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SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF
THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1

Republic of Korea*

The present report is a summary of eight stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The periodicity of the review for the first cycle being four years, the information reflected in this report mainly relates to events that occurred after 1 January 2004.

* The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. In a joint submission, Lawyers for a Democratic Society, People's Solidarity for Participatory Democracy, Korean Women's Association United and Korean Progressive Network Jinbonet in association with other non-governmental organizations (MINBYUN-PSPD-KWAU-KPNJ and other NGOs) noted that the Government has not defined its position on withdrawing its reservations on a number of provisions of the core human rights treaties. Moreover, the State party did not ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT) as well as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).

B. Constitutional and legislative framework

2. The National Human Rights Commission of Korea (NHRCK) indicated that under the Constitution, the international human rights instruments acceded and ratified by the Government have the same legal effect as the domestic legislation. However, according to the NHRCK, international human rights law is still not widely known to the public, and the Executive, Legislative and Judicial branches do not possess an in-depth understanding of their legal obligations to implement international human rights law. Recently, the Judicial and the Legislative branches have begun to refer to international human rights law.² NHRCK recommended developing national mechanisms for the Legislative and Judicial branches to participate in the implementation of international instruments and to find effective ways to disseminate these instruments.³

3. MINBYUN-PSPD-KWAU-KPNJ and other NGOs pointed out that only "citizens" (rather than "non-citizens") are protected by the Constitution. It also differentiates civil rights from social rights where the state has wide discretion and denies the indivisibility of these two rights. While the Constitution states that international law shall have "the same effect as domestic law", the binding power of international human rights law has been denied in reality, according to MINBYUN-PSPD-KWAU-KPNJ and other NGOs.⁴

C. Institutional and human rights infrastructure

4. The NHRCK was established in 2001, after a three year consultation period with a wide range of sectors and actors in Korean society, as indicated by the Asian Legal Resource Centre (ALRC).⁵ It is accredited with 'A status' *vis-à-vis* the International Coordinating Committee of national human rights institutions.⁶ MINBYUN-PSPD-KWAU-KPNJ and other NGOs noted that the NHRCK has made recommendations on major policies, laws and ordinances and contributed to human rights improvements in detention facilities among others. However, according to MINBYUN-PSPD-KWAU-KPNJ and other NGOs, the NHRCK has been passive in addressing violations in relation to economic, social and cultural rights. Moreover, the Government has minimized, distorted or disregarded the recommendations rendered by the Commission, thus hindering overall improvement in human rights situation.⁷

5. In a joint submission, the Korean Women's Association United, the Korea Women's Hotline, the Women Migrant Human Rights Centre in Korea, the Korea Sexual Violence Relief Centre, the Differently Abled Women United and other non-governmental organizations (KWAU-KWH-WMHRCK-DAWU and other NGOs) reported that a proposal

for the reorganization of government bodies was submitted to the National Assembly in January 2008. The new administration wants to combine the Ministry of Gender Equality & Family and the Ministry of Health & Welfare and to reduce the ministry responsible for gender affairs to a toothless committee within another ministry, which is a huge setback for Korean women's human rights. The Ministry of Gender Equality was first established in 2001 and expanded the scope of its responsibility by taking over childcare matters in 2004, and family policies in 2005.⁸

D. Policy measures

6. The NHRCK informed that in May 2007, the Government set up the National Action Plan for the Promotion and Protection of Human Rights (NAP). NHRCK noted however that the NAP failed to address important issues regarding civil and political rights (such as the recognition of political activities of civil servants and teachers, establishment of an independent Military Prosecutor's Office, abolishment of the National Security Act (NSA), recognition of conscientious objection to military service, abolishment of the death penalty); economic, social and cultural rights (improvements to industrial accident and unemployment insurance policies, increase of the minimum legal wages, protection of the rights of patients, prohibition of forced evictions without providing shelter, ratification of ILO Conventions on the right to assembly); and other issues regarding socially marginalized people and minority groups.⁹ MINBYUN-PSPD-KWAU-KPNJ and other NGOs also pointed out that the NAP has not shown a clear stance on pressing human rights issues such as the National Security Act, the death penalty and the rights of conscientious objectors to military service. The NAP also neglects the cause of human rights protection for vulnerable people such as sexual minorities.¹⁰

7. NHRCK recommended the Government to provide human rights education to law enforcement officials including judges, prosecutors, public officials and social welfare workers; to include and strengthen human rights education programs at all levels in a comprehensive way and; to pass laws on human rights education.¹¹

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

8. MINBYUN-PSPD-KWAU-KPNJ and other NGOs indicated that the Government has neglected its obligation to implement and disseminate the concluding observations of treaty monitoring bodies and made no sincere efforts to cooperate with civil society.¹²

B. Implementation of international human rights obligations

1. Equality and non discrimination

9. The NHRCK noted that CEDAW has largely contributed to improvements of women's rights in the Republic of Korea. It influenced the process of revising the family law, which led to the most important achievement in the four years, namely the abolishment of the male-only family head system or *hojuje*. Still, according to the NHRCK, there remain many problems: a wide salary gap between men and women, the low ratio of women in high ranking positions, violence against women, sexual harassment and stereotypes on gender roles including the conception that women should be the primary child caregivers. The NHRCK recommended to proactively implement policies to change stereotypes of women and intensify the punishment of perpetrators of violence against women.¹³ MINBYUN-PSPD-

KWAU-KPNJ and other NGOs noted that despite the abolishment of the “family head system”, women are still experiencing political, economic, social and cultural discrimination and some of the Government’s gender equality policies have been repealed contributing to a lower awareness of women’s human rights in Korean society.¹⁴

10. The International Gay and Lesbian Human Rights Commission (IGLHRC) informed that South Korea’s policies on Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) issues have been relatively progressive. The country prohibited employment discrimination based on sexual orientation in 2001, and permitted people who had undergone gender reassignment surgery to get personal documents reflecting their changed gender identity in 2006. But homophobia persists and LGBTQ activists continue to fight discrimination in schools and in the military, as reported by IGLHRC. Many gay websites remain censored.¹⁵ IGLHRC also informed that in 2007, the Ministry of Justice drafted an anti-discrimination bill. However, IGLHRC indicated that the bill, which was at that time pending in the Legislative and Judiciary Committee, excluded seven protected categories, including sexual orientation.¹⁶

11. Recently, rights of persons with disabilities have become a major social concern, as highlighted by the NHRCK. The Government introduced improved policies and enacted legislation, the *Act on Discrimination against Persons with Disabilities* in 2007. The NHRCK also informed that the Government signed the Convention on the Rights of Persons with Disabilities but has not yet ratified it.¹⁷ KWAU-KWH-WMHRCK-DAWU and other NGOs indicated however, that policies and programs for persons with disabilities are gender-blind, highlighting the importance of considering the unique needs of women.¹⁸ MINBYUN-PSPD-KWAU-KPNJ and other NGOs also noted that although a bill regarding anti-discrimination against persons with disabilities has been enacted, employment and income discrimination regarding persons with disabilities still exists. The law ensuring the right to move for persons with disabilities does not guarantee the right to access to roads and buildings and public transportation. Furthermore, persons with disabilities are often institutionalized without their consent, deprived of their personal relationships and cultural rights, and suffer from poor housing, food conditions, forced labour and violent abuse within the facilities. According to MINBYUN-PSPD-KWAU-KPNJ and other NGOs, the Act should include the prohibition of discrimination based on the forms of employment, and the Government should endeavour to continuously monitor private sector as well as public sector to stop discrimination against persons with disabilities. An organization regulating and supervising the welfare facilities should be created and policies encouraging the self-reliance of persons with disabilities should be promoted.¹⁹

2. Right to life, liberty and security of the person

12. AI noted that 30 December 2007 marked the ten year anniversary since the Government of the Republic of Korea last carried out any executions and therefore AI considers the Republic of Korea “abolitionist in practice”. AI reported that on 31 December 2007 the President commuted six death row prison inmates’ sentences to life imprisonment. However, 58 prisoners remain on death row and certain crimes still carry the death penalty. In 2007, two death sentences were passed. AI indicated that the Special Bill to Abolish the Death Penalty has been before the Legislation and Judiciary Committee of the National Assembly since 2005, and if not voted on before the end of the current parliamentary session, the Special Bill will lapse in March 2008.²⁰ AI recommended the Government to introduce a formal moratorium as a step toward abolition of capital punishment and expedite passage into law of the Special Bill to Abolish the Death Penalty in the National Assembly.²¹ The NHRCK

as well as MINBYUN-PSPD-KWAU-KPNJ and other NGOs also recommended abolishing the death penalty.²²

13. MINBYUN-PSPD-KWAU-KPNJ and other NGOs reported that women's right to health and their right to choose have also been violated because of illegal abortion practices.²³

14. The NHRCK reported that torture against persons in detention by investigative agencies and other national bodies, including prisons, has remarkably decreased over the past four years. However, it also indicated that human rights violations in particular in unregistered facilities are reported to be serious; therefore effective supervisory measures are needed.²⁴ NHRCK also noted that human rights in protective facilities for the mentally-ill, the disabled, the older and children need to be urgently improved.²⁵

15. On the issue of domestic violence, KWAU-KWH-WMHRCK-DAWU and other NGOs reported that victims of domestic violence are not fully protected in the Republic of Korea. This is because violence at home is culturally a matter of privacy; legal and institutional safeguards for the victims are poor; the awareness is low in the police; the aggressor is often allowed to stay at home while the victim is driven away under the existing legal system; and public services focus on counselling for the victims rather than punishment of the perpetrators, resulting in only 14.9% of prosecution among the arrested for domestic violence in 2003. KWAU-KWH-WMHRCK-DAWU and other NGOs indicated that relevant authorities must put more efforts on a campaign to raise awareness that domestic violence is a crime; on appropriate injunction based on judging the danger the harmer puts on the victim; and on guaranteeing the security of the victim.²⁶

16. The NHRCK reported that there is a growing recognition of the importance of the rights of children, yet corporal punishment against children is still a particularly serious issue.²⁷ MINBYUN-PSPD-KWAU-KPNJ and other NGOs also reported that corporal punishment is still prevalent in schools.²⁸ The Global Initiative to End All Corporal Punishment of Children (GIEACPC) pointed out that corporal punishment is lawful at home. Children have limited protection from violence under the Child Welfare Act, the Penal Code, the Special Act on Punishment of Domestic Violence, the Act on Prevention of Domestic Violence and Victim Protection, and the Constitution.²⁹ Corporal punishment is lawful in schools under article 18(1) of the Act on Primary and Secondary Education and article 31(7) of the Enforcement Decree of the Act.³⁰ GIEACPC further indicated that corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions. There is no explicit prohibition of corporal punishment in alternative care settings. GIEACPC strongly recommended introducing legislation as a matter of urgency to prohibit corporal punishment of children in all settings.³¹

17. According to MINBYUN-PSPD-KWAU-KPNJ and other NGOs, arbitrary detention is prevalent in the military because a considerable number of military personnel have been detained only by the order of their superiors without due process or judicial procedure, while unconvicted prisoners are incarcerated in "substitute cells" (detention cells in the military) for significant periods of time.³²

3. Administration of justice and the rule of law

18. MINBYUN-PSPD-KWAU-KPNJ and other NGOs pointed out that with the revision of the Criminal Procedure Act and the enactment of the Habeas Corpus Act, the rights of detainees have been emphasized. However the Criminal Procedure Act reinforces the powers

of the police and the prosecutorial offices and the Habeas Corpus Act is not completely effective due to the fact that it explicitly excludes non-citizens in immigration detention facilities and fails to provide enough concrete means to ensure habeas corpus protections.³³

19. Although the efforts of the Truth and Reconciliation Commission and other institutions for transitional justice brought to light some past crimes, the wrongdoers' refusal to admit such crimes and the lack of punitive measures against them has rendered justice ineffective, according to MINBYUN-PSPD-KWAU-KPNJ and other NGOs.³⁴

4. Right to privacy, marriage and family life

20. The NHRCK noted that with the development of information technology, there is a growing risk of privacy invasion, from Closed Circuit Television (CCTV) surveillance and eavesdropping, to abuse of personal database and bio-recognition technology.³⁵ Similar concerns were also raised by MINBYUN-PSPD-KWAU-KPNJ and other NGOs.³⁶ NHRCK recommended that efforts be made to protect the rights to privacy from excessive collection and misuse of personal data.³⁷

21. KWAU-KWH-WMHRCK-DAWU and other NGOs raised the problems of discrimination against untraditional families, indicating that the Health Family Act seems to emphasize "Family" in its English title, but the Korean equivalent connotes "Healthy Home", dividing "healthy homes" and "unhealthy homes". The act suggests that a traditional family with a couple of man and woman and their children is healthy while other family types are not. In particular, Article 3 stipulates that a family can be formed only by marriage, blood relationship and adoption. KWAU-KWH-WMHRCK-DAWU and other NGOs indicated that the law must be revised, because it excludes cohabitation, foster family, unwed parenthood or other non-traditional families.³⁸

22. KWAU-KWH-WMHRCK-DAWU and other NGOs indicated that civil law needs to be amended to guarantee women's equal property rights during marriage and at its dissolution. Among Korean couples, 76.2% register their homes in the husband's name, and when couples file a divorce, only 20 to 40% of the wives receive some assets.³⁹

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

23. The NHRCK noted that alternative military service programs for conscientious objectors started to be considered.⁴⁰ On the same issue, MINBYUN-PSPD-KWAU-KPNJ raised concerns that conscientious objectors are still being sent to jail due to the fact that conscientious objection is considered a felony. Conscientious objectors to army reserve training are repeatedly punished and forced to pay fines.⁴¹ The NHRCK recommended that the Government introduce policies for conscientious objectors in a prompt manner, as recommended by UN human rights bodies.⁴²

24. According to MINBYUN-PSPD-KWAU-KPNJ and other NGOs, although the Constitution expressly forbids a license system for assembly, the Government is operating a de facto license system through issuing prior disapprovals under the related law which obligates people to report assemblies and demonstrations beforehand. By surrounding areas designated for assemblies and demonstrations with police squad buses, the police prevent people in general from approaching the areas and stifle any sort of communication, effectively nullifying the right to assembly and demonstration.⁴³ On the same issue, the NHRCK reports

that assemblies related to political issues were banned in advance for fear of traffic disruption and probable violence.⁴⁴

25. AI indicated that the National Security Act (NSA), in force since 1948, has been used throughout the years to imprison people for engaging in peaceful political activities and for publishing and distributing material deemed to “benefit” the enemy. The law provides long sentences or even the death penalty for “anti-state” and “espionage” activities, but these terms are not clearly defined.⁴⁵ In this regard, AI highlighted the concluding observations of the Human Rights Committee, on the third periodic report by the Republic of Korea, in which the Committee noted that the restrictions placed on freedom of expression do not meet the requirements of the Covenant and urged the State party, as a matter of urgency, to ensure compatibility with requirements under the Covenant. AI also noted that similar earlier recommendations by the Committee to amend the NSA in order to bring it into line with international standards regarding clarity of criminal law have not been followed up.⁴⁶ AI recommended the Government to take concrete steps to abolish the NSA, or otherwise amend it to bring it into line with international standards regarding clarity of criminal law, and freedom of expression and association.⁴⁷ The NHRCK also reported that the NSA has not been abolished.⁴⁸

26. MINBYUN-PSPD-KWAU-KPNJ and other NGOs also informed that the NSA arbitrarily makes it a criminal act to simply possess books or express views and is in reality expanding in scope because of new legislations which strengthen surveillance and control of communication, etc. Furthermore, the internet, which is the most important and widely used open forum for exchanging diverse views and shaping public opinion, has been regulated by law to prohibit the free expression of political views during the national elections.⁴⁹

27. KWAU-KWH-WMHRCK-DAWU and other NGOs noted the low level of women’s participation in political activities, recalling that the national assembly had had fewer than 10 women lawmakers until the 17th election, which produced seats for 43 women.⁵⁰

6. Right to work and to just and favourable conditions of work

28. MINBYUN-PSPD-KWAU-KPNJ and other NGOs noted that “irregular workers” face steep challenges in Korean society; they lack a social safety net and suffer from a disparity between irregular workers and regular workers regarding income and labor conditions. Irregular workers make up nearly 50 percent of the Korean workers, contributing to the deepening of social polarization.⁵¹ The NHRCK also reported that irregular workers are seriously suffering from discrimination in employment. The NHRCK informed that after the *Act on Protection for Non-regular Workers* became effective in July 2007, some employers started to fire irregular workers or to deny renewal of their contracts to avoid the possibility of regularizing them.⁵²

29. KWAU-KWH-WMHRCK-DAWU and other NGOs informed that although more women want to work, only 54.7 percent of women aged between 15 and 64 actually found a job in 2006. According to a survey of Korea National Statistical Office in August 2006, among those working women, 67.6 percent have non-regular jobs and suffer from low-paying insecure employment.⁵³ MINBYUN-PSPD-KWAU-KPNJ and other NGOs raised similar concerns, recommending that relevant laws to protect women’s labour rights and prohibit discrimination should be enacted or revised.⁵⁴ KWAU-KWH-WMHRCK-DAWU and other NGOs recommended that care workers and other unofficial workers be legally recognized as workers.⁵⁵

30. As reported by MINBYUN-PSPD-KWAU-KPNJ and other NGOs, because of their part-time employee status, juveniles also suffer from poor labour conditions where they are withheld pay or underpaid but work for long hours. However, they also lack legislative protection from this situation.⁵⁶

31. The International Trade Unions Confederation (ITUC) informed that the law on the Establishment and Operation of Public Officials Trade Unions went into effect on 28 January 2006. Civil servants are allowed to legally organise within administrative units predefined by the law. However, there are a numerous categories of public officials who are still denied union rights, including managers, human resources personnel, personnel dealing with trade unions or industrial relations, and special public servants such as military, police, fire-fighters, politically-appointed officials, and high level public officials. Civil servants have the right to collective bargaining, but the subjects of negotiation are limited to matters concerning trade unions, members' pay and welfare and other working conditions. Hence, trade unions cannot address other economic and social issues. ITUC reported that restrictions on collective action prompted in 2006, strong opposition to the law by the Government Employees Union (KGEU) affiliated to the Korean Confederation of Trade Unions (KTCU), and also Government action against the KGEU that included the closure of over a hundred local union offices.⁵⁷ MINBYUN-PSPD-KWAU-KPNJ and other NGOs also raised concerns regarding the rights of workers to collective action and strike.⁵⁸

32. ITUC also informed that in November 2006, the government passed through the Parliament a series of revised labour laws that will make it easier to hire replacement workers during strikes, and employ workers on temporary contracts. According to ITUC, in 2006, employers continued to fire trade unionists with impunity, and frequently filed criminal charges (and demands for huge amounts of compensation) for alleged 'obstruction of business' resulting from regular union activities. ITUC indicated that police violence against strikers continued in 2006, resulting in serious injuries for some and the death of one steel worker.⁵⁹

7. Right to social security and to an adequate standard of living

33. According to the NHRCK, the understanding that the Government should guarantee and fulfil individuals' economic, social and cultural rights needs to be strengthened. For the past four years, governmental policies to guarantee social rights have improved. However, considering a wider gap between the rich and the poor, increasing job insecurity, and unemployment, individuals' social rights need to be more protected, as noted by the NHRCK.⁶⁰ Combined with the lack of a social safety net and the weakness of the current social welfare system, economic divide and expansion of the poor are becoming more serious, contributing to the tendency of poverty passing on from generation to generation, as highlighted by the NHRCK.⁶¹ KWAU-KWH-WMHRCK-DAWU and other NGOs also raised concerns about the situation of families with single mothers who live below the poverty line.⁶² Similar concerns were also raised by the MINBYUN-PSPD-KWAU-KPNJ and other NGOs recommending to readjust the criteria for selecting eligible recipients of the Basic Livelihood Security and the Minimum Cost of Living and; to establish a universal basic pension system to cover those excluded from the present National Pension Scheme.⁶³

34. The NHRCK noted that the public health insurance program is being provided to all individuals, and that the range of coverage is improving. However, the portion that individuals pay needs to be reduced and insurance coverage requires to be further widened, partly because economic burdens on patients with incurable diseases and long-term care needs

are ever increasing.⁶⁴ The NHRCK recommended the Government to provide measures to guarantee the right to health by strengthening the social welfare system, guaranteeing rights to shelter, and expanding medical assistance for the poor so that all individuals in the country can enjoy adequate standards of living.⁶⁵

35. MINBYUN-PSPD-KWAU-KPNJ and other NGOs reported that forced evictions without prior warning are still prevalent, even during winter months or in the middle of the night. There is a lack of an effective housing policy covering unregistered dwellings and tenants. 2,550,000 houses including “vinyl houses”, “single rooms in lodgings” and “basement rooms” are below the housing minimum standard, as specified by the Korean laws and ordinances. Furthermore, hundreds of farmers in Pyongtaek have lost their homestead because of the recent move by a foreign army base to that area.⁶⁶ MINBYUN-PSPD-KWAU-KPNJ and other NGOs indicated that the provisions facilitating forced evictions without prior warning must be eliminated. Where there are either public projects or private construction projects, the Government should make it mandatory to build rental houses or temporary lodgings for those subject to forced evictions. They further recommended that affordable housing be supplied and realistic criteria for eligible residents for public rental housing be adopted.⁶⁷

8. Right to education

36. MINBYUN-PSPD-KWAU-KPNJ and other NGOs indicated that compulsory primary school education, although free in principle, is placing a significant financial burden on families.⁶⁸ As noted by NHRCK, middle school education is also compulsory, but parents still need to pay for some portion of the education. Furthermore, according to MINBYUN-PSPD-KWAU-KPNJ and other NGOs, the continued emphasis on college entrance examination-centred policy is increasing the financial burden on families and is also causing a disparity in the quality of education amongst Koreans belonging to different income tax brackets.⁶⁹ NHRCK recommended that measures be taken to guarantee the right to education for students from low-income families.⁷⁰ MINBYUN-PSPD-KWAU-KPNJ and other NGOs indicated that the Government should adopt concrete measures to implement the recommendations of the United Nations Committee on Economic, Social and Cultural Rights which mention the alleviation of the financial education burden on the lower income tax bracket families by the normalization of public educational systems, reforms for the excessive college entrance examination competition, and the promotion of equal accessibility regarding higher education.⁷¹

37. MINBYUN-PSPD-KWAU-KPNJ and other NGOs informed that it is still very difficult for persons with disabilities to receive a proper education. In order to realistically promote education amongst persons with disabilities, the Bill for the Special Education of Persons with Disabilities, which advocates the establishment of schools and classes with specialized teachers, as well as free compulsory pre-school education for infants with disabilities, should be supported with an adequate budget and personnel. MINBYUN-PSPD-KWAU-KPNJ and other NGOs also recommended expanding compulsory education for women with disabilities.⁷² Similar recommendations were made by KWAU-KWH-WMHRCK-DAWU and other NGOs.⁷³

9. Migrants, refugees and asylum seekers

38. The NHRCK stated that with the increase of migrants, the Government has developed new policies and revised legislations in this area. However, according to the NHRCK, discriminations that migrants are facing in their daily lives are serious.⁷⁴ AI indicated that as

far as they are aware, the Republic of Korea became the first labour-importing country in Asia to seek to protect the rights of migrant workers when it introduced the Act concerning the Employment Permit System for migrant workers (EPS Act) in August 2003. As of 2007, the number of migrant workers was estimated at 502,082, of which at least 210,000 are irregular migrant workers.⁷⁵ ITUC raised similar concerns and pointed out that migrant workers are granted only a three years work permit, and are strictly forbidden from changing their employer.⁷⁶ NHRCK recommended to enhance social awareness and, to revise legislation and policies for better protection of the basic rights of migrants.⁷⁷

39. KWAU-KWH-WMHRCK-DAWU and other NGOs highlighted that women constitute roughly one-third of all migrant workers and are particularly vulnerable to exploitation, sexual harassment and violence. Lack of mandatory health insurance also affects women migrant workers. Many women migrant workers who have experienced sexual violence claim that they were threatened by their employer with forcible return to their home country if they reported the incident.⁷⁸ MINBYUN-PSPD-KWAU-KPNJ and other NGOs made similar observations noting also that many migrant women who enter the country through E-6 visas are exposed to prostitution and “sweatshop” labour or forced into the sex industry.⁷⁹ KWAU-KWH-WMHRCK-DAWU and other NGOs recommended amending applicable laws to guarantee foreign women access to legal procedures regardless of legality of their entry into Korea.⁸⁰ MINBYUN-PSPD-KWAU-KPNJ and other NGOs recommended enacting relevant laws and regulations to ensure the human rights of immigrant foreign spouses, etc., and enact a Trafficking Prevention Act to address both inbound and outbound human trafficking.⁸¹ AI also recommended to take measures to protect women migrant workers and ensure that they are not subjected to discriminatory practices and other abuses; and to ensure that conditions at detention facilities are consistent with international law and standards.⁸²

40. KWAU-KWH-WMHRCK-DAWU and other NGOs also highlighted the situation of around 120,000 women from third countries married to Korean men, who suffer from racial, class and gender discrimination. In addition, 50,000 children of foreign wives and women workers are deprived of schooling.⁸³

41. In addition, AI reported that since November 2003, the Government has implemented a series of crack-downs leading to the arrest, detention and deportation of irregular migrant workers. In this regard, AI also indicated that it has received persistent reports of poor conditions in detention facilities for migrant workers and reports of abuse, and cruel, inhuman or degrading treatment or punishment by security personnel against irregular migrant workers held in detention while they await deportation. According to AI, poor conditions in detention facilities became tragically evident in a fire at the Yeosu Detention Centre on 12 February 2007, which left 10 persons dead and 17 injured. When the fire broke out the fire alarm system failed, the sprinkler system did not work, there were fewer guards on duty than required in law, and the guard closest to respond to the fire did not possess a key to open the cells of the detainees. The relatives of those killed in the fire were given compensation. The other detainees were deported back to their countries of origin, many without compensation or recourse to unpaid wages.⁸⁴ Similar concerns were also raised by MINBYUN-PSPD-KWAU-KPNJ and other NGOs.⁸⁵

42. ITUC reported that the Government continued to refuse to register the Migrant Trade Union (MTU). When the MTU filed a legal appeal against the Government’s refusal, the Seoul High Court ruled in February 2007, that migrant workers have the right to organise unions, no matter their legal status in the country.⁸⁶ AI indicated that the Ministry of Labour

has reportedly appealed against this decision to the Supreme Court.⁸⁷ AI also reported that on 27 November 2007, three senior officials of the MTU were arrested and taken to a detention centre for being “in an irregular or undocumented situation”, and in the morning of 13 December, they were deported in secret and without due process.⁸⁸ AI recommended to protect the human rights of migrant workers, including by respecting their rights to form trade unions, to be free from cruel, inhuman or degrading treatment or punishment, ensuring that they are not subject to arbitrary detention and expulsion without due process, and abuses of their economic, social and cultural rights.⁸⁹

43. MINBYUN-PSPD-KWAU-KPNJ and other NGOs reported that asylum seekers are deprived of any legal means to maintain their living, while the process for refugee status determination fails to provide fairness and transparency due to the lack of an independent screening body and adequate translators. Even recognized refugees still face obstacles in fully exercising their rights to be protected under the Convention and Protocol relating to the Status of Refugees, except for the rights to stay and to be employed.⁹⁰ NHRCK indicated that refugee recognition procedures should be improved in line with international refugee law.⁹¹

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

44. NHRCK indicated that over the previous four years, the overall human rights situation has improved, in particular, with regard to civil and political rights. Discrimination is now recognized as an important human rights issue in society. However it also noted that while socially marginalized people and minority groups attract more attention, a widening socio-economic gap between the rich and the poor has also diminished the enjoyment of social, economic, cultural and other rights.⁹²

45. The NHRCK also mentioned that as the percentage of elderly people in the country is one of the fastest growing in the world, the protection of the rights of elderly people with regard to social alienation, underemployment, poverty and medical care has emerged as a new challenge.⁹³

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

n/a

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

46. NHRCK indicated that the Government should develop capacity building and technical assistance projects, cooperating with the NHRCK and civil society, as it has voluntarily pledged upon its election to the Human Rights Council. The Government should also consider how to incorporate a human rights perspective in its official development assistance.⁹⁴

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council. Two asterisks denote a national human rights institution with “A” status.)

Civil Society

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| AI | Amnesty International, London, United Kingdom, UPR submission, January 2008* |
| ALRC | Asian Legal Resource Centre, Hong Kong, China, UPR submission, January 2008* |
| GIEACPC | Global Initiative to End All of Corporal Punishment of Children, London, United Kingdom, UPR submission, January 2008 |
| IGLHRC | International Gay and Lesbian Human Rights Commission, New York, NY, USA UPR submission, January 2008 |
| ITUC | International Trade Union Confederation, Brussels, Belgium, UPR submission, January 2008* |
| KWAU-KWH-WMHRCK-DAWU | Korean Women’s Association United (KWAU)*, Korea Women’s Hotline (KWH), Women Migrant Human Rights Centre in Korea (WMHRCK), Korea Sexual Violence Relief Centre (KSVRC), Differently Abled Women United (DAWU) and co-signed by Gwangu Jeonam Women’s Association United, Gyeong-gi Women’s Associations United, Jeju Association for Women’s Right, Jeju Women’s Association, Korea Association of Women Theologians, Korea Women’s Studies Institute, Korean Women Workers Association, Pohang Women’s Association, Taegu Kyungbuk Women’s ssociations United, The National Association of Parents for Charm-Education, Women Making Peace, Seoul, Korea, joint UPR submission, January 2008 |
| MINBYUN-PSPD-KWAU-KPNJ | MINBYUN-Lawyers for a Democratic Society*, PSPD-People’s Solidarity for Participatory Democracy *, KWAU-Korean Women’s Association United*, KPNJ-Korean Progressive Network Jinbonet* in association with Buddhism Human Rights Committee, Civic Action for Social Justice, Consolidation for Medical Consumer, Cultural Action, Differently Abled Women United, Disability and Human Rights in Action, Establishment of the centre for human rights in military, GONGGAM-Korean Public Interest Lawyers Group, Gyeonggi Women’s Associations United, Intellectual Property Left (IPLeft), Jeju Association for Women’s Rights, Jeju Women’s Association, Joint Committee with Migrants in Korea, Korean Medical Action Groups for Health Rights (KFHR), Korea Health and Medical Workers’ Union (KHMU), Korean Health Professionals for Action (KHPA), Korea Association of Women Theologians, Korea Buddhist Order Association Human Rights Committee, Korea Centre for City and Environment Research, Korea Centre for United Nations Human Rights Policy (KOCUN), Korea Sexual Violence Relief Centre, Korea Women's Hotline, Korean Coalition for Housing Rights, Korean Women Workers Association, Korean Womenlink, Korean Public & Social Workers’ Union (KPSU), Korea Solidarity for Conscientious Objection (KSCO), MigrantsTrade Union, MINKAHYUP Human Rights Group, National Council of Crumbly Man, Pohang Women’s Association, SARANGBANG Group for Human Rights, Taegu-Kyungbuk Women’s Association United, The National Association of Parents for Charm-Education, Women Migrant Human Rights Centre, Seoul, Korea, joint UPR submission, January 2008 |

National Human Rights Institution

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| NHRCK | National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007 ** |
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² National Human Rights Commission of Korea, p.1.

³ National Human Rights Commission of Korea, p.5.

⁴ MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.1.

⁵ Asian Legal Resource Centre, Hong Kong, China, UPR submission, January 2008, p.2.

⁶ National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.1.

⁷ MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.1.

⁸ The Korean Women's Association United, the Korea Women's Hotline, the Women Migrant Human Rights Centre in Korea, the Korea Sexual Violence Relief Centre , the Differently Abled Women United and other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.1.

⁹ National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.1. For examples of policies not included in the NAP, see also National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.6.

¹⁰ MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.1.

¹¹ National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.5.

¹² MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.1.

¹³ National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.4.

¹⁴ MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.4.

¹⁵ International Gay and Lesbian Human Rights Commission, New York, NY, USA UPR submission, January 2008, p.1.

¹⁶ International Gay and Lesbian Human Rights Commission, New York, NY, USA UPR submission, January 2008, p.2.

¹⁷ National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.4.

¹⁸ The Korean Women's Association United, Korea Women's Hotline, Women Migrant Human Rights Centre in Korea, Korea Sexual Violence Relief Centre, Differently Abled Women United and other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.4.

¹⁹ MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.5.

²⁰ Amnesty International, London, United Kingdom, UPR submission, January 2008, p.1. See also National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.2.

²¹ Amnesty International, London, United Kingdom, UPR submission, January 2008, p.3.

²² National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.5; MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.2.

²³ MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.2.

²⁴ National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.2.

²⁵ National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.2.

²⁶ Korean Women's Association United, Korea Women's Hotline, Women Migrant Human Rights Centre in Korea, Korea Sexual Violence Relief Centre, Differently Abled Women United, Seoul, Korea, joint UPR submission, January 2008, pp.2-3.

²⁷ National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.4. See also MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory

Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.5.

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²⁹ Global Initiative to End All of Corporal Punishment of Children, London, United Kingdom, UPR submission, January 2008, p.2.

³⁰ Global Initiative to End All of Corporal Punishment of Children, London, United Kingdom, UPR submission, January 2008, p.2.

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³⁷ National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.2.

³⁸ Korean Women's Association United, Korea Women's Hotline, Women Migrant Human Rights Centre in Korea, Korea Sexual Violence Relief Centre, Differently Abled Women United, Seoul, Korea, joint UPR submission, January 2008, p.3. See also MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.4.

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⁴³ MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, p.2.

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⁴⁵ Amnesty International, London, United Kingdom, UPR submission, January 2008, pp.1-2.

⁴⁶ Amnesty International, London, United Kingdom, UPR submission, January 2008, pp.1-2.

⁴⁷ Amnesty International, London, United Kingdom, UPR submission, January 2008, p. 4. See also National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.5.

⁴⁸ National Human Rights Commission of the Republic of Korea, Seoul, Korea, UPR submission, January 2007, p.2.

⁴⁹ MINBYUN-Lawyers for a Democratic Society, PSPD-People's Solidarity for Participatory Democracy , KWAU-Korean Women's Association United, KPNJ-Korean Progressive Network Jinbonetand other NGOs, Seoul, Korea, joint UPR submission, January 2008, pp.2-3.

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⁵⁷ International Trade Union Confederation, Brussels, Belgium, UPR submission, January 2008, p.1.

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⁸⁸ Amnesty International, London, United Kingdom, UPR submission, January 2008, pp. 2-3.

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