



Korea, Republic of

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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. A free and fair National Assembly election was held in April. The Constitution provides for an independent judiciary, and in recent years, the judiciary has shown increasing independence; however, several scandals in 1999 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 enacted in 1993 restricts the NIS and the 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 government of the Democratic Peoples' Republic of Korea (North Korea; DPRK). The statutory restrictions on the DSC remain in place. Some members of the security forces were responsible for occasional human rights abuses.

Following a rebound in 1999 from the 1997-98 financial and economic crisis, the country's economic growth began to level off in 2000. Gross Domestic Product (GDP) increased by an estimated 9.3 percent in 2000, with 6 to 7 percent GDP growth estimated in the second half of the year. Underpinning this strong performance was the Government's continued commitment to a comprehensive financial and corporate restructuring plan. However, the country's economic growth was dependent on a narrow range of export products, and the still somewhat fragile financial system left the economy susceptible to unpredictable external conditions. Unemployment fell steadily from its 8.6 percent peak in February 1999 to 3.6 percent in November 2000.

The Government generally respected the human rights of its citizens; however, problems remain in some areas, although there were some improvements. Police abused detainees, although human rights groups reported that the number of such cases continued to decline. The Government continued to require released political prisoners to report regularly to the police under the Social Surveillance Law; however, during the year, it did not undertake 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)--which forbids contacts with North Korea--continued to infringe upon citizen's civil liberties, including the right to freedom of expression. The President continued to urge that sections of the NSL be revised to protect human rights and make the law consistent with the new atmosphere of improved relations with North Korea and the Government's attempts to expand contacts with that country. In September 63 spies from the DPRK who had been released from prison returned voluntarily to that country. Domestic violence and rape and physical abuse remain serious problems, and there is insufficient legal recourse for dealing with them. Women also continued to face legal and societal discrimination. Ethnic minorities, very small in number, face legal and societal discrimination. Trafficking in persons is a problem; the country is considered a transit point for alien smugglers, including traffickers of primarily Asian women and children for the sex trade and domestic servitude.

In July a revised child protection law went into effect, increasing the penalties for child abuse. In the first half of the year, the Government enacted laws authorizing the investigation of the arrests and so-called "mysterious" deaths of prodemocracy activists under previous military governments. Some of the activists were sentenced on charges believed to have been fabricated by previous governments.

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.

To investigate and redress complaints that officials of past military governments had tortured and killed prodemocracy activists, the Government enacted the Special Act on the Investigation of Suspicious Deaths in May. In August a nine-person panel was commissioned to review cases such as the 1960 student uprising and the 1980 Kwangju civil uprising and to shed light on the circumstances surrounding the arrests and deaths of prodemocracy activists.

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 the 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, police sometimes abuse persons in custody. 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 continued to decline during the year. In 1999 the Ministry of Justice (MOJ) announced that criminal suspects, who previously had been required to wear prison garb in court, would be allowed to wear street clothes until the court rendered a judgment.

Police and security officials who abuse or harass suspects rarely are punished, and public concern over impunity of police who commit abuses appears to be growing. In a highly publicized case, in February a former police officer, Lee Kun-an, known as the "torture cop" for his abuse of suspects, was convicted of the illegal confinement and cruel punishment of a suspected North Korean spy and sentenced to 7 years in prison. In February 1999, in a highly publicized case, 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 whom they had arrested for a traffic violation.

Former detainees who claimed that officials of previous 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. To investigate and redress complaints that officials of past military governments had tortured detainees, the Government in January enacted the Act on the Restoration of the Honor of and Compensation for Persons Engaged in the Democratic Movement.

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 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. Beginning in March, the MOJ allowed prisoners to receive four visitors per month, and model prisoners who had served more than one-third of their sentences were allowed unsupervised meetings with visitors. Model prisoners also are exempt from mail censorship and eligible for overnight leave. The MOJ also announced a law that prohibits searches of women inmates by male prison guards without prior permission from the warden. Also beginning during the year, pregnant inmates received prenatal care for the full term of their pregnancies.

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 broadly outlined and open to interpretation. The National Security Law (NSL) defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea, and thus perceived to be dangerous to the country. Authorities arrested not only persons accused of spying on behalf of North Korea, but also those who praised North Korea, its former leader Kim Il Sung, or North Korea's "self-reliance" ("juche") political philosophy. Persons traveling to North Korea without authorization also have been arrested under the NSL, as have some who appeared to be expressing opposing political views peacefully. 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 enforcement of the law was loosened in light of the June North-South Summit and recent improvements in relations between the two countries. According to MOJ data, during the year 130 persons were arrested for NSL violations, and 50 remained in custody at year's end. The NSL arrest figure is nearly 60 percent lower than in 1999.

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 knowledge 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 1998, Father Moon Kyu Hyun, a Roman Catholic priest, was arrested on charges of violating the NSL after he returned from North Korea. Although the Government had granted him permission to travel to North Korea in 1998, 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. In May Father Moon was sentenced to 2 years in prison and received a stay of execution of that sentence for 2 years. He filed an appeal.

The Government's rationale for retaining the NSL has been 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.). Novelist Hwang Sok-yong served 4 years of a 7-year sentence for making an unauthorized visit to North Korea. He was released in 1998 by a special presidential amnesty, and his civil rights were reinstated by a special March 1999 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 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 provides for the right to representation by an attorney and in May 1999, the MOJ announced that it would enforce a suspect's right to have a lawyer present during police interrogation. Beginning in January, individual police stations employed lawyers as legal advisors to aid in examining relevant legal clauses in charging suspects. There were no reports of access to legal counsel being denied.

The MOJ announced in March that all prosecutors' offices have private rooms where suspects could consult with lawyers. 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. Some district court judges, citing the recent conciliatory mood between North and South Korea, 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 the 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 by 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 torture, forced to make "confessions," and convicted after trials that did not conform to international standards for a fair trial. To investigate and redress complaints that officials of past military governments had tortured former detainees, in January the Government enacted the Act on the Restoration of the Honor of and Compensation for Persons Engaged in the Democratic Movement. 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 56 were freed, but only 7 signed the pledge in the 1999 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 1999, 17 long-term, unconverted prisoners, that is, persons who had refused to renounce allegiance to the DPRK and Communist beliefs, were released without having to renounce their beliefs or sign an oath of obedience. However, some released political prisoners were required to report their activities regularly to the police. According to the MOJ, no long-term unconverted prisoners remained incarcerated. On September 3, 63 North Korean spies, who had been released from South Korean prisons, were allowed to return to North Korea per their wishes.

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 whether they were detained for committing acts of violence or espionage. Some human rights monitors estimate the number of political prisoners at 300. However, these monitors' definitions of political prisoner often include 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 respects 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 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.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in North Korea if the Government determines that they are doing so to help North Korea. However, in October 1999, the Government legalized the viewing of North Korean satellite telecasts in private homes. Furthermore, the Government allowed the personal perusal of North Korean books, music, television programs, and movies as a means to promote understanding and reconciliation with North Korea.

Student groups make credible 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 self-censor 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 materials.

There is wide reporting of North Korean issues and issues concerning North-South relations.

The Government Censorship Board, which screens movies for sex and violence, has followed more liberal guidelines in recent years and allowed the release of a broader range of films. The Government does not control access to the Internet, but it made some effort—largely ineffective—to control Internet pornography.

The Government generally respected academic freedom, and no instances of prosecution for scholarly writing were reported during the year. However, student groups credibly 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 June more than 3,000 riot police forcibly dispersed about 1,000 striking workers at the Lotte Hotel in Seoul. The workers were taken into detention; at least 33 were beaten and injured (see Section 6.a.).

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 (see Section 1.d.). To obtain approval, potential visitors must demonstrate that their trip does not have a political purpose--that is, to praise North Korea or to criticize the South Korean Government. During the year, the Government actively promoted the expansion of contacts of all types between citizens and persons in North Korea. However, travelers to North Korea who do not receive government permission are likely to be arrested upon their return.

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

The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) 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.

The Government ratified the International Convention Relating to the Status of Refugees in 1992; it went into effect in 1994, when provisions covering asylum seekers were included in the immigration law. Since 1994 54 individuals have sought asylum, but none so far has been granted asylum. According to the UNHCR, the Government's handling of asylum applications remains rigid. In 1999 the Government agreed to suspend temporarily exit orders for persons whose cases were under review by the UNHCR. The MOJ asserted that the asylum applicants did not qualify for refugee status under the refugee convention, failed to present evidence to back their claims, or made false statements on their applications.

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

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. 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.

Women are underrepresented in government and politics. Because of cultural traditions and discrimination, women occupy few important positions in government. There is one woman in the Cabinet, the Minister of Environment. In the April National Assembly election, 16 female legislators were elected to the 299-seat National Assembly, one of them 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 (NGO's) 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 September the MOJ sent to the National Assembly a bill that would establish a human rights commission to investigate accusations of human rights violations. The President first mentioned this action as one of his 100

presidential policy pledges in February 1998.

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.

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 are very small in number; they 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 during that year. In 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 order them 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. Several instances during the year of sexual harassment and attempted rapes allegedly committed by well-known men raised public awareness of these problems.

Rape remained a serious problem, with 6,359 cases reported in 1999, according to MOJ statistics, the most recent available. Many rapes go unreported because of the stigma associated with being raped. Women's groups' activities have increased awareness of the importance of reporting and prosecuting rapes, as well as of 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.

A law was enacted to combat sexual harassment in the workplace, and went into effect in July 1999. Under the 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 law's guidelines would apply at public schools and that teachers who make gender-discriminatory remarks would be disciplined. As examples of such 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 1991 Family Law 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 children after a divorce. Although the revisions help women who choose to divorce, including victims of domestic violence, 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 established some shelters for battered women and has increased the number of childcare 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.

The country's conservative traditions make 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 1999 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 1999, 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 \$417 (500,000 won) per month to 143 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 transit point for traffickers of Asian women and children sold into the sex trade and domestic servitude (see Section 6.f.).

Children

The Government demonstrates its commitment to children's rights and welfare through its well-funded system of public education. The Government provides high-quality elementary education to all children free of charge, and education is compulsory through the age of 15. Most children obtain a good secondary education. High-quality health care is widely available to children.

As public awareness of the problem of child abuse continues to grow, the number of reported cases has increased. According to one NGO's figures, 2,115 cases of child abuse were reported in 1999. The Seoul metropolitan government operates a children's counseling center that investigates reports of abuse, counsels families, and cares for runaway children. Until 1998 there was no specific law against child abuse; however, the 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. During the year, the Government enacted a revised child protection law that mandated the establishment of a child abuse hot line and the dispatch of trained personnel to take preliminary measures for the protection of an abused child. Under the revised law, the Government also is to establish new child welfare facilities for abused children. Revisions also included increased penalties for convicted child abusers, who would face up to 5 years in prison (compared with the previous 2 years) for child abuse.

In July 1999, 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 \$17,000 (20 million won) per minor hired. The law previously had provided for a prison term of 3 years and a fine of \$23,000 (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.

In July the Juvenile Sexual Protection Act took effect. It established the maximum imprisonment for the sale of the sexual services of persons under 19 years of age at 20 years. It also established prison terms for persons convicted of purchase of sexual services of youth under the age of 19 (see Section 6.f.).

The traditional preference for male children continues, although it is less evident among couples under the age of 40. Although the law bans fetal testing except when a mother's life is in danger, when a hereditary disease would be transmitted, 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 between male and female birth rates.

The country is considered a transit point for traffickers of Asian women and children sold into the sex trade and domestic servitude (see Sections 6.c., 6.d., and 6.f.).

People with Disabilities

The law provides broad protections against discrimination against 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, with one 1999 survey indicating that 9 out of 10 firms with more than 300 employees failed to meet the legally mandated 2 percent job quota for disabled workers. In the past, the Government increased the subsidies provided to

companies that hire the disabled. Nonetheless, the hiring of the disabled remains significantly 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 announced in 1995 that existing government buildings must be retrofitted with these facilities by 2005. As of 1998, 47.4 percent of public buildings and facilities had facilities for the disabled. In December 1999, the Constitutional Court ruled that government agencies' preferential hiring practices for those who have performed military service discriminated against disabled persons and were unconstitutional.

National/Racial/Ethnic Minorities

The country is racially homogeneous, with no ethnic minorities of significant size. Except in cases of naturalization, citizenship is based on parentage, not place of birth, and persons must show their family genealogy as proof of citizenship. Thus, ethnic Chinese born and resident in Korea cannot automatically 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 provides workers the right to associate freely, except for public sector employees. In 1998 the Government passed legislation that, beginning in January 1999, allowed white-collar government 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 2002. All unions are required to notify the authorities when formed or dissolved. According to 1999 figures, about 12.6 percent of workers belong to a union. There are approximately 5,560 trade unions.

In the past, the Government did not grant formal recognition to 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 for registration 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 1999. In practice labor federations not formally recognized by the Labor Ministry have operated without government interference.

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, 198 strikes occurred in 1999, 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. In recent years, the Government has cultivated a more neutral stance in labor disputes. In 1998 the National Assembly adopted a law that permits mass layoffs of workers in cases of corporate restructuring. The impending layoffs of thousands of workers led to strikes in the auto and banking industries.

In August 1998, striking workers shut down the Hyundai Motors' auto plant in Ulsan; 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 July a threatened bank workers' strike was averted, in contrast with a 1998 bank union strike in which strikers caused property damage.

According to government figures, as of August, 49 persons had been arrested for allegedly instigating violent

strikes or illegally disrupting business (a total of 129 were arrested and tried in 1999). In June more than 3,000 riot police forcefully dispersed approximately 1,000 striking workers at a hotel strike in Seoul. Also in June, police dispersed a strike among workers at the National Health Insurance Corporation. Several union leaders were arrested in both strikes, and the violence in the hotel strike led to injuries to 33 strikers. Although there were several large general strikes, the Government did not punish union members for their participation in these strikes or other mass rallies. Workers fired by employers that were found guilty of unfair labor activities were reinstated.

In December Seoul police violently dispersed demonstrations by striking union members at two banks. Most workers left voluntarily, but several who refused to disperse were injured in conflicts with police.

The ban on teachers' unions was lifted in July 1999. 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. In the April National Assembly election, several candidates from the KCTU-affiliated Democratic Labor Party made unsuccessful bids for assembly seats.

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.

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 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 to 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 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. Disputes among labor, management, and government representatives led to the withdrawal of the KCTU representatives in September 1999.

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 remove the ban on third-party intervention and allow nonrecognized federations to assist member unions involved in a strike. Under this provision, persons who assist trade unions or employers in a dispute or in the course of bargaining are required to register with the Ministry of Labor. Those who fail to do so may face a large fine or a maximum sentence of 3 years' imprisonment.

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. Labor organizations are permitted in EPZ's.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced and compulsory labor, including forced or compulsory labor by children, and it is not known to occur. 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. The country is a transit point in trafficking in Asian women and children (see Section 6.f.).

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.). The Government has not defined Worst Forms of Child Abuse or hazardous work.

The country is a transit point for trafficking in Asian women and children (see Section 6.f.).

e. Acceptable Conditions of Work

The Government implemented a minimum wage in 1988, and the minimum wage level is reviewed annually. Since September 1999, the minimum wage was approximately \$1.45 (1,600 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 1999.

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, so long as average weekly hours for any given 2-week period 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.

Foreign workers, most of whom come from China, the Philippines, Bangladesh, Nepal, and Pakistan, often face difficult working conditions. In the early 1990's, the Government sought to ease 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. In September the Government announced that industrial trainees would be allowed to remain in the country for as long as 5 years. Previously, those entering the country on trainee visas could remain for 3 years.

The Government reports that approximately 235,000 foreign workers reside in the country and that about 150,000 are illegal residents. 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 problems as overdue wages and industrial accidents. The MOJ announced in March that it would suspend deportation proceedings for illegal residents awaiting back pay. The MOJ also announced that it would establish a human rights committee for foreign workers to address problems that some foreign workers face from primarily private sector employers. These workers have been subjected to beatings, forced detention, withheld wages, and seizure of passports. Finally,

employers reported to have abused foreign workers would be subject to criminal charges and disadvantaged in the Government's allocation of jobs for overseas workers. 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.

The Government sets health and safety standards, but the accident rate is unusually high. 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 labor 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." The Labor Standards Law prohibits employment of any person under 18 years of age in work that "is detrimental to morality or health."

Trafficking in persons is a problem. Because of lax control of transit areas at international airports, the country is considered a transit point for alien smugglers, including traffickers of primarily Asian women and children for the sex trade and domestic servitude. Relatively small numbers of Korean economic migrants, seeking opportunities abroad, are believed to have become victims of traffickers as well (see Section 5). One travel agency was accused of visa fraud and the trafficking of women to a Western country for prostitution. There were several reports of the falsification of Korean documents by travel agencies; many cases involved the trafficking of citizens of China to Western countries.

The Juvenile Sexual Protection Act enacted in July imposes lengthy prison terms for persons convicted of sexual crimes against minors (see Section 5).

In May police arrested 5 persons for visa fraud for the purpose of trafficking in aliens; the group had reportedly recruited more than 1,000 persons. In November police arrested Lim Il-kwon, a citizen convicted of past alien trafficking, on charges of document fraud. He admitted to the smuggling of women to Japan and Western countries for purposes of prostitution. Police believe that Lim was responsible for the trafficking of hundreds of persons. Police also arrested another suspected trafficker who admitted document fraud for international travel. All the suspects awaited trial at year's end.

Most related arrests are made on charges of travel document fraud, not trafficking itself. There were no trafficking arrests during the year.

[End.]