



**International Convention
On the Elimination
Of all Forms of
Racial Discrimination**

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**COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION**

Seventy-first session
Geneva, 30 July-17 August 2007

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

REPUBLIC OF KOREA

1. The Committee considered the thirteenth to fourteenth periodic reports of the Republic of Korea, submitted in a single document (CERD/C/KOR/14) – at its 1833rd and 1834th meetings (CERD/C/SR.1833 and 1834), held on 9 and 10 August 2007. At its 1844th meeting (CERD/C/SR.1844), held on 17 August 2007, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the periodic reports by the Republic of Korea, and notes with appreciation the efforts made by the State party to address the issues raised by the Committee in its previous concluding observations (CERD/C/CO/9).

3. The Committee expresses appreciation for the open dialogue held with the high-level delegation and for the comprehensive and thorough answers given orally and in writing to the list of issues and to the wide range of questions raised by members.

4. The Committee notes with appreciation that the National Human Rights Commission of Korea took the floor before the Committee on an independent basis, which further demonstrates the willingness of the State party's authorities to pursue a frank and constructive dialogue with the Committee.

B. Positive aspects

5. The Committee welcomes the adoption, in May 2007, of a National Action Plan for the Promotion and Protection of Human Rights.

6. The Committee welcomes the adoption, in May 2007, of the Act on the Treatment of Foreigners in Korea.

7. The Committee also welcomes the establishment in June 2006 of the Interpretation Support Centre for Foreign Migrant Workers.

8. The Committee notes with satisfaction the various measures by the State party to combat trafficking of foreign women for the purpose of sexual exploitation or domestic servitude, including the adoption of the Act on Punishment of Prostitution and Brokerage of Prostitution of March 2004 and the Guidelines for Dealing with Cases of Violation of the Act on Punishment of Prostitution and Brokerage of Prostitution.

9. The Committee welcomes the adoption in May 2006 of the Educational Support Plan for Children from Multi-cultural Families.

C. Concerns and recommendations

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 view to extending the list of prohibited grounds of discrimination in accordance with article 1, paragraph 1, of the Convention.

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.

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. (Article 4)

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 recognised 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 recognised 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 recognised 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.

16. While appreciating the efforts undertaken by the State party to combat trafficking of foreign women for the purpose of sexual exploitation or domestic servitude, the Committee remains concerned that trafficking of foreign women continues to be widespread. (Article 5 (b))

The Committee draws the attention of the State party to its general recommendation no. 25 (2000) on gender-related dimensions of racial discrimination, and recommends that the State party increase its efforts to combat trafficking of foreign women for the purpose of sexual exploitation or domestic servitude and provide adequate information, assistance and support to foreign women victims of human trafficking, with a particular regard to those with an irregular status.

17. The Committee notes with concern that according to information received, foreign women married to Korean nationals are not adequately protected against possible abuses perpetrated by their husbands or by the international marriage agencies, and encounter various obstacles to their integration in Korean society. (Article 5 (b) and (c) (iv))

The Committee recommends that the State party adopt appropriate measures to strengthen the protection of the rights of foreign female spouses, inter alia by ensuring that their legal resident status in case of separation/divorce does not depend entirely on the proof that the end of the relationship is to be attributed to the Korean spouse's fault. The Committee also recommends that the activities of international marriage agencies be regulated so as to avoid such abuses as excessive fees, withholding of essential information about the future Korean husband and confiscation of identity and travel documents. The Committee further suggests the adoption of all appropriate measures – including provision of adequate information on the country and its traditions and the organisation of Korean language courses – to facilitate the integration of foreign female spouses in the society of the State party.

18. The Committee remains concerned that migrant workers can only be granted non-renewable, 3-year contracts, and face severe restrictions to their job mobility as well as discriminatory treatment and abuses in the workplace, such as longer working hours, lower wages, unsafe or dangerous conditions of work and short length employment contracts (3 years). The Committee is also concerned that migrant workers, in particular those with an irregular status, encounter obstacles in obtaining legal protection and redress in cases of discriminatory treatment at the workplace, unpaid or withheld wages, or injury or illnesses suffered as a result of industrial accidents. (Articles 5 (e) and 6)

The Committee recommends that the State party adopt adequate measures, including extension of the length of employment contracts, to ensure the effective enjoyment by migrant workers of their labour rights without any discrimination based on nationality.

The Committee also recommends that the State party take effective measures in order to ensure the right of all migrant workers, regardless their status, to obtain effective protection and remedies in case of violation of their human rights by their employer. The Committee requests the State party to include in the next periodic report detailed information on the measures adopted to ensure the equal and effective enjoyment by all migrant workers of their rights under articles 5 (e) and 6 of the Convention.

19. While welcoming the information provided by the delegation on the number of complaints relating to racial discrimination considered by the National Human Rights Commission of Korea, the Committee regrets that the State party has not submitted sufficient information regarding the nature and outcome of these cases. (Article 6)

The Committee requests that the State party provided detailed updated information on the number, nature and outcome of complaints relating to racial discrimination considered by the National Human Rights Commission of Korea pursuant to article 30 (1) of the National Human Rights Commission Act.

20. The Committee notes with concern that existing criminal law provisions that may be used to punish acts of racial discrimination, such as articles 307 and 309 concerning defamation or article 311 on libel, have never been invoked in national courts. The Committee also notes that although the Convention forms part of the domestic law and is directly applicable in the courts of the State party, there are no court decisions which contain references to, or confirm the direct applicability of, its provisions. (Articles 6 and 7).

The Committee reminds the State party that the absence of complaints may be an indication of the absence of relevant specific legislation, of a lack of awareness on the availability of legal remedies, or of insufficient will on the part of the authorities to prosecute. In this regard, the Committee recommends that the State party provide specific training for those working within the criminal justice system, including police officers, lawyers, prosecutors and judges on the mechanisms and procedures provided for in national legislation in the field of racism and discrimination. The Committee further recommends that the State party

organise information campaigns and education programmes on the Convention and its provisions.

21. The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
22. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report specific information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.
23. The Committee recommends that the State party's reports be made readily available to the public at the time of their submission, and that the observations of the Committee with respect to these reports be similarly publicised.
24. The Committee recommends that the State party consult widely with the National Human Rights Commission of Korea, as well as with organisations of civil society working in the area of combating racial discrimination, in connection with the preparation of the next periodic report.
25. The Committee invites the State party to revise its core document in accordance with the requirements of the Common Core Document in the Harmonised Guidelines on Reporting, recently approved by the international human rights treaty-bodies (HRI/MC/2006/3 and Corr.1).
26. The State party should, within one year, provide information on the way it has followed up on the Committee's recommendations contained in paragraphs 11, 13 and 17, pursuant to paragraph 1 of rule 65 of the rules of procedure.
27. The Committee recommends that the State party submit its fifteenth and sixteenth periodic reports in a single document, due on 4 January 2010, taking into account the guidelines for the CERD-specific document, as adopted by the Committee at its 71st session.
