis.

12. Please indicate whether the State party intends to review the current legal status of foreign spouses (F-2) married to Korean nationals, in particular, their dependence on the latter for their residency status, pursuant to the Korean Nationality Act (*ibid.*, para. 30), to enable them to fully enjoy their rights under the Covenant.

### **Article 3: Equal rights of men and women**

13. Please provide information on the effectiveness of the measures being taken to increase

the representation of women in policy decision-making as described in paragraphs 45 to 47. Please also indicate whether the State party has taken any measures to address gender equality in ministerial positions, as well as in senior positions in the public service.

14. Please indicate measures being taken by the State party to combat the persistent and deep-rooted cultural stereotypes regarding the roles and responsibilities of women and men in the family and in society that negatively affects the enjoyment by women of their economic, social and cultural rights. Please explain why the major areas of job training provided to unemployed female heads of households are predominantly “cooking, beauty salon, babysitting, flower arrangement and telemarketing” (ibid., para. 76), in view of the admission by the State party that “quality of women’s employment is much lower than that of men” (para. 52) and that practical improvements in gender discrimination “would be more effective if they were accompanied by the necessary social and cultural changes” (para. 49).

### **III. ISSUES RELATING TO THE SPECIFIC PROVISIONS OF THE COVENANT (arts. 6-15)**

#### **Article 6: The right to work**

15. Please provide information, including statistical data, on the effectiveness of the training strategies aimed to reduce the number of non-regular workers (as defined in paragraph 142 of the State party report) mentioned in paragraphs 104 to 112 of the report. Please also inform the Committee of the status of the draft bill aimed to improve the labour conditions of non-regular workers (para. 146).

16. Please provide additional updated information on the implementation of the legislation and policies adopted by the State party to eliminate gender discrimination in the field of employment, including measures being taken to combat over-representation of women in non-regular work, particularly in part-time and temporary jobs.

#### **Article 7: The right to just and favorable conditions of work**

17. Notwithstanding information provided in paragraph 121 on annual adjustments, please indicate whether the current minimum wage affords a decent standard of living for all workers and their families, in particular, urban workers, in accordance with article 7, paragraph (a) (ii). Please indicate the evolution over the last five years of the relationship between the minimum wage and the cost of living. Please also provide information on the proposed revision of the national minimum wage standards, in particular regarding the possibility of establishment of provincial minimum wages.

18. Please provide comparative data on the gender gap in relation to equal pay for work of equal value and on measures being taken to overcome gender-based wage inequality. Are there remedies available to female employees to challenge such inequality, and if so, how effective are these remedies in practice?

19. Please provide detailed information on the incidence of sexual harassment in the workplace and the effectiveness of the legal framework in place to combat such harassment.

Please also provide statistical data on the number of victims, perpetrators, convictions and the types of sanctions imposed.

20. Please provide information on the measures being taken by the State party to improve the working conditions of migrant workers in the territory of the State party. What legal or other avenues of redress are available for all migrant workers in case of discriminatory treatment or abuse in the workplace, in view of the fact that access to telephone advisory services of the Immigration Service and the Ministry for Health, Welfare and Family Matters are restricted to those with social security or foreign registration numbers?

21. Please provide information on any affirmative action programmes in place to implement article 23 of the Enforcement Decree of the Immigration Control Act, according to which “recognized refugees must be treated favorably with regard to employment” (ibid., para. 38). Please also update the Committee on the status of the draft development plan which foresees, inter alia, permission for employment activities under specific conditions for applicants for recognition of refugee status, including those who have been granted humanitarian status (para. 40).

22. Please provide information, including statistical data, on the effectiveness of labour inspections in monitoring the implementation of occupational safety and health standards, especially with respect to small-sized enterprises, in particular, those with less than four workers, and the industries prone to fatal accidents such as shipbuilding, chemical and construction industries, as well as of the safety and health education measures for foreign workers and their employers (ibid., para. 131). Please also provide information on the actual implementation of the right of workers to refuse to work in dangerous conditions without the risk of dismissal, pursuant to the Occupational Safety and Health Act.

23. What is the impact of the “Business-Friendly Policy” on labour rights? In this connection, please provide detailed information on the exceptions accorded exclusively to Special Economic Zones (SEZs) in the State party’s labour laws and standards, particularly regarding the rights of workers in SEZs.

#### **Article 8: Trade union rights**

24. In addition to information provided in table 34 (see paragraph 172 of the State party report), please cite the relevant legislation and provide updated statistics on the imposition of fines, prosecution and arrest of striking workers. Notwithstanding information provided in paragraph 166, please comment on the reported excessive use of force by the police and security forces against striking irregular workers, including at E-land department store, and its compatibility with article 8 of the Covenant.

25. Please provide detailed information on the level of protection against dismissal or deportation provided to migrant workers, including undocumented migrant workers and leaders of migrant worker unions involved in trade union activities in the State party.

### **Article 9: The right to social security**

26. Please indicate what proportion of the general State budget and local administration budgets have been allocated to social security in the last five years. Please provide disaggregated statistical information on the minimum levels of social security benefits, particularly those replacing lost work-related income (unemployment, sickness, maternity and pensions) as a percentage of the minimum wage.

27. Please provide updated disaggregated statistical information on the extent to which the social security system in the State party covers marginalized and disadvantaged individuals and groups, including low-income families, migrant workers and their families, foreign women married to Korean citizens, persons granted permission to remain on humanitarian grounds, asylum-seekers and non-regular workers.

### **Article 10: Protection of the family, mothers and children**

28. Please provide information on the rate of prosecution under the Special Act for the Punishment of Domestic Violence and the Act on Prevention of Domestic Violence and Protection of Victims (para. 241) and describe obstacles encountered in their implementation, if any. Please also indicate whether the State party intends to criminalize marital rape.

29. Please provide disaggregated data on the incidence of child abuse and neglect in the State party in the last five years. Does a comprehensive national plan or strategy exist to address the problem of child abuse and neglect which covers all aspects of prevention, rehabilitation and care as well as prosecution?

30. Please indicate what measures have been taken to curb and prevent the subjection of children to corporal punishment in the home and at school, and whether such acts are punishable by law.

### **Article 11: The right to an adequate standard of living**

31. Please indicate whether there is an official poverty line in the State party and how it is determined. Please also provide disaggregated statistical data on the percentage of the population living below the poverty line.

32. Please provide disaggregated statistical data on individuals and families currently living in sub-standard housing and of measures being taken to increase affordable social housing for disadvantaged and marginalized individuals and groups, in the light of the high rents charged in the public rental-housing sector.

33. Please provide information on the impact on the right to adequate housing of the “New Town Development in Seoul” policy, particularly for individuals and families who have been displaced due to development projects.

34. Please indicate, with disaggregated statistical information, the extent of homelessness in the State party. Please also provide information on the number of state-run shelters for the

homeless and their capacity.

35. Please indicate whether forced evictions, when carried out, are in accordance with the Committee's general comments 4 and 7. Please provide any case law relating to forced evictions.

36. Please inform the Committee whether the State party is taking any measures to improve conditions in detention cells for undocumented migrant workers awaiting deportation, particularly with respect to standards of hygiene, overcrowding and threats to their physical security.

### **Article 12: The right to physical and mental health**

37. Please provide information on the extent of privatization of the health care system in the Republic of Korea, and on its impact on the enjoyment of the right to highest attainable standard of health for all persons residing in the State party without discrimination. Has the State party conducted an impact assessment on the subject, with a particular focus on marginalized and disadvantaged individuals and groups?

38. Please indicate the extent of the coverage of the Medical Aid Program for marginalized and disadvantaged individuals and groups in the last five years. Please provide information on the measures being taken to ensure that low income individuals and families are guaranteed affordable access to the programme.

39. Please provide information, including disaggregated statistical data, on the number of persons living with HIV/AIDS, and on the measures being taken by the State party to prevent the spread of HIV/AIDS. What measures are being taken to combat discrimination against persons living with and at high risk of HIV/AIDS, including drug users and sex workers, and to ensure their privacy and access to health care? Are newly developed antiretroviral medicines available free of charge or at affordable prices for HIV/AIDS patients in the State party?

40. Please indicate what measures are being taken to ensure the availability and accessibility of mental health care services to young people, in particular in light of the specific problems faced by young people arising from excessive academic competition.

41. What concrete measures is the State party taking to raise awareness of, and enhance access to, sexual and reproductive services, including the use of contraceptives, particularly in light of the high rate of abortion among women between the ages of 20 and 24?

42. Please provide information on the measures being taken by the State party to prevent and combat drug use, particularly among young persons.

### **Article 13 and 14: The right to education**

43. According to the report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24/Add.2, para. 31), undocumented migrants' children enrolled in elementary school are required to report their irregular status, pursuant to the policy released on 21 August 2006 by the Ministry of Justice, and in case of failure to report, are subject to deportation. Further to the

information provided in paragraphs 425 and 426 of the report, please inform the Committee of any policy change in this regard, to allow all migrant children to exercise their right to education regardless of the status of their parents.

44. Please provide information on the measures being taken to reduce the financial burden of indirect costs of education such as materials, examination fees and extra-curricular activities.

45. In view of the reportedly fierce competition to gain admission to “first-class colleges” (para. 382), please provide updated information on measures being undertaken to increase the quality of public education.

#### **Article 15: Cultural rights**

46. Please provide information on the safeguards against the possible application of the National Security Act in a manner that is incompatible with article 15, paragraph 1 (a), of the Covenant, which establishes the right to take part in cultural life. In this connection, please describe any cases whereby the National Security Act was invoked to curtail the activities of intellectuals and artists in the last five years (see also paragraph 32, E/C.12/1/Add.59).

47. Please indicate measures being undertaken to promote cultural diversity by, inter alia, protecting the rights of national groups living in the territory of the State party to enjoy their cultural heritage.

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