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The Republic of Korea (Korea) is a constitutional democracy governed by a president and a unicameral legislature. The country has a population of approximately 48 million. In April 2004, in a free and fair election, President Roh Moo-hyun's Uri Party obtained a majority. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Domestic violence, rape, and child abuse remained serious problems. Women, persons with disabilities, and minorities continued to face societal discrimination. The country was a country of origin, transit, and destination for trafficking in persons.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

However, in 2005 the National Human Rights Commission found that two demonstrators probably died as a result of police violence (see section 2.b.).

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits mistreatment of suspects, and officials generally observed this prohibition in practice. However, the National Human Rights Commission determined that the Seoul Detention Center submitted false reports to senior authorities in an attempt to cover up the sexual assault by a male prison guard on a female inmate in February. The guard was subsequently sentenced to four years in prison.

The government continued to investigate incidents of possible abuse under the country's former military regimes. As of September, the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement, established to review cases in which political activists may have been tortured, had reviewed 10,078 of 11,990 reported cases since 2000 and determined that compensation was due in 2,596 of them.

There were a number of incidents, including assaults related to military hazing.

Prison and Detention Center Conditions

Prison conditions generally met international standards, and the government permitted visits by independent human rights observers.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. However, rules regarding arrest and detention under the National Security Law (NSL) are vague. For example, 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 deemed dangerous to the country. The NSL permits the imprisonment for up to seven 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 what constitutes "endangering the security of the State" is vague. Thus, persons could be arrested for the peaceful expression of views that the government considered pro-North Korean or antistate. Between January and September authorities arrested 11 persons for alleged NSL violations.

The UN 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." Proposals to annul or substantially revise the NSL were sparked again during the year after a teachers' union published a pamphlet using text from a North Korean state document. A university professor who was arrested under the NSL late last year for publishing unpopular columns about the Korean War was subsequently found guilty of violating the NSL and was dismissed from his job. In May he was sentenced to two years of prison with a stay of execution of three years. At year's end the case was under appeal.

Role of the Police and Security Apparatus

The Korean National Police Agency (KNPA) is under the Ministry of Government Administration and Home Affairs. The approximately 93,000 member force has a national headquarters in Seoul, five special agencies, including the Maritime Police, 13 provincial headquarters, 220 police stations, and 3,389 branch offices. The KNPA was considered well disciplined, and corruption and impunity were not major problems. The KNPA conducts internal investigations of alleged wrongdoing by the police, but citizens also are able to file a claim directly with the National Human Rights Commission to investigate any allegations of wrongdoing.

Arrest and Detention

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

Authorities generally must release an arrested suspect within 20 days unless an indictment is issued. An additional 10 days of detention is allowed in exceptional circumstances.

There is a bail system, but human rights lawyers said bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a previous victim, or had no fixed address. The law provides for the right to representation by an attorney, including during police interrogation. There were no reports of access to legal counsel being denied.

Amnesty

In August the government granted a special amnesty to 142 prisoners and paroled another 750. The list also included three politicians who had been convicted of illegal fundraising.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice. Of the nine justices on the constitutional court, three are appointed by the president, three are elected by the National Assembly, and three are designated by the chief justice of the Supreme Court. Although judges do not receive life appointments, they cannot be fired or transferred for political reasons. The prosecutor's office, under the jurisdiction of the Ministry of Justice (MOJ), has shown increased independence and impartiality in recent years.

Local courts are presided over by judges who render verdicts in all cases. Both defendants and prosecutors can appeal a verdict or a sentence to a district appeals court and to the Supreme Court. Constitutional challenges can be taken to the constitutional court.

Trial Procedures

Trials are open to the public, but a judge may restrict attendance if he believes spectators might disrupt the proceedings. There is no trial by jury. Court-appointed lawyers are provided by the government (at government expense) in cases where the defendant cannot afford to provide his or her own legal counsel. When a person is detained, the initial trial must be completed within six months of arrest. Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. The law 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. Although the law prohibits double jeopardy, the courts interpreted this provision to mean that a suspect cannot be indicted or punished more than once for the same crime, while the prosecution can appeal a not-guilty verdict or a sentence it considers excessively lenient. Therefore, a suspect may be tried more than once for the same crime.

Political Prisoners and Detainees

It was difficult to estimate the number of political prisoners because it was unclear whether persons were arrested for exercising the rights of free speech and association, or were detained for committing acts of violence or espionage. Minganhyup, a nongovernmental organization (NGO), reported that as of September the government had prosecuted 129 persons for their political beliefs. As of August the government had convicted 252 conscientious objectors who failed to report for military service.

There were no reports of political detainees.

Civil Judicial Procedures and Remedies

There was an independent and impartial judiciary in civil matters.

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

The law prohibits such actions, and the government generally respected these prohibitions in practice. Some human rights groups raised concerns about possible government wiretapping abuse. The Anti-Wiretap Law lays out broad conditions under which the government may monitor telephone calls, mail, and other forms of communication for up to two months in criminal investigations and four months in national security cases. The Ministry of Information and Communication said that between January and June, the government conducted 528 cases of wiretapping, down 11 percent from the 550 cases during the same time period in 2005. Telecommunications companies also reported providing more than 35 percent fewer phone records to law enforcement agencies when compared with last year.

The government continued to require some released prisoners to report regularly to a probation officer under the Social Surveillance Law.

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 the action endangers national security or the basic order of democracy in the country (see section 1.d.). However, this prohibition was rarely enforced, and the viewing of North Korean satellite telecasts in private homes is legal.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. However, under the NSL, the government may limit the expression of ideas that authorities consider Communist or pro-North Korean (see section 1.d.). Proposals to annul or substantially revise the NSL failed to reach a majority in the National Assembly.

In January 2005 the National Assembly passed a law that allows the Fair Trade Commission to impose restrictions on publishers if any one newspaper has more than 30 percent of the market or if three major newspapers have a combined market share of 60 percent or more. The law also requires press owners to report their circulation and advertising revenue to a Press Development Committee. In June the Constitutional Court ruled that some parts of the law, including the market share issue, were unconstitutional.

The state-owned radio and television network maintained a considerable degree of editorial independence in its news coverage.

Internet Freedom

The government blocked violent and sexually explicit Web sites and required site operators to rate their site as harmful or not harmful to youth, based on the country's telecommunications laws that ban Internet service providers from offering harmful information for youth. The government also continued to block North Korean Web sites that it deemed inappropriate. The government also blocked the sale of video games that featured North Korea in a negative way.

According to the 2005 Organization for Economic Cooperation and Development data, 92.7 percent of households had access to the Internet. In addition to Internet access from home, public Internet rooms were widely available and inexpensive.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice. The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies. The police must notify organizers if they consider an event impermissible under this law; however, police routinely approved demonstrations.

During the year demonstrators on several occasions used steel bars, rocks, and other weapons to attack police. Violence erupted in demonstrations involving labor disputes, trade issues, and US Forces Korea base consolidation. In December 2005 the National Human Rights Commission found that two demonstrators allegedly died as a result of police violence, and the president apologized for the incident in a nationally publicized address. The protesters had participated in a November 2005 rally during which demonstrators armed with wooden sticks and fire bombs clashed with police armed with batons and plastic shields. It was determined that the officers who were likely to have caused the deaths of the protestors could not be identified given the nature of the confrontation between the large group of police and protestors. The commissioner-general of the KNPA took responsibility for the police actions and resigned a few days after the commission issued its ruling.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice. Associations operated freely, except those deemed by the government to be seeking to overthrow the government.

c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

Societal Abuses and Discrimination

The small Jewish population was comprised almost entirely of expatriates. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

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

Most citizens could move freely throughout the country; however, government officials had discretion to restrict the movement of some former prisoners and North Korean defectors. While foreign travel generally was unrestricted, the government must approve travel to North Korea. Travelers going to places other than Kaesong or Mt. Geumgang must receive a briefing from the Ministry of Unification prior to departure and demonstrate that their trip does not have a political purpose and is not undertaken to praise North Korea or criticize the government. In October a group of 50 South Koreans traveled to visit a national cemetery in Pyongyang after receiving government approval. Under the NSL, the cemetery commemorating patriotic martyrs previously was off-limits.

The law does not include provisions for forced exile of its citizens, and the government did not employ it.

Protection of Refugees

The laws provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. The government cooperated with the office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. In practice the government generally provided protection against refoulement, the return of persons to a country where they feared persecution; however, the government did not routinely grant refugee status or asylum. Those few asylum-seekers who were recognized as refugees were provided with basic documentation but frequently encountered problems in exercising their rights. In particular, their protected status was not always recognized by all government departments, and refugees, like other foreigners, were frequently subjected to various forms of informal discrimination. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers and an alternative form of protection, a renewable, short-term permit, to those who met a broader definition of "refugee." Between January and December the government received 278 refugee applications (not including North Koreans). Between July 1994, when the government first accepted applications, and December, the government approved 52 of 724 applications. The government continued to work with the UNHCR to bring its refugee processing up to international standards; however, a complex procedure and long delays in decision making continued to be problems.

The government continued its longstanding policy of accepting refugees from North Korea, who are entitled to citizenship in the ROK. The government resettled 2,023 North Koreans during the year, resulting in a total of approximately 9,800 North Koreans resettled in the country.

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

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 20 years of age or older. Elections are held by secret ballot.

Elections and Political Participation

A free and fair national assembly election was held in April 2004. After by-elections in July, the ruling Uri Party maintained a plurality of 141 of 299 seats in the National Assembly.

In general elections, 50 percent of each party's candidates on the proportional ballot must be women, and 30 percent of each party's geographical candidates must be women. As a result, in the 2004 elections 39 women were elected to the 299-seat legislature. At year's end three of the 19 National Assembly committees were chaired by women. In the Supreme Court, two of 14 justices were women, and in the cabinet, two of 19 ministers were women. In April the first female prime minister, Han Myeong-sook, was confirmed by the National Assembly.

Government Corruption and Transparency

On taking office, President Roh encouraged prosecutors to investigate political parties and politicians for corruption. Several investigations involved his close aides.

The country has a Freedom of Information Act, which went into effect in 1998.

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

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law forbids discrimination on the basis of gender, religion, disability, age, social status, regional origin, national origin, ethnic origin, physical condition or appearance, marital status, pregnancy and child delivery, family status, race, skin color, thought or political opinion, record of any crime for which punishment has been fulfilled, or sexual orientation or medical history, and the government generally respected these provisions. However, traditional attitudes limited opportunities for women, persons with disabilities, and ethnic minorities. While courts have jurisdiction to decide discrimination claims, many of these cases were instead handled by the National Human Rights Commission.

Women

Violence against women remained a problem. Between January and July the MOJ registered 6,549 cases of domestic violence and prosecuted 1,153 cases. The Special Act on the Punishment of Domestic Violence defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to six months. Offenders may also be placed on probation or ordered to see court designated counselors. The law also requires police to respond immediately to reports of domestic violence, and the police generally were responsive. The government has established some shelters for battered women and has increased the number of childcare facilities, giving women in abusive situations more options. However, women's rights groups said these measures fell far short of effectively dealing with the problem.

In 2005 the National Assembly eliminated the household registration system that made women legally subordinate to the male family head. The reforms also allowed remarried women to change their children's family name to their new husband's name and ended the six-month waiting period to remarry that was directed only at women. The 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 law helped abused women who chose to divorce, there remained a stigma of divorce and little government or private assistance for divorced women. These factors, plus the fact that divorced women had limited employment opportunities, led some women to stay in abusive situations. However, according to a National Statistical Office report, 44.8 percent of marriages ended in divorce.

Rape remained a serious problem. Between January and August there were 4,917 reported cases of rape and 2,281 prosecutions. Many rapes were believed to have gone unreported because of the stigma associated with being raped. The activities of a number of women's groups increased awareness of the importance of reporting and prosecuting rape, as well as of offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape frequently went unprosecuted, and perpetrators of sex crimes, if convicted, often received light sentences. The penalty for rape is three years' imprisonment; if a weapon is used or two or more persons commit the rape, punishment may be a maximum of life imprisonment. In 2004 the courts set a precedent by prosecuting spouses in cases of spousal rape, although there is no specific statute that defines spousal rape as illegal.

Prostitution is illegal but widespread. In 2004 the government passed sweeping antiprostitution and antitrafficking legislation that provided protection for the victims of prostitution and enhanced punishment for those engaged in prostitution. There are no laws that specifically addressed sex tourism. Some NGOs also expressed concern that sex tourism to China and Southeast Asia was becoming more prevalent.

The law defines sexual harassment as a form of gender discrimination. The Gender Discrimination Prevention and Relief Act covers almost all kinds of human relations--including, for example, relations between teachers and students and citizens and civil servants. Nevertheless, sexual harassment continued to be a problem. The National Human Rights Commission of Korea received 99 cases of sexual harassment in the past year.

Relative to other developed countries, few women worked in managerial positions or earned more than a median income, and gender discrimination in the workplace remained a problem. According to the Korea Women's Development Institute, the average working woman earned 64 percent of what a man made in a comparable job. The Equal Employment Act penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination could be fined up to \$4,399 (5 million won) and have its name published in the newspaper. The 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) perpetuated legal barriers against women, despite a constitutional court ruling that such preferential hiring was unconstitutional. A recent poll showed that 79 percent of women responded that they had experienced some form of discrimination in the workplace, usually in the form of job duties and pay.

Women had full access to education, and social mores and attitudes were improving gradually. For example, the major political parties made more efforts to recruit women, and an increasing number of women occupied key political positions, including that of prime minister.

Children

The government demonstrated its commitment to children's rights and welfare through public education. The government provided high-quality elementary education to all children free of charge. Education is compulsory through the age of 15, and most children obtained a good secondary education. Enrollment rates for elementary school were at 98.8 percent as of 2005. Boys and girls have equal access to education. High quality health care was widely available to children.

As of June, 4,548 cases were registered with the National Child Protection Agency, of which 2,561 were determined to be abuse cases. In 2005 the Ministry of Health and Welfare increased requirements for child abuse reporting. In the past child abuse reporting was limited to employees of welfare institutes, teachers, medical professionals, and social workers. The new measure includes lawyers, private institute instructors, and kindergarten teachers.

The Youth Protection Law provides for prison terms of up to three years or a fine of up to \$17,680 (20 million won) for owners of entertainment establishments who hire persons under the age of 19. The Commission on Youth Protection's definition of "entertainment establishment" includes facilities such as restaurants and cafes where children are hired illegally as prostitutes. The Juvenile Sexual Protection Act establishes a maximum sentence of 25 years' imprisonment for the brokerage and sale of the sexual services of persons younger than 19 years of age. It also establishes prison terms for persons convicted of the purchase of sexual services of youth under the age of 19 (see section 5, Trafficking). Based on this law, the commission publicized the names of those who had committed sex offenses against minors. The National Youth Commission said in 2005 that Korean fishermen were greatly responsible for the commercial sexual exploitation of children in Kiribati. As a result, the Ministry of Maritime Affairs and Fisheries undertook a program to educate the fishermen, but no criminal charges were filed.

With a birthrate of 1.08 boys for every girl, the traditional preference for male children continued. Although the law bans fetal testing except in cases in which a woman's life is in danger, hereditary disease could be transmitted, or in cases of rape or incest, such testing and the subsequent abortion of female fetuses frequently occurred. The government continued an education campaign aimed at eradicating gender-preference abortions, which are already prohibited by law.

Trafficking in Persons

The law prohibits trafficking in persons; nevertheless, the country was a country of origin, transit, and destination. As a country of origin, women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada and Mexico, as well as to other Western countries and Japan. Relatively small numbers of economic migrants, seeking opportunities abroad, were believed to have become victims of trafficking as well.

The country was a transit point for alien smugglers, including human traffickers. There were reports of the falsification of government documents by travel agencies; many cases involved the trafficking or smuggling of Korean citizens to Western countries. In addition to trafficking by air, transit traffic occurred in the country's territorial waterways by ship.

Unlike in previous years, Chinese women were not known to have been trafficked through the country to the United States and other parts of the world. However, women from Russia, other countries of the former Soviet Union, China, the Philippines, and other Southeast Asian countries were trafficked to the country for sexual exploitation and domestic servitude. They were recruited personally or answered advertisements and were flown to Korea, often with entertainer or tourist visas. In an effort to curb abuse, the government restricted issuance of certain types of entertainer visas. In 2005 the government issued 4,293 entertainer visas. Once these visa recipients were in the country, employers in some instances held victims' passports. There was no credible evidence that officials were involved in trafficking.

Legislation targeting prostitution and human trafficking implemented in 2004 led to a decline in the overall number of red-light districts and prostitutes. According to the National Police Agency, the number of prostitutes dropped from 5,500 in 2004 to 2,660 during the year, and the number of red-light districts dropped from 1,679 in 2004 to 1,097 during the year. However, as prostitution continued to move underground and overseas, accurate numbers were difficult to estimate. In recent years prostitution has become more prevalent in massage parlors rather than traditional brothels. A recent survey by the Korean Institute for Criminology found that 60 percent of men who had purchased sexual favors in the past year had done so through a massage parlor. The Internet was also used more frequently to arrange sexual encounters in private homes and hotels. Despite reports of prostitution crackdowns involving thousands of suspects, on average, only 15 percent of those who were booked for investigation were actually prosecuted.

The Juvenile Sexual Protection Act imposes lengthy prison terms for persons convicted of sexual crimes against minors (see section 5, Children). The KNPA and the MOJ were principally responsible for enforcing antiprostitution laws. While many credited the laws with increasing societal awareness of prostitution as a crime, some observers believed the new laws were not being enforced to their fullest potential. The government continued to support a public awareness campaign, a victim support hot line, and a reward system for information leading to the arrest of traffickers.

The government maintained a network of shelters and programs to assist victims. As of June 482 Korean women were housed in 40 shelters and 22 foreign women were in three shelters. Victims were also eligible for medical, legal, vocational, and social support services. Many of these services were provided in conjunction with NGOs. The MOJ continued to educate male offenders about the antiprostitution and antitrafficking laws. During the year 11,216 men participated in the program.

Persons with Disabilities

Discrimination against persons with disabilities in employment, education, or the provision of other state services is illegal. The law states, "No one shall be discriminated against in all areas of political, economic, social, and cultural life on the grounds of disability." The government took measures to increase opportunities and access for persons with disabilities. Although many public facilities remained inadequate, most Seoul sidewalks were designed to alert the sight-impaired, intersections had audible cross-signals, and nearly all subway stations were equipped with elevators, wheelchair lifts, or both.

Firms with more than 300 employees are required by law either to hire persons with disabilities or pay a fine. Nevertheless, the hiring of persons with disabilities remained significantly below target levels. Persons with disabilities made up less than 1 percent of the work force.

Many persons with disabilities lived in group facilities or rehabilitation centers, where there were periodic reports of physical and sexual abuse.

National/Racial/Ethnic Minorities

The country is racially homogeneous, with no sizable populations of ethnic minorities. However, international marriages were becoming increasingly common. During the year approximately 14 percent of marriages were with foreigners, primarily the result of brokered marriages between Korean men and women from China, Vietnam, and the Philippines. Such marriages accounted for 36 percent of marriages in rural areas. According to the MOJ, the number of foreign women married to Korean men living in Korea stood at 66,659 at the end of 2005. 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. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained "foreign," thus disqualifying them legally from entering the civil service and, in practice, being hired by some major corporations. Foreign workers continued to report difficult working conditions. Unlike in previous years, there were no reports of unduly aggressive police crackdowns on illegal migrants. Amerasians faced no legal discrimination, and informal discrimination appeared to be on the decline.

Other Societal Abuses and Discrimination

Age discrimination continued to be a problem. For example, the National Human Rights Commission criticized airline companies' policy of not hiring women over the age of 25 as crew members.

During the year a United Nations Report on the Global AIDS Epidemic estimated that the country had approximately 13,000 persons with HIV or AIDS, although the government recorded only 4,229 official cases. The AIDS Prevention Act, enacted in 1987, ensures the confidentiality of persons with HIV/AIDS and protects individuals from discrimination. The government supported rehabilitation programs and shelters run by private groups and subsidized medical expenses from the initial diagnosis. The government operated a Web site with HIV/AIDS information and a telephone counseling service. Some observers claimed that persons with HIV/AIDS suffered from severe societal discrimination and social isolation.

Section 6 Worker Rights

a. The Right of Association

The law provides workers with the right to associate freely. A new law, which took effect in January, allows public servants to organize unions; however, the unions protested the law, as it bans them from taking collective action. In September the Federation of Government Employees submitted an application to the Ministry of Labor for the establishment of a legal union that was subsequently approved.

Labor law changes in 1997 authorized the formation of competing unions starting in 2002, but implementation was postponed until 2007 by mutual agreement among members of the Tripartite Commission, which included representatives of government, labor, and management (see section 6.b.). In September the commission again decided to delay implementation until the end of 2009.

The ratio of organized labor in the entire population of wage earners was approximately 11 percent, or 1.5 million unionists from a total of 14 million workers. The country has two national labor federations, the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU), and an estimated 1,600 labor unions. The FKTU and the KCTU were affiliated with the International Confederation of Free Trade Unions. Most of the FKTU's constituent unions maintained affiliations with global union federations, as did the KCTU Metalworkers Council. In protest of government policies perceived to be antilabor, the FKTU and KCTU officially withdrew from the Tripartite Commission, although the FKTU rejoined in February and served as the labor chairman.

The government recognized a range of other labor federations, including independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and at government research institutes. Labor federations not formally recognized by the labor ministry have generally operated without government interference, with the exception of the Korean Government Employees Union, which was forced out of its offices in September after failing to register as an official union before the specified deadline.

b. The Right to Organize and Bargain Collectively

The law provides for the workers' right to collective bargaining and collective action, and workers exercised these rights in practice. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices can be required to reinstate workers fired for union activities. However, forced reinstatement has been used less frequently because employers have taken extra precautions when laying off union members.

Under the Special Act on Public Servants' Unions that went into effect on January 28, public servants are allowed to organize trade unions and bargain collectively, although the act restricts the public service unions from collective bargaining on topics such as policymaking issues and budgetary matters.

Under the Trade Union and Labor Relations Adjustment Act, unions must submit a request for mediation to the Labor Relations Commission before a strike. In most cases the mediation must be completed within 10 days; in the case of essential services, within 15 days. Once a dispute is referred to arbitration, striking is prohibited. Management can initiate criminal proceedings against an illegal strike. Arrest warrants can be issued against union leaders, and striking workers can be removed by police from the premises and prosecuted, along with union

leaders, and sentenced under the penal code for "obstruction to business." Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

On July 13, subcontractors of POSCO Steel Company entered the corporate headquarters in Pohang and remained for eight days. The president spoke out against the strike labeling the action "illegal," which prompted the workers to disband with only minor conflicts with police.

Strikes are prohibited for most government officials and for those who produce mainly defense goods. A total of 80 strikes occurred between January and July, with 89,202 participating workers. During the same period in 2005, 105,577 persons participated in 228 strikes. By law, unions in enterprises determined to be of "essential public interest"--including railways, utilities, public health, the Bank of Korea, and telecommunications--can be ordered to submit to government-ordered arbitration. Although arbitration was not used, the threat of arbitration effectively brought to conclusion a Korean Power strike in September and a medical workers strike in August.

There is no independent system of labor courts. Semijudicial agencies such as the Central and Local Labor Relation Commissions mediate or arbitrate labor disputes based on the Trade Union and Labor Relation Adjustment Act. Each commission is composed of equal numbers of representatives of labor and management, plus neutral experts who represent the "public interest." The Labor Relations Commission can decide on remedial measures in cases involving unfair labor practices and can mediate or arbitrate labor disputes in sectors deemed essential to public welfare.

The government originally designated enterprises in the two export processing zones (EPZs) as public interest enterprises. Workers in these enterprises gradually were given the rights enjoyed by workers in other sectors of the economy; however, foreign companies are exempt from many of these labor standards. Foreign-invested enterprises located in free economic zones are exempt from articles 54, 57, and 71 of the Labor Standards Act, which mandate monthly leave, paid holidays, and menstruation leave for women; article 31 of the Honorable Treatment and Support of Persons of Distinguished Services to the State Act, which gives preferential treatment to patriots, veterans, and their families; article 24 of the Employment Promotion and Vocational Rehabilitation of Disabled Persons Act, which obligates companies with more than 300 persons to recruit persons with disabilities for at least 2 percent of its workforce; article 12 of the Employment Promotion for the Aged Act, which encourages companies to reserve 3 percent of their workforce for workers over 55 years of age; and articles 4 and 12 of the Act on the Protection of the Business Sphere of Small and Medium Enterprises and Promotion of Their Cooperation, which restrict large companies from participating in certain business categories. Labor organizations are permitted in EPZs.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The labor standards law prohibits the employment of persons under age 15 without a special employment certificate from the Labor Ministry. Because education is compulsory through middle school (approximately age 15), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either 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. These regulations were enforced through regular inspections, and child labor was not considered a problem.

e. Acceptable Conditions of Work

The minimum wage is reviewed annually. As of December the minimum wage was \$2.92 (3,100 won) per hour, \$23.38 (24,800 won) per day. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers. According to the National Statistical Office, the size of the population living below the official poverty level reached 18 percent in 2005, an increase of 1.1 percent from 2003.

As of 2004 the five-day workweek system was adopted for employees of large conglomerates, publicly owned companies, banks, and insurance companies with 1,000 registered workers or more, reducing working hours to 40 hours a week. Companies with more than 300 employees adopted the shortened workweek in 2005. Labor laws mandate a 24-hour rest period each week. Labor laws also provide for a flexible hours system, under which employers can require laborers to work up to 44 hours during certain weeks without paying overtime, so long as average weekly hours for any given two-week period do not exceed 40 hours. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 hours in a given week. Workers may not be required to work more than 12 hours per working day. Unions claimed that the government did not enforce adequately the maximum workweek provisions at small companies. The amended labor standards law also provides for a 50 percent higher wage for overtime.

As of August there were 196,288 foreigners, mostly from China, Bangladesh, Mongolia, the Philippines, Thailand, Nepal, Vietnam, Indonesia, Sri Lanka, and Pakistan, working legally in the country. They often faced difficult working conditions but tolerated the conditions in order to keep their employment status. Unlike in previous years, there were no reports of unduly aggressive police crackdowns. The government continued its crackdown on illegal foreign labor.

The government continued to utilize its employment permit system designed to increase protections and controls on foreign workers while easing the labor shortage in the manufacturing, construction, and agricultural sectors. Under the system, permit holders may work in certain industries only and have limited job mobility but generally enjoy the same rights and privileges, including the right to organize, enjoyed by domestic workers. Foreign workers are limited in their freedom to change jobs. Before changing jobs, the employee's place of work must

close down or the worker must have proof of physical abuse at the hand of the employer. If the worker does not find a new employer within two months, he or she becomes "illegal." The MOJ estimated that there were almost 186,000 illegal workers in Korea.

Foreign workers working as language teachers continued to complain that the language institutes for which they worked frequently violated employment contracts, but employers reported there were a large number of foreign teachers who did not fully honor their work contracts.

Contract and other "nonregular" workers accounted for a substantial portion of the workforce. According to the government, there were approximately 5.48 million nonregular workers, approximately 37 percent of the workforce. Labor unions and other groups believed that the actual number of workers could have been as high as 8.5 million workers. In general nonregular workers performed work similar to regular workers but received approximately 60 percent of the wages. A new bill passed in February attempts to cut the disparity in pay to 20 percent. Further, most nonregular workers were ineligible for national health and unemployment insurance and other benefits.

The Korea Occupational Safety and Health Agency is responsible for implementing industrial accident prevention activities. The government set health and safety standards, but the accident rate was high by international standards. In 2005 there were 2,493 fatalities related to industrial accidents, a decline of 11.8 percent over the previous year. The Ministry of Labor believed that the "Fatal Accident Prevention Program" launched in 2005 contributed to the reduction in fatalities. In particular, the number of fatalities caused by the 10 most vulnerable construction areas, including those performed near openings or those performed without installing scaffolding, decreased by more than 32 percent from 2004 numbers. According to the Korea Occupational Safety and Health Act, an employer may not dismiss or otherwise disadvantage an employee who interrupts work and takes shelter because of an urgent hazard that could lead to an industrial accident.