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2009 Human Rights Report: Republic of Korea

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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The Republic of Korea (Korea or ROK) is a constitutional democracy governed by President Lee Myung-bak and a unicameral legislature. The country has a population of approximately 48 million. In April 2008 the Grand National Party obtained a majority of National Assembly seats in a free and fair election. Civilian authorities maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Women, persons with disabilities, and minorities continued to face societal discrimination. Rape, domestic violence, and child abuse remained serious problems.

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.

Official figures indicated that hazing was a factor in many of the 356 suicides by military personnel since 2004.

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.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards. The government permitted monitoring visits by independent human rights observers, and such visits occurred during the year.

In December 2008 the government passed the Act on Sentence Execution and Treatment of Detainees, a new petition system that better accommodates detainees who want to formally accuse prison officials of abuse. The system provides detainees easier access to petition procedures and assists with the petition process, whereas before, petitioners had to submit their grievances directly to the Ministry of Justice (MOJ) with limited support mechanisms. As of October, 449 such petitions were submitted to the MOJ's Human Rights Violations Center. Of those petitions, 166 were dismissed, 226 were referred to other government offices, 31 were rejected, 23 had no action taken, and 53 were pending a decision. As of October there were 297 petitions alleging human rights violations by detention facility officials. Of those cases, 107 were withdrawn, 115 were rejected, and the remaining 75 were under investigation.

The MOJ reported the total of number of prisoners as of December was 48,228. Of that total, 2,603 were female and 472 were juveniles.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. However, the National Security Law (NSL) grants the authorities powers to detain, arrest, and imprison persons who commit acts the government views as intended to endanger the "security of the state." Nongovernmental organizations (NGOs) continued to call for reform or abolishment of the law, contending that its provisions did not define prohibited activity clearly. The MOJ maintained that the courts had established legal precedents for strict interpretation of the law that preclude arbitrary application. The number of NSL investigations and arrests has dropped significantly in recent years.

During the year 34 persons were prosecuted for violating the NSL; of those, 14 were convicted and 20 were awaiting trial. In 2008, 27 persons were prosecuted for alleged NSL violations. Of those, seven were found guilty--two were serving prison sentences, and five received suspended sentences and were on probation. The remaining 20 cases were pending at year's end.

The secondary school teacher indicted in August 2008 for violating the NSL by distributing banned material remained free on bail while awaiting trial. During the year the MOJ reported dropping the portion of the case related to the 1980 Kwangju uprising.

Four members of an NGO detained and charged in September 2008 with illegal contact with Democratic People's Republic of Korea (DPRK or North Korea) agents and distribution of North Korean press material for the purpose of exalting DPRK leader Kim Jong-il were convicted during the year. Two of the members were serving prison sentences, and two members were given suspended sentences and probation. The NGO members appealed the sentences and filed a defamation claim against the government.

A university professor found guilty of violating the NSL in 2007 and sentenced to two years in jail had his sentence reduced to three years of probation. He appealed the conviction; the case was pending before the Supreme Court.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the Korean National Police Agency (KNPA), and the government has effective mechanisms to investigate and punish abuse and corruption.

On November 24, Amnesty International's secretary general called on the government to put in place mechanisms to improve and monitor policing. She highlighted the need for better police procedures for responding to public protests and arresting/detaining migrant workers.

Local NGOs continued to assert that while hundreds of civilians were convicted of violating the Assembly and Demonstration Act, no riot police were prosecuted for allegedly abusing peaceful protesters.

Arrest Procedures and Treatment While in 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 arrested quickly. In such cases a public prosecutor or police officer must prepare an affidavit of emergency arrest immediately upon apprehension of the suspect. Police may not interrogate for more than six hours persons who voluntarily submit to questioning at police stations. Authorities 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 stated that bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a victim, or had no fixed address.

The law provides for the right to representation by an attorney, including during police interrogation. There are no restrictions on access to a lawyer, but authorities can limit a lawyer's participation in an interrogation if the lawyer obstructs the interrogation or divulges information that impedes an investigation. The courts generally observed a defendant's right to a lawyer. During both detention and arrest periods, an indigent detainee may request that the government provide a lawyer.

Access to family members during detention varied according to the severity of the crime being investigated. There were no reports of access to legal counsel being denied.

Amnesty

According to the MOJ, the government granted a special amnesty in August to approximately 1.5 million persons. Nearly all of the pardons were related to driver's license restrictions.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The law provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, the right to a speedy trial, the right of appeal, and freedom from retroactive laws and double jeopardy. Trials are open to the public, but judges may restrict attendance if they believe spectators might disrupt the proceedings. There is a public jury system, but jury verdicts are not legally binding. Court-appointed lawyers are provided by the government (at government expense) in cases where defendants cannot afford to provide their 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 the examination of witnesses by both the prosecution and the defense. Defendants have the right to be present and to consult with an attorney. They can confront or question witnesses against them, and they can present witnesses and evidence on their behalf. Defendants have access to government-held evidence relevant to their cases. The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Political Prisoners and Detainees

The MOJ stated that no persons were incarcerated solely because of their political beliefs. The NGO Mingahyup claimed that as of August, the government had imprisoned 129 persons for their political beliefs.

In April a riot police conscript was sentenced to two years in prison for refusing to return to duty. He had ignored orders from his superiors to use violence against protesters during the 2008 beef protests.

The country requires military service for all men, although mandatory service periods vary: 24 months for the army, 26 months for the navy, and 27 months for the air force. The law does not protect conscientious objectors, who can receive a maximum three-year prison sentence. The MOJ has noted that the law does not distinguish conscientious objectors from others who do not report for mandatory military service. The MOJ reported that there were 5,136 cases of Military Service Act violations, with 750 cases referred for trial and 2,123 cases settled out of court.

Watchtower International, a Jehovah's Witness organization that is actively engaged in lobbying the government on this issue, reported that as of April 1, there were 465 Jehovah's Witnesses and a handful of others serving an average of 14 months in prison for conscientious objection to military service.

During the year the Ministry of National Defense (MND) announced that it would not pursue the introduction of alternative service for conscientious objectors. The ministry cited a lack of public support as the primary reason for its decision; an MND-sponsored poll found that 68 percent of the respondents opposed instituting alternative service, but an independent poll taken about the same time found that only 39 percent were opposed. Meanwhile, the Jehovah's Witnesses reported that courts increasingly were sympathetic to conscientious objectors. In September 2008 a district court asked the Constitutional Court to review again the constitutionality of the Conscription Law. The request remained pending approval. The court ruled in 2002 and 2004 that the law is constitutional.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, and there were no problems enforcing domestic court orders. Citizens had access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

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 law establishes 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. According to a National Assembly audit, the number of wiretappings increased from 608 in 2008 to more than 799 as of July.

The government continued to require some released prisoners to report regularly to the police in accordance with the Security Surveillance Act.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in the DPRK if the government determines that the action endangers national security or the basic order of democracy in the country. However, this prohibition was rarely enforced, and viewing DPRK 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. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. The independent media were active and expressed a wide variety of views generally without restriction. However, under the NSL the government may limit the expression of ideas that praise or incite the activities of antistate individuals or groups.

In September Reporters without Borders reported that four producers and one writer from the Munwha Broadcasting Corporation's *PD Notebook* program were arrested and charged with spreading false rumors about the alleged health risks of eating U.S. beef. The trial was ongoing at year's end.

Internet Freedom

The government blocked violent, sexually explicit, and gambling-oriented Web sites and required site operators to rate their site as harmful or not harmful to youth, based on telecommunications laws that ban Internet service providers from offering information considered harmful to youth. The government also continued to block DPRK Web sites.

The law requires identity verification in order to post messages to Web sites with more than 300,000 visitors per day.

According to 2008 Organization for Economic Cooperation and Development data, 95 percent of households had access to the Internet through broadband connections. The International Telecommunication Union reported that 76 percent of inhabitants used the Internet in 2008. In addition to Internet access from home, public Internet rooms were widely available and inexpensive.

NGOs from the Korean Network for International Human Rights and the Korea Press Consumerism Organization stated there was a significant increase in the enforcement of regulations on online speech, including criminal punishment for false communication, defamation, and other violations for online writers, particularly related to the 2008 protests against U.S. beef imports.

In January the blogger "Minerva" was arrested on charges of adversely affecting foreign exchange markets and "undermining the nation's credibility" by posting false information on a blog. "Minerva" was acquitted in April. The National Human Rights Commission (NHRC) asked the government to review the constitutionality of the law used to arrest the blogger.

The MOJ confirmed that the government convicted 15 online bloggers for interfering with local business after encouraging users to boycott the country's top newspapers and that more cases were awaiting trial at year's end. All postings related to the boycott were deleted.

Academic Freedom and Cultural Events

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

The law bans education workers from engaging in certain political activities. Offenders can serve up to one year in jail and be fined a maximum of 3.6 million won (approximately \$3,000).

The Ministry of Education, Science, and Technology prosecuted 96 teachers and 14 government employees from Gyeonggi Province for signing antigovernment petitions and unionizing. In December the head of education for the province was prosecuted for a breach of duty after attempting to postpone the punitive measures brought against the teachers. During the year one of the officials was convicted; the other trials were pending.

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 prohibits assemblies that are considered likely to undermine public order and requires police to 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. The police reportedly banned some

protests by groups that had not properly registered or that had been responsible for violent protests in the past. NGOs reported that police continued to use excessive force in responding to protests.

In January five squatters and one policeman were killed in a building fire in the Yongsan commercial zone. Local media and NGOs alleged that a police SWAT team used excessive force and neglected to take proper safety precautions while trying to remove 40 protesting squatters from the building.

The MOJ confirmed that none of the 24 riot police accused of excessive violence during the 2008 beef protests were arrested; 16 cases remained under investigation.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice. Associations operated freely, except those 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

There is a small Jewish population that consists almost entirely of expatriates. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the *2009 International Religious Freedom Report* at www.state.gov/g/drl/rls/irf.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

Most citizens could move freely throughout the country; however, government officials restricted the movement of certain DPRK defectors by denying them passports. In many cases travelers going to the DPRK must receive a briefing from the Ministry of Unification prior to departure. They must also demonstrate that their trip does not have a political purpose and is not undertaken to praise the DPRK or criticize the ROK government. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

In September NGO leaders reported that Dolksun Isa, secretary general of the World Uighur Congress, was detained at Incheon airport for 42 hours, allegedly at China's request. Although he was later released and safely returned home, the government prohibited Isa from entering the country and attending an NGO conference in Seoul, as he had initially planned. MOJ officials emphasized that Isa was denied entry under the immigration law, not for political reasons.

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

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 protocol. Its law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The government routinely did not grant refugee status or asylum. In practice the government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Government guidelines provide for offering temporary refugee status in the case of a mass influx of asylum seekers and an alternative form of protection--a renewable, short-term permit--to those who meet a broader definition of "refugee."

During the year the government recognized 22 asylum applicants as refugees, dismissed 203 cases, and rejected 994 applicants. A complex procedure and long delays in refugee status decision making continued to be problems. At year's end approximately 523 applications were pending decisions. Asylum seekers who were recognized as refugees received basic documentation but frequently encountered problems in exercising their rights. Like other foreigners, refugees frequently were subjected to various forms of informal discrimination.

In May local NGOs reported that a female Muslim refugee applicant requested to be interviewed by a female asylum officer but was told that the male officer who interviewed her husband also had to interview her. After she and her husband refused due to their religious beliefs, she was asked to sign a form stating that she did not want an interview, thus relinquishing her right to apply for refugee status.

Local NGOs reported that asylum seekers often faced challenges accessing legal assistance because of language barriers. In addition, immigration detention is not subject to judicial review, often leading to arbitrary and prolonged detention. For example, at year's end an Iranian national whose appeal was rejected by the Supreme Court had been in detention for almost four years.

The government continued its longstanding policy of accepting refugees from the DPRK, who are entitled to ROK citizenship. The government resettled 2,952 North Korean refugees during the year.

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 19 years of age or older.

Elections and Political Participation

National Assembly elections held in April 2008 were free and fair.

Both the majority and the various minority political parties operated without restriction or outside interference.

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 are recommended to be women. There were 41 women in the 299-seat National Assembly, with three of 16 National Assembly committees chaired by women. Two of 13 Supreme Court justices and two of 15 cabinet ministers were women.

There were no minorities in the National Assembly.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. The Korea Independent Commission Against Corruption stated that the overall "cleanliness level" of the government for 2008 was 8.17 out of 10 points, a slight decrease from 8.89 in 2007. There were reports of officials receiving bribes and violating election laws. According to the MOJ, 4,067 government officials were prosecuted for abuse of authority, bribery, embezzlement or misappropriation, and falsification of official documents. The National Assembly reported that out of the 250 lawmakers facing indictment, 15 lawmakers were prosecuted for corruption and 12 were awaiting trial.

By law public servants above a certain rank must register their assets, including how they were accumulated,

thereby making their holdings public. Among the anticorruption agencies are the Board of Audit and Inspection and the Public Servants Ethics Committee. In February 2008 the Korea Independent Commission Against Corruption, Ombudsman of Korea, and Administrative Appeals Commission were integrated to form the Anti-Corruption and Civil Rights Commission.

The country has a Freedom of Information Act; in practice the government granted access for citizens and noncitizens alike, including foreign media.

Section 5 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 often were cooperative and responsive to their views. The government also was cooperative with international organizations. For example, UN Under-Secretary General for Economic and Social Affairs Sha Zukang visited in September, and UN Special Rapporteur for Freedom of Opinion and Expression Frank La Rue visited in October. In addition Amnesty International Secretary General Irene Khan visited in November.

The NHRC is an independent government body established to protect and promote human rights; however, it has no enforcement powers and its decisions are not binding. The NHRC investigates complaints, issues policy recommendations, and conducts education campaigns. The NHRC largely has enjoyed the government's cooperation, received adequate resources, and was considered effective.

The Truth and Reconciliation Commission (TRC) continued to investigate incidents of possible abuse during the anti-Japanese independence movement, the Korean War, and during the country's former military regimes. As of September the TRC had confirmed 4,387 cases of human rights abuses, 50 incidents of mass killings and located 168 mass graves during its investigation process. Local NGOs expressed concern that the government may not extend the TRC's mandate, which expires in April 2010. On November 26, the TRC claimed that ROK security forces rounded up and executed at least 4,934 individuals suspected of being Communists between June and September 1950, during the opening weeks of the Korean War. The TRC recommended that the government offer an official apology and enact legislation to provide compensation for the alleged killings.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law forbids discrimination on the basis of gender, religion, disability, social status, and race, 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 instead were handled by the NHRC. During the year, 1,115 such cases were brought before the commission.

Women

Rape remained a serious problem. Although there is no specific statute that defines spousal rape as illegal, the courts have established a precedent by prosecuting spouses in such cases. The MOJ stated that there were 8,746 reports of rape or sexual violence during the year. Of these cases, 3,858 were prosecuted during the year. The penalty for rape is at least three years in prison; if a weapon is used or two or more persons commit the rape, punishment

ranges from a minimum of five years to life imprisonment.

Violence against women remained a problem. During the year the MOJ registered 12,132 cases of domestic violence, and 1,262 persons were prosecuted, while 4,579 were filed as family protection cases and 6,215 were not charged. According to a Ministry of Gender and Equality (MOGE) survey, approximately 40 percent of all married women were victims of domestic violence. The law defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to six months. Offenders can be sentenced to a maximum five years in prison and fined up to seven million won (approximately \$5,985). Offenders also may 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 they generally were responsive.

Prostitution is illegal but widespread. The police continued to crack down on alleged prostitution-related establishments. The government allows for the prosecution of citizens who pay for sex or commit acts of child sexual exploitation in other countries. The Act on the Prevention of the Sex Trade and Protection of Victims Thereof, which entered into effect in September 2008, further stipulates that the MOGE complete a report every three years on the status of domestic prostitution in addition to the involvement of citizens in sex tourism and the sex trade abroad. NGOs continued to express concern that sex tourism to China and Southeast Asia was becoming more prevalent.

The law obligates companies and organizations to take preventive measures against sexual harassment, but it continued to be a problem. The NHRC received 165 cases of alleged sexual harassment during the year. According to the NHRC, remedies included issuance of a recommendation for redress, conciliation, mutual settlement, and resolution during investigation. The NHRC lacks the authority to impose punitive measures, which must be pursued through the court system.

The law allows couples and individuals to decide freely the number, spacing, and timing of their children. The Ministry of Gender and Equality reported that there was a strong reluctance to have children due to the high cost of childrearing and the challenges of balancing work-life commitments. Under the Standard Act on Low Birth and Aging Society passed in 2005, the government established various policies to encourage persons to have children, such as medical subsidies for pregnant women, maternity leave for a maximum of one year, and profamily workplace programs.

The law permits a woman to head a household, recognizes a wife's right to a portion of a couple's property, and allows a woman to maintain contact with her children after a divorce. The law also allows remarried women to change their children's family name to their new husband's name. Women enjoy the same legal rights under the constitution as men.

The Ministry of Labor (MOL) reported that 42 percent of newly created jobs in the financial services sector during 2008 were filled by women. In a national poll conducted by the MOL from April through July, 82 percent of the respondents stated that gender discrimination had decreased over recent years. However, 47 percent of those polled stated that discrimination in the workplace remained a problem.

The number of woman in entry-level civil service positions and new diplomatic positions continued to increase. However, women continued to experience pay discrimination for substantially similar work. The MOGE reported that there were a growing number of companies choosing not to hire women because the law requires that they receive maternity leave. Women returning to work after maternity leave often were assigned to low-level, low-paying jobs. Relative to men few women worked in managerial positions or earned more than a median income.

The law penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination can be fined up to approximately five million won (approximately \$4,275).

Children

Citizenship is based on parentage (*jus sanguinis*), not place of birth, and persons must demonstrate their family genealogy as proof of citizenship. Citizenship is also given in circumstances where parentage is unclear if a person is stateless. The government allows anyone to benefit from public services, regardless of birth registration, if they are legal residents. There were no reports of a denial of public services due to a lack of proper birth registration.

From January through December 2008, a total of 7,219 child abuse cases were reported to the Ministry for Health, Welfare and Family Affairs. The MOGE maintained four centers that provided counseling, treatment, and legal assistance to child victims of sexual violence.

The law establishes a minimum sentence of 25 years for the brokerage and sale of the sexual services of persons younger than 19. It also establishes prison terms for persons convicted of the purchase of sexual services of youth under age 19. The Ministry for Health, Welfare, and Family Affairs publicizes the names of those who commit sex offenses against minors. The law provides for prison terms of up to three years or a fine of up to 20 million won (approximately \$17,100) for owners of entertainment establishments who hire persons under 19. The commission's definition of "entertainment establishment" includes facilities such as restaurants and cafes where children work as prostitutes.

The minimum age for consensual sex is 13 years of age. The law stipulates that punishment for statutory rape of a minor and the sex trafficking of a minor be a maximum of three years in prison and/or a 2.4 million won fine (approximately \$20,000); however, the MOJ reported that the punishment for such cases varied.

Trafficking in Persons

The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, through, and within the country. Women from Russia, other countries of the former Soviet Union, China, Mongolia, 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. Some female workers on E-6 (entertainment) visas, who were recruited as singers, were trafficked by their employers/managers and effectively detained by their employers.

An increasing challenge was the number of women from less-developed countries recruited for marriage to Korean men through international marriage brokers. Some, upon arrival in the country, were subjected to sexual exploitation, debt bondage, and involuntary servitude. In some instances, once these visa recipients arrived in the country, employers illegally held victims' passports.

Local women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada and Mexico, as well as to other countries such as Australia and Japan. Labor trafficking continued to be a problem, and some employers allegedly withheld the passports and wages of foreign workers. Migrants seeking opportunities in the country were believed to have become victims of trafficking as well. The MOL's Employment Permit System (EPS) was used to reduce the role of private labor agencies and recruiters, who may have employed exploitative practices. Nevertheless, some migrant workers continued to incur large debts to pay exorbitant broker fees for work in the country. Migrant workers' residence status was tied to their position with their employers, which in some cases exposed them to exploitation and abuse. There were reports that human traffickers illegally used ROK passports for the purpose of human trafficking. There was no evidence that officials were involved in trafficking.

The law prohibits trafficking for the purpose of commercial sexual exploitation, including debt bondage, and prescribes up to 10 years' imprisonment. Trafficking for forced labor is criminalized and carries penalties of up to five years'

imprisonment. February 2008 revisions to the Passport Act allow for restricted issuance or confiscation of passports of persons engaging in illegal activity overseas, including sex trafficking. However, some NGOs believed laws against sex trafficking were not being enforced effectively. During the year authorities reportedly conducted 220 trafficking investigations and prosecuted 31 cases, all for sex trafficking. It was unclear, however, how many of these actually were trafficking cases, since the laws used to prosecute traffickers were also used to prosecute other crimes, and the government does not document adequately the number of trafficking cases. There were no reported prosecutions or convictions for labor trafficking offenses.

The Marriage Brokerage Management Act, which entered into effect in June, regulates both domestic and international marriage brokers and prescribes penalties for dishonest brokers, including sentences of up to three years' imprisonment or fines. There also are laws to protect foreign brides in the country and punish fraudulent marriage brokers, but NGOs claimed the laws needed to be strengthened.

The KNPA and the MOJ were principally responsible for enforcing antitrafficking laws. The government worked with the international community on investigations related to trafficking.

The government maintained a network of shelters and programs to assist victims of abuse, including trafficking victims. Victims also were eligible for medical, legal, vocational, and social support services. NGOs with funding from the government provided many of these services. NGOs reported that there was only one counseling center and two shelters in the country dedicated to foreign victims of sex trafficking, although these victims could access services through other government-funded centers. The MOJ continued to educate male "johns" in an attempt to correct distorted views of prostitution. Some NGOs criticized the fact that women detained for prostitution occasionally were required to attend these rehabilitation seminars along with the male clients. During the year 17,956 individuals participated in the MOJ education program.

The Department of State's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

Persons with Disabilities

In April 2008 the Anti-Discrimination Against and Remedies for Persons with Disabilities Act (DDA) took effect. The DDA adopts a definition of discrimination encompassing direct discrimination, indirect discrimination, and denial of due conveniences, and it establishes penalties for deliberate discrimination of up to three years in prison and 30 million won (approximately \$25,650). The government, through the Ministry for Health, Welfare, and Family Affairs, initiated a five-year plan to implement a comprehensive set of policies, took measures to make homes barrier free, provided part-time employment, established a task force to introduce a long-term medical care system, and opened a national rehabilitation research center to increase opportunities and access for persons with disabilities. During the year the NHRC received 698 cases of alleged discrimination against persons with disabilities in areas such as employment, property ownership, and access to educational facilities.

Firms with more than 50 employees are required by law to hire persons with disabilities, and firms with more than 100 employees are required to contribute to funds used to promote the employment of persons with disabilities if they do not hire persons with disabilities. Nevertheless, the hiring of persons with disabilities remained significantly below target levels, although government officials contended that the employment rate of disabled persons was increasing.

National/Racial/Ethnic Minorities

The country is racially homogeneous, with no sizable populations of ethnic minorities. Naturalization required detailed applications, a waiting period, and a series of investigations and examinations. Persons seeking Korean citizenship who are unable to satisfy citizenship requirements through naturalization, family genealogy, place of birth, or statelessness are considered foreign.

The Korea Women Migrants' Human Rights Center confirmed that the government made it easier for foreign wives to obtain citizenship by reducing from four to two the number of years required before a foreign wife is eligible for citizenship. The Korean Immigration Service implemented a written examination for naturalization that reduced the overall waiting period during the screening process by approximately one year. Immigration statistics showed that the number of naturalizations more than doubled from 11,518 cases in 2008 to 24,044 cases during the year.

The local media reported an increase during the year in the number of racially motivated offenses in the country, which has long prided itself on its racial homogeneity, as the number of foreign migrant workers and foreign English-language teachers continued to grow. In November there were reports of local women being harassed for traveling with, dating, or marrying foreign men. There also were reports of employment discrimination against African-American teachers, mixed-race children, and Korean-Americans.

Local NGOs and the media also reported that North Korean refugees, although supported through government-funded resettlement programming, also faced discrimination.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The law prohibits discrimination on the basis of sexual orientation, but societal discrimination persisted. In November 2008 a military court asked the Constitutional Court to rule on the constitutionality of rules prohibiting sexual activity between male military personnel. At year's end the court had not issued a ruling.

The law does not have specific legislation regarding discrimination or violence against lesbians, gays, bisexuals, and transgenders (LGBTs). The MOJ reported that the equality principles under article 11 of the constitution apply to LGBTs. The government punished perpetrators of violence against LGBTs according to the law. There were no cases of discrimination against LGBTs reported during the year.

Other Societal Violence or Discrimination

The NHRC reported there were 347 employment discrimination cases filed in 2008. Despite cultural respect for the elderly, there were 83 reports of age discrimination and 85 cases of sexual harassment in the workplace.

Some observers claimed that persons with HIV/AIDS suffered from severe societal discrimination and social stigma.

The law ensures equal access to diagnosis and treatment of sexually transmitted diseases and infections, including HIV/AIDS, regardless of gender. It also protects 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.

The NHRC reported that during the year an HIV/AIDS patient was refused treatment at a local hospital. That patient was later given treatment by a national hospital. The NHRC recommended that the government take steps to guarantee the medical rights of HIV/AIDS victims to ensure that such incidents are avoided.

According to a report by an international NGO, the government continued to require HIV testing for foreigners applying for an E-1 (teaching) visa. The report, citing the Korean Center for Disease Control and Prevention, also noted that 521 of 647 foreigners diagnosed with HIV had been forced to leave the country.

Section 7 Worker Rights

a. The Right of Association

The law provides workers with the right to associate freely and allows public servants to organize unions. The government and labor unions continued to postpone the implementation of the 1997 law that authorizes union pluralism.

The ratio of organized labor in the entire population of wage earners in 2008 was approximately 11 percent. The country has two national labor federations: the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU). There are an estimated 4,886 labor unions. The KCTU and the FKTU were affiliated with the International Trade Union Confederation (ITUC). Most of the FKTU's constituent unions maintained affiliations with international union federations. The MOL reported that approximately 1.7 million of the country's 15.8 million workers were union members.

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 government research institutes. Labor federations not formally recognized by the MOL generally operated without government interference.

By law unions must submit a request for mediation to the Labor Relations Commission before a strike; otherwise, the strike is considered illegal. In most cases the mediation must be completed within 10 days; in the case of essential services, within 15 days. Strikes initiated following this period without majority support from union membership are illegal. Striking is also prohibited in cases in which a dispute has been referred to binding arbitration. Among the workers employed at major defense corporations subject to the Defense Industry Act, those working in the areas of electricity generation, water supply, or production of defense products were not allowed to strike. In addition, if striking employees resort to violence, unlawful occupation of premises, or damaging facilities, their actions are deemed illegal. Strikes not specifically pertaining to labor conditions, including wages, benefits, and working hours, are also illegal. The constitution and the Labor Relations Act provide workers the right to strike and exempt them from legal responsibility in the case of a legal strike; however, workers who use violence and/or participate in illegal activities can be prosecuted under the criminal code on charges of "obstruction of business." Striking workers can be removed by police from the premises and, along with union leaders, prosecuted and sentenced.

In March Amnesty International reported that four journalists and union activists from YTN, a 24-hour news channel, were arrested for "interfering with business" for organizing a strike over wage disputes and government interference with the media. The MOJ reported that the journalists were arrested but later released. In December a court fined the journalists and unionists approximately six million won (approximately \$50,000) for the strike.

Local media and NGOs reported that the police prevented the delivery of food, water, and medical treatment to 800 union workers who physically occupied a Ssangyong auto plant during a strike against layoffs that were being planned by the bankrupt company. The media reported that police helicopters dropped liquefied tear gas on the workers, conducted surveillance, and allowed the company to play extremely loud music on speakers throughout the day and night in an attempt to stop the strike. MOJ officials contended that while the incident was "unfortunate," the decision to ban food and play loud music was made by the company, not the police. MOJ officials also underscored that the strike was illegal because it was not related to labor conditions and resulted in millions of dollars in property damage. According to the MOJ,

of the 94 protesters that were charged in connection with the strike, 72 were fined and the rest were awaiting trial.

In June KCTU President Lee Suk-haeng was convicted and sentenced to two years' imprisonment and three years probation for "obstruction of business" in connection with his role organizing a general strike in July 2008 to protest government plans to resume foreign beef imports. At year's end his case was pending in appeals court.

The law prohibits retribution against workers who conduct a legal strike and allows workers to file complaints of unfair labor practices against employers.

The system requiring labor unions in enterprises determined to be of essential public interest to submit to government-ordered arbitration was abolished legally in 2006. Strikes are prohibited for both central and local government officials.

b. The Right to Organize and Bargain Collectively

The law provides for the right to collective bargaining and collective action, and workers exercised these rights in practice. The 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. According to the ITUC, employers in some cases levied "obstruction of business" charges against union leaders who were seeking to bargain collectively or engage in lawful union activities.

The law permits public servants to organize trade unions and bargain collectively, although it restricts the public service unions from collective bargaining on topics such as policy-making issues and budgetary matters.

Workers in export processing zones (EPZs) have the rights enjoyed by workers in other sectors, and labor organizations are permitted in the EPZs. However, foreign companies operating in the EPZs are exempt from some labor regulations. For example, foreign-invested enterprises are exempt from provisions that mandate paid leave and paid menstruation leave for women, obligate companies with more than 50 persons to recruit persons with disabilities for at least 2 percent of their workforce, encourage companies to reserve 3 percent of their workforce for workers over 55 years of age, and restrict large companies from participating in certain business categories.

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 law protects children from exploitation in the workplace and prohibits forced or compulsory labor, and the government effectively enforced these laws through regular inspections. Child labor was not considered a problem.

The Labor Standards Law prohibits the employment of persons under age 15 without a special employment certificate from the MOL. 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 must limit minors' overtime hours and are prohibited from employing minors at night without special permission from the MOL.

e. Acceptable Conditions of Work

The minimum wage is reviewed annually. During the year the minimum wage was 4,000 won (approximately \$3.40) per hour. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers.

Persons working in the financial/insurance industry, publicly invested companies, state corporations, and companies with more than 20 employees work a five-day, 40-hour week. Labor laws mandate a 24-hour rest period each week and provide for a flexible hours system under which employers can require laborers to work up to 48 hours during certain weeks without paying overtime (and 52 with approval from the relevant labor union) 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 regular hours in a given week. Workers may work more than 12 hours per day in overtime during a workweek if both the employer and the employee agree. The Labor Standards Act also provides for a 50 percent higher wage for overtime.

The Korea Occupational Safety and Health Agency (KOSHA) is responsible for implementing industrial accident prevention activities. The government sets health and safety standards, but the accident rate was high by international standards. During the year there were 1,059 fatalities from industrial accidents. During the year KOSHA established a Process Safety Management System to assist petrochemical factories vulnerable to large-scale accidents, conducted safety checks on dangerous machinery and equipment, and subsidized working environment improvements in small and medium-sized enterprises.

Contract and other "nonregular" workers accounted for a substantial portion of the workforce. According to the government, there were approximately 5.7 million nonregular workers, comprising approximately 35 percent of the total workforce. The MOL reported that in general nonregular workers performed work similar to regular workers but received approximately 87 percent of the wages of regular workers. In addition 53 percent of nonregular workers were ineligible for national health and unemployment insurance and other benefits, compared with 6 percent of regular workers.

The law on nonregular workers allows companies with more than 300 workers to use temporary worker contracts valid for a maximum of two years. However, labor groups alleged that employers used a loophole in the law to avoid their obligation to hire part-time workers as regular workers after the two-year time limit.

The MOL reported that the total number of illegal foreign workers was estimated to be approximately 9,200.

The government continued to use the EPS to increase protections and controls on foreign workers while easing the labor shortage in the manufacturing, construction, and agricultural sectors. Through the EPS, permit holders may work in certain industries only and have limited job mobility but generally enjoy the same rights and privileges as citizens, including the right to organize. 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 by the employer. Unless the MOJ grants an extension on humanitarian grounds, workers lose their legal status if they do not find a new employer within two months.

In September the National Assembly passed amendments to the EPS Act to strengthen human rights protections for foreign workers. The amendments allow more flexibility in the length of contracts, ensure that job changes that are not the fault of migrant workers are excluded from their three allowable job changes, and increase from two to three months the allowable time in between contracts.

During the year 63,323 foreigners entered the country under the EPS. The government implemented a variety of social services and legal precedents to address complaints about the working conditions of foreigners. In April local authorities implemented a variety of programs to ease the difficulties of living and working in the country, including free legal advice programs, free translation services, and the establishment of several "human rights protection centers for foreigners." In

July the MOL announced improved health measures that allow migrant workers to receive health checkups in their native language.

In December local authorities approved a request from five foreign lecturers to form a union in the country. Past attempts by foreign migrant workers to unionize had been denied because of their desire to include nondocumented workers in their membership. Local human rights groups complained that the EPS system does not ensure equal rights to migrant workers, alleging that fear of reprisals, limited employment alternatives, and cumbersome grievance processes limited their ability to exercise their rights and increased their vulnerability to exploitation.

In an October review of the migrant worker situation, Amnesty International reported that despite "considerable progress made in the management of migrant labor, first by providing migrant workers regular status as trainees and second by protecting them under labor laws as workers...migrant workers in South Korea are still subjected to human rights violations and exploitative practices."

NGOs and local media reported that irregular workers were at a greater risk for discrimination because of their status and foreign laborers sometimes faced physical abuse and exploitation from employers. The NGO Korea Migrant Center received reports of abuse of female entertainment visa holders.

The MOJ reported that, as of October, foreign workers filed 8,074 complaints related to unpaid wages.

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