



**Economic and Social  
Council**

Distr.  
GENERAL

E/C.12/KOR/Q/3/Add.1  
28 August 2009

Original: ENGLISH

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COMMITTEE ON ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS  
Forty-third session  
Geneva, 2-20 November 2009

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

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
IN ACCORDANCE WITH ARTICLE 16 OF THE INTERNATIONAL  
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Replies by the Government of the Republic of Korea to the list of  
issues (E/C.12/KOR/Q/3) to be taken up in connection with the  
consideration of the third periodic report of the Republic of Korea  
(E/C.12/KOR/3)**

**REPUBLIC OF KOREA\***

[13 August 2009]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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

***Question 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).***

### **National statistical data (para. 34)**

1. After the consideration of the second periodic report of the Republic of Korea by the Committee on Economic, Social and Cultural Rights in May 2001, some major changes have been made with regard to the Economically Active Population Survey (EAPS).
2. In an effort to determine the current size of non-regular workforce and the current situation of their employment status, the Supplementary Survey on Economically Active Population by Employment Status was developed in 2001 and has been conducted annually. Non-regular employment became a prominent phenomenon in the course of overcoming the economic crisis that emerged at the end of 1997. Due to the increase in the number of non-regular workers, it became necessary to grasp the actual number of non-regular workers and their various employment status to protect their rights and interests and facilitate the long-term development of the labour market.
3. The EAPS, conducted once a month, was unable to fully capture the various employment status of non-regular workers since the survey classified them into only three categories by their employment contract period: regular workers (more than one year of work), temporary workers (one month to one year) and daily workers (less than one month). Consequently, the Government introduced a supplementary survey to generate statistics that are classified according to employment status. The supplementary survey, which was previously conducted once a year (in August) from its launch in 2001 to 2006, has been carried out twice a year (in March and August) since 2007.
4. Non-regular workers encompass (a) non-permanent or fixed-term workers, (b) part-time workers and (c) atypical workers, including temporary agency workers (dispatched workers), contract workers for a specific task, on-call workers, as agreed on 22 July 2002 by the Special Committee on Non-regular Workers of the Tripartite Commission, which was launched on 23 July 2001. The supplementary survey initially consisted of 16 survey items mainly concerning employment status. Later, their number was increased to 19 in total by adding new survey items such as union membership, implementation of the 40-hour work week, etc.
5. Besides the supplementary survey based on employment status, the National Statistical Office has also introduced supplementary surveys on youth, the elderly, the self-employed and regional employment state. These supplementary surveys were either newly attached to or extended from the Survey on the Economically Active Population for the purpose of gathering statistical data necessary to formulate effective employment and welfare policies.
6. The supplementary survey on the elderly is designed to survey factors such as retirement age, re-employment, job search, and plans for future work of those aged 55 years and over. The



survey has been conducted once a year (in May) since 2005, and gathers statistical data necessary to establish job creation and welfare policies for the elderly in response to the rapid rise of the aging population.

7. The supplementary survey on youth is designed to survey the economic activities of youth aged between 15 and 29 years and their entry into the labour market. The survey has been conducted once a year (in May) since 2002, and gathers statistical data as groundwork for policies to promote youth employment and to take countermeasures against unemployment.

8. Compared to other advanced countries, the Republic of Korea retains a higher proportion of self-employed individuals such as employers, self-paid workers, and family members engaged in family-run businesses. In light of such circumstances, the supplementary survey on the self-employed has been carried out once a year (in August) since 2007, so that its findings may be used as groundwork data for the establishment of policies that support the self-employed.

9. The survey on regional employment state is conducted to gather necessary statistical and analytic data on detailed employment conditions of each city, county and district in order to aid the establishment of separate regional employment policies. This survey is more extensive in terms of both items and scale than the EAPS. The first survey by region was carried out in October 2008, and is scheduled to be conducted once a year (in October) hereafter.

10. A noticeable change in education-related statistical research has been the introduction of a survey of the private education expenditures. The survey of private education expenditures was launched by the National Statistical Office in 2007 and has been conducted ever since. The survey aims to thoroughly study private education expenditures of elementary, middle and high school students since 2007 and to collect statistical data that may facilitate the establishment of educational policies, including those that reduce private education expenses. In its consideration of the second periodic report of the Republic of Korea, the Committee on Economic, Social and Cultural Rights also recommended easing the burden of private education on low-income groups in paragraph 42 of the concluding observations. The survey is conducted twice a year on a sample of about thirty to forty thousand parents of elementary, middle and high school students.

### **National Human Rights Commission (para. 35)**

11. The establishment of the National Human Rights Commission of the Republic of Korea and details of its work are explained in paragraphs 7 to 8 of the third periodic report under the International Covenant on Economic, Social and Cultural Rights and paragraphs 49 to 53 of the third periodic report (CCPR/C/KOR/2005/3) under the International Covenant on Civil and Political Rights.

12. In faithful compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), the Government established the National Human Rights Commission on the basis of the National Human Rights Commission Act, which guarantees the Commission's independence. The Commission consists of 11 commissioners, including one chairperson and three permanent commissioners. The Act stipulates that four or more females shall be appointed as commissioners. The tenure of a chairperson and commissioners is guaranteed by law, and their status is also guaranteed, since

individuals shall not be dismissed against their will unless they are sentenced to imprisonment or heavier punishment. In addition, the operational expenditures of the Commission are covered by the government budget to ensure the proper functions of the Commission.

13. Currently, the National Human Rights Commission of Korea holds “A” accreditation status accorded by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), which assessed that the Commission operated in conformity with the Paris Principles.

14. The main functions of the National Human Rights Commission include making recommendations or expressing views for the improvement of policies and laws; investigating and providing remedies for human rights violations or discriminatory acts; conducting a wide range of investigations into human rights conditions; providing public education; and promoting public awareness of human rights issues, among other tasks. Their investigations and remedies are confined mainly to violations against civil and political rights; however, other works deal with overall human rights as recognized by international human rights treaties joined or ratified by the Republic of Korea or international customary laws. The Commission also engages in a variety of activities concerning economic, social and cultural rights.

#### **Legal status of the Covenant (para. 36)**

15. The domestic legal effect of the Covenant is as described in paragraphs 13-16 of the third periodic report under the International Covenant on Economic, Social and Cultural Rights and paragraphs 10 and 11 of the third periodic report under the International Covenant on Civil and Political Rights. Since almost all of the rights under the Covenant are already guaranteed by the Constitution of the Republic of Korea, new laws or special laws which are not in conformity with the Covenant are deemed unconstitutional and thus subject to judicial review by the Constitutional Court.

16. Since the submission of the third periodic report, the International Covenant on Economic, Social and Cultural Rights, as of the end of May 2009, has yet to be directly invoked as an adjudicatory norm by the domestic courts.

#### **Allocation of resources to the Ministry of Gender Equality (para. 37)**

17. Since its inauguration on 29 January 2001, the Ministry of Gender Equality has received annual increases to its budget to facilitate its role as a leading ministry in promoting policies for women that enhance gender equality and improve women’s rights and interests.

**Table 1**

**Budget of the Ministry of Gender Equality, by year (2001 to 2007)**

(Unit: hundred million won, per cent)

| Year               | 2001 | 2002   | 2003  | 2004    | 2005   | 2006   | 2007   |
|--------------------|------|--------|-------|---------|--------|--------|--------|
| Budget             | 288  | 427    | 435   | 4 523   | 6 682  | 8 729  | 11 379 |
| Increase in budget |      | 139    | 8     | 4 080   | 2 159  | 2 047  | 2 650  |
| Increase rate      |      | (32.6) | (1.9) | (937.9) | (47.7) | (30.6) | (33.8) |

\* Childcare and family related works were transferred from the Ministry of Health and Welfare to the Ministry of Gender Equality in 2004 and 2005, respectively.

**Table 2**

**Budget of the Ministry of Gender Equality, by year (2008 to 2009)**

(Unit: hundred million won, per cent)

| Year               | 2008 | 2009         |                 |                |
|--------------------|------|--------------|-----------------|----------------|
|                    |      | Total budget | Original budget | Revised budget |
| Budget             | 539  | 860          | 671             | 189            |
| Increase in budget |      | 321          |                 |                |
| Increase rate      |      | (59.6)       |                 |                |

\* In 2008, childcare and family-related works were transferred to the Ministry for Health, Welfare and Family Affairs due to government reorganization the same year.

18. The year 2002 saw an increase of 13.9 billion won in the government budget earmarked for enhancing and utilizing the female workforce; improving gender discriminatory laws, systems, and practices; and reinforcing women's rights and interests. The 2004 budget saw a 408 billion won increase from the previous year. The increase was mainly due to the transfer of childcare budget, along with childcare-related works from the Ministry of Health and Welfare to the Ministry of Gender Equality. In addition, there was an increase in the budget allocated for achievement of gender equality and improvement of women's living conditions. The 2005 budget increased by 215.9 billion won due to the transfer of the budget for family services from the Ministry of Health and Welfare and the continued expansion of the childcare budget.

19. The Government increased the budget of the Ministry of Gender Equality from 2006 to 2008 in order to expand the budget for childcare and family services. The budget for such services was increased in an effort to tackle problems arising from the low birth rate and the aging population, and to lay the foundation to promote effective policies for women such as developing and utilizing the female workforce, protecting marginalized groups such as victims of prostitution, domestic violence and sexual violence, promoting women's network and expanding gender impact assessment, among other policies.

20. The new administration, inaugurated in 2008, reorganized the government, changing the Ministry of Gender Equality and Family into the Ministry of Gender Equality; and the Ministry of Health and Welfare into the Ministry for Health, Welfare and Family Affairs. As a consequence, the Ministry for Health, Welfare and Family Affairs became responsible for childcare and family-related works, and the portion of the Ministry of Gender Equality and Family's 2008 budget allocated for child-care and family services, amounting to 1,502.6 billion won, was transferred to the Ministry for Health, Welfare and Family Affairs. This change was made due to the reorganization of work among the Ministries, and the change in no way reflects a weakening of the function of the Ministry of Gender Equality.

21. In 2009, pursuant to the Act on the Promotion of the Economic Activities for Women with Discontinued Work Experience, enacted on 5 June 2008, the Government increased the budget allocated to encourage employment of the female workforce, including women with discontinued work experience, by enhancing their occupational competency and greater access to employment. The Government also increased the budget allocated to provide protection, support and integrated service to the vulnerable, including children and female victims of violence and handicapped females.

22. Meanwhile, the Government introduced a gender-sensitive budget system in an effort to apply a gender-sensitive perspective to the distribution of the national resources. In order to ensure that males and females enjoy equal benefits from public expenditures, the gender-sensitive budget system assesses the potential impact of the budget on gender and applies a gender-sensitive perspective to the allocation of national finances, thereby seeking to improve the budget procedure in a way that facilitates gender equality. Its ultimate goal is to realize full gender equality in Korean society through an equitable and efficient distribution of national resources. To this end, the National Finance Act was enacted in 2006, and following a period of related research and pilot projects, a budgeting programme that involves drafting gender-sensitive budget proposals and balance sheets will take effect from the fiscal year 2010.

#### **Situation of non-regular workers (para. 38)**

23. Explanations concerning the conditions of non-regular workers in the Republic of Korea were provided in paragraphs 142-148 of the third periodic report, based on the results of the supplementary survey by employment status conducted from August 2001 and August 2005. The findings by the survey on the status of non-regular workers are as follows; an outline of the survey is described below in paragraphs 2 to 4.

24. After August 2005, the size and proportion of the non-regular workforce reached its peak in March 2007, and is now in gradual decline.

**Table 3**  
**Size and proportion of non-regular workforce**

(Unit: 1,000 persons, percentage)

| Classification                    | '05. 8 | '06. 8 | '07. 3 | '07. 8 | '08. 3 | '08. 8 | '09. 3 |
|-----------------------------------|--------|--------|--------|--------|--------|--------|--------|
| Number of wage workers            | 14 968 | 15 351 | 15 731 | 15 882 | 15 993 | 16 104 | 16 076 |
| Number of regular workers         | 9 486  | 9 894  | 9 958  | 10 180 | 10 356 | 10 658 | 10 702 |
| Number of non-regular workers     | 5 483  | 5 457  | 5 773  | 5 703  | 5 638  | 5 445  | 5 374  |
| Proportion of non-regular workers | (36.6) | (35.5) | (36.7) | (35.9) | (35.2) | (33.8) | (33.4) |

25. As of March 2009, the number of female non-regular workers (2.7million, or 51.5 per cent of the entire non-regular workforce) outnumbered male non-regular workers (2.6million, or 48.9 per cent). The proportion of non-regular workers out of the total number of wage-earners for female workers was higher than that for male workers, which was 40.6 per cent and 28.2 per cent, respectively. However, the proportion of non-regular workers for both sexes has decreased since August 2005, when the third periodic report was submitted.

**Table 4**  
**Proportion of wage-earners that are non-regular workers, by sex**

(Unit: 1,000 persons, per cent)

| Classification                    | '05. 8 |        | '09. 3 |        |
|-----------------------------------|--------|--------|--------|--------|
|                                   | Male   | Female | Male   | Female |
| Number of wage workers            | 8 682  | 6 286  | 9 307  | 6 768  |
| Number of non-regular workers     | 2 736  | 2 747  | 2 626  | 2 748  |
| Proportion of non-regular workers | (31.5) | (43.7) | (28.2) | (40.6) |

26. As of January to March 2009, the average monthly wage for non-regular workers was 1.232 million won, tantamount to 56.9 per cent of 2.167 million won received on average by regular workers. As of March 2009, the average number of work hours of non-regular workers was 40.8 hours per week, less than the 48.1 hours of regular workers.

**Table 5**  
**Average monthly wage of non-regular workers**

(Unit: 1 million won, per cent)

| Classification  | '05. 8 | '06. 8 | '07. 3 | '07. 8 | '08. 3 | '08. 8 | '09. 3 |
|---|--------|--------|--------|--------|--------|--------|--------|
| Wage workers  | 159.3  | 165.6  | 172.4  | 174.5  | 181.1  | 184.6  | 185.4  |
| Regular workers   | 184.6  | 190.8  | 198.5  | 200.8  | 210.4  | 212.7  | 216.7  |
| Non-regular workers   | 115.6  | 119.8  | 127.3  | 127.6  | 127.2  | 129.6  | 123.2  |
| Ratio of wages for non-regular workers to that of regular workers | (62.6) | (62.8) | (64.1) | (63.5) | (60.5) | (60.9) | (56.9) |

\* The data does not reflect the number of working hours per month.

27. Although the subscription rate of non-regular workers to the social insurances has been rising steadily overall, the figures from 2009 show a slight decrease from the previous year.

**Table 6**

**Proportion of non-regular workers covered by social insurance, by year**

(Unit: per cent)

| Classification       | '05. 8 | '07. 3 | '07. 8 | '08. 3 | '08. 8 | '09. 3 |
|----------------------|--------|--------|--------|--------|--------|--------|
| National pension     | 36.6   | 39.3   | 40.0   | 37.4   | 39.0   | 37.6   |
| Health insurance     | 37.7   | 41.8   | 42.5   | 40.2   | 41.5   | 40.9   |
| Employment insurance | 34.5   | 38.8   | 39.2   | 37.1   | 39.2   | 39.1   |

28. The trade union participation rate of non-regular workers is very low compared to that of regular workers; however, the gap narrows significantly when the participation rate excludes cases in which a trade union does not exist in a workplace or non-regular workers are not qualified to join a union.

**Table 7**

**Trade union participation rate of non-regular workers**

(Unit: per cent)

| Classification  |                     | '07. 8 | '08. 3 | '08. 8 | '09. 3 |
|---|---------------------|--------|--------|--------|--------|
| Ratio to full wage workers                                | Wage workers        | 12.1   | 12.1   | 12.7   | 12.7   |
|   | Regular workers     | 16.0   | 16.4   | 17.0   | 17.4   |
|   | Non-regular workers | 5.1    | 4.2    | 4.4    | 3.4    |
| Ratio to qualified workers for admittance to trade unions | Wage workers        | 68.0   | 69.0   | 69.9   | 70.8   |
|   | Regular workers     | 68.9   | 69.8   | 70.5   | 71.6   |
|   | Non-regular workers | 63.7   | 63.3   | 65.7   | 63.8   |

**Trade union rights (para. 39)**

29. The three basic labour rights of public officials and teachers, and the exercise of public power or prosecution against walkouts of trade unions are as described in paragraphs 152 to 172 of the third periodic report.

30. Prosecution of workers concerning labour-management relations from 2002 to the end of 2008 is presented in the following table.

**Table 8**  
**Prosecution of workers concerning labour-management relations**

(Unit: number of persons)

| Classification              | 2002  | 2003  | 2004  | 2005  | 2006  | 2007  | 2008  |
|-----------------------------|-------|-------|-------|-------|-------|-------|-------|
| Number of people prosecuted | 1 174 | 1 340 | 2 153 | 1 694 | 1 554 | 2 833 | 1 952 |
| Number of people arrested   | 170   | 163   | 71    | 114   | 188   | 82    | 52    |

**Sexual trade of children and child labour (para. 40)**

31. The prevention of sexual trade of children and juveniles is described in paragraphs 253 to 255 of the third periodic report.

32. The Act on the Protection of Youth from Sexual Crimes was revised twice on 3 August 2007 and 30 April 2009 after the submission of the third periodic report. With the revision, those subject to sex offender registration were extended to convicted sex offenders against juveniles. In the case of simple sexual trade with juveniles aged 13 or above, however, they should be convicted at least twice to be registered. The preservation period of the registration data has been prolonged from five years to ten years, and the access to the registration data, which was previously authorized by the National Youth Commission, now depends on court order. In addition, the revised Act extended accessibility to the registration data. The heads of related educational institutions and any legal representatives of juveniles within the jurisdiction of cities, counties, or districts containing an offender's address are now able to access the information with a court order. Meanwhile, sex offenders against juveniles were previously excluded from employment for five years from the date of the sentence, but the period has been extended to ten years under the revised Act. Those convicted are prohibited not only from being employed, but also from offering any service.

33. On 30 April 2008, the National Assembly passed a fully revised bill on the Act on the Protection of Youth from Sexual Crimes. The Bill suggests changing the name of the Act into the 'Act on the Protection of Children and Juveniles from Sexual Crimes' to ensure that children are also protected under the Act. In an effort to further strengthen the protection of youth from sexual crimes, the bill also proposes stipulating punishment for quasi sexual activities against both children and juveniles, and for abetting or soliciting activities to buy sex from children or juveniles. The Bill also advises change to the previous sex offender registration system, in which the access to the information on sex offenders was allowed only by court order to those requesting the information. In its place, the bill proposes a sex offender information publication system, in which the information is made public on the Internet by an order of the court.

34. On 31 March 2008, the Government revised the Act on the Protection of Youth from Sexual Crimes to expand the subjects of education on the prevention of sexual trade. Institutions obliged to provide such education have also been expanded from heads of elementary, middle and high schools to include central government agencies, local governments, the heads of elementary, middle and high schools, and other heads of public organizations prescribed by the presidential decree. In addition, starting from 2009, these institutions have an obligation to report the results of the education to the Minister of Gender Equality by the end of February of the following year.

35. The Government is also making efforts to further increase the facilities for the protection of juvenile victims of sexual trade and to protect their personal information for the prevention of the stigma effect. The number of support facilities for juvenile victims of sex trade established under the revised Act on the Prevention of Sexual Traffic and Protection, etc of Victims Thereof, increased from 12 in 2004 to 14 in 2009. In April 2009, the Government worked out measures to protect personal information of juvenile victims of sexual trade from being revealed to teachers or other students during their school lives.

36. Moreover, in order to prevent juveniles previously involved in sex trade from relapsing, the Ministry for Health, Welfare and Family Affairs provides medical treatment, rehabilitation programmes and aftercare for such juveniles. The programmes have been carried out by seven institutions entrusted by the Ministry with six institutions located in Seoul, Incheon, Busan, Daejeon, and Gwangju and one educational institution for mentally handicapped juveniles. In these programmes, experts in medical treatment and rehabilitation spend twenty four hours a day with the juveniles, who were previously engaged in sex trade, providing them psychological treatment, sex education, cultural activities, and career path planning programmes in order to promote their self-esteem and thus rehabilitate them into society. As many as 79.8 per cent of those who finish the programmes return home, indicating that the programmes have been effective in helping juveniles abandon sex trade and preventing their relapse.

37. Labour protection policies for children and juveniles are explained in paragraphs 248-252 of the third periodic report.

#### **Right to adequate housing (para. 41)**

38. A description of housing welfare authorities was given in paragraph 294 of the third periodic report. Since the inauguration of the new administration in 2008 and the subsequent government reorganization, the Director General for Housing Policy and the Office for the Construction of Public Housing of the Ministry of Land, Transport and Maritime Affairs have taken full responsibility over housing issues. In particular, to promote housing security and welfare of the people, the Housing Welfare Planning Division under the Director General for Housing Policy is undertaking a variety of policies, which include policies to secure housing for the socially vulnerable groups such as the lowest income class, the elderly and the handicapped, as well as policies to give support to those who face those underprivileged who have economic difficulties in acquiring their own house, among other policies.

39. Compensation and housing subsidies to those subject to evictions under civil development planning are described in paragraphs 300-304 and 312-315 of the third periodic report.

40. The Urban and Living Environment Improvement Act defines Environment Improvement Projects as projects to improve infrastructure such as roads, water supplies and drainage, park and public parking lots within designated zones; or to renovate or construct buildings including houses in order to recover city functions. The Act categorizes projects into four sub-categories; 'housing environment developing projects', 'housing redevelopment projects', 'housing reconstruction projects' and 'urban environment improvement projects'. The Living Environment Improvement projects can be carried out directly by mayors or heads of counties or by the Korea Housing Corporation entrusted by mayors or heads. Housing redevelopment and reconstruction projects may be initiated by partnership of landowners or carried out through



collaboration with mayors, heads of counties, or the Korea Housing Corporation with approval by the majority of partnership members. Urban environment improvement projects may be carried out by partnerships of landowners or through collaboration with mayors, heads of counties or the Korea Housing Corporation in projects with approval by the majority of partnership members.

41. The Urban and Living Environment Improvement Act stipulates that, in case of expropriation or use of ownership or other rights pertaining to land or buildings for the implementation of Environment Improvement projects within designated zones, the Act on the Acquisition of Land, etc. for Public Works and the Compensation, which applies to public projects carried out by the State or provincial governments, shall apply.

42. The Urban and Living Environment Improvement Act stipulates that project contractors other than mayors or heads of counties shall submit project plans to mayors or heads of counties to get a permission for the implementation of projects, and that the plans shall include resident relocation measures such as provision of temporary accommodations, housing measures for tenants and rental housing construction plans. In addition, the Act provides that projects shall be implemented on a rotational basis, in which owners of or tenants living in houses subject to an Environment Improvement Project receive temporary shelter in newly-constructed houses located in the vicinity of the designated zones.

43. The Urban and Living Environment Improvement Act, revised on 27 May 2009 and scheduled to enter into force from 28 November 2009, stipulates that when planning an environment improvement project, mayors or heads of counties shall give a written notice to citizens and hold a explanatory meeting for them. It also stipulates the inclusion of resident relocation measures such as provision of temporary accommodations; housing measures for tenants and rental housing construction plans in the project implementation plans for urban environmental improvement projects and the establishment of City Dispute Resolution Committees in cities, counties and districts in a designated zone to settle any disputes arising in the course of implementing environment improvement projects.

44. Explanations with regard to ensuring appropriate housing for the socially vulnerable or the marginalized are provided in paragraph 305 to 311 of the third periodic report.

45. With regard to national rental housing, a total of 110,310 units (89,228 newly built houses and 21,082 multifamily houses or default houses purchased by the Government) were provided in 2007, and a total of 84,882 units (74,048 and 10,834, respectively) were provided in 2008.

46. As for national rental housing rented permanently, a total of 6,142 existing housing units were rented on a deposit basis, and 1,019 units were rented to households headed by children in 2007. The figures for 2008 were 7,484 and 1,029, respectively.

47. In order to secure housing for the socially vulnerable, maintenance fees for permanent rental housing were reduced and the security deposit or rent for national rental housing was frozen from 2008. A pilot project that charges rent for national rental housing according to income level is in progress, and the Government is considering the introduction of a housing voucher system to alleviate the financial burden of housing expenses for low income tenants.

48. For residents living in tiny single rooms or vinyl houses, the Government is planning to provide a total of 5,174 tailored housing units in various forms, such as housing purchase-rental or lease on a deposit amounting to as little as about 30 per cent of rental market prices. The budget required for the project is approximately 249.4 billion won, and in 2009, 45.6 billion won is expected to be spent on 750 housing units.

**Strengthening the public education system (para. 42)**

49. Free compulsory middle school education is explained in paragraph 376 of the third periodic report.

50. Given that the budget for free and compulsory high school education will amount to around 2 trillion won or more, such a programme must be preceded by a financial plan to secure the budget, as well as a review on long-term prospects and social consensus, as there are also other programmes toward which the government budget should be allocated such as consolidation of free and compulsory elementary and middle school education and assistance to the underprivileged.

51. With the aim of strengthening public education, the Government is pushing ahead with policies to improve the quality of public education and the satisfaction of students and parents, and to promote the accountability of public education.

52. First, the Government is upgrading the overall educational environment of elementary, middle and high schools, by renovating old schools and creating a U-learning environment, and is continuing to develop quality and balanced school curricula and text books. Second, in order to promote the satisfaction of students and parents, the Government is implementing a Diverse High Schools project to improve and diversify high schools for the benefit of students and parents (public boarding schools, meister (polytechnic) schools, independent private schools). The Government is also expanding support for after-school programmes to provide competitive education tailored to students after regular class hours, and promoting education welfare policies for low-income households to substantially narrow the education gap between classes or regions. Third, in order to faithfully fulfill its duty toward public education, the Government is consolidating the assessment on nationwide academic achievement to furnish students with education appropriate to their academic performance, as measured by the assessment. At the same time, the Government is seeking to fortify the publication system for school information, which provides overall information on schools and education to the public. In addition, the Government is planning to introduce a teacher evaluation and development system, under which teachers can develop their abilities and receive rewards through impartial evaluation.

53. Public access to education is set out in paragraphs 376, 377 and 386 to 395 of the third periodic report.

54. The near-100 per cent retention rate of elementary or middle schools indicates that equal opportunity for education is provided in the Republic of Korea. As for higher education, the admission rate of high school students to university is 83.8 per cent, which also demonstrates that relatively equal opportunity for higher education is provided.

**Table 9**

**Retention rate of elementary, middle and high schools, and universities (as of 2009)**

(Unit: per cent)

| Classification | Elementary to Middle School | Middle to High School | High School to University |
|----------------|-----------------------------|-----------------------|---------------------------|
| Retention rate | 83                          |                       |                           |

\* Retention rate = (the number of graduates who advance to higher education in a given year divided by the total number of graduates) x 100.

55. In order to further ensure equal opportunity for higher education, the Government is expanding low income groups' access to university by legally guaranteeing that universities can set a quota for the enrolment of students from farming and fishing regions, vocational high school graduates, or students from low income families. In addition, efforts are being made to bring substantial equality to education through continuous expansion of scholarships, work study programmes and student loan interest deductions. As of 2009, 52,000 university students have benefited from scholarships amounting to 222.3 billion won, 36,000 students from work study programmes amounting to 109.5 billion won and 350,000 students from loan interest deductions amounting to 410.7 billion won.

56. In its revision to elementary, middle and high school curricula in 2007, the Government included human rights education as a general theme to ensure that human rights is taught in a comprehensive manner through various school activities, including related subjects and extracurricular activities, or at the teacher's discretion. The Government also formed curricula for such subjects as ethics or sociology in a way that would allow elementary to high school students to learn about respect for human rights and promotion of fundamental freedoms appropriate to their levels in relevant units.

**Public campaigns for human rights (para. 43)**

57. Human rights education is described in paragraphs 70-72 below, and promotion of public awareness on human rights through the National Action Plan for the Promotion and Protection of Human Rights (NAP) are described below in paragraphs 62 and 63.

58. The Nation Human Rights Commission has been developing and distributing to the public various cultural contents related to human rights, including three movies such as the 'If You Were Me' series, two animations, two comic books, and one photograph collection.

**National Human Rights Plan of Action (para. 44)**

59. On 22 May 2006, the Republic of Korea established the National Action Plan for the Promotion and Protection of Human Rights (NAP) for the next five years from 2007 to 2011. The NAP is the first comprehensive plan on human rights policies at the governmental level, and aims to improve human rights-related laws, institutions, and practices, serving as a blueprint for national human rights policies at home and abroad.

60. The establishment of the NAP was recommended to countries across the world by the Vienna Declaration and Programme of Action, which was adopted at the World Conference on Human Rights held in Vienna in 1993. The NAP was also recommended to the Republic of Korea by the Committee on Economic, Social and Cultural Rights during the consideration of the second periodic report.

61. As mentioned in paragraph 10 of the third periodic report, since the National Human Rights Commission (NHRC) submitted draft recommendations for the NAP to the Government on 6 February 2006, the Government has designated the Ministry of Justice as the competent ministry and has held numerous constructive discussions, including a conference among the authorities concerned and two public hearings attended by 30 relevant authorities and individuals from relevant institutions, ordinary citizens, and relevant experts. Through discussions, a governmental plan was hammered out in April 2007. On 4 May 2007, the governmental plan was confirmed at a meeting of the National Human Rights Policy Council, which is served by the Minister of Justice as chairperson, and by vice ministers or officials at the vice ministerial level of the 16 relevant authorities as members. The Minister of Justice reported the results at a cabinet meeting and officially announced the establishment of the NAP and plans for its implementation.

62. The NAP consists of a total of six sections: Part 1-Preface; Part 2-The Protection and Promotion of Civil and Political Rights; Part 3-The Protection and Promotion of Economic, Social, and Cultural Rights; Part 4-The Human Rights of the Socially Vulnerable and Minorities; Part 5-Human Rights Education, Cooperation for Human Rights at Home and Abroad, and the Observation of the International Norms of Human Rights; and Part 6-Future Implementation. In particular, Part 3-The Protection and Promotion of Economic, Social, and Cultural Rights includes a variety of implementation tasks with regard to the protection and promotion of the right to education; the right to work; trade union rights; the right to engage in economic activities; the right to human life; the rights to health, medical care, and environment; the rights to culture and art; and the right to family life, in an effort to ensure full coverage of the rights stipulated in the International Covenant on Economic, Social and Cultural Rights.

63. The Ministry of Justice issued booklets on the NAP and distributed them to central and local government agencies, the National Assembly, the courts, the Constitutional Court, academic associates, and libraries nationwide, among other institutions. The NAP, which includes international human rights instruments ratified by the Republic of Korea by December 2006 and the recommendations of treaty bodies in relevant sections, has contributed to promoting awareness of international human rights among government officials' concerned and ordinary citizens.

64. The NAP stipulates that the Ministry of Justice, the competent authority, shall compile implementation results every year and report the results to the National Human Rights Policy Council, before releasing them to the public. Accordingly, the Ministry reported the implementation conditions of the 2007 NAP to the Council on 25 July 2008, and published the results into booklets which were distributed to government agencies and the public.

65. In addition, with the inauguration of the new administration in 2008, the Ministry of Justice devised a plan to supplement the NAP with human rights-related matters as a part of the national agenda, which the new administration was to advance as a priority policy. The National

Human Rights Council passed the Ministry's supplementary plan at a meeting on 25 July 2008. Major supplementary implementation tasks to be taken under the plan include the following: to encourage the low-income group to take up public office, to set up a tailored national scholarship system, to establish a foothold for gender sensitive policies, and to introduce an adult guardianship system, among other tasks.

***Question 2 - Please indicate the extent to which non-governmental organizations and civil society have been involved in the preparation of the present report.***

66. The Government sought opinions of the National Human Rights Commission and domestic NGOs while drafting the third periodic report, and reflected some of their opinions therein.

67. The Ministry of Justice, the competent ministry of the Covenant, drafted the third periodic report in collaboration with the authorities concerned and solicited the opinions of the National Human Rights Commission on 23 March 2006 and of MINBYUN (Lawyers for a Democratic Society) on 4 April 2006. MINBYUN is a representative NGO that submits NGOs' Counter Report when the Republic of Korea is being reviewed on international human rights treaties. The National Human Rights Commission and MINBYUN also officially forwarded their written opinions on the draft report to the Ministry of Justice.

68. On 17 May 2006, the Ministry of Justice delivered the opinions of the National Human Rights Commission and those of MINBYUN to the authorities concerned, who participated in drawing up a draft report. The Ministry accepted some of the opinions through consultation with the authorities concerned, revised and supplemented the third periodic report accordingly, and submitted it to the Committee.

***Question 3 - Please inform the Committee of the reason for the non-application of the Covenant as a norm of adjudication (State party's report, 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.***

69. As explained in paragraph 16, the International Covenant on Economic, Social and Cultural Rights has yet to be directly invoked as an adjudicatory norm by the domestic courts as of the end of May 2009. The reason for this is not because of the court's passiveness in directly invoking the Covenant, but because there have been virtually no domestic cases concerning the application of the Covenant. The fact that most of the rights under the Covenant are also guaranteed by the Constitution or domestic Acts appears to be a crucial reason behind this occurrence.

70. The Human Rights Bureau of the Ministry of Justice, the Ministry of Foreign Affairs and Trade and the National Human Rights Commission are promoting the Covenant to the general public through their websites and the media, and are making efforts to improve government officials' awareness of the Covenant by including relevant information on the Covenant in the curricula of education and training institutes for government officials. The Government's endeavors to promote awareness of international human rights among the public and government officials by issuing NAP booklets are explained above in paragraphs 62 and 63.

71. Fully recognizing the importance of human rights education and public relations in the protection and promotion of human rights, the Government incorporated these two elements in the NAP. Part 5 of the NAP includes implementation tasks for human rights education and public relations for students, government officials and human rights advocates, the socially vulnerable and minorities, companies and journalists, lifelong education institutes and the Korean people as a whole.

72. In addition, the Judicial Research and Training Institute, which is in charge of education of those who have passed the Korean Bar Examination before entering the legal profession, offers several courses on international human rights to ensure that future legal professionals have an opportunity to learn about human rights including economic, social and cultural rights at an international level.

***Question 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.***

73. Since the Republic of Korea acceded to the 1951 Convention relating to the Status of Refugees in 1992, 107 persons have been recognized as refugees and 71 persons have been permitted to stay in the country on humanitarian grounds until the end of April 2009. A total of 38 persons have applied for family reunion, and authorization was granted for all applicants. In particular, since the establishment of the Nationality and Refugee Division in the Ministry of Justice in February 2006, the numbers of those granted refugee status, granted humanitarian status and authorized for family reunions have each increased drastically. As of the end of April 2009, a total of 1,214 persons who have applied for refugee status are staying in the Republic of Korea.

74. Annual statistics on refugees, stays on humanitarian grounds and family reunions from the submission of the second periodic report to 2005 are explained in paragraphs 34 and 35 of the third periodic report. Annual statistics from 2006 to 2008 are as follows.

**Table 10**

**Statistics on refugees, humanitarian stays and family reunions, by year**

(Unit: persons)

| Classification                                | 2006 |        | 2007 |        | 2008 |        | 2009.4 |        |
|---|------|--------|------|--------|------|--------|--------|--------|
|   | Male | Female | Male | Female | Male | Female | Male   | Female |
| Number of those granted refugee status        | 11   |        | 13   |        | 36   |        | 6      |        |
|   | 6    | 5      | 5    | 8      | 26   | 10     | 3      | 3      |
| Number of those granted humanitarian status   | 13   |        | 9    |        | 22   |        | 0      |        |
|   | 10   | 3      | 2    | 7      | 16   | 6      | 0      | 0      |
| Number of those authorized for family reunion | 3    |        | 11   |        | 16   |        | 4      |        |
|   | 0    | 3      | 3    | 8      | 6    | 10     | 2      | 2      |

75. As of the end of April 2009, statistics on those granted refugee status, those granted humanitarian status, and those authorized for family reunion classified by sex, age and nationality are as follows.

**Table 11**

**Status of refugees, humanitarian stays and family reunions, by sex**

(Unit: persons)

| Classification                                | Total | Male | Female |
|---|-------|------|--------|
| Number of those granted refugee status        | 107   | 74   | 33     |
| Number of those granted humanitarian status   | 71    | 50   | 21     |
| Number of those authorized for family reunion | 38    | 13   | 25     |

**Table 12**

**Status of refugees, humanitarian stays and family reunions, by age**

(Unit: persons)

| Classification                                | Total | 1-4<br>years old | 5-17<br>years old | 18-59<br>years old | 60 years old<br>or older |
|---|-------|------------------|-------------------|--------------------|--------------------------|
| Number of those granted refugee status        | 107   | 8                | 11                | 86                 | 2                        |
| Number of those granted humanitarian status   | 71    | 1                | 4                 | 65                 | 1                        |
| Number of those authorized for family reunion | 38    | 8                | 11                | 19                 | -                        |

**Table 13**

**Status of refugees, by nation**

(Unit: persons)

| Total | Myanmar | Bangladesh | Congo | Ethiopia | China | Cameroon | Côte<br>d'Ivoire | Iran | Others |
|-------|---------|------------|-------|----------|-------|----------|------------------|------|--------|
| 107   | 46      | 20         | 13    | 7        | 5     | 4        | 3                | 4    | 5      |

**Table 14**

**Status of humanitarian stays, by nation**

(Unit: persons)

| Total | Myanmar | Ethiopia | Congo | China | Côte<br>d'Ivoire | Iran | Algeria | Iraq | Others |
|-------|---------|----------|-------|-------|------------------|------|---------|------|--------|
| 71    | 15      | 13       | 11    | 7     | 5                | 4    | 4       | 3    | 9      |

**Table 15****Status of family reunions, by nation**

(Unit: persons)

| Total | Myanmar | Congo | Bangladesh | China | Côte d'Ivoire | Uganda | Ethiopia |
|-------|---------|-------|------------|-------|---------------|--------|----------|
| 38    | 15      | 9     | 8          | 2     | 2             | 1      | 1        |

***Question 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.***

76. In the policy-making process, the Government strives to ensure that the economic, social and cultural rights enshrined in the Covenant are duly taken into consideration.

77. For example, in the course of establishing its bilateral and multilateral trade policies, the Ministry of Foreign Affairs and Trade consults all relevant Ministries through various channels such as the Ministers' Meeting for External Economic Affairs and the Cabinet Meeting. Through this process, the Government tries to formulate trade policies, taking into account their possible impact on the economic, social and cultural rights of the people.

78. The Government also holds public hearings, if necessary, which ensure that various parties and sectors concerned are given opportunities to have their voices heard before any formal decision is made.

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

79. Since the Government introduced the Employment Permit System (EPS) in 2004, a total of 492,311 foreign workers have been employed through the EPS as of December 2008. The EPS is divided into general EPS and special EPS. General EPS allows ordinary foreign workers to be employed in non-professional occupations which do not require certain qualifications and work experience, while special EPS targets foreign workers issued a visit and employment visa (H-2). Among the total 492,311 employed foreign workers, 172,513 have been employed through general EPS and 319, 798 through special EPS.

**Table 16**

**Number of foreigners employed under the general Employment Permit System, by year**

(Unit: persons)

| Classification                        | 2004  | 2005   | 2006   | 2007   | 2008   |
|---------------------------------------|-------|--------|--------|--------|--------|
| Foreigners employed under General EPS | 3 167 | 31 659 | 28 976 | 33 687 | 74 724 |

80. Of total foreign workers employed through the general EPS, 46,248 or 26.9 per cent, constituting the largest share, have been Vietnamese workers.



**Table 17**

**Number of foreigners employed under the general Employment Permit System  
from 2004 to 2008, by nation**

(Unit: persons)

| Bangladesh | Kyrgyzstan | Myanmar | Nepal | Cambodia | Pakistan | Uzbekistan | China | Sri Lanka | Indonesia | Mongolia | Thailand | The Philippines | Viet Nam | Total   |
|------------|------------|---------|-------|----------|----------|------------|-------|-----------|-----------|----------|----------|-----------------|----------|---------|
| 1 497      | 448        | 69      | 2 038 | 2 946    | 2 648    | 4 742      | 2 176 | 14 730    | 22 532    | 17 068   | 28 349   | 26 729          | 46 248   | 172 212 |
| 0.9%       | 0.3%       | 0.04%   | 1.2%  | 1.7%     | 1.5%     | 2.8%       | 1.3%  | 8.6%      | 13%       | 10%      | 16.5%    | 15.5%           | 26.9%    | 100%    |

81. Meanwhile, given that not every foreign worker is employed under the EPS, it is difficult to determine the exact number of foreign workers currently employed in the Republic of Korea. Nevertheless, this number may be determined indirectly by examining the number of foreigners eligible for employment.

82. As of 30 April 2009, the number of foreigners staying in the Republic of Korea and eligible for employment is presented in the following table.

**Table 18**

**Number of foreigners staying in the Republic of Korea and eligible for employment**

(Unit: persons)

| Classification  | Total   | Male    | Female  |
|---|---------|---------|---------|
| Total number of foreigners staying in the Republic of Korea | 766 189 | 428 723 | 337 466 |
| Number of foreigners staying legally                        | 704 589 | 388 638 | 315 951 |
| Number of foreigners staying illegally                      | 61 600  | 40 085  | 21 515  |

\* Foreigners who are illegally staying in the Republic of Korea refer to those who either have overstayed their period of sojourn or have lost their status of sojourn for violating the required conditions for status of sojourn.

**Table 19****Number of staying foreigners eligible for employment, by type of visa**

(Unit: persons)

| Classification                    | Total stay |         | Legal stay |         |
|-----------------------------------|------------|---------|------------|---------|
|                                   | Male       | Female  | Male       | Female  |
| Total                             | 428 723    | 337 466 | 388 638    | 315 951 |
| Short-term employment (C-4)       | 570        | 238     | 293        | 181     |
| Professors (E-1)                  | 1 332      | 543     | 1 330      | 540     |
| Teaching foreign languages (E-2)  | 12 237     | 9 270   | 12 179     | 9 212   |
| Research (E-3)                    | 1 679      | 264     | 1 670      | 262     |
| Technology instruction (E-4)      | 118        | 7       | 116        | 5       |
| Special occupation (E-5)          | 516        | 7       | 504        | 6       |
| Art and entertainment (E-6)       | 1 143      | 3 926   | 966        | 2 723   |
| Particular occupation (E-7)       | 6 635      | 1 926   | 6 178      | 1 783   |
| Training employment (E-8)         | 12 651     | 1 845   | 374        | 17      |
| Non-professional employment (E-9) | 166 891    | 23 793  | 143 298    | 14 758  |
| Vessel crew (E-10)                | 4 359      | 1       | 3 650      | 1       |
| Residence(F-2)                    | 19 232     | 114 034 | 18 041     | 106 065 |
| Overseas Korean residents (F-4)   | 21 050     | 23 037  | 20 685     | 22 688  |
| Permanent residence (F-5)         | 8 072      | 12 125  | 8 072      | 12 125  |
| Working holiday (H-1)             | 82         | 304     | 82         | 304     |
| Visit and employment (H-2)        | 172 156    | 146 146 | 171 200    | 145 281 |

**Table 20****Number of staying foreigners eligible for employment, by nation**

(Unit: persons)

| Classification  | China   | Viet Nam | The U.S. | The Philippines | Thailand | Indonesia | Taiwan | Mongolia | Sri Lanka | Canada |
|---|---------|----------|----------|-----------------|----------|-----------|--------|----------|-----------|--------|
| Total number of foreigners staying in the Republic of Korea | 415 111 | 78 098   | 43 021   | 36 917          | 28 838   | 25 428    | 20 363 | 15 752   | 14 276    | 13 603 |
| Number of foreigners staying legally                        | 393 990 | 68 281   | 42 431   | 30 106          | 24 633   | 22 043    | 19 812 | 11 398   | 13 108    | 13 464 |
| Number of foreigners staying illegally                      | 21 121  | 9 817    | 590      | 6 811           | 4 175    | 3 385     | 551    | 4 254    | 1 168     | 139    |

83. Meanwhile, illegal foreigners are likely to be working to meet their living expenses in the Republic of Korea, regardless of the status of their stay. As of 30 April 2009, the total number of illegal foreigners was 191,641.

**Table 21**  
**Status of illegal foreigners, by nation**

(Unit: persons)

| Classification          | Total   | China  | Viet Nam | Thailand | Mongolia | The Philippines | Uzbekistan | Bangladesh | Indonesia |
|-------------------------|---------|--------|----------|----------|----------|-----------------|------------|------------|-----------|
| Number of illegal stays | 191 641 | 88 908 | 15 227   | 13 460   | 13 404   | 12 530          | 8 114      | 7 539      | 5 177     |

**Table 22**  
**Status of illegal foreigners, by year**

(Unit: persons)

| Classification          | 2005    | 2006    | 2007      | 2008      | 2009. 4.  |
|-------------------------|---------|---------|-----------|-----------|-----------|
| Number of total stays   | 747 467 | 910 149 | 1 066 273 | 1 158 866 | 1 169 981 |
| Number of illegal stays | 204 254 | 211 988 | 223 464   | 200 489   | 191 641   |

***Question 7 - Please provide information on the impact of free trade agreements signed by the State party, including the Republic of Korea-US FTA, on the enjoyment of economic, social and cultural rights, in particular on the reported threats to food safety.***

84. The Government tries to contribute to the improvement of economic, social and cultural rights of the people through FTAs, as the expansion of bilateral trade and investment enhances economic welfare and facilitates rapid and sustainable economic development.

85. In particular, recent Free Trade Agreements tend to include labor and environment chapters or provisions, which prevent the Parties from lowering or degrading the level of labour or environmental protection in the process of implementing a Free Trade Agreement. For example, the Parties to a Free Trade Agreement are, in many cases, obliged to observe the ILO's core labour standards and multilateral environmental agreements and to effectively enforce relevant domestic laws and regulations.

86. Free Trade Agreements signed by the Republic of Korea either incorporate the WTO SPS (Sanitary and Phytosanitary Measures) Agreement or reaffirm the Parties' existing rights and obligations under the WTO SPS Agreement. In this regard, and for the following reasons, it is difficult to conclude that Free Trade Agreements have negative impacts on food safety.

87. First, Free Trade Agreements explicitly recognize the right of the Parties to take sanitary and phytosanitary measures necessary to protect human, animal or plant life and safety, as long as such measures are based on scientific evidence and do not unjustifiably discriminate against foreign sources of supply.

88. Second, even if relevant scientific evidence is insufficient, a Party may provisionally adopt sanitary and phytosanitary measures on the basis of pertinent information available. Under such circumstances, a Party shall seek to obtain additional information necessary for a more objective risk assessment and review such measures within a reasonable period of time.

89. In addition, while the Parties to Free Trade Agreements are encouraged to implement SPS measures in accordance with international standards, the Parties may introduce or maintain sanitary or phytosanitary measures that could result in a higher level of protection, if there is scientific justification or if a Party determines it appropriate to do so.

***Question 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.***

90. The requested statistical information is given in the relevant sections.

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

### **A. Article 2, paragraph 2. Non-discrimination**

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

91. The Government is actively pursuing improvement in the legal and social status of foreigners living in the Republic of Korea. On 18 July 2007, the Government established the Act on the Treatment of Foreigners in Korea to lay the groundwork for establishing a social environment of mutual understanding and respect between Koreans and foreigners by providing foreigners with support for economic activities, information and education, assistance for their integration into society, and consultation for legal and civil petitions. The Act stipulates that the Minister of Justice shall establish a framework plan for policies related to foreigners every five years and set an implementation plan each year. Immigration Policy Commission considers and makes a final determination on the plans, which are then implemented by central administrative agencies and local governments. Immigration Policy Commission, established under the command of the Prime Minister, examines and coordinates important policies regarding foreigners including their adaptation to Korean society.

92. In addition, cultural events with participation from foreign residents, civic groups and the Government are held to promote public awareness of multicultural society and to foster an environment where cultural diversity is respected by all. The central government, local governments, and citizen groups hold a variety of cultural events including performances of other countries during the “Together Week with Foreign Friends” starting from 20 May every year, designated as “Together Day” in the Act.

***Question 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.***

93. The Ministry of Justice submitted the Anti-Discrimination Bill to the National Assembly in December 2007, but as the seventeenth National Assembly came to an end in May 2008, the Bill was discarded without consideration. As of May 2009, there have been no pending anti-discrimination bills in the National Assembly.

94. In the course of working out the discarded bill, some pointed out that discrimination on the basis of nationality and sexual orientation were not mentioned on the list of anti-discrimination grounds. Before the preliminary announcement on the legislation of the bill, 24 anti-discrimination grounds were included in the bill. After the legislation was announced, however, some began to question the anti-discrimination grounds. Having re-examined international human rights instruments, overseas legislation, relevant domestic laws, and other sources, the Ministry of Justice concluded that it would be desirable to set the list of anti-discrimination grounds only as example and reduced the number of anti-discrimination grounds to 13 in the bill. Despite this modification, all anti-discrimination grounds including nationality or sexual orientation are still covered by the bill, since the bill does not exclusively enumerate anti-discrimination grounds but rather stipulates a list of typical anti-discrimination grounds as example.

95. There are many laws on anti-discrimination in the Republic of Korea, and these laws vary in terms of anti-discrimination grounds and scope, and the level of protection and punishment. Examples of such laws include the Act on the National Human Rights Commission, the Anti-Discrimination Against and Remedies for Persons with Disabilities Act, the Act on Age Discrimination Prohibition in Employment and Aged Employment Promotion, the Labour Standards Act, the Act on the Gender Equality Employment and Support for Work-Family Reconciliation, the Act on the Protection of Fixed-Term and Part-Time Employees, and the Act on the Protection of Dispatched Workers. Therefore, in order to enact an anti-discrimination act as a general act, consideration must be given to ensure that such an act systematically conforms to and coincides with the abovementioned Acts.

96. The Ministry of Justice is carefully proceeding with the enactment of an anti-discrimination law, referring to international standards and overseas legislation pertaining to discrimination and taking full account of its congruence with existing individual anti-discrimination laws.

***Question 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 (paras. 27 and 36 of the report). In this connection, please provide statistical information on the average length of waiting period for asylum-seekers in the past five years on an annual basis.***

97. As explained in paragraph 73, the numbers of those granted refugee status, humanitarian status and authorized for family reunion have each increased drastically since the Nationality and Refugee Division was established in February 2006. The Ministry of Justice is undergoing structural change to meet the increasing demands of refugee related works, and improving the refugee recognition review procedure in order to shorten the waiting period. In May 2009, the Ministry increased the number of staff responsible for refugee affairs at its headquarters, and established a separate division responsible for nationality and refugee affairs at the Seoul Immigration Office. The waiting period for asylum-seekers is expected to decrease to less than a year hereafter.

98. In order to alleviate difficulties faced by applicants due to long waiting periods, the revised Immigration Control Act and its Enforcement Decree, scheduled to enter into force from 20 June 2009, grant eligibility for employment to those who applied for refugee status but have been waiting for recognition for more than a year.

99. With regard to the average waiting period before recognition of refugee status, in 2006 the average was one year and five months; in 2007, one year and five months; and in 2008, one year and seven months. Statistics are not available for 2004 and 2005.

***Question 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 (para. 30 of the report), to enable them to fully enjoy their rights under the Covenant.***

100. From April 2006, foreign spouses of Koreans have not required to accompany their Korean spouses when applying for permission to extend their period of stay.

101. When foreign spouses married to Koreans seek to acquire Korean nationality by naturalization, several investigation procedures are carried out before naturalization is granted such as verification of whether the marriage is maintained.

**B. Article 3. Equal rights of men and women**

***Question 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.***

102. In order to expand the participation of women in government advisory committees, the Government established the Women Representatives Participation System and exerted strenuous efforts to raise the rate of participation by women. As a result, the participation rate of women in 2008 increased to 30.9 per cent from 12.4 per cent in 1998. The figure, however, was a 2.2 per cent reduction from the 33.1 per cent of the previous year (2007). Disconcerted by the interruption in the upward trend, the Government has undertaken various measures including identifying and fielding qualified women candidates and soliciting cooperation from concerned government agencies in an effort to increase women's representation in government committees to 40 per cent.

**Table 23**

**Participation rate of women in government advisory committees**

(Unit: per cent)

| Year   |          | 1998  | 1999  | 2000  | 2001  | 2002  | 2003  | 2004  | 2005  | 2006  | 2007  | 2008  |
|--------|----------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Type   | Target   | 20%   | 23%   | 25%   | 28%   | 30%   | 32%   | 34%   | 36%   | 38%   | 40%   | 40%   |
| Result | Overall  | 12.4% | 17.6% | 23.6% | 27.7% | 30.1% | 31.6% | 32.2% | 32.4% | 33.7% | 33.1% | 30.9% |
|        | Central  | 11.8% | 17.5% | 22.7% | 24.8% | 26.2% | 27.3% | 27.1% | 27.9% | 29.6% | 27.0% | 27.0% |
|        | Regional | 12.7% | 17.7% | 24.0% | 28.7% | 31.5% | 33.3% | 34.8% | 35.3% | 36.0% | 37.0% | 33.1% |

103. As noted in paragraphs 46 to 47 of the third periodic report, the gender equality hiring system has replaced the women employment target system since 2003. As a result of the system, an additional 446 women passed public service examinations from 1996 to 2008, and the pass rate for female candidates taking the public service examination increased drastically from 26.5 per cent in 1996 to 41.6 per cent in 2008.

104. The Five-Year Plan for Expansion of Women Managers in Public Positions (2002 to 2006) was originally pursued by offering high-ranking government posts of grade 5 or above. After substantial achievements were made, the Plan has been offering higher posts of grade 4 or above starting from 2007. With the introduction of this system, the ratio of female government officials assuming grade 5 or higher rose from 4.8 per cent in 2001 to 10.8 per cent by 2008.

**Question 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 limited to “cooking, beauty salon, babysitting, flower arrangement and telemarketing” (para. 76 of the report), in view of the admission by the State party that “quality of women’s employment is much lower than that of men” (para. 52 of the report) and that practical improvements in gender discrimination “would be more effective if they were accompanied by the necessary social and cultural changes” (para. 49 of the report).**

105. Recognizing that promoting a culture of gender equality is a prerequisite for overcoming prejudice against gender roles, the Government has been exerting various efforts to promote social and cultural change. In particular, the Government established the Korean Institute for Gender Equality Promotion and Education (KIGEPE) in June 2003 to promote awareness and better understanding of gender equality.

106. The KIGEPE has played a leading role in gender equality education, offering courses on gender equality policy analysis, enhancing women’s leadership, and training central and regional public officials, professional lecturers, women’s groups, the military, and faculty members. A new course on training professional lecturers to prevent sexual violence against children was created in 2008. Over 170,000 people from both public and private sectors were trained from 2003 to 2008.

**Table 24**

**Education record of the Korean Institute for Gender Equality Promotion and Education, by year**

(Unit: persons)

| Classification                             | 2003   | 2004   | 2005   | 2006   | 2007   | 2008   | Total   |
|--|--------|--------|--------|--------|--------|--------|---------|
| Number of people educated by the institute | 22 471 | 40 660 | 18 680 | 21 823 | 36 581 | 32 747 | 172 962 |

107. The institute has developed and offered a life cycle gender equality education programme for ordinary citizens and also strives to promote anti-discrimination and gender equality awareness through mass media.

108. The life cycle gender equality education programme, conducted from 2003 to 2007, provided people with different standardized education depending on their stage in life (infancy, childhood, adolescence, adulthood and old age).



**Table 25**

**Gender Equality Education Programme Development and Education, by life stage**

(Unit: persons)

| Year | Standardized education programmes                                       | Number of recipients |
|------|---|----------------------|
| 2003 | Programme for Early Childhood (parents, nursery teachers, lecturers)    | -                    |
| 2004 | Programme for Childhood (primary school students and teachers)          | 60                   |
| 2005 | Programme for Adolescence (secondary school students and teachers)      | 107                  |
| 2006 | Programme for Adulthood (college students and general adult population) | 287                  |
| 2007 | Programme for Late Adulthood (senior citizens over 60 years of age)     | 371                  |
| 2008 | -   | 2 423                |

109. The institute has worked to enhance sensitivity to gender equality in daily life and to promote awareness of gender equality, awarding a gender equality prize (in its tenth year in 2008) to exemplary gender equality education programmes and broadcasts, monitoring gender discriminatory elements in mass media such as television broadcasting since 2001, and forming the Guidelines on the Deliberation of the Contents of Broadcasts.

110. With respect to the contents of paragraph 76 of the third periodic report, a clarification is as follows. There have been no restrictions on the areas of job training on the basis of gender. It is true that job training for unemployed female heads of households has been provided mainly in such areas as cooking, beauty salon, babysitting, flower arrangement and telemarketing. This is not because job training for women is confined to those areas, but because most female heads of households prefer and choose to participate in such courses. Other job training courses open to females include cultural contents development, school food services, electronic accounting, online shopping business and hotel room management, among others.

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

**A. Article 6. The right to work**

***Question 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 para. 142 of the 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 of the report).***

111. Systems supporting vocational competency development training for non-regular workers include financial support for competency development training, payment to employers and subsidies when workers take training courses, and support for non-regular workers under the Worker Competency Development Card Programme.

112. As explained in paragraph 111 of the third periodic report, when employers provide vocational training to fixed-term workers under the Act on the Protection, etc. of Fixed-Term and Part-Time Employees (hereinafter referred to as the Act for Fixed-Term Employees), part-time workers under the Labor Standard Act and dispatched workers under the Act on Protection, etc., for Dispatched Workers (hereinafter referred to as the Act for Dispatched Workers), subsidies are provided to cover a certain portion of their training costs and all or part of the wages paid during the training courses.

113. Subsidies for taking training courses and support through the Worker Competency Development Card Programme are given to support training expenses for fix-term, part-time, dispatched and daily workers so that they can participate in training in a self-initiated manner without the permission of their employers and thereby move to better jobs. Subsidies for taking training courses are provided to workers who take vocational competency development training courses to cover all or part of the required training expenses. On the other hand, under the Worker Competency Development Card Programme, workers take training courses by showing their competency development card issued to them, and a subsidy is provided to heads of training institutions. Under both systems, the subsidy amount per person must not exceed one million won per year or three million won for five years from the start of the training courses.

**Table 26**

**Status of financial assistance to non-regular workers for labour training courses  
and for the Worker Competency Development Card Programme**

(Unit: thousand persons, 100 million won)

| Year/<br>Classification | Assistance for training courses |                      | Worker Competency Development<br>Card Programme |                      |
|-------------------------|---------------------------------|----------------------|---|----------------------|
|                         | Number of<br>beneficiaries      | Assistance<br>amount | Number of<br>beneficiaries                      | Assistance<br>amount |
| 2006                    | 14                              | 32                   | -   | -                    |
| 2007                    | 38                              | 90                   | 8   | 19                   |
| 2008                    | 52                              | 126                  | 29  | 74                   |

114. Since August 2007, the Supplementary Survey to the Survey on the Economically Active Population by Employment Status has included a survey on the proportion of non-regular workers who had received education or training to improve and develop their vocational competency over the previous years, and their average training hours. According to the survey, the proportion of such non-regular workers and their average training hours have continuously increased since the survey was first conducted in August 2007.

**Table 27**

**Proportion of non-regular workers with vocational education or training experience and their average training hours**

(Units: percentage, hours)

| Classification                              |                     | '07. 8 | '08. 3 | '08. 8 | '09. 3 |
|---|---------------------|--------|--------|--------|--------|
| Vocational education or training experience | Wage earners        | 24.9   | 24.5   | 26.8   | 30.8   |
|   | Regular workers     | 28.4   | 28.4   | 30.4   | 34.6   |
|   | Non-regular workers | 18.6   | 17.5   | 19.8   | 23.4   |
| Average training hours                      | Wage earners        | 32     | 36     | 38     | 38     |
|   | Regular workers     | 33     | 37     | 39     | 39     |
|   | Non-regular workers | 30     | 32     | 34     | 35     |

115. The legislative bills that aim to improve the rights of non-regular workers mentioned in paragraph 146 of the third periodic report refer to the bill on Fixed-Term and Part-Time Employees and the amendments to the Act for Dispatched Workers, both of which were submitted by the Government to the National Assembly on 8 November 2004. The two draft bills were partially modified in the course of parliamentary discussion, passed through the National Assembly on 30 November 2006 and promulgated on 12 November 2006. The provisions of the Act on Fixed-Term Employees, which stipulate that the employment contract period for fixed-term workers shall be limited to two years, and that fixed-term workers who are employed for more than two years shall be regarded as being employed on an open-end contract, as well as the provision of the Act for Dispatched Workers, which makes it mandatory for employers to hire dispatched workers for their illegal use of dispatched workers, have been in force since 1 July 2007. Meanwhile, the provisions of both Acts concerning the prohibition of discriminatory treatment and issuance of redress orders are currently in force, but their application is limited to businesses or establishments employing 100 workers or more until 1 July 2009.

116. The Act for Fixed-Term Employees and the Act for Dispatched Workers allows individuals to seek a redress order for discriminatory treatment when fixed-term workers, part-time workers and dispatched workers receive discriminatory treatment compared with regular workers doing the same or similar work in the business or workplace concerned solely due to their non-regular status. According to the Act, they can file a complaint requesting redress with the Labor Relations Commission within three months, and the Commission should issue a redress order to the employers when it finds the given treatment discriminatory after investigation and inquiry. The Minister of Labor imposes a maximum of 100 million won in fines to those who do not comply with a redress order confirmed through administrative litigation without justifiable causes.

117. The discrimination redress system under both Acts is meaningful, as it helps draw social attention to discrimination against non-regular workers and prompts companies to voluntarily endeavor to improve the working conditions of non-regular workers. In fact, the findings of a survey conducted by the Ministry of Labor in May 2008 show that some 73 per cent of large companies and 46.1 per cent of medium sized companies subject to the discrimination redress system early on have voluntarily improved the working conditions of non-regular workers. There

have been assertions that the redress system of the Labor Relations Commission is not yet functioning properly. However, it should be noted that the system is still in the early stages and that there are some limitations on its application to small-sized businesses or establishments employing fewer than 100 workers. As of the end of January 2009, among the total 2,124 cases received by the Commission, redress orders were issued in 96 cases, mediation made in 487 cases, and litigation withdrawn in 851 cases. Most of the cases dismissed or turned down were those in which demands from workers were accepted by the employers.

118. The Government is making effort to strengthen its consultation, education and publicity activities to ensure that the discrimination redress system is entrenched and proliferates in the workplace. The Government also plans to take measures to reduce the challenges faced by non-regular workers in filing a complaint requesting to redress discrimination. These measures would include strengthening the investigation procedure of the Labor Relations Commission and allowing workers to receive free consulting services from certified legal experts on labor affairs. In addition, the Ministry of Labor submitted an amendment to the Act for Fixed-Term Employees to the National Assembly on 1 April 2009. The amendment would prolong the period during which a worker can request redress for discrimination from three months to six months in order to give non-regular workers increased opportunity to make such a request.

119. According to the Act for Fixed-term Employees and the Act for Dispatched Workers, the employment contract period for fixed-term workers or the total dispatch period for dispatched workers shall not exceed two years, after which the status of the workers should be upgraded to regular workers. As 1 July 2009 draws near, marking two years since the enforcement of the abovementioned Acts, some public agencies, banks, etc., are upgrading the status of their non-regular workers into regular workers, but many companies are terminating their employment relations with non-regular workers before the end of the two-year employment period in order to avoid the burden of hiring them as regular workers. This is resulting in the layoffs of many non-regular workers, especially fixed-term workers, thus spreading employment insecurity among non-regular workers. Moreover, coupled with the economic recession caused by the financial crisis, the layoffs are increasingly worsening the employment situation of non-regular workers.

120. In order to ease the employment insecurity of non-regular workers, the Government announced measures to ensure employment security for non-regular workers. Based on such measures, it submitted amendments to the Act for Fixed-term Employees and the Act for Dispatched Workers to the National Assembly on 1 April 2009, and a bill on Special Measures for the Improvement of Employment Conditions for Non-regular Workers, etc., which is to be implemented temporarily, on 20 April 2009. The amendments to the two Acts are aimed at easing non-regular workers' employment insecurity and helping them retain their jobs by extending the maximum employment period for fixed-term workers and the maximum dispatch period for dispatched workers from the current two years to four years. In addition, the aim of the bill on Special Measures for the Improvement of Employment Conditions for Non-regular Workers, etc. is to encourage employers to upgrade the status of non-regular workers into regular workers. The bill reduces by half employers' contributions to social insurance payments, such as national pension scheme, health insurance and employment insurance, for two years when small and medium-sized companies with 5 to 299 permanent workers upgrade their non-regular workers into regular workers. Currently, these bills are pending at the National Assembly.

***Question 16 - Please provide additional updated information on the implementation of the legislation and policies adopted by the State 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.***

121. The Government's efforts to eradicate gender discrimination in employment were explained in paragraphs 48 to 52, 71, 126 and 127 of the third periodic report.

122. The Government bans gender-based discrimination in recruitment and hiring, and supports upgrading female non-regular workers to regular workers by providing subsidies for employers who continue to employ female workers after pregnancy and childbirth and those who hire female workers after childbirth. The Government also provides support for the competency development training of non-regular workers by implementing the Worker Competency Development Card Programme and giving subsidies when non-regular workers take training courses.

123. Article 7 of the Act on Equal Employment and Support for Work-Family Reconciliation prohibits gender-based discrimination in recruitment and hiring and imposes a fine not exceeding 500 million won in case of violation. The Government is making efforts to eradicate discrimination in recruitment and hiring by conducting labor inspections on workplaces employing a large number of female workers each year to make sure that these workplaces implement gender equality in employment.

124. In July 2006, the Government launched a new system in which subsidies are provided to employers who reemploy fixed-term (one year or less) or dispatched workers, who are at least 34 weeks pregnant or on maternity leave, immediately after the end of their contract period. The requirement of length of pregnancy was 34 weeks when the system was first introduced in July 2006, but was shortened to 16 weeks from 27 April 2007. Furthermore, in order to encourage the reemployment of female non-regular workers as regular workers, since 30 April 2008, the Government has been providing more subsidies for a longer period to employers who offer employment contracts without a fixed term, compared to those who offer employment contracts with a fixed term of one year or longer.

125. Since April 2007, the Government has been providing subsidies to employers who hire female workers who previously left their jobs due to pregnancy, childbirth or childrearing as regular workers in order to encourage the reemployment of career-break women as regular workers. To expand the access of career-break women to regular employment, on 30 April 2008, the government eliminated the requirement that reemployment should take place within five years after the women leave their jobs.

126. Support for non-regular workers' vocational competency development is explained above in paragraphs 111-114.

## B. Article 7. The right to just and favorable conditions of work

**Question 17 - Notwithstanding information provided in paragraph 121 of the report 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 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.**

127. The Government sets the minimum wage after taking into consideration workers' costs of living, wages of similar workers, labor productivity, income distribution rate, and other considerations. The Minimum Wage Council, consisting of members representing labor, management and public sectors, decides upon the minimum wage after 90 days of deliberation. After the objection period, the Minister of Labor confirms and announces the minimum wage by 5 August every year, which takes effect from 1 January 1 to 31 November the following year.

128. The minimum wage has increased by an average of 10.2 per cent every year since 2000, and from 2000 to 2007, the average minimum wage growth rate (11 per cent) stayed above the average inflation rate (3 per cent) and average wage growth rate (7 per cent). The hourly minimum wage for 2009, set at 4,000 won, is two and half times that of 2000, 1,600 won. As a result, the number of workers affected by the hike in the minimum wage has soared from 54,000 people (1.1 per cent) to more than two million (13.1 per cent).

**Table 28**

### Comparison of inflation, wages, and the minimum wage growth

(Unit: percentage, thousand persons)

| Classification                             | 2000 | 2001 | 2002 | 2003 | 2004  | 2005  | 2006  | 2007  | 2008  | 2009  |
|--|------|------|------|------|-------|-------|-------|-------|-------|-------|
| Inflation rate (%)                         | 2.3  | 4.1  | 2.8  | 3.5  | 3.6   | 2.8   | 2.2   | 2.5   | -     | -     |
| Wage increase rate (%)                     | 8.0  | 5.1  | 11.2 | 9.2  | 6.0   | 6.6   | 5.7   | 5.6   | -     | -     |
| Minimum wage increase rate (%)             | 4.9  | 16.6 | 12.6 | 8.3  | 10.3  | 13.1  | 9.2   | 12.3  | 8.3   | 6.1   |
| Proportion of beneficiaries (%)            | 1.1  | 2.1  | 2.8  | 6.4  | 7.6   | 8.8   | 10.3  | 11.9  | 13.8  | 13.1  |
| Number of beneficiaries (thousand persons) | 54   | 141  | 201  | 849  | 1 035 | 1 245 | 1 503 | 1 784 | 2 124 | 2 085 |

\* The proportion of beneficiaries in 2003 increased drastically from 2002 because the scope of the survey was extended from establishments employing five workers or more to every establishment.

129. The minimum wage system aims to protect low-income workers by legally forcing employers to pay at least the minimum wage, set as a result of the Government's intervention in wage negotiations between labor and management. The system has many positive effects, alleviating income disparity by addressing the problem of low wages and improving income

distribution; stabilizing workers' livelihoods by guaranteeing a minimum standard of living; and promoting labor productivity by raising the morale of workers. However, vulnerable groups of workers may become even more insecure in employment if the minimum wage is set at an excessively high level compared to the wages of small businesses or the labor productivity of workers, since employers are required to pay the minimum wage, whereas the Government guarantees the minimum household income under the National Basic Livelihood Security Programme. In this regard, the Government is striving to set the minimum wage at an optimal level that does not reduce employment while strengthening the social safety net by expanding the coverage of the National Basic Livelihood Security Programme and providing subsidies for low-income workers to further secure a minimum standard of living.

130. As of the end of May 2009, four amendments to the Minimum Wage Act proposed by lawmakers were pending at the National Assembly, but none has been submitted by the Government. Of the four amendments, the one proposed on 18 November 2008 includes the imposition of joint liability on contractors, application of a reduced minimum wage to those aged 60 or above, extension of the probationary period of probationary employees (from three to six months) to which a different minimum wage could be applied, deduction of lodging expenses in calculating minimum wages, provision of proper evaluation standards, complementation of the way the minimum wage is determined and provision of legal grounds for introducing different minimum wages by region.

***Question 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?***

131. Equal pay for work of equal value in the same business is guaranteed by law. The Government provides a variety of consulting services; develops and distributes manuals for judging whether gender-based discrimination is taking place, as well as self-examination manuals to ensure equal pay for work of equal value; and conducts labour inspections on workplaces. According to the Wage Structure Survey conducted by the Government every year, the wage gap between male and female workers has continued to narrow.

132. In accordance with article 8 of the Act on Equal Employment and Support for Work-Family Reconciliation, an employer should give equal pay for work of equal value within the same workplace, and any employer who violates this provision is punishable by imprisonment of up to three years or a fine not exceeding 20 million won. Whether work is of equal value is determined by taking into account various criteria, including workers' educational background, work experience and length of service, as well as the skills, efforts, responsibility and working conditions required to perform the work.

133. In the Republic of Korea, where seniority-based pay systems are prevalent, wage levels are determined in consideration of workers' education, length of service and experience. As a result, a wage gap may exist between workers with different lengths of service, even if they have the same academic background and belong to the same occupational group. The wage gap between male and female workers is also caused by various elements such as occupational gender segregation, different types of work performed by male and female workers and the characteristics of establishments where male or female workers are employed. Therefore, in

order to expand the application of the principle of equal pay for work of equal value, it is necessary to modify the existing personnel management and pay structure of each company, based on an agreement between the labour and management of each workplace. In order to address occupational gender segregation and the wage gap between men and women, the Government is conducting labour management consulting projects in various forms, such as consulting to promote female employment, supporting the improvement of the wage and job structure, and providing consultations through the Korea Workplace Innovation Centre.

134. The Government develops and distributes workplace self-examination manuals to enable labor and management to independently examine factors causing gender-based wage discrimination in their workplaces and encourage voluntary improvements that ensure equal pay for work of equal value. The Government also develops and distributes manuals for judging whether wage and other discrimination based on gender is taking place, in an effort to encourage employers to voluntarily participate in the elimination of discrimination. The manuals are also developed to prevent workers from receiving unfavorable treatment in terms of employment and wages by providing specific cases and judgment criteria for gender-based discrimination at each stage of the employment process, including recruitment and hiring.

135. The Government will continue to promote companies' awareness of the wage gap between male and female workers and provide guidance through workplace inspections to alleviate the wage gap between men and women not attributable to length of service, education and jobs.

136. The Government conducts the Wage Structure Survey on workers in the labor market every year. The surveys show that the wage gap between male and female workers is narrowing.

**Table 29**

**Ratio of female workers' monthly wage to that of males, by year**

(Unit: thousand won, percentage)

| Classification | 2002  | 2003  | 2004  | 2005  | 2006  | 2007  |
|----------------|-------|-------|-------|-------|-------|-------|
| Monthly wage   | 1 533 | 1 651 | 1 750 | 1 888 | 2 014 | 2 127 |
| Male workers   | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| Female workers | 64.8  | 65.2  | 65.7  | 66.2  | 66.5  | 66.4  |

\* Monthly Wage = base salary + overtime pay (bonus and piece rate excluded).

137. A worker who wishes to raise an objection to wage discrimination can report his/her case to a labor inspector or bring charges against the employer to a public prosecutor, citing violation of article 8 of the Act on Equal Employment and Support for Work-Family Reconciliation. The worker can also file a complaint with the National Human Rights Commission and bring a civil lawsuit against the employer to claim the wage difference.



**Question 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.**

138. Matters concerning investigation, recommendation, punishment and prevention education with regard to sexual harassment are prescribed in the Act on Equal Employment and Support for Work-Family Reconciliation, the National Human Rights Commission Act and the Framework Act on Women's Development. The recent revision of the Act on Equal Employment and Support for Work-Family Reconciliation added provisions on sexual harassment by customers in the service sector, which is a frequent occurrence.

139. When a worker alleges to have been a victim to workplace sexual harassment that constitutes a crime and is punishable under the criminal law, the Government punishes the harasser for violation of the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof, charging cases of sexual harassment involving exploitation of positions of seniority in the workplace, obscenity through communication media, or adultery with supervisees under article 303 of the Criminal Code.

140. In case of sexual harassment in the workplace, the worker can file a complaint or charge with a local labor office. The number of complaints or charges filed was 33 in 2006, 106 in 2007, and 147 in 2008.

**Table 30**

**Number of complaints or charges concerning sexual harassment at work**

(Unit: number of cases)

| Year | Number of cases filed for sexual harassment |            |         |        | Result of settlement |                     |                           |      |
|------|---|------------|---------|--------|----------------------|---------------------|---------------------------|------|
|      | Total                                       | Complaints | Charges | Others | Total                | Criminal punishment | Administrative conclusion | Fine |
| 2006 | 37  | 33         | 4       | -      | 37                   | 4                   | 22                        | 11   |
| 2007 | 106   | 96         | 9       | 1      | 106                  | 11                  | 77                        | 18   |
| 2008 | 147   | 135        | 11      | 1      | 147                  | 24                  | 108                       | 15   |

141. The recent increase in the number of complaints and charges with regard to sexual harassment at work appears to be due to people's heightened awareness of sexual harassment at work and their rights, rather than to an actual increase in sexual harassment cases.

142. Since victims of sexual harassment rarely seek redress and sexual harassment is often covered up during the handling process, it is difficult to determine the exact incidence rate of sexual harassment. In March 2009, the Ministry of Labour conducted a National Awareness Survey, which sought to indirectly determine people's awareness of sexual harassment in the Republic of Korea. According to the results, the proportion of people who consider sexual harassment a serious problem at work has decreased from 50.2 per cent in 2008 to 40.7 per cent this year.

143. The Act on Equal Employment and Support for Work-Family Reconciliation prohibits acts of sexual harassment at work, requires employers to provide sexual harassment prevention education and to take disciplinary action against offenders when sexual harassment occurs at work. The Government obligates employers to make efforts to prevent sexual harassment by third parties, such as customers, with a view to eliminating sexual harassment in the workplace. Disputes over sexual harassment should be settled autonomously by the employer or labour-management council concerned. Every year the Government randomly selects a certain number of workplaces, and asks them to voluntarily check their sexual harassment prevention education and report the results. Any employer who violates these provisions is fined or subject to punishment.

144. Pursuant to article 12 of the Act on Equal Employment and Support for Work-Family Reconciliation, employers, senior managers or employees shall not engage in sexual harassment in the workplace. In particular, an employer engaged in sexual harassment is imposed a fine not exceeding ten million won.

145. Article 13 of the Act on Equal Employment and Support for Work-Family Reconciliation stipulates that an employer shall provide sexual harassment prevention education in order to create a safe work environment. Based on the belief that “prevention is the best policy”, the Government has made it mandatory for employers to conduct such education and imposes a fine not exceeding three million won on those who fail to fulfill the obligation.

146. Article 14, paragraph 1 of the Act on Equal Employment and Support for Work-Family Reconciliation stipulates that when sexual harassment is found to have occurred at work, the employer shall take disciplinary or other equivalent action against the offender without delay. If the employer fails to take such action, he/she is punished by a fine not exceeding five million won.

147. In addition, according to article 14, paragraph 2 of the Act on Equal Employment and Support for Work-Family Reconciliation, an employer is forbidden from taking any unfavorable measures such as dismissal of workers who are or alleged to be victims of sexual harassment. An employer is also prohibited from taking measures that disadvantage employees on account of an employee’s seeking consultation on sexual harassment, or filing a complaint or a legal suit with the competent authorities. Any employer who violates this provision is punished by imprisonment of up to three years or a fine not exceeding 20 million won.

148. According to article 14-2, paragraph 1 of the Act on Equal Employment and Support for Work-Family Reconciliation, an employer should take all possible measures, such as changing the place or post of one’s work, if a worker requests help with his/her grievances resulting from sexual harassment committed by those closely related with his/her work, including customers. This is an institutional device aimed at protecting workers from acts of sexual harassment which have caused workers to feel sexually humiliated and offended while performing their jobs, and which have been committed by third parties closely related with their work such as customers. Given the fact that employers cannot take direct disciplinary measures against third parties, employers are obliged to make efforts to create a safe working environment by changing employees’ workplaces or posts, if necessary, to prevent the recurrence of sexual harassment by customers, etc.

149. Article 14-2, paragraph 2 of the Act on Equal Employment and Support for Work-Family Reconciliation provides that an employer shall not dismiss or take other unfavorable measures against workers for claiming to be victims of sexual harassment or refusing to accept a sexual demand. Any employer who violates this is punished by a fine not exceeding five million won.

150. According to article 25 of the Act on Equal Employment and Support for Work-Family Reconciliation, if a worker reports a case of sexual harassment to his/her employer, the employer should make efforts to settle the case autonomously. The employer should directly handle the case or entrust the case to the labour-management council concerned within 10 days after the case was reported, unless there is a special reason not to do so.

151. Every year, the Ministry of Labour requires that workplaces independently examine the implementation of their sexual harassment prevention education and report the results every year, along with the number of employees.

**Table 31**

**Status of self-inspections on sexual harassment in the workplace**

(Units: workplaces, percentage)

| Year | Workplaces subject to inspection                  |                                | Number of inspected workplaces | Violations          |                   | Settlement |      |
|------|---|--------------------------------|--------------------------------|---------------------|-------------------|------------|------|
|      |   |                                |                                | Number of violators | Rate of violators | Correction | Fine |
| 2005 | Non-manufacturing businesses with 20-29 employees |                                | 7 354                          | 1 058               | 14.4%             | 1 058      | -    |
| 2006 | Manufacturing businesses with 20-29 employees     |                                | 7 593                          | 1 313               | 17.3%             | 1 313      | -    |
| 2007 | Non-manufacturing businesses with 20-29 employees |                                | 8 041                          | 1 788               | 22.2%             | 1 788      | -    |
| 2008 | Businesses with fewer than 10 employees           | Inspection target              | 8 165                          | 1 625               | 20.0%             | 1 625      | -    |
|      |   | Business receiving PR brochure | 22 293                         |                     |                   |            |      |

152. On 23 June 2005, remedy services for discrimination offered by the Gender Discrimination Improvement Commission and the Commission on Equal Employment for Gender were transferred to the National Human Rights Commission, as mentioned in paragraph 26 of the third periodic report. The National Human Rights Commission deals with sexual harassment as a violation against the right of equality and makes recommendations if the Commission, after investigation into the filed petitions, finds that sexual harassment actually occurred. A variety of decisions are being made to substantially recover the rights of victims. Statistics on the types of victims and offenders of sexual harassment based on the petitions received by the National Human Rights Commission from 23 June 2005 to the end of May 2008 are as follows.

**Table 32**

**Status of petitioners (victims), by sex**

(Units: number of cases, percentage)

| Classification  | Male | Female | Total  |
|-----------------|------|--------|--------|
| Number of cases | 10   | 382    | 392    |
| Rate of cases   | 2.5% | 97.5%  | 100.0% |

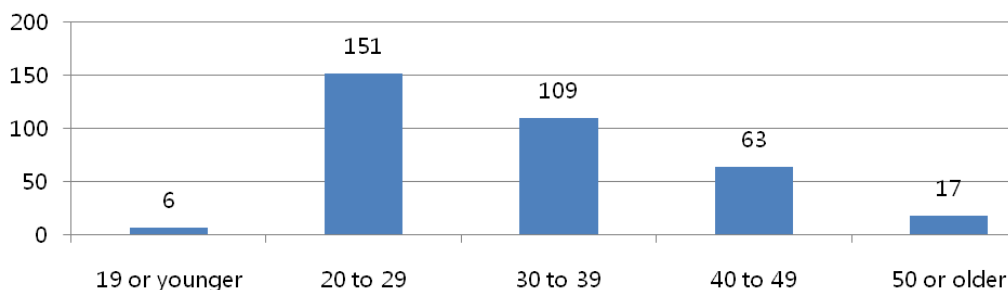
**Table 33**

**Status of petitioners (victims), by age**

(Units: number of cases, percentage)

| Classification  | 19 years old or younger | 20 to 29 years old | 30 to 39 years old | 40 to 49 years old | 50 years old or older | Total  |
|-----------------|-------------------------|--------------------|--------------------|--------------------|-----------------------|--------|
| Number of cases | 6                       | 151                | 109                | 63                 | 17                    | 346*   |
| Rate of cases   | 1.7%                    | 43.6%              | 31.5%              | 18.2%              | 4.9%                  | 100.0% |

\* Cases in which victims are reluctant to reveal their personal information are not included.



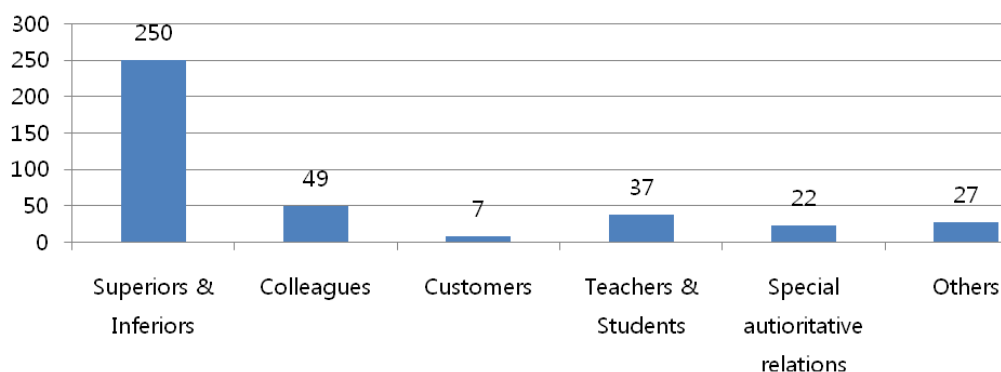
**Table 34**

**Relations between victims and offenders of sexual harassment**

(Units: number of cases, percentage)

| Classification  | Relations in the workplace |            | Customers | Teachers and students | Special authoritative relations | Others | Total  |
|-----------------|----------------------------|------------|-----------|-----------------------|---------------------------------|--------|--------|
|                 | Superiors and inferiors    | Colleagues |           |                       |                                 |        |        |
| Number of cases | 250                        | 49         | 7         | 37                    | 22                              | 27     | 392    |
| Rate of cases   | 63.8%                      | 12.5%      | 1.8%      | 9.4%                  | 5.6%                            | 6.9%   | 100.0% |

\* Special authoritative relations: relations involving accommodation, protection, detention, investigation.



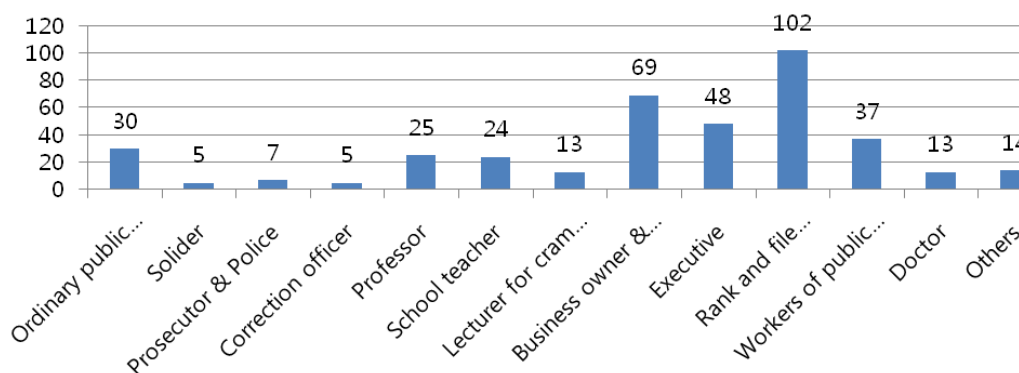
**Table 35**

**Social status and occupation of the accused**

(Units: number of cases, percentage)

| Classification  | Public sector            |         |                       |                    | Education sector |                |                          | Business sector             |           |                       | Workers of public organization or facility | Doctor | Others | Total  |
|-----------------|--------------------------|---------|-----------------------|--------------------|------------------|----------------|--------------------------|-----------------------------|-----------|-----------------------|--|--------|--------|--------|
|                 | Ordinary public official | Solider | Prosecutor and Police | Correction officer | Professor        | School teacher | Lecturer for cram school | Business owner and director | Executive | Rank and file workers |  |        |        |        |
| Number of cases | 30                       | 5       | 7                     | 5                  | 25               | 24             | 13                       | 69                          | 48        | 102                   | 37   | 13     | 14     | 392    |
| Rate of cases   | 7.7%                     | 1.3%    | 1.8%                  | 1.3%               | 6.4%             | 6.1%           | 3.3%                     | 17.6%                       | 12.2%     | 26.0%                 | 9.4%                                       | 3.3%   | 3.6%   | 100.0% |
|                 | 12.0%                    |         |                       |                    | 15.8%            |                |                          | 55.9%                       |           |                       |  |        |        |        |

\* The number of cases in which the accused are the directors of the given places (school, company, organization, facility, etc.) is 114 in total, accounting for 29.1 per cent of all cases.



153. Detailed information on the decisions made or measures taken by the National Human Rights Commission can be seen in the following table. As many as 74 cases involved parties reaching a remedy before any formal decision was made.

**Table 36**

**Details on decisions (49 decisions in total)**

(Unit: number of cases)

| Classification  | Special human rights education | Compensation for damage | Disciplinary measure or punitive personnel action | Recurrence prevention measure | Request for legal aid |
|-----------------|--------------------------------|-------------------------|---|-------------------------------|-----------------------|
| Number of cases | 37                             | 12                      | 14  | 21                            | 1                     |

\* A decision can include a number of recommendations.

**Table 37**

**Details on conciliation of disputes (9 conciliations in total)**

(Unit: number of cases)

| Classification  | Apology | Compensation for damage | Special human rights education | Recurrence prevention measure | Protection of victim |
|-----------------|---------|-------------------------|--------------------------------|-------------------------------|----------------------|
| Number of cases | 8       | 7                       | 3                              | 1                             | 1                    |

**Table 38**

**Details on agreement (56 agreements in total)**

(Unit: number of cases)

| Classification              | Apology | Compensation for damage | Special human rights education | Voluntary retirement/ acceptance of discipline | Recurrence prevention measure |
|-----------------------------|---------|-------------------------|--------------------------------|--|-------------------------------|
| Accumulated number of cases | 34      | 35                      | 12                             | 8  | 3                             |

***Question 20 - Please provide information on the measures being taken by the State party to improve the working conditions of migrant workers presently 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?***

154. As the Government and public agencies started taking full charge of introducing and selecting foreign workers following the entry into force of the Act on Foreign Workers' Employment, etc. in August 2004, transparency and objectivity in the introduction and management of foreign workforces have been greatly enhanced.

155. Foreign workers are treated under the same labour laws as Korean workers, including the Labour Standards Act, the Minimum Wage Act and the Industrial Safety and Health Act. They

also enjoy equal coverage from the different types of social insurance such as industrial accident compensation insurance, national health insurance and national pension (on the condition of the principle of reciprocity). In particular, to protect foreign workers, the Government provides insurance, which expires after the workers' departure or which guarantees return travel costs, compensation for accidents and payment of overdue wages, etc.

156. Accordingly, if a foreign worker receives unfair treatment against such labour laws, the Ministry of Labour conducts a labour inspection, which includes a fact-finding investigation, action to redress and other measures.

157. Access to phone consulting services of immigration offices and the Ministry for Health, Welfare and Family Affairs is not limited to only foreign workers with a social security number or foreign registration number. The services are also available to illegal foreigners without restrictions.

158. From 31 March 2008, the different phone numbers for the call services of the immigration offices nationwide were unified into one phone number, "1345". The services are available, without restriction, to a wide range of users including illegal foreigners. Foreigners are asked to press a social security number or foreign registration number, the purpose of which is to provide more precise and tailored information, but a social security number or foreign registration number is not prerequisite; the same services are available even without this information, regardless of whether or not users are illegal foreigners.

159. The call centres of the Ministry for Health, Welfare and Family Affairs, the National Health Insurance Corporation and the Health Insurance Review and Assessment Service also provide consultation services to foreigners upon request, regardless of whether they possess foreigner registration cards. As for the consultation services of the National Health Insurance Corporation and the Health Insurance Review and Assessment Service, callers are asked to enter a social security number for speedier service. However, if they do not wish to provide their personal information, they can be directly connected to counselors to receive advisory service.

***Question 21 - Please provide information on any affirmative action programme 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" (paragraph 38 of the report). 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 of the report).***

160. Paragraph 38 of the third periodic report says, "according to article 23 of the Enforcement Decree of the Immigration Control Act, recognized refugees shall be treated favorably in employment". This translation is not accurate and can therefore be misleading. To be accurate, the sentence should be translated as follows: "the law concerned stipulates that the refugees recognized under article 23 of the Enforcement Decree of the Immigration Control Act shall not be restricted in their employment activities on account of their status of stay in the Republic of Korea."

161. On 19 December 2008, the Immigration Control Act was revised to permit the employment of those who have been staying in the Republic of Korea for a certain amount of time after applying for refugee status. The revised Act and its Enforcement Decree have entered into force since 20 June 2009. Permission of employment is granted to the people the Minister of Justice deems it necessary, among whom are those granted permission of stay due to humanitarian consideration, those waiting for their refugee status to be determined for more than the amount of time set by the Presidential Decree (a year), and those who have applied for other forms of refugee status.

***Question 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 (para. 131 of the report). 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.***

162. The construction and shipbuilding industries both show higher rates of industrial accidents compared to the average accident rate of the entire industry. This is because they have relatively higher levels of hazard or risk due to the jobs' involving complicated work processes, work high above the ground, and the handling of heavy materials. In 2008, the average industrial accident rate of the entire industry was 0.71 per cent, while that of the shipbuilding industry was as high as 1.76 per cent. The construction industry, one of the industries with the highest work-related death rates, saw the highest rates in work-related deaths and occupational accidents causing deaths in 2008 with 28 per cent and 40.9 per cent, respectively.

163. In an effort to prevent accidents in the shipbuilding industry, the Government encourages workplaces to autonomously manage their safety and health in accordance with their size, level of safety and health management capability. For the workplaces that lack self management capabilities, the Government provides supervision through local labour offices or technical assistance through the Korea Occupational Safety and Health Agency. In order to prevent accidents in the construction industry, the Government encourages self management of safety and health in the large-scale construction sites and SOCs (social overhead capital), and conducts on-site safety inspections for small or medium-sized construction sites either during the three most vulnerable seasons (thawing, monsoon and winter seasons) or whenever necessary (so-called patrol inspection). Meanwhile, the Government provides technical assistance through the Korea Occupational Safety and Health Agency or institutions specializing in providing guidance on accident prevention. The numbers of labour inspections conducted for the shipbuilding and construction industries in 2008 were 167 and 27,847 (including 20,805 cases of technical assistance by the Korea Occupational Safety and Health Agency or institutions specializing in providing guidance on accident prevention), respectively.

164. In an effort to prevent serious industrial accidents such as fires, explosions and leakages, the Government is operating the Process Safety Management (PSM), which requires employers to prepare process safety reports and submit them for examination in case they change their



major structures or install or move harmful or dangerous facilities. Workplaces that fall into the seven designated industries or handle more than certain amounts of the 21 designated chemicals should prepare or draw up the following four documents: (a) process safety data; (b) process risk assessment; (c) safe operation plan; (d) emergency plan.

165. Under the Industrial Safety and Health Act, an employer should conduct the same safety and health education for foreign workers as native Korean workers. To facilitate communication during such education, the Government (Korea Occupational Safety and Health Agency) provides a pool of volunteers who can speak foreign languages. To this end, the Government concluded a Memorandum of Understanding with the Korea Overseas Volunteer Association on 2 May 2007 for the provision of interpretation services, thereby securing 139 interpreters and 21 native speakers who all together cover 16 different languages.

166. In addition, in cooperation with employment training institutions, the Government has provided safety and health education to 74, 857 foreign workers prior to their employment in order to enhance their awareness on safety. In 2008, the Government provided 262 education sessions for foreign workers by touring large-scale construction sites and areas where the foreign workers are concentrated, and 11 education sessions for 496 employers of foreign workers.

167. In order to find out the effectiveness of the industrial safety and health education for foreign workers, from 2006 to 2008, the Government entrusted an outside agency to conduct a survey on the levels of safety awareness and satisfaction with the education. According to the results, the level of safety awareness increased each year, scoring 84.9 points in 2006, 90.48 in 2007 and 90.95 in 2008. In addition, the level of satisfaction was high each year, recording 84.3 points in 2006, 91.23 in 2007 and 90.26 in 2008.

168. Article 26 of the Industrial Safety and Health Act provides that if a worker evacuates an imminently dangerous situation on reasonable grounds, the employer shall not implement any unfavorable treatment such as dismissal to that worker for such flight. However, since there is no obligation to report such unfavorable treatment, it is difficult to know how this provision is being practised.

169. Article 52 of the Industrial Safety and Health Act stipulates that a worker can report to the supervisory authorities any act of violation concerning industrial safety and health, and the employer shall not give any unfavorable treatment such as dismissal because of such report. To enforce this provision, the Government has established emergency report centres in local labour offices nationwide. If a worker reports a violation to a centre by phone or in writing, a labour inspector is sent to the workplace concerned to improve the industrial safety and health measures of the place. In this way, the Government protects the workers' rights and interests. In 2008, among a total of 335 workplaces reported to emergency report centres, 48 were treated judicially, 94 were ordered to suspend the related work, 40 were ordered to suspend the related usage and 373 were ordered to redress their violation.

***Question 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.***

170. As part of the ‘regulatory reforms’, the Ministry of Labour is pursuing policies such as simplifying the document submission requirements and unifying different submission periods for similar businesses in order to create a business-friendly environment.

171. With regard to the reform of laws on labour rights, the Government is planning to bring overall systematic improvements to the laws with a focus on striking a balance between enhancing labour market flexibility and guaranteeing labour rights. As for collective labour relations, the Government is planning to focus on setting the minimum standards needed to ensure fair and equal labour-management relations under the principle of autonomous settlement of disputes. As for individual labour relations such as labour standards and equal employment, the Government is going to concentrate on strictly protecting the minimum labour conditions while improving the quality of regulations.

172. Pursuant to article 17 of the Act on Designation and Management of Special Economic Zone, some parts of the labour laws do not apply to workers in foreign-invested enterprises located in special economic zones. Such exceptions include the alleviation of employers’ obligation in employment and the limited application of laws such as the Labour Standards Act and the Act on Protection of Dispatched Workers.

173. With respect to the alleviation of employers’ employment obligations, foreign-invested enterprises in special economic zones are excluded from the obligation of general enterprises to preferentially hire patriots and veterans who rendered distinguished service to the State under the Act on the Honorable Treatment and Support of Persons of Distinguished Services to the State, and to hire a certain proportion of workers with disabilities under the Employment Promotion and Vocational Rehabilitation of Disabled Persons Act. In addition, they are not subject to the obligation to make efforts in employing the aged under the Act on Age Discrimination Prohibition in Employment and Aged Employment Promotion.

174. They are also allowed to grant holidays or menstruation leave without pay despite the fact that pursuant to articles 55 and 73 of the Labour Standards Act, an employer is obligated to grant at least one paid holiday a week and a one-day paid menstruation leave a month. In addition, they are excluded from article 57 of the Labour Standards Act, which allows an employer to grant leave, instead of paying compensation for an extended night or holiday work, under the written agreement between the employer and the workers’ representatives.

175. Notwithstanding articles 5 and 6 of the Act on Protection of Dispatched Workers, which limits the scope of occupation permitted to dispatched workers and their maximum dispatch period, foreign-invested enterprises in special economic zones are allowed to expand the scope of their work and extend the dispatch period within the limits of the professional occupation determined through the consideration and decision of the Special Economic Zone Committee.

### C. Article 8. Trade union rights

***Question 24 - In addition to information provided in Table 34 in paragraph 172 of the 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 of the report, 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.***

176. With regard to labour relations, the Trade Union and Labour Relations Adjustment Act, the Criminal Code, the Assembly and Demonstration Act or the Punishment of Violence Act is applied according to the nature of each allegation. The only available data in this regard is the number of workers prosecuted or detained with respect to labour relations. Since the government does not collect other data, such as the number of people fined, more detailed statistics cannot be provided at this time.

**Table 39**

#### **Status of criminal prosecution of workers with regard to labour relations**

(Unit: persons)

| Classification              | 2002  | 2003  | 2004  | 2005  | 2006  | 2007  | 2008  |
|-----------------------------|-------|-------|-------|-------|-------|-------|-------|
| Number of prosecution cases | 1 174 | 1 340 | 2 153 | 1 694 | 1 554 | 2 833 | 1 952 |
| Number of detention cases   | 170   | 163   | 71    | 114   | 188   | 82    | 52    |

177. There have been no cases in which unfair punishment was given to workers who exercised the right to strike legitimately. The judiciary determines the legitimacy of strikes and whether or not to impose criminal punishment after strict examination of each case. Acts that are clearly illegal, such as violent rallies, are handled in accordance with relevant laws and principles.

178. In the case of the E-Land incident, the workers illegally occupied the stores nationwide, thereby interrupting business operations, and were engaged in illegal acts of violence, such as throwing eggs at clothes for sale and throwing excrement and urine into the stores. Given the circumstances, it was unavoidable for authorities to send in a limited police force in order to ease the situation, and the argument that there was excessive use of public power or suppression of workers is untrue.

179. From July 2007 to January 2008, members of the Korean Confederation of Trade Unions and of the E-Land/Homever trade union obstructed the business of E-land/Homever stores by such means as throwing eggs at clothing in the stores, throwing excrement and urine on moving walks in the parking lots, chanting slogans through loudspeakers and blockading the main gate, none of which can be considered a legitimate application of the right to strike.

180. The Government deployed a police force in order to prepare for the possibility that the sit-in strike might spread to other stores and become an illegal, violent strike, as well as to

prevent and deter crimes in accordance with the Act on the Performance of Duties by Police Officers. The use of the police force can be seen as one of ‘the limitations prescribed by law and necessary in a democratic society to ensure national security or public order and to protect the rights and freedoms of others’, as stipulated in article 8, paragraph 1(c) of the Covenant.

181. Concerning the police closure of every gate and emergency exit except one gate leading to the first basement of the Gangnam branch of the Newcore Outlets, which are owned by the E-Land Group, the National Human Right Commission spoke out against such action as an infringement on human rights and recommended that the Government prevent the recurrence of any similar acts. Respecting the recommendation, the Government instructed relevant authorities to take measures to ensure that a similar situation does not happen again in the future.

182. All of the 27 protesters prosecuted with regard to the E-land incident were found guilty at the end of April 2009. Twenty-five of the protesters have received final decisions and two are waiting for a decision by the appeals court.

***Question 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.***

183. Foreign workers enjoy the same protection as native Korean workers against dismissal under labour laws including the Labour Standards Act.

184. Like native Korean workers, foreign workers are guaranteed the three basic labour rights and are free to organize or join trade unions. To legitimately establish a trade union, one should report its establishment to the Minister of Labour or heads of local governments in accordance with the Trade Union and Labour Relations Adjustment Act. As of the end of May 2009, there were no trade unions organized by foreign workers which had reported their establishment to the government. No data is collected on the number of foreign workers who join the trade unions of individual workplaces.

185. On 13 December 2007, three executives of the so-called Migrant Workers’ Union were deported, and on 15 May 2008, two additional executives of the same organization were deported. They were deported for their illegal stay in the Republic of Korea, and the deportation was irrelevant to their activities in the organization. All of the executives were illegal migrant workers who had stayed illegally in the Republic of Korea for at least seven years and seven months. Their deportation was carried out in accordance with the Immigration Control Act.

186. Even when foreign workers are subject to deportation, they can be granted special permission to stay or a suspension in the enforcement of the deportation until remedy procedures for their rights are completed. In case special circumstances affect their stay in the Republic of Korea, such as living with a Korean spouse, they may be granted permission to stay on humanitarian grounds. In addition, if a temporary stay is necessary for the worker to settle compensation for industrial accidents, complete trials, settle unpaid wages, retrieve housing security deposits and so on, they may be granted a suspension in the deportation enforcement or a temporary release from detention if certain requirements are met.

**D. Article 9. Right to social security**

***Question 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.***

187. With regard to the social welfare budget, statistics are maintained for the proportion of the social welfare budget allocated from the entire central government expenditure. The Government has managed these statistics to ensure statistical continuity and consistency. The entire central government expenditure (A) includes the central government budget and funds. The social welfare portion (c) encompasses a guarantee of the minimum standard of living, support for the socially vulnerable, public pension, childcare, family, women, the elderly, adolescents, labour, preferential treatments for patriots and veterans, housing, general social welfare, and so on. The public health portion (d) encompasses public health and medical care, assistance for national health insurance, matters related to food, drug, and safety, and so on. The annual health insurance expenditure of the National Health Insurance Corporation, worth some two trillion won, is not included in these statistics.

**Table 40**

**Proportion of the social welfare budget allocated from the entire Government expenditure, by year**

(Unit: trillion won)

| Classification                            | 2005  | 2006  | 2007  | 2008  | 2009  | Annual average increase rate |
|---|-------|-------|-------|-------|-------|------------------------------|
| Expenditure of the central government (A) | 209.6 | 224.1 | 237.1 | 262.8 | 301.8 | 9.5%                         |
| Social welfare budget (B=c+d)             | 50.8  | 59.7  | 61.4  | 68.8  | 80.4  | 12.2%                        |
| Proportion of social welfare budget       | 24.2% | 26.6% | 25.9% | 26.2% | 26.6% |                              |
| Social welfare (c)                        | 45.8  | 54.4  | 56.1  | 52.9  | 73.4  | 12.5%                        |
| Public health (d)                         | 5.0   | 5.3   | 5.3   | 5.9   | 7.0   | 8.8%                         |

\* The revised supplementary budget of 2009 is included.

188. With regard to the social welfare budget, there are statistics on the proportion of the social welfare budget allocated from the entire expenditure of local governments. The entire expenditure of local governments (A) does not include funds. The previous item-by-item budget system of the local governments was changed to a planning-programming-budgeting system in 2008, and the public health portion (d) has since been handled separately. The social welfare portion (c) encompasses matters related to the guarantee of the minimum standard of living,

support for the socially vulnerable, childcare, family and women, the elderly and adolescents, labour, preferential treatments for patriots and veterans, housing, general social welfare, and so on. The public health portion (d) includes public health and medical care, food, drug, safety, and so on.

**Table 41**

**Proportion of the social welfare budget allocated from  
the entire local Government expenditure, by year**

(Unit: trillion won)

| Classification                           | 2005  | 2006  | 2007  | 2008  | 2009  | Annual average increase rate |
|--|-------|-------|-------|-------|-------|------------------------------|
| Expenditure of the local governments (A) | 107.1 | 115.5 | 128.0 | 144.5 | 137.5 | 10.5%                        |
| Social welfare budget (B=c+d)            | 12.9  | 15.3  | 18.8  | 25.2  | 26.0  | 25.0%                        |
| Proportion of social welfare budget      | 12.0% | 13.3% | 14.7% | 17.4% | 18.9% |                              |
| Social welfare (c)                       | 12.9  | 15.3  | 18.8  | 23.1  | 24.1  | 21.4%                        |
| Public health (d)                        | -     | -     | -     | 2.1   | 1.9   | -                            |

\* Statistics from 2005 to 2008 are based on the final budget, while those for 2009 are based on the draft budget.

189. There are no statistics on minimum levels of social security benefits, particularly those replacing lost work-related income (pensions) as a percentage of the minimum wage. However, with regard to the level of the National Pension benefits, if a person with average income contributes for 40 years, he or she receives 50 per cent of his/her average monthly income as of 2008.

190. The benefit level of the National Pension was 50 per cent of recipients' average incomes in 2008. The level will be reduced by 0.5 per cent every year starting from 2009, so that the benefits will be down to 40 per cent in 2028. National pension holders are paid the Old-Age Pension, Disability Pension and Surviving Family Pension as protection against the risks of old age, disability and death. The Old-age Pension, amounting to 50 per cent (as of 2008) of average monthly income, is paid to insured persons who contributed to the pension scheme for 40 years, upon reaching 60 years of age. The Disability Pension is provided to persons who become physically or mentally disabled due to diseases or injuries acquired during the insured period. The amount provided differs according to the degree of disability. The Surviving Family Pension is provided to secure the livelihood of surviving family members when a pension holder or its beneficiary dies.

191. Unemployment benefits amount to 50 per cent of the average wage received in the final three months before unemployment. The maximum amount that can be provided is 40,000 won per day, and the minimum amount is 90 per cent of the minimum wage multiplied by the number of working hours in a day (eight hours).

192. As for sick leave for illnesses not caused by industrial accidents, there is no legal provision that obligates employers to grant sick leave with pay. In other words, an employer has no legal obligation to make payments during sick leave or absence from work for personal reasons, unless prescribed otherwise from the employment rules agreed between the employer and workers on the length of sick leave, whether paid sick leave is granted, the amount of payments and so on.

193. With regard to maternity leave benefits, large companies are required to pay full wages for the first 60 days of the 90-day maternity leave period, and an employment insurance fund pays up to 1.35 million won for the remaining 30 days. Meanwhile, in the case of companies given preferential support, the employment insurance provides workers up to 1.35 million won for each 30 days of maternity leave. If the 30 days of regular wages exceed 1.35 million won, the employer is required to supplement the shortfall for the first 60 days, during which the employer is obligated to grant paid maternity leave. However, the employer is not required to supplement the shortfall for the remaining 30 days. If the regular wage for 30 days falls below 1.35 million won, the employer is required to pay the full regular wage during the remaining 30 days, but if the wage exceeds 1.35 million won, the employer is required to pay 1.35 million won. In addition, if the regular wage falls below the minimum wage, the wage is required to be paid in full by an employer or from the employment insurance fund. Preferentially supported companies refer to companies which are smaller than a certain size set by the Employment Insurance Act. All companies other than those designated as preferentially supported are categorized as large companies.

***Question 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 ground, asylum-seekers and non-regular workers.***

194. The National Pension covers all Korean nationals, regardless of their income. The people in the low-income bracket are, like any other pensioners, subject to coverage by the National Pension and are categorized as either “workplace-based insured persons” or “individually insured persons”. Beneficiaries of the National Basic Livelihood Security System are not subject to mandatory coverage (either as workplace-based or individually insured persons). However, they may voluntarily join the National Pension. A non-regular worker is covered as a workplace-based insured person when he or she works for longer than one month and 80 hours or more per month. When a non-regular worker works less than one month or less than 80 hours, he or she is covered as an individually insured person.

195. Foreigners who reside in the Republic of Korea are also covered by the National Pension. Those eligible for coverage include migrant workers and their families, foreign women married to Korean citizens, and persons granted permission to remain on humanitarian grounds. In particular, stateless persons and refugees staying in the Republic of Korea are also covered. Since the principle of reciprocity is applied to the National Pension, foreigners from nations that do not offer corresponding national pension programmes to Korean citizens are excluded from such benefits. The National Pension does not apply to: foreigners who have not been granted permission to extend their period of stay under the Immigration Control Act; those who have not been registered as foreign residents in the Republic of Korea under the Immigration Control Act; those who have been issued a notice of deportation; and those granted a certain stay status by the Ministry of Health and Welfare's ordinance such as culture and art (D-1), study abroad (D-2), industrial training (D-3), general training (D-4), religious affairs (D-6), family visitation (F-1), dependent family (F-3), miscellaneous (G-1), and so on.

196. The National Health Insurance covers every Korean citizen living in the Republic of Korea. People in the low-income bracket such as beneficiaries of the National Basic Livelihood Security System are protected by the Medical Aid System.

197. Foreigners who are registered under the Immigration Control Act and work under the National Health Insurance are required to be insured along with their Korean co-workers. Foreigners who do not work for companies covered by the National Health Insurance and are issued a stay status allowing three or more months of stay in the Republic of Korea may opt to be covered by the National Health Insurance as individually insured persons.

#### **Stay status granting foreigners eligibility for individual insurance**

##### *Stay status (classification code)*

1. Culture and art (D-1), study abroad (D-2), industrial training (D-3), general training (D-4), journalism (D-5), religious affairs (D-6), supervisory intra-company transfer (D-7), corporate investment (D-8), trade management (D-9).
2. Professorship (E-1), foreign language instructor (E-2), research (E-3), technology transfer (E-4), professional employment (E-5), arts and performances (E-6), special occupation (E-7, E-8), non-professional employment (E-9), vessel crew (E-10).
3. Family visitation (F-1), residential (F-2), dependent family (F-3), overseas Koreans (F-4), permanent residence (F-5).
4. Working visit (H-2).



**Table 42**

**Foreigners covered by the national health insurance at end of February 2009**

(Unit: persons)

| Classification | Total   | Workplace based insured |                                 |            | Individually insured |
|----------------|---------|-------------------------|---------------------------------|------------|----------------------|
|                |         | Subtotal                | Employees of covered workplaces | Dependents |                      |
| Foreigner      | 357 947 | 271 076                 | 214 918                         | 56 158     | 86 871               |

**E. Article 10. Protection of the family, mothers and children**

***Question 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 of the report) and describe obstacles encountered in their implementation, if any. Please also indicate whether the State party intends to criminalize marital rape.***

198. The Special Act for the Punishment of Domestic Violence defines domestic violence crimes as acts of assault, injury, abandonment, abuse, arrest, confinement, intimidation and so on between family members which inflict physical, mental or property damage. Reflecting the characteristics of domestic violence crimes, the Act stipulates not only ordinary criminal punishment procedures but also protection order procedures for family protection cases such as limitation on access to family members, probation, therapy and counseling, and custody entrustment. Accordingly, domestic violence cases are handled as special cases from the investigation stage to the court procedure. Accepted and settled cases involving domestic violence from 2006 to 2008 are presented in the following table. The prosecution indicted a total of 1,841 persons for domestic violence crimes and requested the court for protective dispositions on a total of 4,833 persons in 2008. The total number of those referred to the court procedure for domestic violence crimes is 6,674, accounting for 50 per cent of all suspects of domestic violence. The figure is higher than the proportion of those prosecuted or sent to a family court by the prosecution among all suspects during the same period.

199. Prosecution is suspended when the prosecutor deems it inappropriate to punish the offender because the offence or damage is minor, when the offender sufficiently repents of his or her misdeed, and when the relationship between the offender and his or her family can be restored. Furthermore, in conformity with the Special Act for the Punishment of Domestic Violence, suspension of prosecution on the condition that the offender receives counseling was introduced in August 2007. Accordingly, the prosecution decided in 2008 that 451 domestic violence suspects, whose prosecution was suspended, take counseling on domestic violence in designated institutions. Meanwhile, as for some minor crimes of domestic violence, the law prohibits prosecution when a victim does not wish to punish the offender and the prosecution determines that there is 'no authority to prosecute' in such cases.

**Table 43**

**Accepted and settled cases of domestic violence from 2006 to 2008**

(Unit: persons)

| Year | Number of accepted cases | Number of settled cases |             |                     |                   |                           |                             |                                    |                                |        |
|------|--------------------------|-------------------------|-------------|---------------------|-------------------|---------------------------|-----------------------------|------------------------------------|--------------------------------|--------|
|      |                          | Subtotal                | Prosecution |                     | Non-prosecution   |                           |                             |                                    | Transference to a family court | Others |
|      |                          |                         | Prosecution | Summary prosecution | Suspicion cleared | Suspension of prosecution | No authority to prosecution | Rejection (not Constituting crime) |                                |        |
| 2006 | 13 507                   | 13 531                  | 315         | 1 657               | 279               | 3 449                     | 3 457                       | 45                                 | 4 197                          | 132    |
| 2007 | 12 782                   | 12 807                  | 265         | 1 492               | 200               | 2 847                     | 3 091                       | 35                                 | 4 735                          | 142    |
| 2008 | 13 334                   | 13 341                  | 354         | 1 487               | 227               | 2 593                     | 3 707                       | 22                                 | 4 833                          | 118    |

200. In the course of enforcing the Special Act for the Punishment of Domestic Violence and the Act on Prevention of Domestic Violence and Protection of Victims, there were certain difficulties in collecting evidence and punishing offenders.

201. In most cases of domestic violence, offenders and victims or references are usually closely related, and offences are usually covertly committed over a long period of time. As a result, the police often face difficulties in fact-finding and securing evidence. Moreover, in many cases, those involved tend to make false or exaggerated statements, and also reverse these statements after reconciliation.

202. Treating cases of domestic violence as criminal cases is likely to arouse animosity of the accused against the complainant, which may worsen the situation. Since the vast majority of complainants want admonition or prevention of recurrence rather than punishment, it is presumed that a more effective measure is to resort to the family protection procedure rather than to criminal punishment in order to rehabilitate offenders and recover family relations.

***Question 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?***

203. The incidence rate of child abuse has continuously increased over the past five years. Such changes, however, may not be attributable to an actual increase in child abuse cases, but to an increase in the detection of child abuse cases due to the Government's improvements in related administrative systems. The Government has made continuous efforts to increase the identification rate of child abuse and the report rate by persons obliged to report child abuse by increasing the number of child protection facilities and counselors, and by expanding the scope of persons obliged to report child abuse. In addition, since it is difficult to fully determine the

number of child abuse cases, the incidence rate of child abuse is estimated from the number of confirmed child abuse cases or the number of children identified as abused. The child abuse rate is calculated as the number of cases per 1,000 children aged below 18, and the types of abuse include physical, emotional and sexual abuse, neglect and abandonment.

**Table 44**

**Incidence rate of child abuse (per 1,000 children aged 18 and under)**

(Unit: percentage)

| Classification                | 2003 | 2004 | 2005 | 2006 | 2007 |
|-------------------------------|------|------|------|------|------|
| Incidence rate of child abuse | 0.25 | 0.33 | 0.42 | 0.48 | 0.52 |

*Source:* National Report on Child Abuse for 2003-2007.

**Table 45**

**Disaggregated data on child abuse in the last five years**

(Unit: cases)

| Classification  | 2003  | 2004  | 2005  | 2006  | 2007  |
|-----------------|-------|-------|-------|-------|-------|
| Physical abuse  | 347   | 364   | 423   | 439   | 473   |
| Emotional abuse | 207   | 350   | 512   | 604   | 589   |
| Sexual abuse    | 134   | 177   | 206   | 249   | 266   |
| Neglect         | 965   | 1 367 | 1 635 | 2 035 | 2 107 |
| Abandonment     | 113   | 125   | 147   | 76    | 59    |
| Multiple abuses | 1 155 | 1 508 | 1 710 | 1 799 | 2 087 |
| Total           | 2 921 | 3 891 | 4 633 | 5 202 | 5 581 |

204. The National Report on Child Abuse is prepared every year to establish the direction for child abuse prevention projects and to provide measures involving protection and support for abused children. The National Report on Child Abuse analyzes child abuse cases and trends and suggests directions for establishing relevant policies and improving institutions. The Ministry for Health, Welfare and Family Affairs establishes child abuse prevention projects and promotes the revision of relevant laws and regulations, based on the report.

205. Due to the low reporting rate of child abuses by persons obligated to report such cases, the Ministry for Health, Welfare and Family Affairs has been working to revise the Child Welfare Act to expand the scope of those obliged to report child abuse. As of 2000, those obliged to report child abuse included teachers, medical professionals, persons engaged in child welfare facilities, and government employees responsible for social welfare. The scope expanded in 2006 to include employees of kindergartens and private teaching institutes and members of first-aid squads.

206. Given that many child abuse cases take place at home by parents, the Ministry for Health, Welfare and Family Affairs has established education and PR plans that target parents, such as educational films for parents.

***Question 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.***

207. Certain groups of people including teachers are designated as those obliged to report child abuse. Designated groups, parents, and other groups receive education and are targeted in campaigns to prevent child abuse.

208. The Child Welfare Act identifies teachers under the Elementary and Secondary Education Act and other individuals such as doctors, nurses, and persons engaged in facilities as persons obliged to report child abuse cases. The Government is working to introduce a system whereby a fine is imposed for neglecting the duty to report.

209. Starting in June 2008, education programmes for child abuse prevention have been provided online for persons obligated to report child abuse, and a total of 5,773 people completed the programmes in 2008. In addition, Child Protection Agencies across the country (about 44) operate education programmes and campaigns for child abuse prevention, targeting persons obligated to report child abuse and the general public under the jurisdiction of each agency.

210. Individual schools are continuing to limit corporal punishment by revising school regulations, and pilot schools have been selected in each metropolitan city/province to operate a green mileage system (that rewards or deducts points) related to school regulations as an alternative means of corporal punishment. Approximately 100 pilot schools are currently operating a trial green mileage system at each metropolitan city/provincial Office of Education (106 schools in Seoul and 225 in Gyeonggi Province).

211. Corporal punishment at home and school, if deemed as child abuse, are punishable under the Child Welfare Act. Abusive acts that inflict injury on a child's body are prohibited under article 29, paragraph 1 of the Act. Violators shall be punished by imprisonment for no more than five years or a fine not exceeding 30 million won, pursuant to article 40, paragraph 1 of the Act.

**F. Article 11. The right to an adequate standard of living**

***Question 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.***

212. Separate poverty lines are calculated for statistical purposes and for the provision of public assistance. The latter is utilized as the formal poverty line by the Government to determine the minimum cost of living.

213. The poverty line calculated for statistical purposes is also called the relative poverty rate, and is defined by the Government as 50 per cent of the median income of households across the country, utilized for the income distribution index. The median income divides income distribution into two equal groups, half having income above that amount and half having income below that amount.

214. The minimum cost of living is defined as “such minimum expenses as are required for people to make a decent life”, and is publicly announced by the Minister of Health and Welfare according to article 2, paragraph 6 of the National Basic Living Security Act. The minimum cost of living serves as the poverty line for providing public assistance and the political poverty line. At the same time, it serves as the eligibility standard used for selecting recipients of benefits under the National Basic Livelihood Security System, which is the basic safety net for the poor in the Republic of Korea. The minimum cost of living is determined through consideration and decision by the Central Livelihood Security Committee, composed of government officials, experts and civic groups.

215. A survey on the minimum cost of living is conducted every three years. In measuring the minimum cost of living, the Republic of Korea uses the market basket (or Rowntree) measure, which combines the minimum costs of items necessary for minimum living. In the intervening years when the survey is not conducted, the minimum cost of living is determined by considering the inflation rate, living conditions and other factors. Taking into account the inflation rate, in 2009, the minimum cost of living for a family of four was calculated at 1,326,609 won, a 4.8 per cent increase from the previous year.

216. As of 2008, the relative poverty rate, calculated as a proportion of all households including single-person households and farming households, and based on disposable income, stood at 15.1 per cent.

**Table 46**

**Relative poverty rate, by year**

(Unit: percentage)

| Classification               |                                | 2006 | 2007 | 2008 |
|------------------------------|--------------------------------|------|------|------|
| Proportion of all households | Based on market income (A)     | 17.5 | 17.5 | 18.1 |
|                              | Based on disposable income (B) | 14.6 | 14.8 | 15.1 |
|                              | Improvement                    | 2.9  | 2.7  | 3.0  |

\* Improvement: A - B.

217. In 2008, the proportion of households that lived under the minimum cost of living was 11.4 per cent of all households with regular income (10.8 per cent in 2007).

***Question 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 light of the high rents charged in the public rental housing sector.***

218. The minimum housing standards of the Republic of Korea were explained in paragraph 296 of the third periodic report. The standards announced on 15 June 2004 are still in force. The minimum housing standards include a new policy index complementing the Housing Supply Ratio, which has been the most important index for the Republic of Korea’s housing policies. The standard consists of three subcategories: criterion for the minimum living

space and number of rooms; criterion for requisite housing facilities; and criterion for housing structure, performance and environment. The minimum housing standards for “requisite housing facilities” require a separated stand-up kitchen, a flushing toilet and a bathing facility, equipped with facilities for public water supply or high-quality groundwater. In addition, to ensure that houses meet the standards of housing structure, performance and environment, they are required to have adequate structural strength, heat-resistance, fire-resistance, heat radiation, moisture-resistance, sound-resistance, ventilation, lighting, heating, an environment appropriate to the relevant standards, minimal risk from natural disasters, and so on. Such housing standards can be considered a significant reflection of the “availability of services, materials, facilities and infrastructure”, “habitability”, “location” and “cultural adequacy”, among the elements mentioned in the Committee’s general comment No. 4 (1991) on the right to adequate housing.

219. With regard to statistics on households nationwide deemed substandard according to the minimum housing standards, an analysis of the government-sponsored Korea Research Institute for Human Settlements was carried out on the basis of the 2005 Population and Housing Census in 2006. According to the analysis, the number of substandard households was estimated at 2.062 million as of 2005, which accounted for 13.0 per cent of the total 15,887 million households. The analysis, however, did not include 21,620 ordinary households living in shanties, vinyl houses or mud huts, collective households (non-family households with more than six members, dormitories, social institutions, etc.) and foreign households, as these households were not included in the Population and Housing Census.

220. Since the Population and Housing Census is conducted every five years, statistics on substandard households nationwide since 2005 will be released in 2010.

221. In order to promote housing security for the socially vulnerable, management fees for permanent rental housing have been reduced, and the security deposit or rent for national rental housing has been frozen since 2008. The government is conducting a pilot project involving different rents for national rental housing by income, and is also considering the introduction of a housing voucher system.

222. The Government is planning to reduce management fees for permanent rental housing by 40 per cent of the 2008 level by 2010 (34,600 won in 2008 to 20,700 won in 2010), by improving heating facilities and reducing management personnel.

223. In order to ease housing expenses for houseless citizens, the security deposit or rent for national rental housing units managed by the Korea Housing Corporation has been frozen for two years.

224. With regard to setting different rents according to the income levels of tenants, the Government is planning to conduct a pilot project targeting the beneficiaries of the National Basic Livelihood Security System and the near-poor from 2007 to 2009, and will phase in the main project based on an analysis of the results of the pilot project.

225. In order to alleviate the financial burden of housing expenses for low income tenants and foster civil rental housing industries, the Government is considering the introduction of a housing voucher system to cover a certain portion of monthly rent.

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

226. Since citizens already residing in new town development areas must relocate, the Government is making every effort to ensure that citizens have housing security by making it mandatory by law to build rental housing units, pay compensation for any business losses and cover residence relocation costs.

227. The New Town Development in Seoul policy mandated under the Special Act on Urban Improvement Promotion is aimed at promoting the balanced development of Seoul, thereby contributing to improving citizens' living standards. The policy is carried out through the establishment and effective implementation of an integrated plan for city projects that aim to improve the housing environment of underdeveloped areas, expand infrastructure and recover the functions of the city.

228. In the case of the city of Seoul, regional disparity between the areas north and south of the Han River has emerged as a grave issue ever since real estate prices in the area south of the Han River began soaring in the 2000s. In the 1970s when the population decentralization policy in Seoul was in full swing, authorities imposed restrictions on the entry of various facilities or construction activities in the area north of the Han River, particularly in the urban centre there. To decentralize and disperse the population of the northern area toward the southern area, the Government restrained the development of the northern area and promoted the development of the southern area along with the policy of moving schools, private institutions, public facilities, etc. concentrated in the northern area to the southern area. As a result, a regional disparity between the two areas has emerged in various respects, such as the size of the budget, infrastructure such as main roads, housing and living conditions, business and economy, and education. In particular, vast differences in educational environments and real estate prices have emerged between the two areas. Approximately 40 per cent of those who moved to the southern area cited educational environment as the most crucial reason for moving.

229. In order to resolve the disparity, the Seoul Metropolitan Government set a key policy target for reducing regional disparity and stabilizing the housing market in 2002 and launched a new policy, called the New Town Development in Seoul policy, to improve outmoded urban areas. In the process of removing obsolete or illegal buildings and constructing new buildings in outmoded urban areas through the policy, those who are unable to acquire the entitlement to renting rental houses or shops are required to relocate.

230. In order to secure the right to adequate housing, article 30, paragraph 3 of the Special Act on Urban Improvement Promotion stipulates that an initiator of a development promotion plan shall investigate the demand for rental housing, small tract housing or relocation to regions in the vicinity of the development zone and shall reflect its findings in the development promotion plan to aid the resettlement of tenants. Article 30, paragraph 1 of the Act provides that heads of local governments and project operators shall make efforts to secure the housing of tenants and owners of small houses or land in the development zone. Article 30, paragraph 5 of the Act also stipulates that in order to secure housing for house owners (only those who live within the development area) or tenants in the process of implementing a development promotion project, project operators may provide them with national rental housing units self-constructed in a

nearby area or purchase-rental public housing as temporary accommodation facilities, or otherwise implement the project on a phase-in basis by using a rotational development programme. Article 31, paragraph 1 of the Act provides that in order to balance the housing security of tenants and development profits, project operators shall provide tenants a certain proportion of rental housing. The proportion is to be set by the relevant presidential decree, and is limited to 75 per cent of an increase in the floor space index by the given development project.

231. In addition, those who relocate are entitled to receive: compensation for business losses under article 45 of the Enforcement Rule of the Act on the Acquisition of Land, etc. for Public Works and the Compensation; compensation for losses incurred from business closure under article 46 of the Rule; compensation for losses incurred from business suspension under article 47 of the Rule; relocation and resettlement funds under article 53 of the Rule; compensation for residence relocation costs under article 54 of the Rule; and movable property relocation costs under article 55 of the Rule.

***Question 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.***

232. Since 1 August 2000, the Rule on the Operation of the Facilities for the Homeless and Vagabonds has been in effect. The Rule stipulates the definition of the homeless and standards for installing protection facilities. According to the Rule, the homeless refer to people who have no regular and adequate housing and live in places not designed for accommodation such as public places including streets, stations, and parks as well as deserted buildings, or temporary protection facilities.

233. As of the end of 2008, there were 12,328 homeless people in the Republic of Korea, according to a survey.

**Table 47**

**Statistics on homelessness**

| Classification     | (Unit: persons) |        |        |        |
|--------------------|-----------------|--------|--------|--------|
|                    | 2005            | 2006   | 2007   | 2008   |
| Number of homeless | 13 777          | 13 049 | 12 233 | 12 328 |

234. As of the end of 2008, there were 112 shelters for the homeless accommodating 13,180 persons in total, supported by the central government and local governments.

***Question 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.***

235. Countermeasures for housing and compensation are specified in the Urban and Living Environment Improvement Act, the Special Act on Urban Improvement Promotion, and the Enforcement Rule of the Act on the Acquisition of Land, etc. for Public Works and



Compensation. However, a forced removal by execution of civil court judgment, in case of failure to reach an agreement on compensation due to an excessive compensation claim, relates to a different matter.

236. The Urban and Living Environment Improvement Act has provisions concerning the rights of citizens to express their opinions, measures for relocation of residents, housing measures for tenants, rental housing construction plans, rotational development projects, temporary accommodation facilities, and so on.

237. The Special Act on Urban Improvement Promotion has provisions concerning the obligation to provide housing security for tenants or owners of small houses or land; the obligation to steer development promotion plans toward helping the resettlement of tenants; the provision of national rental housing or purchase-rental public housing as temporary accommodation facilities; the use of rotational development projects; and the provision of rental housing.

238. The Enforcement Rule of the Act on the Acquisition of Land, etc. for Public Works and Compensation has provisions concerning compensation for business losses, for losses from business closure, and for losses from business suspension; provisions on relocation and resettlement funds, and compensation for residence relocation costs; and provisions on movable property relocation costs.

***Question 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.***

239. To provide systematic and hygienic food services for detained foreigners, the Regulation on Food Service Management for Protected Foreigners, a directive of the Ministry of Justice, was enacted in January 2009 and has been in force since. The directive has provisions concerning food services and hygienic management such as hygienic management of collective food service facilities, standards for food provision, methods of food distribution, menu-making, and so on.

240. In order to prevent the overcrowding of detention facilities for foreigners, facilities are spread over a wide area in each region. In addition, all agencies responsible for managing detention facilities are making every effort to prevent human rights violations resulting from overcrowding by strictly observing the facility standards.

241. Since 2007 the Government has strengthened the inspection of fire safety in detention facilities for foreigners nationwide and replaced combustible materials in cells with fire-enduring materials. In addition, special agencies such as Hwaseong Detention Centre, Cheongju Detention Centre and Yeosu Immigration Office completed installation of fire sprinklers in 2008, and other agencies with detention facilities also completed installation of fire sprinklers in the first half of 2009 (excluding Suwon, Uijeongbu and Chuncheon Immigration Offices, which are newly constructing their buildings or are planning to do so).

## G. Article 12. The right to physical and mental health

***Question 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?***

242. The Government seeks to minimize the extent of privatization of the healthcare system so as to maintain the current foundation of the health-care system and enhance its competitiveness. The Government also strives to ensure that all people in the Republic of Korea enjoy essential health-care services without discrimination and plans to continuously conduct an impact assessment of the privatization on the marginalized and vulnerable.

243. The current Medical Service Act divides healthcare providers in the Republic of Korea into public medical institutions, non-profit corporations, and individuals. The Act prohibits medical institutions operated by for-profit corporations such as joint-stock corporations. Healthcare services are mostly provided by non-profit and private hospitals. The share of public medical institutions is among the lowest in the OECD.

244. With the revision of the National Health Insurance Act, the National Health Insurance (NHI) has covered all citizens since 1 July 1987. Under the revised Act, all people living in the Republic of Korea are required to participate in the scheme, and no medical institutions may refuse to serve NHI patients. Although over 90 per cent of medical services are provided by the private sector, the NHI makes medical services available for the public at a relatively low cost. As of the end of 2008, 96.3 per cent of the total population or 48.16 million people were covered by the National Health Insurance. The national health expenditure in 2006 accounted for 6.4 per cent of its GDP, lower than the OECD average of 8.9 per cent.

245. With regard to marginalized and vulnerable individuals and groups, recipients of the National Basic Livelihood Security System, disaster victims, and individuals of meritorious conduct for the State are provided a minimum level of medical security through the Medical Aid Programme (MAP), instead of the National Health Insurance. As of the end of 2008, 3.7 per cent of the population or 1.84 million people were beneficiaries of the MAP. Details on the MAP is provided in paragraphs 245-250 of the third periodic report.

246. Vulnerable individuals and groups who benefit from neither the NHI nor the MAP are provided basic healthcare services through the medical cost support system and free medical services.

247. Recently, some groups including NGOs have claimed in relation to the privatization of the Korean medical system that the Government will relax the mandatory participation of individuals in NHI and the obligation for hospitals to provide medical services under the National Health Insurance Act, in order to allow profit-making corporations to run medical service centres and to foster private medical insurance. Contrary to this argument, however, the Government will maintain the National Health Insurance as the foundation of the healthcare system. It will also decide on whether to introduce for-profit hospitals by carefully considering

its implications on public interest. Even when pursuing policies to make the healthcare system more competitive and efficient, the Government will give special consideration to the marginalized and vulnerable, to ensure that all people in the Republic of Korea enjoy essential medical services without discrimination.

248. In pursuing the privatization of the healthcare system, the Government will seek privatization only to the minimum level necessary for strengthening competitiveness and efficiency, while firmly rooting the National Health Insurance as the foundation of the national healthcare system. Therefore, privatization will have little influence on the non-discriminatory provision of essential healthcare services for the people living in the Republic of Korea. In addition, the Government is making continuous efforts to implement co-payment rate reductions that surpass other OECD members and to increase the share of public healthcare out of overall healthcare services.

249. The Government has worked to expand essential public healthcare and the coverage of the NHI and to ease the eligibility standards of the Medical Aid Programme, with the goal of increasing the universality of the health-care system. As a result, it was less necessary to conduct an impact assessment of the privatization of the healthcare system on vulnerable individuals and groups. In pursuing privatization policies down the road, however, the Government will conduct an impact assessment on the public nature of the health-care system, with a focus on the marginalized and vulnerable individuals and groups.

***Question 38 - Please indicate the extent of the coverage of the Medical Aid Programme 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.***

250. The Government has operated the Medical Aid Programme (MAP) for the poor since 1977. The MAP constitutes a major pillar of health security in the Republic of Korea, in parallel with the National Health Insurance.

251. The programme, which is financed by taxes, provides healthcare services for the vulnerable such as beneficiaries of the National Basic Livelihood Security System, individuals of meritorious conduct for the State or disaster victims. As of the end of 2008, the number of beneficiaries of the MAP was estimated to be 1.84 million, accounting for 3.7 per cent of the entire population. The Medical Aid Programme provides the same services as the National Health Insurance at lower prices. The Government has steadily increased both MAP and NHI beneficiaries and expanded their types and scope of benefits. The level of service provided through MAP will be equal to that of the NHI.

252. From 2004 to 2006, the Government expanded MAP eligibility to the near poor bracket in phases. From 2005, it began to provide benefits to adopted children.

**Table 48**

**Beneficiaries of the Medical Aid Programme, by year**

(Unit: ten thousand persons)

| Classification                     | 2004 | 2005 | 2006 | 2007 | 2008 |
|------------------------------------|------|------|------|------|------|
| Number of beneficiaries of the MAP | 153  | 176  | 183  | 185  | 184  |

253. The Government is strengthening medical support by reducing the co-payment of MAP receiving households that are able to work and by expanding covered items.

254. In 2004, the Government reduced the co-payment rate from 20 per cent to 15 per cent, eased the standards for co-payment compensation (reduction in the threshold amount, from 300,000 won to 200,000 won) and introduced a co-payment limit system (1.2 million won per six months). Under the co-payment compensation system, the Government covers 50 per cent of the surplus amount when one's co-payment exceeds a certain amount per month, and under the co-payment limit system, the Government covers the surplus amount in full when one's co-payment exceeds a certain amount per six months. Co-payment for natural childbirth or in-patient care for newborn babies was exempted from the system in 2005, and co-payment for in-patient care for children aged under six was exempted in 2006.

255. The scope of covered items and their application have been expanded as well. In 2005, electronic scooters and electronic wheelchairs, etc. were added to the list of the types of aid for persons with disabilities covered under the MAP. Furthermore, in 2007, the Government started covering the cost of oxygen treatment for patients with respiratory disease, while in 2008 it began to cover the cost of automated peritoneal dialysis that patients with chronic renal failure conduct at home and pre-natal examination for pregnant women.

***Question 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?***

256. The number of those infected with HIV/AIDS in 2008 was estimated at 797. The accumulated number of all those infected as of the end of December 2008 was 6,120. Among the total number of those infected with HIV, 1,084 have died and 5,036 are living. The number of males infected with the virus is about ten times the number of infected females. A total of 5,082 were infected through sexual contact, accounting for 99 per cent of 5,136 people whose infection route was known. As for the age at which the HIV infection was first diagnosed, the number of those in their 20s to 40s was 4,810, accounting for 80 per cent of all those infected. The accumulated number of reported domestic Koreans with AIDS was 783 in total.

**Table 49**

**Status of domestic Koreans infected with HIV**

(Unit: persons)

| Classification | Total | '85-'95 | '96 | '97 | '98 | '99 | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 |
|----------------|-------|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Total          | 6 120 | 517     | 105 | 124 | 129 | 186 | 219 | 327 | 398 | 534 | 610 | 680 | 750 | 744 | 797 |
| Male           | 5 604 | 453     | 93  | 107 | 111 | 160 | 194 | 292 | 363 | 502 | 557 | 640 | 688 | 701 | 743 |
| Female         | 516   | 64      | 12  | 17  | 18  | 26  | 25  | 35  | 35  | 32  | 53  | 40  | 62  | 43  | 54  |

**Table 50**

**Status of domestic Koreans in their teens infected with HIV**

(Unit: persons)

| Classification | Total | '85-'95 | '96 | '97 | '98 | '99 | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 |
|----------------|-------|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 10-19          | 119   | 19      | 0   | 0   | 2   | 1   | 2   | 6   | 5   | 6   | 12  | 16  | 13  | 17  | 20  |

**Table 51**

**Status of domestic Koreans infected with HIV, by sex and age (1985-2008)**

(Units: persons, percentage)

| Classification        | Total           |                       | Male            |                       | Female          |                       |
|-----------------------|-----------------|-----------------------|-----------------|-----------------------|-----------------|-----------------------|
|                       | Number infected | Rate of infection (%) | Number infected | Rate of infection (%) | Number infected | Rate of infection (%) |
| Total                 | 6 120           | 100.0                 | 5 604           | 100.0                 | 516             | 100.0                 |
| 0-9 years old         | 13              | 0.2                   | 10              | 0.2                   | 3               | 0.6                   |
| 10-19 years old       | 119             | 1.9                   | 105             | 1.9                   | 14              | 2.7                   |
| 20-29 years old       | 1 401           | 22.9                  | 1 266           | 22.6                  | 135             | 26.2                  |
| 30-39 years old       | 1 968           | 32.2                  | 1 828           | 32.6                  | 140             | 27.1                  |
| 40-49 years old       | 1 441           | 23.6                  | 1 340           | 23.9                  | 101             | 19.6                  |
| 50-59 years old       | 792             | 12.9                  | 709             | 12.6                  | 83              | 16.1                  |
| 60 years old or older | 386             | 6.3                   | 346             | 6.2                   | 40              | 7.7                   |

\* As of age at the day of the discovery of HIV infection.

**Table 52**

**Status of reported AIDS patients, by year**

(Unit: persons)

| Classification | Total | '85-'95 | '96 | '97 | '98 | '99 | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 |
|----------------|-------|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Total          | 783   | 41      | 22  | 33  | 35  | 34  | 32  | 42  | 88  | 62  | 79  | 67  | 75  | 103 | 70  |
| Male           | 719   | 36      | 20  | 29  | 34  | 30  | 29  | 37  | 79  | 57  | 73  | 64  | 71  | 94  | 66  |
| Female         | 64    | 5       | 2   | 4   | 1   | 4   | 3   | 5   | 9   | 5   | 6   | 3   | 4   | 9   | 4   |

**Table 53**

**Status of HIV infection route of domestic Koreans (1985-2008)**

(Unit: persons, percentage)

| Classification                               | Total           |                       | Male            |                       | Female          |                       |
|--|-----------------|-----------------------|-----------------|-----------------------|-----------------|-----------------------|
|  | Number infected | Rate of infection (%) | Number infected | Rate of infection (%) | Number infected | Rate of infection (%) |
| Total  | 5 136           | 100.0                 | 4 692           | 100.0                 | 444             | 100.0                 |
| Sexual contact between same sex partners     | 3 075           | 59.9                  | 2 641           | 56.3                  | 434             | 97.7                  |
| Sexual contact between opposite-sex partners | 2 007           | 39.1                  | 2 007           | 42.8                  | 0               | 0.0                   |
| Blood transfusion/blood products             | 46              | 0.9                   | 40              | 0.9                   | 6               | 1.4                   |
| Perinatal infection                          | 6               | 0.1                   | 2               | 0.0                   | 4               | 0.9                   |
| Drug use                                     | 2               | 0.0                   | 2               | 0.0                   | 0               | 0.0                   |

\* Statistics on 5,136 whose infection route has been known. (Other responses and no responses excluded).

**Table 54**

**Status of reported deaths from HIV/AIDS**

(Unit: persons)

| Classification         | Total | '85-'95 | '96 | '97 | '98 | '99 | '00 | '01 | '02 | '03 | '04 | '05 | '06 | '07 | '08 |
|------------------------|-------|---------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Total                  | 1 084 | 76      | 33  | 36  | 46  | 43  | 52  | 58  | 76  | 96  | 114 | 91  | 109 | 150 | 104 |
| Deaths from AIDS       | 753   | 37      | 25  | 30  | 37  | 34  | 32  | 42  | 58  | 63  | 81  | 65  | 76  | 105 | 68  |
| Deaths by other causes | 331   | 39      | 8   | 6   | 9   | 9   | 20  | 16  | 18  | 33  | 33  | 26  | 33  | 45  | 36  |

\* AIDS-related deaths: deaths directly caused by AIDS; Deaths by other causes: deaths by causes other than AIDS.

257. The Government controls the spread of AIDS through strengthened efforts for AIDS prevention; strengthened public relations and education efforts for prevention, using mass media or public service advertising in buses or the subway, targeting the entire public; and customized public relations and education efforts for prevention according to the characteristics of each group such as adolescents, STD (sexually transmitted disease) checkup population, MSM (men who have sex with men) and military personnel subject to venereal disease examination, homosexuals and soldiers. In addition, the Government established an Online Korea AIDS Information Centre and online education courses to train AIDS professionals.

258. The Government distributes condoms free of charge to the STD checkup population, MSM and military personnel and plans to distribute some three million condoms in 2009.

259. The Government has worked to promote HIV/AIDS examination for early detection and control. In particular, the examination has been implemented continuously on particularly vulnerable groups. In this regard, a number of counseling centres are in operation-11 for the general public, two for MSM and two for foreigners. Public Health Centres, hospitals and voluntary counseling and testing centres (VCT) are encouraged to provide anonymous HIV/AIDS testing. Improvements have also been made to the reporting system for persons infected with HIV/AIDS by hospitals and clinics.

260. The Government has provided continued support for persons living with HIV/AIDS. It has assisted support facilities, including one HIV/AIDS Support Centre, two shelters, and one care hospice. The support facilities conduct counseling projects for persons living with HIV/AIDS as well. In order to provide counseling and inspection services to foreign residents, the Government operates AIDS prevention centres and inspection and counseling offices for foreign residents. In addition, assistance with medical expenses are given to infected foreigners who are spouses of Korean nationals, recognized refugees or applicants for neutralization in an equal manner as Koreans, and foreigners can also enjoy medical fee assistance through the Ministry for Health, Welfare and Family Affairs' medical assistance service projects for marginalized groups including migrant workers or from the Korea Federation for HIV/AIDS Elimination.

261. The Prevention of Acquired Immunodeficiency Syndrome Act, concerning the prevention and management of HIV/AIDS, as well as protection and support for the infected, was partly revised on 21 March 2008. The revised Act has a new provision that employers shall not discriminate against workers on the basis of HIV/AIDS infection; introduced an anonymous examination system which entitles those receiving HIV examination to withhold from revealing his or her name or to use a fictitious name; and has strengthened the provision that doctors or medical institutions shall notify no one other than the examinees of the examination results to protect the privacy of the infected.

262. In order to guarantee that people living with HIV/AIDS are able to gain access to health care, the Government fully covers co-payment by patients. As beneficiaries of the National Basic Livelihood Security System, the infected are also entitled to livelihood support.

263. Because it is desirable for medicine prices to be determined within a range that can be afforded by the Government or HIV/AIDS patients, the Government ensures that medicine prices are set at appropriate levels by placing HIV/AIDS medicine under its reimbursement list. Of the 21 kinds of AIDS treatments supplied in the Republic of Korea, 13 are reimbursed, and two

out of the 13 are new drugs developed after 2000. The remaining 8 kinds of drugs cannot be used due to supply rejection by their manufacturers, side effects, or because they are undergoing the process of being listed in the reimbursement list.

264. Even if new drugs are not supplied in the Republic of Korea, the budget for supporting medical expenses is insufficient due to the increasing number of those infected with HIV/AIDS. In case high-priced new drugs are placed on the reimbursement list, the Ministry for Health, Welfare and Family Affairs is likely to face difficulties in securing an adequate budget. The Ministry will continue to work on this issue in cooperation with the relevant authorities.

***Question 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.***

265. The Government requires schools and Public Health Centres (Community Mental Health Centres) to examine children and youth for early diagnosis and treatment of major mental diseases including clinical depression and Attention Deficit Hyperactivity Disorder (ADHD). Every year the Government installs more Community Mental Health Centres with the support of the government budget.

266. The Government has steadily increased the number of Community Mental Health Centres as more centres are necessary to conduct mental health projects for children and youth at the community level. The number of Community Mental Health Centres has increased every year from 16 centres in 2003, 24 in 2004, 31 in 2005, 32 in 2007, 35 in 2008, and 42 in 2009.

267. Students receive examination for early diagnosis and treatment of major mental diseases, as a growing number of adolescents suffer from clinical depression resulting from academic stress. In 2009, examinations and treatments of clinical depression and ADHD were carried out on children and youth. Screening tests for clinical depression and ADHD are conducted on first and fourth graders in elementary schools, first year middle school and high school students. Those found to be at high risk receive counseling at Public Health Centres (after second thorough examination at Community Mental Health Centres). When diagnosed with a mental disorder, including clinical depression and ADHD, students receive treatment from medical organizations.

***Question 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?***

268. In the Republic of Korea, there are no official government statistics that depict a high rate of abortion among women between the ages of 20 and 24. The Mother and Child Health Act permits artificial abortion under very restrictive circumstances, excluding some cases (eugenics, genetic disorder, etc.). Artificial abortion without such reasons is deemed illegal and subject to criminal punishment under the Criminal Act. In this regard, it is difficult to determine the exact



scale and status of abortion operations. According to the result of a survey conducted by Korea University in 2005, women between the ages of 20 and 24 do not show a higher rate of abortion compared to other age groups.

269. The Government supports the reproductive health of women of reproductive age to ensure safe pregnancy and childbirth and to minimize unwanted pregnancies. It also promotes the development and expansion of support programmes, including a survey on the conditions of reproductive health and education programmes based on the characteristics of the target group.

270. The Government uses diverse media such as TV, radio, cable TV, local broadcasting, and the press such as newspapers and magazines as public relations instruments to prevent artificial abortion and promote sex awareness. For adolescents in particular, the Government conducts a survey on the conditions of reproductive health, develops and distributes education materials such as education video clips, and includes sex education topics in health text books.

271. Each local government develops plans for juvenile sex education and consults with public health centres, taking the initiative and pushing projects in collaboration with specialized institutions in the regions. Local governments train experts on sex education and counseling and send education instructors to elementary, middle and high schools across the country. It also provides sexual health services by operating mobile clinics for adolescents who have difficulties in accessing obstetricians, gynecologists and urologists.

272. In addition, the Government launches public campaigns; develops and distributes education materials regarding the prevention of artificial abortion in order to raise awareness on the importance of life and negative effects of abortion; operates mobile clinics for sexual health; monitors illegal publicity of artificial abortion; and strengthens online and offline counseling. Further, the Government seeks to create a social mood that discourages artificial abortion by holding forums in cooperation with civic groups and experts and UCC (User Created Content) contests, and by promoting public campaigns.

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

273. The Government seeks to protect public health from the devastating effects of illegal drugs by implementing public relations and education against illegal drugs and providing counseling programmes.

274. The Government makes efforts through public relations on psychotropic drugs, which are frequently being abused or misused for purposes such as appetite suppression and improvement in learning ability. From August 2008 to May 2009, advertisements and information programmes have been aired on TV and in the subway. Since February 2009, 20,000 copies of an information brochure titled "Medicine, do you know what you are taking?" targeting young people have been distributed around university campuses to explain the proper uses and side effects of medicines that are often misused or abused.

275. In order to provide opportunities for rehabilitation and treatment for drug users, the Government operated a drug user voluntary denunciation period. A drug eradication and drug

use prevention CD targeting adolescents is used at middle and high schools to inform students of the risks and seriousness of drugs. A total 824 sessions for 72,485 students were provided in 2008.

276. The Korean Association against Drug Abuse (KAADA), a special juridical foundation established in accordance with article 51, paragraph 2 of the Act on the Control of Narcotics, promotes awareness campaigns and provides education on the dangers of illegal drugs. It was established as a non-government juridical foundation in 1992 and was later recognized as a special juridical foundation with the revision of the Act in December 2002.

277. KAADA ran an advertisement on the dangers of illegal drugs 173,337 times through TV, radio and airport LEDs, and launched campaigns for the eradication of illegal drugs on 150 occasions, which was participated by 3,000 people in 2008. In cooperation with the Education Boards of cities and provinces, schools, and public health centres, KAADA provided education for adolescents on drug abuse prevention. There were 4,979 sessions in 2008 participated by 393,801 students. To raise awareness of adolescents on the harmful effects of illegal drugs, KAADA used its website ([www.drugfree.co.kr](http://www.drugfree.co.kr)) and organized contests, such as for posters and animation. In addition, KAADA provided counseling for a total of 2,283 drug addicts and other individuals, including adolescents, in 2008.

278. The Government is laying the foundation for strengthening systematic education against drug misuse and abuse.

279. The Government has promoted systematic education for preventing drug misuse and abuse at schools during regular classes and discretionary class hours. The revised School Health Act requires schools to provide health education for at least 17 hours using regular classes and discretionary hours set by the heads of schools; to establish "health" as a school subject; and to post health teachers to elementary and middle schools. Based on articles 3 and 4-2 of the School Health Examination Rule, the head of a school is required to conduct an annual survey on all students in school, to determine whether students smoke, drink or use drugs and to take the findings into account when developing health plans and providing guidance.

280. Training has been provided for teachers to help them better educate students and raise their awareness on drug abuse. Education Offices of cities and provinces and Teacher Training Institutes trained 56,792 teachers in 2008. The Teacher Training Institutes run courses on prevention of drug abuse, including smoking, in their teacher training programmes and operate a specialist training course if needed.

281. A drug misuse and abuse prevention programme has been developed, distributed and operated at the national level. Currently, 85 per cent of elementary, middle and high schools are operating this programme based on age and risk.

282. Drug abuse prevention projects in operation have involved collaboration with schools and public health centres. The Government distributes information, holds exhibitions, trains teachers, designates pilot schools, and operates a consultative body related to drug abuse prevention.

283. In addition, a Student Health Information Centre website was launched in December 2008 to provide diverse health information and education materials for students, teachers and parents.

## H. Articles 13 and 14. The right to education

***Question 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.***

284. Article 19, paragraph 1 of the Enforcement Decree of Elementary and Secondary Education Act was revised on 22 February 2008 and is now in force. According to the revised legislation, foreign children may be admitted or transferred to elementary schools by submitting a certificate of residence instead of certificates of alien registration or immigration. Prior to the revision, there were claims that children of illegal foreigners could not be admitted or transferred to elementary schools due to incomplete preparation of papers required by the relevant laws, constituting infringement on their right to education. The revision was therefore made to address this problem. With the revision, children of illegal foreigners may now be admitted or transferred to elementary schools as long as their stay in the Republic of Korea can be confirmed by lease contracts or residence certificates.

***Question 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.***

285. The Government is promoting after-school programmes nationwide in order to satisfy demands for studies that supplement elementary school subjects and to replace private education through nationwide expansion of the programmes. The Government supports elementary, middle and high school students from low income families by providing vouchers for the after-school programmes in order to ensure that tuition fees do not hinder their participation in the programme and to narrow the education gaps between different income levels. The budget for such vouchers was expanded from 114.6 billion won in 2008 to 126.5 billion won in 2009.

286. A variety of support programmes such as the after-school programme, provision of class materials, and mentoring for the basic livelihood security recipients, the near-poor, the children of international marriage couples and North Korean defectors have led to emotional stability, improvement of academic performance, and better attitudes toward schools and classes. For the Education-Welfare Investment Priority Area Project, 201.3 billion won was spent from 2003 to 2008, and in 2009, the Government is planning to provide 86.5 billion won for 538 schools.

287. In December 2008, the Government announced Education-Welfare Policy Measures to reduce the educational costs borne by the low-income class and to narrow the education gaps between social classes and regions. In addition to tuition fees, school meal expenses, after-school vouchers, and information expenses, which are already being provided, the Government is planning to support field trip expenses and training activities as well.

288. However, considering the conditions of national education finance, it will be necessary to review the policy and national financial capacity to lessen education expenses borne by families from mid- and long-term perspectives.

**Table 55**

**School settlement of accounts for 2007**

(Unit: billion won)

| Total  | Field trips | Training activities | After-school educational activities | Yearbooks | Youth group activities | Textbooks | Others |
|--------|-------------|---------------------|-------------------------------------|-----------|------------------------|-----------|--------|
| 17 899 | 4 151       | 1 846               | 8 197                               | 748       | 737                    | 368       | 1 852  |

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

289. Measures to strengthen public education are explained in paragraphs 51 and 52 of the third periodic report.

**I. Article 15. Cultural rights**

***Question 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 where by the National Security Act was invoked to curtail the activities of intellectuals and artists in the last five years (see E/C.12/1/Add.59, para. 32).***

290. Since the National Security Act is applied in a very strict manner within the minimum scope necessary to ensure national security and to maintain basic order for liberal democracy, the Act does not conflict with the right to cultural life under the Covenant. The Criminal Procedure Act, which specifies requisites and procedures for criminal prosecution, is applied to violators of the National Security Act in an equal manner as it is applied to other offenders. The court adopts strict legal interpretation in order to exclude arbitrary application of the National Security Act in their decisions.

291. The number of offenders of the Act is currently on a rapid decrease, which indicates that the Act is being interpreted and applied in a strict manner.

**Table 56**

**Status of violators of the National Security Act**

(Unit: persons)

| Classification         | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 |
|------------------------|------|------|------|------|------|------|
| Number of the booked   | 165  | 114  | 64   | 62   | 64   | 46   |
| Number of the arrested | 84   | 38   | 18   | 22   | 17   | 16   |

292. The Government does not keep statistics on offenders of the National Security Act classified by social status such as intellectuals and artists. Furthermore, since the Act is applied by the courts in a strict manner, there have been no cases of wrongful application of the Act.

***Question 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.***

293. In order to lay the foundation for a mature multicultural society in which each member of society understands and respects cultural diversity, the Government is establishing and implementing an inter-ministerial framework plan every five years and annual implementation plans on policies for foreigners. With the plans, the Government intends to establish a social environment in which native Korean citizens and foreign residents understand and respect each other's history, culture and social institutions. In order to foster such a social climate, it has designated 20 May as Together Day with Foreign Friends and holds a ceremony and a variety of cultural events in which people of different nationalities and ethnic backgrounds come together every year.

294. In an effort to help migrant residents' cultural adaptation and exchanges with Koreans, the Government establishes and supports small libraries in places where many foreigners live. It also provides support to ensure that these small libraries can operate multicultural programmes that help foreign spouses and foreigners with language and cultural difficulties maintain their identity and self-esteem, while at the same time helping them to understand Korean culture. In addition, the Government has established a Multicultural Portal, which provides various information on multiculturalism to help native Koreans and foreign residents in the Republic of Korea understand each other's cultures and lifestyles. The Portal provides necessary information on areas such as policy, living, culture, and education in seven different languages (Korean, Vietnamese, English, Japanese, Chinese, Filipino, and Thai) to migrant residents who are not yet fluent in the Korean language. In an effort to promote their access to the portal site, the Government displays advertising banners on the homepages of public libraries and relevant organizations. Also, the Government holds a variety of cultural programmes that allow participation by both native Koreans and foreign residents.

295. Furthermore, the Government approved the adoption of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions and is currently working on the ratification of the Convention.

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