

Republic of Korea

We would like to bring your attention to the following excerpts, taken directly from Treaty Body Concluding Observations and Special Procedure reports, relating to issues of interest and concern to UNHCR with regards to Republic of Korea.

Treaty Body Concluding Observations

**CRC/C/15/Add.197 32nd Session
18 March 2003**

Non-discrimination

31. The Committee notes with concern the absence of information in the State party's report on racial discrimination, and the limited amount of information regarding acts of discrimination against children from single parent families, children born out of wedlock, children with disabilities, girls and migrant families. It is also concerned that the Constitution does not explicitly prohibit discrimination on the grounds of race, colour, language, political or other opinion, national or ethnic origin, disability, birth or other status, as stated in the Convention.

32. The Committee recommends that the State party enact legislation explicitly prohibiting discrimination in order to include all grounds enumerated in article 2 of the Convention. In addition, the Committee recommends that the State party undertake all necessary proactive measures to combat societal discrimination, in particular against children from single parent families, children born out of wedlock, children with disabilities, children of migrant workers and girls through, inter alia, public education and awareness campaigns.

33. The Committee requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention undertaken by the State party to follow up on the Durban Declaration and Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in 2001, taking account of the Committee's General Comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

Alternative care

40. The Committee notes the State party's establishment of group homes as an alternative to the institutionalization of children separated from their families. However, it is concerned that the establishment of group homes and the development of the foster care system remain limited, and that private alternative care institutions are not subject to governmental regulations or regular inspections.

41. The Committee recommends that the State party:

(a) Continue to expand the number of group homes and the foster care system, in particular by providing greater financial support to foster families and increasing the counselling and support mechanisms for foster families;

(b) Ensure a periodic review of placement of children in all public and private institutions, that takes into account the views and best interests of the child, and, wherever possible, aims to reintegrate children into a family environment;

(c) Increase the number of social workers and upgrade their skills and capacity to provide assistance to children in alternative care and to vulnerable families.

Children of migrant workers

58. *The Committee is concerned that education and social welfare laws and regulations do not include specific provisions providing for the welfare and rights of foreign children, in particular those of undocumented migrant workers.*

59. The Committee recommends that the State party:

(a) Amend domestic laws, in particular those on education and social welfare, to include specific provisions which ensure equal access to services for all foreign children, including those of undocumented migrant workers;

(b) Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990.

CAT/C/KOR/CO/2 36th Session

12. *The Committee is concerned at the absence of adequate legal protection of individuals, particularly of asylum-seekers, against deportation or removal to locations where they might be subjected to torture.*

The Committee welcomes the delegation's oral assurances that it will study the matter of persons removed or returned to locations where they face a real personal risk of torture. The State party should ensure that the requirements of article 3 of the Convention apply when deciding on the expulsion, return or extradition of each case of non-citizens or persons of Korean nationality who may be returned to areas outside the jurisdiction of the Republic of Korea.

18. *The Committee regrets the absence of data, disaggregated by age and sex, on complaints relating to torture and ill-treatment allegedly committed by law-enforcement officials and on the related investigations, prosecutions and penal and disciplinary sentences, as well as statistical data on the number of women and children trafficked for purposes of prostitution. Information is also requested on any compensation and rehabilitation provided to victims.*

Information is further requested on the results of the studies recommended in paragraphs 14 and 15 above.

(The State party should take all necessary steps to prevent and reduce the number of deaths in detention facilities. Adequate provision of and access to medical care should be provided, and suicide prevention programmes should be established in such facilities. The Committee also recommends that the State party conduct a comprehensive analysis of the link, if any, between the number of such deaths and prevalence of torture and other forms of ill-treatment in detention.)

(The State party should prevent ill-treatment and abusive measures in the military. It is encouraged to conduct systematic research into the causes of suicides in the military and to evaluate the effectiveness of current measures and programmes, such as the ombudsman system, to prevent such deaths. Comprehensive programmes for the prevention of suicides in the military may include, inter alia, awareness-raising, training and education activities for all military personnel.)

**CERD/C/63/CO/9 63rd Session
10 December 2003**

7. The Committee takes note of the view of the State party as to the homogeneity of its population. However, it also notes the information provided in the report about ethnic Chinese and other ethnic minorities living in the Republic of Korea. In light of the absence of specific statistical data on the ethnic composition of society in the Republic, the Committee recommends that the State party provide an estimate of the ethnic composition of the population in subsequent reports, as requested in paragraph 8 of the reporting guidelines, and draws the attention of the State party to its general recommendation VIII concerning the self-identification of members of particular racial and ethnic groups. The Committee also suggests that the State party take into account its general recommendation XXIX on descent-based discrimination when gathering information on the situation of the Paekjong community.

10. The Committee remains concerned that foreign workers in the industrial trainee programme and undocumented migrants do not fully enjoy their rights as provided by article 5. The Committee recommends that the State party continue to take measures to improve the situation of all migrant workers, in particular with regard to the right to security of person and to social security and social services. The Committee also recommends that the State party include in its next report information on the implementation of relevant provisions of article 5 for all foreign workers, including industrial trainees, undocumented migrants, refugees and asylum-seekers.

11. The Committee is concerned about the trafficking of foreign women to the State party for the purpose of prostitution, although it notes the State party's efforts to combat this phenomenon. The Committee encourages the State party to expand and strengthen ongoing efforts to prevent trafficking and provide support and assistance to victims, wherever possible in their own language.

CERD/C/KOR/CO/14 71th session
17 August 2007

10. Notwithstanding the assurances provided by the delegation concerning the direct applicability of article 1 of the Convention pursuant to the provision of article 6, paragraph 1, of the Constitution, the Committee notes the absence of a definition of racial discrimination in the law of the State party. The Committee further notes that article 11, paragraph 1, of the Constitution, on equality and non-discrimination, includes none of the prohibited grounds of discrimination referred to in article 1, paragraph 1, of the Convention. (Article 1)

The Committee recommends that the State party bring its internal law in line with the Convention by including a definition of racial discrimination in keeping with that contained in article 1 of the Convention. The Committee further recommends that the State party consider reviewing the definition of discrimination set out in article 11, paragraph 1, of the Constitution with a

11. While welcoming the recent adoption of the Act on the Treatment of Foreigners in Korea, aimed at eliminating discrimination against persons of foreign origin and facilitate their integration in Korean society, the Committee remains concerned about the persistence of widespread societal discrimination against foreigners, including migrant workers and children born from inter-ethnic unions, in all areas of life, including employment, marriage, housing, education and inter-personal relationships. (Articles 2 and 5)

The Committee requests that the State party provide an English translation of the Act on the Treatment of Foreigners in Korea, as well as detailed information on its implementation. The Committee also recommends that the State party, in accordance with articles 2 and 5 of the Convention, adopt further measures, including legislation, to prohibit and eliminate all forms of discrimination against foreigners, including migrant workers and children born from inter-ethnic unions, and to guarantee the equal and effective enjoyment by persons of different ethnic or national origin of the rights set out in article 5 of the Convention (equality before the law).

12. The Committee notes with concern that the emphasis placed on the ethnic homogeneity of the State party may represent an obstacle to the promotion of understanding, tolerance and friendship among the different ethnic and national groups living on its territory. In this regard, while appreciating the explanation provided by the delegation that references to concepts such as “pure blood” and “mixed-bloods” in paragraphs 43 to 46 of the report are to be intended as a mere description of a terminology still in use in the State party, the Committee is nonetheless concerned that such terminology, and the idea of racial superiority that it may entail, continues to be widespread in the Korean society. (Articles 2 and 7)

The Committee requests that the State party provide in its next periodic report disaggregated statistical data on the number of persons born from inter-ethnic unions living on the territory of the State party. The Committee

recommends that the State party adopt appropriate measures in the fields of teaching, education, culture and information, to recognise the multi-ethnic character of contemporary Korean society and overcome the image of Korea as an ethnically homogeneous country, which no longer correspond to the actual situation existing in the State party. In this regard, the Committee recommends that the State party to include in curricula and textbooks for primary and secondary schools information about the history and culture of the different ethnic and national groups living on its territory, as well as human rights awareness programmes aimed to promote understanding, tolerance and friendship among all racial, ethnic and national groups.

13. While taking note of discussions currently underway in the State party with regard to the adoption of a proposed Discrimination Prohibition Act, the Committee reiterates the concern expressed in paragraph 9 of its previous concluding observations that the existing legislation of the State party does not respond fully to the requirements of article 4 of the Convention. (obligation to adopt measures to eradicate all incitement to, or acts of, discrimination and criminalize such acts).

The Committee draws the attention of the State party to its general recommendations no. 7 (1985) and no. 15 (1993) concerning the implementation of article 4 of the Convention, and recommends that the State party adopt specific legislative measures to prohibit and punish racially motivated criminal offences in accordance with article 4 of the Convention. In this regard, the Committee encourages the State party to move expeditiously towards the drafting and the adoption of a Discrimination Prohibition Act.

14. While taking note of the explanations provided by the delegation that as international treaties to which the Republic of Korea is a party automatically become the law of the land, non-citizens enjoy, in practice, most of the rights and freedoms set out in the Constitution on an equal basis with citizens, the Committee remains concerned that strictly in accordance with article 10 of the Constitution, only citizens are equal before the law and are entitled to exercise the rights set out in Chapter II of the Constitution. (Article 5)

The Committee draws the attention of the State party to its general recommendation no. 30 (2004) on non-citizens, and recommends that the State party take all appropriate legislative and other measures to guarantee equality between citizens and non-citizens in the enjoyment of the rights set forth in the Convention to the extent recognized under international law.

15. While appreciating the information provided by the delegation that the Immigration Control Act is currently being reviewed in order to strengthen the protection of refugees and asylum seekers, the Committee notes with concern that only a limited number of asylum seekers have been recognized as refugees since the entry into force of the Convention relating to the Status of Refugees due to a complex procedure and long delays in the decision-making process on asylum claims. (Article 5)

The Committee recommends that the Korean legislation on refugees and asylum seekers be reviewed in accordance with the Convention relating to the Status of Refugees and other recognized international standards. In particular, the Committee recommends that the refugee status determination process be carried out in a fair and expeditious manner, that asylum seekers and persons granted humanitarian protection be allowed to work, and that comprehensive measures be adopted in order to facilitate the integration of refugees in Korean society.

- End of excerpts -

**Protection Operations and Legal Advice Section
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