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1999 Country Reports on Human Rights Practices

Released by the Bureau of Democracy, Human Rights, and Labor
U.S. Department of State, February 25, 2000

REPUBLIC OF KOREA

The Republic of Korea is governed by a directly elected president and a unicameral legislature selected by both direct and proportional voting. Kim Dae-jung was elected president in a free and fair election in December 1997 and was inaugurated in February 1998. The next National Assembly elections are scheduled for April 2000. The Constitution provides for an independent judiciary, and in recent years, the judiciary has shown increasing independence; however, several recent scandals involving alleged illegal influence peddling and cronyism have damaged the image of prosecutors and judges.

Responsibility for maintaining internal security lies with the National Intelligence Service (NIS--formerly known as the National Security Planning Agency), the Korean National Police (KNP), and the Defense Security Command (DSC). Legislation passed in 1993 restricts the NIS and DSC from involvement in domestic politics and grants the NIS investigative authority only in cases involving terrorism, espionage, and international crime organizations. The Government revised this law in 1996 to allow the NIS to investigate members of domestic organizations that are viewed as supporting the North Korean Government. The statutory restrictions on the DSC remain in place. There continued to be credible reports that some members of the security forces were responsible for occasional human rights abuses.

The economy rebounded significantly during the year, following the most severe economic crisis since the 1950's in late 1997 and 1998. Underpinning the recovery is the Government's ambitious and comprehensive financial and corporate restructuring plan. Nonetheless, the economy remained susceptible to external shocks. Gross domestic product grew 9.8 percent in the second quarter and growth for the year was expected to be 7 to 8 percent. Unemployment was steady at 6.2 percent.

The Government generally respects the human rights of its citizens; however, there were problems in some areas, although there were also some improvements. Credible sources

reported instances in which police subjected detainees to verbal and physical abuse, although human rights groups report that the number of such cases continues to decline. The Ministry of Justice (MOJ) continued to implement guidelines requiring that suspects be told when arrested of their right to remain silent and their right to a lawyer. The Government continued to require released political prisoners to report regularly to the police under the Social Surveillance Law, and it still has not authorized independent investigations of the cases of some prisoners who were sentenced on charges believed to have been fabricated by previous governments. Some of these prisoners reportedly were subjected to torture to extract confessions and received trials that did not meet international standards of fairness. The use or threatened use of the National Security Law (NSL) continued to infringe upon citizen's civil liberties, including the right to free expression. The President declared in his August 15 Independence Day speech that areas of the NSL had to be revised to protect human rights and make the law consistent with the Government's attempts to expand contacts with the North. In March, 17 "long-term, unconverted" prisoners were released despite their refusal to sign an oath to obey the law. Violence against women and physical abuse remain serious problems, and there is still insufficient legal redress for dealing with them. Women continued to face legal and societal discrimination. President Kim, a long-time democracy and human rights activist, stated repeatedly that promoting the rights of women would be a priority goal, and in January the Equal Employment Act was amended to stiffen the penalties for sexual discrimination in hiring and promotion. In addition in July a new sexual harassment law went into effect, requiring companies to establish guidelines to prevent sexual harassment in the workplace and punishing firms that fail to discipline those guilty of sexual harassment. Ethnic minorities, very small in number, face legal and societal discrimination. In July legislation legalized the activities of teachers' unions. This and other recent labor law reforms bring the country's labor laws close to international standards. The country is considered to be a major transit point for traffickers of Asian women and children destined for the sex trade and domestic servitude.

RESPECT FOR HUMAN RIGHTS

Section 1--Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Penal Code prohibits mistreatment of suspects; the Government has ordered investigating authorities to protect the human rights of suspects; and allegations of abuse by authorities of those in custody for questioning continued to decline. Nonetheless, prosecutors continued to place much emphasis on securing convictions through confessions. This focus is driven by cultural factors, with confession viewed as a necessary basis for the reform and rehabilitation of wrongdoers. While the Supreme Court has ruled that confessions obtained after suspects have been deprived of sleep during an

interrogation cannot be used in court, there continued to be reports that police questioned suspects throughout the night. Credible sources also reported that in some cases police verbally or physically abused suspects, including beatings, threats, and sexual intimidation in the course of arrest and police interrogation. However, human rights groups report that the number of such cases continues to decline. In February the MOJ announced that criminal suspects, who previously had been required to wear prison garb in court, would be allowed to wear street clothes until proven guilty.

In October 1998, three defendants, accused of a plot to create a North Korean military provocation in order to ensure the 1997 election of the Grand National Party's presidential candidate, alleged during their trial that they were tortured into confessing by NIS (then the National Security Planning Agency) agents.

Former detainees who claimed that officials of past military governments had tortured them continued to request compensation. However, the Government has not provided an effective mechanism for redress, such as an independent body to investigate complaints of past human rights violations. Security officials accused of abuse or harassment of suspects rarely have been prosecuted, and public concern with police abuse appears to be growing. In February following extensive press coverage, several police officers were disciplined after it was discovered that they had shackled the feet and tied the hands of a 63-year-old man who was arrested for a traffic violation.

Prison conditions are Spartan. Prison diets are adequate, but the facilities offer little protection against cold in the winter and heat in the summer. Some prisoners claim that these conditions damaged their health and that medical care was inadequate. Inmates occasionally have criticized guards for using excessive force or needlessly putting prisoners in manacles. Inmate access to reading materials, telephones, and television broadcasts has improved significantly in recent years.

There is little independent monitoring of prison conditions, although representatives of human rights groups may visit certain prisoners at the discretion of the prison warden.

d. Arbitrary Arrest, Detention, or Exile

The law is often vague, and prosecutors have wide latitude to interpret the law. The NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea and therefore dangerous to the country. Authorities arrested not only persons spying on behalf of North Korea but also those who praised North Korea, its former leader Kim Il Sung, or its "self-reliance" ("juche") political philosophy. The U.N. Human Rights Committee has termed the NSL "a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights." President Kim Dae-jung, who himself was arrested and sentenced to death under the NSL, has acknowledged that the law has "problematic areas" and announced during his August 15 Independence Day address his intention to pursue major revisions. According to MOJ data, as of November 30, 456 persons had been arrested for violating the NSL (a 35 percent decrease from 1998). Of these, 161 were indicted without detention. These figures represent a 23 percent and 20 percent decrease, respectively, from the same period in 1998.

The NSL permits the imprisonment for up to 7 years of anyone who "with the knowledge

that he might endanger the existence or security of the State or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an antistate organization." The legal standard for knowing that one might endanger the security of the State is vague. Consequently, a number of persons have been arrested for what appeared to be the peaceful expression of opposing views, which the authorities considered pro-North Korean or antistate. In August the Government prosecutor questioned the 37 members of a labor union soccer team that returned to Seoul following a match in North Korea. Team representatives had visited a statue of Kim Il-sung and laid a wreath at its base. As of year's end, the investigation appears closed. In August 1998, Catholic priest Moon Kyu Hyun was arrested on charges of violating the NSL, after he returned from North Korea. Father Moon was released on bail in October 1998; as of year's end, his trial still was underway. Although he had received permission from the Government to travel to North Korea, prosecutors alleged that Father Moon wrote in praise of Kim Il-sung in a North Korean visitors book and participated in a North Korean-sponsored reunification festival in Panmunjom. The eight other priests who traveled with Father Moon were not arrested.

The Government's rationale for retaining the NSL is that North Korea is trying actively to subvert the Government and society, and that due to this special circumstance, some forms of expression must be limited to block the greater danger to freedom and democracy posed by North Korean totalitarianism. The effect sometimes is to relieve the Government of the burden of proof in a court of law that any particular speech or action in fact threatens the nation's security. For example the Government has prosecuted citizens for unauthorized travel to North Korea (see Section 2.d.). In September Yonsei University student Hwang Hye-ro and five other persons were arrested upon returning to the country after making an unauthorized trip to North Korea. On the occasion of a special March amnesty, the Government announced the reinstatement of novelist Hwang Sok-yong's civil rights. Hwang had served 4 years of a 7-year sentence for making an unauthorized visit to North Korea and had been released in March 1998 by an earlier special presidential amnesty.

The Criminal Code requires warrants to be issued by judges in cases of arrest, detention, seizure, or search, except if the person is apprehended while committing a criminal act, or if a judge is not available and the authorities believe that the suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after apprehension, or, if a court is not located in the same county, within 72 hours. Police may detain suspects who voluntarily appear for questioning for up to 6 hours but must notify the suspects' families. The police generally respected these legal requirements.

The standards for issuing warrants were tightened in 1997, but following complaints from prosecutors that the new system was administratively cumbersome, the National Assembly voted to ease standards for issuing warrants. Authorities normally must release suspects after 30 days unless an indictment is issued. Consequently, detainees are a relatively small percentage of the total prison population.

The Constitution specifically provides for the right to representation by an attorney, and in May the National Police Agency announced that it would enforce a suspect's right to have a lawyer present during police interrogation. The police agency also announced that, starting in 2000, individual police stations would employ lawyers as legal advisors to aid

in examining relevant legal clauses in charging suspects.

In 1993 the Government began to permit suspects to consult with "duty lawyers" during breaks in interrogation. These duty lawyers are hired and paid by the individual suspects, who often are billed at reduced rates as a public service. In 1995 the MOJ also issued guidelines requiring police to inform suspects at the time of arrest about their right to be represented by a lawyer, and there were no reports of access to legal counsel being denied. There is a bail system, but human rights lawyers say that bail generally is not granted when detainees are charged with committing serious offenses.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and in recent years, the judiciary has shown increasing independence; however, several recent scandals involving alleged illegal influence peddling and cronyism have damaged the image of prosecutors and judges. The President appoints the Chief Justice and most justices of the Constitutional Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. In recent years, the judiciary has shown increasing independence. For example, judges in some district courts have ruled, that, contrary to prosecutors' assertions, activists' exchange of faxes with North Korean students or meetings with North Korean representatives in third countries were not, in themselves, sufficient grounds to convict them of violating the NSL.

Local courts are presided over by judges who render verdicts in all cases. There is no trial by jury. Defendants can appeal a verdict to a district appeals court and to the Supreme Court. Constitutional challenges can be taken to the Constitutional Court, which was created in 1988.

The Constitution provides defendants with a number of rights in criminal trials including the presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. When a person is detained physically, the initial trial must be completed within 6 months of arrest. These rights generally are observed. Trials are open to the public but the judge may restrict attendance if he believes spectators may seek to disrupt the proceedings.

Judges generally allow considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal matters are tried by the same courts. Although convictions rarely are overturned, appeals often result in reduced sentences. Death sentences are appealed automatically.

Human rights groups believe that many dissidents tried under past military governments during the 1970's and 1980's were sentenced to long prison terms on false charges of spying for North Korea. Furthermore, these persons reportedly had been held incommunicado for up to 60 days after their arrest, subjected to extreme forms of torture, forced to make "confessions," and convicted after trials that did not conform to international standards for a fair trial. In July 1998, the Government repealed the system by which "ideological prisoners" had to renounce their real or alleged beliefs and instituted a system by which prisoners had to sign a written promise to obey the law and

pledge to recognize the Republic of Korea in order to be released from prison. A total of 103 prisoners were freed in this manner in the 1998 Independence Day amnesty. Although the new system was a significant step for the Government, human rights groups criticized the requirement of a promise to obey the law, including the NSL, as tantamount to forcing citizens to renounce their beliefs. However, on the occasion of a special presidential amnesty in March, 17 long-term, unconverted prisoners were released without having to renounce their beliefs or sign an oath of obedience. Included among these was U Yong-gak, who had served 41 years in prison following his conviction on espionage charges. Some released political prisoners were required to report their activities regularly to the police. At year's end, most such prisoners had been released, and two persons remained imprisoned.

Also on the occasion of the August 15 Independence Day amnesty, seven prisoners serving sentences for NSL violations were released after signing an oath of allegiance. In addition 49 other NSL violators were released following the completion of more than half of their sentences.

It is difficult to estimate the number of political prisoners, because it is not clear whether particular persons were arrested for merely exercising the rights of free speech or association or were detained for committing acts of violence or espionage. Some human rights monitors estimate the number of political prisoners at around 300. However, these monitors' definition of political prisoner often includes all persons imprisoned for politically motivated acts, without distinction as to whether the acts themselves included violence or other criminal behavior. The number of political prisoners and detainees as defined by international standards appears to number under 200.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

In general the Government honors the integrity of the home and family. In the past, the security services conducted varying degrees of surveillance, including wiretaps, of political dissidents. The 1995 Antiwiretap Law and the law to reform the NIS (then known as the National Security Planning Agency) were designed to curb government surveillance of civilians, and largely appear to have succeeded. The Antiwiretap Law lays out broad conditions under which the monitoring of telephone calls, mail, and other forms of communication are legal. It requires government officials to secure a judge's permission before placing wiretaps, or, in the event of an emergency, soon after placing them, and it provides for jail terms for those who violate this law. Some human rights groups argue that a considerable amount of illegal wiretapping still is taking place, and they assert that the lack of an independent body to investigate whether police have employed illegal wiretaps hinders the effectiveness of the Antiwiretap Law.

In late December 1998, several opposition lawmakers broke into the NIS (the then National Security Planning Agency) liaison office in the National Assembly building and removed documents that they claimed substantiated allegations that the office was being used by the NIS to conduct surveillance of National Assembly members. Several opposition legislators have alleged that they are under surveillance by the Government and that their homes, offices, and cellular telephones are tapped.

Citizens are not allowed to listen to North Korean radio in their homes or read books published in North Korea if the Government determines that they are doing so to help

North Korea. Student groups make plausible claims that government informants are posted on university campuses.

Section 2--Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

While most political discourse is unrestricted, under the NSL the Government limits the expression of ideas that authorities consider Communist or pro-North Korean. Broad interpretations of the NSL allow for restrictions on peaceful dissent.

Although the Government has abandoned direct control over the news media, it continues to exercise indirect influence, and government officials vigorously lobby reporters and editors. The latent threats of tax investigations against companies and pressure on advertisers still are believed to induce newspapers and broadcasters to soften criticism of the Government in some cases. Moreover, while the Government's anticorruption campaign curtailed politicians' payments of money to reporters, it did not eliminate them. Nevertheless, press criticism of the Government is extensive in all fields, and authorities have not used repressive measures to stop media reporting. Many radio and television stations are state supported, but they maintain a considerable degree of editorial independence in their news coverage.

Journalists allege that the libel laws are used to harass publications for articles that are unflattering but not necessarily untrue, and in the past some journalists have been arrested and jailed for libel.

Prosecutors continued to indict dissidents under the NSL for producing, selling, or distributing pro-North Korean or pro-Communist materials. Court precedents allow citizens to possess these kinds of publications for purely academic use, profit, or curiosity, but not with the intent of subverting the State. Prosecutors have wide discretion in determining motives for possessing or publishing such material.

The Government continued to allow, within its guidelines, substantial media coverage of North Korea. Television networks continued to broadcast edited versions of North Korean television programs, and reported extensively on United States and South Korean talks with North Korean officials. In September 1998, a television station received permission for the first time to broadcast a North Korean-produced film.

The Government Censorship Board, which screens movies for sex and violence, has followed more liberal guidelines in recent years and allowed release of a broader range of films.

In 1997 Suh Jun Shik, the publisher of a daily human rights newsletter in Seoul, was arrested under provisions of the NSL along with several other activists for attempting to screen an allegedly pro-North Korean movie. Suh was released on bail in October 1998; in September he was found not guilty.

The Government generally respected academic freedom, and no instances of prosecution for scholarly writing were reported during the year. However, student groups plausibly report the presence of government informants on university campuses (see Section 1.f.).

b. Freedom of Peaceful Assembly and Association

The Law on Assembly and Demonstrations prohibits assemblies considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies, and the police must notify organizers if they consider the event impermissible under this law. In August police prevented students from marching to Panmunjom on the border with North Korea for a Liberation Day rally to be held jointly with their North Korean counterparts. The authorities labeled the attempted march and rally as illegal.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. There are no registration requirements. Associations operate freely, except those deemed by the Government to be seeking to overthrow the State.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Most citizens can move freely throughout the country; however, police may restrict the movements of some former prisoners. Foreign travel generally is unrestricted; however, the Government must approve travel to North Korea. To obtain approval, potential visitors must demonstrate that their trip does not have a political purpose--that is, to praise North Korea or criticize the South Korean Government. During the year, the Government continued to promote the expansion of North-South contacts, including allowing the Hyundai Group to transport tourists to North Korea's Kumgang mountain and granting permission to a labor union's soccer team to play a soccer match in Pyongyang. However, travelers to North Korea who do not receive government permission are likely to be arrested upon their return.

In January a travel ban was placed on, but subsequently lifted from, 11 opposition politicians for their involvement in the removal of documents from an NIS liaison office in the National Assembly building at the end of 1998 (see Section 1.f.).

In the past, the Government forbade some Koreans convicted of politically related crimes from returning to Korea, and some citizens still face sanctions if they return.

The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers. However, the issue of provision of first asylum did not arise during the year. There were no reports of the forced return of persons to a country where they had a fear of persecution.

Section 3--Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right to elect their own government. The Constitution, as amended in 1987, provides for the direct election of the President and for a mixed system of direct and proportional election of legislators to the unicameral National Assembly. The President serves a single 5-year term and may not be reelected. The National Assembly's term is 4 years. All citizens 20 years of age or older have the right to vote, and elections are held by secret ballot.

Because of cultural traditions and discrimination, women occupy few important positions in government. There is one woman in the Cabinet, the Minister of Environment. Eleven female legislators were elected to the 299-seat National Assembly, one of whom chairs a special committee on women's affairs.

Section 4--Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several nongovernmental organizations are active in promoting human rights, and they operate without government restriction. Chief among these groups are the Lawyers for a Democratic Society, Sarangbang, the Human Rights Committee of the National Council of Churches in Korea, the Korean Bar Association, People's Solidarity for Participatory Democracy, and "Mingahyup," an association of the families of political prisoners. These groups publish reports on human rights and make their views known both inside and outside the country. Government officials generally have been willing to meet with international human rights groups.

In July President Kim reiterated his intention to establish a human rights commission to investigate accusations of human rights violations, which he first mentioned as one of his 100 presidential policy pledges in February 1998. The Government is preparing legislation to create this commission.

Section 5--Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution and equal opportunity statutes forbid discrimination on the basis of race, sex, religion, disability, or social status, and the Government respects these provisions. However, traditional attitudes limit opportunities for women and the disabled. Ethnic minorities, very small in number, face both legal and societal discrimination.

Women

Violence against women remains a problem, and some women's rights groups maintain that such violence, including spousal abuse, has worsened with the recent decline of the economy. A 1997 survey found that 31.4 percent of households had experienced incidents of domestic violence. In July 1998, the Government enacted the Prevention of Domestic Violence and Victim Protection Act, which defines domestic violence as a serious crime. Authorities can order offenders to stay away from victims for up to 6 months and to be put on probation or to see court-designated counselors. The law also requires police to respond immediately to reports of domestic violence. Women's groups praised the law as a significant step in combating domestic violence.

Rape remained a serious problem with 8,317 cases reported in 1998 (the last year for

which statistics are available). Many incidents of rape go unreported because of the stigma associated with being raped. The activities of a number of women's groups have increased awareness of the importance of reporting and prosecuting rapes, as well as offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape generally go unprosecuted, and perpetrators, if convicted, often receive very light sentences.

Enacted to combat sexual harassment in the workplace, a new sexual harassment law went into effect in July. Under the new law, companies can be fined up to \$2,500 (3 million won) for failing to take steps to prevent sexual harassment in the workplace or failing to punish an offender. The law also requires companies to establish in-house sexual harassment complaint centers and forbids firms from punishing employees for taking their complaints to outside organizations. In addition the Ministry of Education announced that the new law's guidelines would apply at the nation's schools and that teachers who make gender-discriminatory remarks would be disciplined. As examples of gender-discriminatory remarks, the Ministry cited statements that emphasized women's traditional roles in families, stressed men's leadership in society, and encouraged female students to work for good marriages instead of embarking on a career after graduation.

The amended Family Law, which went into effect in 1991, permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her offspring after a divorce. Although the revisions helped abused women, the stigma of divorce remains strong, and there is little government or private assistance for divorced women. These factors, plus the fact that divorced women have limited employment opportunities and have difficulty remarrying, lead some women to stay in abusive situations. The Government has created some shelters for battered women and increased the number of child care facilities, giving women in abusive situations more options, but women's rights groups say that they fall far short of effectively dealing with the problem.

A conservative tradition has left women subordinate to men socially and economically. Despite the passage of equal employment opportunity legislation in 1987, few women work as company executives, and sexual discrimination in the workplace remains a problem. However, in January the National Assembly revised the 1987 Equal Employment Act to include tougher penalties to be imposed on companies that are found to discriminate against women in hiring and promotions. Under the revised law, the Presidential Commission on Women was granted the authority to investigate sexual discrimination cases in the workplace. A company found guilty of practicing sexual discrimination could be fined up to \$4,200 (5 million won) and have its name published in the newspaper. The revised law also provides for a public fund to support victims in seeking legal redress. Nevertheless, some government agencies' preferential hiring of applicants with military service (nearly always men) points to continued legal barriers against women. In December the Constitutional Court ruled that government agencies' preferential hiring practices for those who have performed military service discriminated against women and disabled persons and were unconstitutional. Women have full access to education, and social mores and attitudes are changing gradually. For example, the major political parties, are making more efforts to recruit women; the Ministry of Women's Affairs continued its efforts to expand employment opportunities; and the military and service academies continued to expand opportunities for women.

The Government provides an allowance of \$442 (500,000 won) per month to 142 former "comfort women" (women who, during World War II, were forced to provide sex to soldiers of the Japanese Imperial Army).

The country is considered a major transit point for traffickers of Asian women and children destined for the sex trade and domestic servitude (see Section 6.f.).

Children

The Government provides high-quality elementary education to all children free of charge, and most obtain a good secondary education. High-quality health care facilities are widely available to children.

Child abuse does not appear to be a significant problem; however, it has not been studied extensively, and statistics are limited. As of the end of July, 411 cases of child abuse had been reported. The Seoul metropolitan government runs a children's counseling center, which investigates reports of abuse, counsels families, and cares for runaway children. Until 1998 there was no specific law against child abuse; however, the new Prevention of Domestic Violence and Victim Prevention Act, which defines domestic violence as a serious crime, allows a child to bring charges against a parent in cases of abuse. In July the Government's Commission on Youth Protection, exercising its mandate to "regulate the circulation of harmful materials and substances and to protect youth from harmful entertainment establishments," revised the youth protection law. Under the revised law, owners of entertainment establishments who hire minors under the age of 19 face prison terms of up to 10 years and a fine of \$8,300 (10 million won) per minor hired. (The law previously had provided for a prison term of 3 years and a fine of \$23,240 (28 million won) no matter how many minors were hired.) The Commission also announced that it was expanding the definition of "entertainment establishment" to include facilities, such as restaurants and cafes, where children sometimes were hired illegally as prostitutes. The National Assembly is proceeding with the development of additional legislation in this area.

The traditional preference for male children continues, although it is less evident among people in their twenties and thirties. Although the law bans fetal testing except for those cases when a woman's life is in danger, a hereditary disease would be transmitted, or in cases of rape or incest, such testing and the subsequent termination of pregnancies with female fetuses frequently occur. The Government has expressed concern about the widening disparity in male and female birth rates.

The country is considered a major transit point for traffickers of Asian women and children destined for the sex trade and domestic servitude (see Section 6.f.).

People with Disabilities

Although measures aimed at creating opportunities for the disabled have been taken, public facilities for their everyday care and use remained inadequate. However, there is no legal discrimination against disabled persons in employment, education, or the provision of other state services.

In 1995 the Government expanded job training programs, medical benefits, and welfare

facilities for disabled citizens. Since 1991 firms with over 300 employees have been required by law either to hire disabled workers or pay a fee. Surveys indicate that most companies either paid the fee or evaded the law. After human rights groups had publicized one such survey in 1996, the Labor Ministry increased the subsidies provided to companies that hire the disabled. Nonetheless, hiring of the disabled remains below target levels. The disabled make up less than 1 percent of the work force. New public buildings are required to include facilities for the disabled, such as ramp access to entrances, a wheelchair lift, and special parking spaces. The Health and Welfare Ministry has announced that existing government buildings must be retrofitted with these facilities over the next 6 years.

National/Racial/Ethnic Minorities

The country is racially homogeneous with no ethnic minorities of significant size. Citizenship is based on blood, not place of birth, and persons must show their family genealogy as proof. Thus, ethnic Chinese born and resident in Korea cannot obtain citizenship or become public servants, and may have difficulty being hired by some major corporations. Due to legal as well as societal discrimination, many ethnic Chinese have emigrated to other countries since the 1970's. There are approximately 20,000 ethnic Chinese, who represent 0.05 percent of the population. In June 1998, the Government passed legislation to allow a female citizen to transmit citizenship to her child regardless of the citizenship of the child's father. Amerasians face no legal discrimination but informal discrimination is prevalent, making it more difficult for them to succeed in academia, business, or government.

Section 6--Worker Rights

a. The Right of Association

The Constitution gives workers, with the exception of public sector employees, the right to free association. In 1998 the Government passed legislation that, beginning in January, allowed government white-collar workers to form workplace councils. Blue-collar workers in such government agencies as the postal service, railways, telecommunications, and the National Medical Center are allowed to organize unions. As few as two employees may form a union. Until 1997 the Trade Union Law specified that only one union was permitted at each workplace. However, labor law changes in 1997 authorized the formation of competing unions starting in the year 2002. All unions are required to notify the authorities when formed or dissolved. About 12.6 percent of workers belong to a union. There are approximately 5,560 trade unions.

In the past, the Government did not recognize formally labor federations that were not affiliated with the country's two legally recognized labor groupings--the Federation of Korean Trade Unions (FKTU) and the Independent Korean Federation of Clerical and Financial Workers. However, in the past several years, the Labor Ministry officially recognized some independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. The courts ruled in 1992 that affiliation with the FKTU was not required to be registered as a legal labor federation. The legalization of the teachers' union paved the way for government recognition of the dissident Korean Confederation of Trade Unions (KCTU) in November. In practice labor federations not formally recognized by the Labor Ministry

have operated without government interference.

The Government arrested and tried unionists who allegedly instigated violent strikes or illegally disrupted normal business operations. Following a subway strike in Seoul in April, several union leaders were dismissed from their positions and some faced legal action from the Government. Also in April, 6,000 workers walked off the job at the Daewoo Shipyard in sympathy with the subway strikers and to protest company-restructuring plans. Although there were several large general strikes, the Government did not punish unionists for their participation in these strikes or other mass rallies.

The ban on teachers' unions was lifted on July 1. Accordingly, the KCTU-affiliated Korean Teachers' Union (Chonkyojo) and the FKTU-affiliated Korean Union of Teachers and Educational Workers became legal. Although the two teachers unions have the right to bargain collectively with the Ministry of Education on wages or working condition--but not school curriculums--it is illegal for the unions to enter into collective action.

Labor laws prohibiting political activities by unions were rescinded in 1997. Election laws that apply to other social organizations regulate unions. These regulations prohibit donations by unions (and other social organizations) to political parties. Some trade unionists have temporarily resigned from their union posts to run for office.

Strikes are prohibited in government agencies, state-run enterprises, and defense industries. By law unions in enterprises determined to be of "essential public interest," including public transportation, utilities, public health, banking, and telecommunications can be ordered to submit to government-ordered arbitration in lieu of striking. However, in practice the Government rarely imposes arbitration. The number of labor disputes has declined in recent years. According to Labor Ministry statistics, about 129 strikes occurred in 1998, the last year for which complete data are available. The Labor Dispute Adjustment Act requires unions to notify the Labor Ministry of their intention to strike; it mandates a 10-day "cooling-off period" before a work stoppage legally may begin and 15 days in public interest sectors. Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

The FKTU and KCTU are affiliated with the International Confederation of Free Trade Unions. Most of the FKTU's 20 constituent federations maintain affiliations with international trade secretariats, as does the KCTU Metalworkers Council.

In recent years, the Government has cultivated a more neutral stance in labor disputes. Striking workers shut down the Hyundai Motors' auto plant in Ulsan in August 1998, and although the Government threatened to use police to remove the workers, labor and management settled their dispute peacefully. There were no reports that employer-hired squads assaulted workers during the year.

In June 1998, the country was reinstated to the Overseas Private Investment Corporation's (OPIC) insurance programs, which had been suspended since 1991 on worker rights grounds.

b. The Right to Organize and Bargain Collectively

The Constitution and the Trade Union Law provide for the right of workers to collective bargaining and collective action. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or practice discrimination against union members. Employers found guilty of unfair practices can be required to reinstate workers who were fired for union activities.

Extensive collective bargaining is practiced, even with unions whose federations are not recognized legally by the Government. The labor laws do not extend the right to organize and bargain collectively to defense industry workers or white-collar government employees, although the Government passed legislation to allow government workers to form workplace councils beginning in 1999, including workers at state- or publicly run enterprises.

There is no independent system of labor courts. The central and local labor commissions form a semiautonomous agency of the Labor Ministry that adjudicates disputes in accordance with the Labor Dispute Adjustment Law. Each labor commission is composed of equal numbers of representatives of labor and management, plus neutral experts who represent the "public interest." Local labor commissions are empowered to decide on remedial measures in cases involving unfair labor practices and to mediate and, in some situations, arbitrate labor disputes. Arbitration can be made compulsory in sectors of the economy (for example, utilities and transportation) deemed essential to public welfare.

In February 1998, the Government established the Tripartite Commission, with representatives from labor, management, and the Government to deal with labor issues related to the economic downturn. The work of the Commission made it legal for companies to lay off workers due to economic hardship and authorized temporary manpower agencies. However, disputes among labor, management, and government representatives led to the pullout of labor and management from the Commission in April. In September management and FKTU representatives agreed to return to the Commission. As of year's end, the KCTU had not returned to the Commission.

In the past, regulations forbade intervention in disputes by so-called third parties, such as labor federations not recognized by the Government. Labor laws were revised in 1997 to lift the ban on third-party intervention and allow nonrecognized federations to assist member unions involved in a strike.

Enterprises in the two export processing zones (EPZ's) had been designated by the Government as public interest enterprises. Workers in these enterprises, whose rights to organize formerly were restricted, gradually have been given the rights enjoyed by workers in other sectors of the economy.

c. Prohibition of Forced or Compulsory Labor

The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures. Forced or bonded labor, including forced labor by children, is not practiced.

d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Standards Law prohibits the employment of persons under the age of 15 without a special employment certificate from the Labor Ministry. Because education is compulsory through middle school (about age 14), few special employment certificates are issued for full-time employment. Some children are allowed to hold part-time jobs such as selling newspapers. To obtain employment, children under age 18 must have written approval from their parents or guardians. Employers can require minors to work only a limited number of overtime hours and are prohibited from employing them at night without special permission from the Labor Ministry. Child labor laws and regulations are clear and usually enforced when violations are found, but the Government employs too few inspectors to carry out regular inspections. The Government prohibits forced and bonded child labor and enforces this prohibition (see Section 6.c.).

e. Acceptable Conditions of Work

The Government implemented a minimum wage in 1988, and the minimum wage level is reviewed annually. As of September 1998, the minimum wage was raised to approximately \$1.17 (1,525 won) per hour. Companies with fewer than 10 employees are exempt from this law. The FKTU and other labor organizations assert that the current minimum wage does not meet the basic requirements of urban workers. In fact workers earning the minimum wage would have difficulty in providing a decent standard of living for themselves and their families, despite fringe benefits, such as transportation expenses, with which companies normally supplement salaries. (However, the money an average blue-collar worker takes home in overtime and bonuses significantly raises the total compensation package.) According to the Ministry of Health and Welfare, 4.2 percent of the population lived below the poverty level as of July.

Foreign workers, most of whom come from China, the Philippines, Bangladesh, Nepal, and Pakistan, often face difficult working conditions. The Government sought to ameliorate the problems of illegal workers by creating a program that allowed about 60,000 foreign workers to enter the country legally to work at established wages with legal safeguards. Although the number of illegal foreign workers decreased greatly in 1998 due to the economic crisis, the country's economic recovery reversed this decline. The Ministry of Labor reported that there were 114,700 illegal workers as of May, down from 149,000 at the beginning of the economic crisis in December 1997 but above the figure of 93,000 recorded in December 1998. It is difficult for illegal workers to seek relief for loss of pay or unsatisfactory living and working conditions because they face deportation. However, the Government has established counseling centers that hear complaints from illegal foreign workers about such issues as overdue wages and industrial accidents. Foreigners working as language teachers have complained that the language institutes that hired them frequently violated employment contracts, for which the legal system provided insufficient redress.

Amendments to the Labor Standards Law passed in 1989 brought the maximum regular workweek to 44 hours, with provision for overtime to be compensated at a higher wage. The law also provides for a 24-hour rest period each week. Labor laws were revised in 1997 to establish a flexible hours system, according to which employers could require laborers to work up to 48 hours during certain weeks without paying overtime, as long as average weekly hours for 2-weeks did not exceed 44. If a union agreed to a further loosening of the rules, management could ask employees to work up to 56 hours in a given week. The legislation established a daily cap of 12 hours on the working day. Labor

groups claim that the Government does not enforce adequately the maximum workweek provisions at small companies.

The Government sets health and safety standards, but the accident rate is unusually high by international standards. However, this rate continued to decline gradually due to improved occupational safety programs and union pressure for better working conditions. The Labor Ministry still lacks enough inspectors to enforce the laws fully. The Industrial Safety and Health Law does not provide job security for workers who remove themselves from dangerous work environments.

f. Trafficking in Persons

The Criminal Code states that "A person who kidnaps another by force or coercion for purposes of engaging in an indecent act or sexual intercourse, or for gain, shall be punished by imprisonment for not less than 1 year this shall apply to a person who buys or sells a woman for purpose of prostitution."

Because of lax control of transit areas at international airports, the country is considered a major transit point for alien smugglers, including traffickers of Asian women and children destined for the sex trade and domestic servitude. Relatively small numbers of Korean economic migrants, seeking opportunities abroad, are believed to end up as victims of traffickers as well (see Section 5).

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[East Asia and the Pacific Index](#) | [Table of Contents](#) | [1999 Report Homepage](#) | [Human Rights Reports Index](#)