



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2010 Country Reports on Human Rights Practices](#) » [East Asia and the Pacific](#) » [Korea, Republic of](#)

2010 Human Rights Report: Republic of Korea

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

April 8, 2011

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 2008 the Grand National Party obtained a majority of National Assembly seats in a free and fair election. Security forces reported to civilian authorities.

The following human rights problems were reported: hazing of military personnel, imprisonment of conscientious objectors, the government's interpretation of laws regulating the Internet and telecommunications, and sexual and domestic violence.

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.

During the first six months of the year, there were 35 suicides among military personnel, 13 of which were cited as being caused by hazing, mistreatment, or an inability to adjust to military life. The Ministry of National Defense conducted independent investigations of these incidents and made no arrests. The ministry maintained a suicide prevention program.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices, and there were no reports that government officials employed them.

During the year the Ministry of National Defense reported 22 hazing incidents resulting in physical injuries. Nine persons were indicted in these incidents. The ministry maintained a hazing prevention program.

Prison and Detention Center Conditions

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

The Ministry of Justice reported the total of number of prisoners at year's end was 45,681, of whom 2,375 were women and 430 were juveniles. Pretrial detainees generally are held at detention centers; when held at prisons, they are separated from the prisoners and are subject to looser restrictions on access to visitors and telephone use.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions.

Prisoners can petition the Ministry of Justice's Human Rights Violations Center or the National Human Rights Commission (NHRC) to make prison abuse claims. During the year 300 petitions were submitted to the justice minister, of which 64 were under investigation. Of the 67 filed with the Human Rights Violations Center, five resulted in findings of relief for the petitioners. The International Committee of the Red Cross, which maintains an office in Seoul, did not request prison visits during the year.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. However, the National Security Law grants authorities the power to detain, arrest, and imprison persons who commit acts that the government views as intended to endanger the "security of the state." Nongovernmental organizations (NGOs) continued to call for reform or repeal of the law, contending that its provisions do not define prohibited activity clearly. The Ministry of Justice maintained that the courts had established legal precedents for strict interpretation of the law that preclude arbitrary application.

During the year 32 persons were detained for violating the National Security Law; 26 were indicted, one had indictment delayed, one was dismissed, and four others were under investigation. Of those who were indicted, 14 were convicted and 12 were in trial proceedings.

In August authorities arrested a pastor for violating the National Security Law by travelling to the Democratic People's Republic of Korea (DPRK or North Korea) without prior permission from the government. In December the pastor was sentenced to 10 years in prison.

A secondary school teacher indicted in 2008 for violating the National Security Law by distributing banned material remained free on bail. The court heard oral arguments and indicated it would rule on the case in February 2011.

Four NGO members detained and charged in September 2008 with illegal contact with North Korean 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 the two others received suspended sentences and probation. All four appealed the sentences and filed a defamation claim against the government. In November a district court judge dismissed the defamation claim and stated that prosecutors did not release false information. The four appealed, and at year's end 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, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving security forces during the year.

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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 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 a person who voluntarily submits 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. Human rights lawyers stated that authorities generally did not grant bail 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 respected a defendant's right to a lawyer. During the trial stage and, under certain circumstances, during the pretrial stage, 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 under investigation. There were no reports of access to legal counsel being denied.

Amnesty

The Ministry of Justice reported that special amnesty was given to 2,735 persons during the year; 5,685 others who violated only administrative laws also received amnesty.

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 relevant government-held evidence. The constitution provides for the right to a fair trial for all citizens, and an independent judiciary generally enforced this right.

In August the Ministry of Justice added grand jury review to its criminal procedure and installed citizen prosecution commissions at all prosecutors' offices.

Political Prisoners and Detainees

The Ministry of Justice stated that no persons were incarcerated solely because of their political beliefs.

The law requires military service for all male citizens; it does not allow for conscientious objectors, who can receive a maximum three-year prison sentence. The Ministry of Justice noted that the law does not distinguish conscientious objectors from others who do not report for mandatory military service. The ministry reported that during the year there were 6,863 cases of Military Service Act violations, with 1,358 cases referred for trial and 5,505 cases settled out of court.

Watchtower International, a Jehovah's Witnesses organization, reported that in November there were 933 Jehovah's Witnesses members, along with approximately 30 others, serving an average of 18 months in prison for conscientious objection to military service. This number was more than double that of January 2009. Watchtower attributed the rise to the number of conscientious objectors who had delayed beginning prison terms, expecting the Ministry of National Defense to introduce an alternative service system for conscientious objectors. However, in 2009 the ministry reversed its earlier position and announced it would not pursue the introduction of an alternative service for conscientious objectors.

In November Watchtower declared it was monitoring 141 cases on appeal in the Supreme Court and nine cases before the Constitutional Court, two of which involved reservists. Constitutional Court rulings on the matter in 2002 and 2004 upheld the constitutionality of the law.

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. There are administrative and judicial remedies available for alleged wrongs.

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

The law prohibits such actions, and the government generally respected these prohibitions in practice. 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 court-approved wiretappings decreased from 799 in the first half of 2009 to 589 in the first half of 2010.

In September the Ministry of Justice indicted seven working-level officials from the Prime Minister's Office on charges of illegal civilian surveillance. The investigation found that the Public Official Ethics Unit within the Prime Minister's Office conducted surveillance on the former head of Kookmin Bank and known supporter of the previous administration, as well as on a National Assembly member and his wife. The ministry was widely criticized in the local media and by local NGOs for the passive manner in which the investigation was conducted. The investigation failed to reveal reasons for initiating the surveillance, additional records of surveillance, and involvement of any high-ranking officials in ordering the surveillance. In November the court convicted all seven officials and sentenced them to prison.

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

The National Security Law forbids citizens from listening to DPRK radio programs 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. Under the National Security Law the government may limit the expression of ideas that praise or incite the activities of antistate individuals or groups.

In December the appeals court affirmed a district court's verdict of not guilty in the case of four producers and one writer from the Munwha Broadcasting Corporation's *PD Notebook* program. The five had been charged with spreading false rumors about the alleged health risks of eating U.S. beef. The prosecution appealed the decision to the Supreme Court.

Internet Freedom

There were some government restrictions on access to the Internet and reports that the government monitored e-mail and Internet chat rooms.

According to 2008 Organization for Economic Cooperation and Development data, 95 percent of households had access to the Internet through broadband connections. In addition to Internet access from home, public Internet rooms were widely available and inexpensive.

The government blocked violent, sexually explicit, and gambling-oriented Web sites and required site operators to rate their site as harmful or not 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 and direct access to the DPRK's YouTube channel and Twitter account. While viewing Web sites praising the DPRK regime remained lawful, disseminating information about the Web sites, including posting links to the sites, is unlawful under the National Security Law.

In December the Constitutional Court struck down clause 1, article 47, of the Framework Act on Telecommunications as unconstitutional, ruling that the term "public interest" was too broad to meet the constitutional requirement of a clear definition. The article, which prohibited individuals from making false communication over the Internet with the intent to harm "public interest," had been used to indict individuals who posted allegedly misleading information about the prospects of financial markets, candlelight protests in 2008, and North Korea's attacks on a South Korean warship and Yeonpyeong Island during the year. Observers expected the case against 47 bloggers, including the blogger Minerva, who wrote more than 200 online postings criticizing the government's economic policies, to be dismissed as a result of this ruling.

In January 2009 the government expanded the Network Act, which requires identity verification in order to post messages on Web sites, to apply to all Web sites operating a domestic server with more than 100,000 visitors (previously set at 300,000) per day, thereby increasing the number of applicable sites from 37 to 167. A civic organization challenged the constitutionality of this act for infringing on freedom of expression. In July the Constitutional Court heard oral arguments but at year's end had not rendered a decision.

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 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. 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 were responsible for violent protests in the past.

A law passed in September 2009 by the National Assembly prohibiting public gatherings between sunset and sunrise became invalid when the National Assembly failed to revise it by June, as instructed by the Constitutional Court.

The Ministry of Justice confirmed that none of the 24 riot police officers accused of excessive violence during the 2008 beef protests were arrested. In May three were fined, two were assessed fines of one million won (approximately \$885) each, and one was assessed a fine of a half-million won (\$440).

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

For a description of religious freedom, please see the Department of State's *2010 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt/.

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

Citizens could generally 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.

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

Protection of Refugees

The country's law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government 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.

The government did not routinely grant refugee status or asylum. 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." In May 2009 the Ministry of Justice increased its staff reviewing refugee applications. The average processing time for refugee applications decreased from 42 months in March

2008 to 12 months in January 2010. In November the refugee adjudication authority moved from the ministry's headquarters to the Seoul Immigration Office, streamlining the bureaucratic procedures and providing better access to translators available at the Seoul office. During the year the government approved 47 applications for refugee status and rejected 168 applicants.

Those granted refugee status are given resident status with employment authorization. They are provided with basic living expenses and medical expenses if their income falls below the poverty line. In May the NHRC provided consultation service to refugees. In March, for the first time, a non-DPRK refugee became a Korean citizen. The government also provided temporary humanitarian protection to 43 persons who may not qualify as refugees.

The government continued its longstanding policy of accepting refugees from the DPRK, who are entitled to citizenship in the ROK. The government resettled 1,407 DPRK refugees in the first six months of the year. In July the Ministry of Unification signed a memorandum of understanding with the Korean Bar Association to provide legal assistance to the refugees. In September the ministry opened the DPRK Refugee Support Foundation to help defectors adjust to life in the ROK.

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. At year's end there were 45 women in the 299-seat National Assembly, with one of 18 National Assembly committees chaired by a woman. One of 13 Supreme Court justices and two of 15 cabinet ministers were women.

There were no members of minority groups in the National Assembly.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government implemented the law effectively. There were reports of officials receiving bribes and violating election laws. According to the Ministry of Justice, as of November 481 government officials had been prosecuted for abuse of authority, bribery, embezzlement or misappropriation, and falsification of official documents. In the National Assembly, as of November one member was in detention and another was on trial for misappropriation and other criminal charges.

By law public servants above a certain rank must register their assets, including how they were accumulated, thereby making their holdings public. Several government agencies are responsible for combating government corruption, including the Board of Audit and Inspection, which monitors government expenditures, and the Public Service Ethics Committee, which monitors civil servant financial disclosures and financial activities. The Anti-Corruption and Civil Rights Commission manages public complaints and administrative appeals on corrupt government practices. In the first half of the year, the commission logged more than 1,500 corrupt government practice claims. The commission also evaluates "good governance and cleanliness" of public organizations and expanded the number of organizations under its purview to 712, compared with 478 in 2009.

The country has a Freedom of Information Act, and 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 were cooperative and responsive to their views. The government also was cooperative with international organizations. UN High Commissioner for Human Rights Navanethem Pillay and UN Special Rapporteur for Freedom of Opinion and Expression Frank La Rue visited in May.

The NHRC is an independent government body established to protect and promote human rights; it has no enforcement powers, and its decisions are not binding. The NHRC investigates complaints, issues policy recommendations, and conducts education campaigns.

In December the Truth and Reconciliation Commission of Korea disbanded after five years of examining more than 10,000 petitions alleging wrongful civilian deaths caused by military and law enforcement authorities from the time of Japanese colonial rule in the early 1900s, the Korean War, and democracy movement crackdowns from the late 1950s to the 1980s. In its final report, the commission presented its findings on 86 percent of the incidents and deemed the others unverifiable. In many cases the commission refrained from assigning culpability because of difficulty in judging incomplete accounts of past incidents using present-day standards.

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 effectively enforced it.

Women

The law criminalizes rape. Although there is no specific statute that defines spousal rape as illegal, the courts have established a precedent by convicting spouses in such cases. 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. During the year the minimum prison sentence for rape or sexual assault increased from five years to seven and from three years to five, respectively, when the perpetrator is a relative of the victim.

The Ministry of Justice stated that there were 18,985 reports of rape or sexual violence during the year, resulting in the indictment of 8,385 suspects. In 2009 there were 8,746 reports and 3,858 prosecutions.

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 of five years in prison and fined up to seven million won (\$6,190). Offenders also may be placed on probation or ordered to see court-designated counselors. The law requires police to respond immediately to reports of domestic violence, and they were generally responsive. During the year the Justice Ministry registered 4,363 cases of domestic violence, resulting in 551 indictments.

The law obligates companies and organizations to take preventive measures against sexual harassment, and the government enforced the law effectively. Civil remedies are generally available for sexual harassment claims. At public institutions, administrative remedies are also available. The Ministry of Gender Equality and Family (MOGEF) conducts an annual survey on sexual violence, and its study during the year found that approximately 2.4 percent of women said they

were victims of sexual harassment. The ministry provides sexual harassment prevention training to approximately 15,000 public institutions and reports to the National Assembly annually. In September an assembly member was expelled from his party for making remarks that could be interpreted as sexual harassment to a group of female university students.

The law allows couples and individuals to decide freely the number, spacing, and timing of their children and to have the information and means to do so free from discrimination. Access to contraception and maternal health services, including skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care, were widely available. According to the MOGEF, the estimated maternal mortality rate in the year was 10.8 deaths per 100,000 live births. Women were equally diagnosed and treated for sexually transmitted infections, including HIV.

Women enjoy the same legal rights under the constitution as men. 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 a remarried woman to change her children's family name to her new husband's name.

The Ministry of Employment and Labor (MOEL) reported that labor participation of women between the ages of 15 and 64 in 2008 was at 54.7 percent. To increase participation of women, the ministry maintained employment-training centers for women at 72 locations to provide job assistance to women, especially those with gaps in their employment history. The ministry also maintained an affirmative action program for public institutions with 50 or more employees and private institutions with 500 or more employees; the program requires institutions that fail to maintain a female workforce that is at least 60 percent that of the average of relevant occupations to comply with a hiring plan devised by the ministry. The ministry reported that the size of the workforce composed of women had increased. It also noted that as of July women filled approximately 42 percent of newly created jobs and made up more than 45 percent of the newly hired workforce.

The number of women in entry-level civil service positions and new diplomatic positions continued to increase. However, women continued to experience a pay gap, since a higher percentage of working women tended to fill lower-paying, low-skilled contract jobs. An MOEL study published in December found that women earned 66 percent as much as men in hourly wages and 62.5 percent when job benefits were included. A September MOGEF study revealed that only 25 percent of working mothers in their 20s and 30s had used extended maternity leave. 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 (\$4,420).

Children

Citizenship is based on parentage, which requires that either the mother or the father be a citizen of the country at the time of birth. Citizenship is also given in circumstances where parentage is unclear if a person is stateless. The government allows all persons 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.

As of September a total of 6,910 child abuse cases were reported to the Ministry for Health and Welfare. The ministry's Child Protection Center intervened in 4,017 of the cases, 91 of which involved abuses in orphanages and childcare facilities. The ministry maintained shelters that provided protection, counseling, and treatment services to the victims of child abuse.

In June high-profile cases of sex offenses against minors prompted the government to raise the minimum prison sentence from seven to 10 years for rape and five to seven years for other sexual assaults involving a minor 13 years of age or younger. Other changes to the law included extending the statute of limitations for another 10 years in cases with DNA or other scientific evidence and expanding the information disclosed on a sexual offender's registry. The MOGEF maintained 10 centers that provided counseling, treatment, and legal assistance to child victims of sexual violence.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html as well as country-specific information at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

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

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services or other areas, and the government effectively enforced the law. The government effectively implemented laws and programs to ensure that persons with disabilities have access to buildings, information, and communications. The law establishes penalties for deliberate discrimination of up to three years in prison and 30 million won (\$26,535). The government, through the Ministry of Health and Welfare, continued to implement a comprehensive set of policies that included encouraging public and private buildings and facilities to provide barrier-free access, providing part-time employment, and employing a task force to introduce a long-term care system. The government operated a national rehabilitation research center to increase opportunities and access for persons with disabilities.

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 fail to hire persons with disabilities up to a certain percentage of their workforce. In July the government began providing financial assistance to low-income persons with severe disabilities. In 2009 the government raised the target percentage of the workforce at relevant public institutions from 2 to 3 percent and at relevant private companies from 2 to 2.3 percent. At the end of 2009, the percentage of the workforce composed of persons with disabilities was at 1.86 percent at firms with more than 50 employees, compared with 1.35 percent in 2006.

National/Racial/Ethnic Minorities

The country has long prided itself on its racial homogeneity, but its growing ethnic minority population passed the 1.2 million mark in midyear. To meet the projected growth in ethnic minorities due to the increasing number of migrant workers and foreign brides, the MOGEF and MOEL initiated various programs to increase public awareness of cultural diversity and to assist foreign workers, wives, and multicultural families to adjust to life in the country.

The local media reported some violence against foreigners, including a man with a mental disability killing his foreign bride, leading to a swift government crackdown on illegal matchmaking agencies. Other incidents appeared to be isolated in nature. Local NGOs and the media also reported that North Korean refugees, although supported through government-funded resettlement programming, faced discrimination.

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

The law that installed the NHRC prohibits discrimination on the basis of sexual orientation and gives the NHRC the authority to review cases of discrimination based on sexual orientation. During the year the NHRC received six cases of alleged discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons but did not find merit in any of the cases. There are no specific laws punishing or providing remedy to victims of discrimination or violence against LGBT persons. The Ministry of Justice reported the equality principles under article 11 of the constitution apply to LGBT persons. The government punished perpetrators of violence against LGBT persons according to the law.

Societal discrimination against LGBT persons persisted. In June the Constitutional Court heard oral arguments on the constitutionality of the military code of conduct prohibiting consensual homosexual relationship between military personnel. At year's end the court had not issued a ruling.

Other Societal Violence or Discrimination

Some observers claimed that persons with HIV/AIDS suffered from societal discrimination and social stigma. The law protects the confidentiality of persons with HIV/AIDS and protects them from discrimination.

The NHRC reported there were 577 employment discrimination cases filed during the year. A total of 104 complaints alleged age discrimination, and the NHRC recommended remedy in three of the cases.

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. In January the labor law was amended to authorize union pluralism starting in July 2011. The new law is intended to allow multiple unions to form at a single enterprise but permit only a single negotiation channel with management. Amid competition among labor unions to gain bargaining rights, workers would have more options for selecting a labor union, resulting in overall improvement of union services.

The ratio of organized labor in the entire population of wage earners in 2009 was approximately 10 percent. There are two national labor federations, the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU), and an estimated 4,689 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 MOEL reported that approximately 1.6 million of the country's 16.6 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 MOEL generally operated without government interference.

The law bans education workers from engaging in certain political activities, such as joining a political party or openly endorsing a political party or candidate. Offenders can serve up to one year in jail and be fined a maximum of 3.6 million won (\$3,185). In June and July 2009, the Korean Teachers and Education Workers Union (KTEWU) launched two rounds of antigovernment petitions. The Seoul District Prosecution Service indicted 159 KTEWU members for violating the Educational Workers Labor Union Act banning certain political activities. Cases were heard at multiple district courts depending on the domiciles of the indicted teachers. The courts made conflicting rulings, and at year's end all cases were pending before various appellate courts. Meanwhile, the superintendent of the Gyeonggi provincial education office who postponed punishing the teachers per the order from Ministry of Education, Science, and Technology was acquitted by both the district and appellate courts in a breach of duty indictment brought against him by the Suwon District Prosecution Service.

The right to strike is provided for in law but limited in certain circumstances. By law unions must submit a request for mediation to the Labor Relations Commission before a strike; otherwise, the strike is 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 also is prohibited in cases in which a dispute has been referred to binding arbitration. The law includes a list of essential sectors prohibited from striking that goes beyond international standards. 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 are not allowed to strike. In addition, if striking employees resort to violence, unlawful occupation of premises, or damaging of 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 or participate in illegal activities can be prosecuted under the criminal code on charges of "obstruction of business." The ITUC reported that this charge was used to detain hundreds of trade unionists and criminalize basic union activities. Striking workers can be removed by police from the premises, and, along with union leaders, prosecuted and sentenced. The law prohibits retribution against workers who conduct a legal strike and allows workers to file complaints of unfair labor practices against employers. The MOEL reported that in the first eight months there were 55 strikes, in which 30,623 workers participated.

In May the appeals court affirmed a lower court's conviction of then-KCTU president Lee Suk-haeng related to his role in organizing a general strike in 2008 and increased his sentence from two to four years in prison.

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

Strikes are prohibited for central and local government officials.

b. The Right to Organize and Bargain Collectively

The law provides for the right to collective bargaining, and workers exercised this right 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. The National Labor Relations Commission can require employers found guilty of unfair practices to reinstate workers fired for 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 budgetary and policy-making 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, including provisions that mandate paid leave, 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 provides protections to children from exploitation in the workplace, and the government effectively enforced this law through regular inspections. Child labor was not considered a problem.

The Labor Standards Act prohibits the employment of persons under age 15 without an authorization certificate from the MOEL. Because education is compulsory through middle school (approximately age 15), few such 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 MOEL.

e. Acceptable Conditions of Work

The minimum wage is reviewed annually. Although the employment and labor minister has the authority to set the minimum wage, the proposed minimum wage is reviewed and approved by the Minimum Wage Council formed by representatives from labor, business, and government. During the year the minimum wage was set at 4,110 won (\$3.64) per hour, which was a 2.75 percent increase over 2009 and equal to the increase in the minimum cost of living.

Persons working in the financial/insurance industry, publicly invested companies, state corporations, and companies with more than 20 employees are required to receive premium pay for work in excess of 40 hours per week. The labor law requires employers to allow 30 minutes' rest in a four-hour work period and one hour's rest in an eight-hour work period, to be taken within the work period. It also allows a flexible work hours system under which employers can require laborers to work up to 48 hours during certain weeks without paying overtime so long as average weekly work hours for any given two-week period do not exceed 40 hours (and 52 hours during certain weeks without paying overtime so long as average weekly work hours for any given three-month period do not exceed 40 hours). If mutually agreed, 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 government sets health and safety standards, and the Korea Occupational Safety and Health Agency (KOSHA) is responsible for monitoring industry adherence to these standards. KOSHA conducts inspections both proactively according to regulations and reactively in response to complaints. It also provides technical assistance to resolve deficiencies discovered during inspections. KOSHA reports on its Web site descriptions of and statistics on work-related injuries and fatalities on a quarterly basis. In the first six months of the year, there were 48,066 work-related accidents and 1,028 fatalities, which were a 6.3 percent increase and 2.9 percent decrease, respectively, from the same period in 2009. KOSHA provided training and subsidies to improve work safety and reduce work-related accidents. Its services were extended to the migrant workers, since its training modules and materials were available in 10 languages and disseminated to various worksites.

Contract and other "nonregular" workers accounted for a substantial portion of the workforce. The MOEL reported that as of August there were approximately 5.7 million nonregular workers, composing approximately 33.3 percent of the total workforce. The MOEL reported that in 2009 nonregular workers performed work similar to regular workers but received approximately 84 percent of the wages 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.

There were 513,621 foreign workers (465,302 legal and 48,319 illegal) residing in the country at year's end, 220,319 of whom were admitted under the Employment Permit System (EPS). The government implemented a variety of social services and legal precedents to address complaints about the working conditions of foreigners. During the year the

MOEL provided training on the EPS to employers hiring foreign workers. The ministry continued programs implemented in 2009 for foreign workers to ease the difficulties of living and working in the country, including free legal advice programs, free translation services, health checkups in their native language, and the establishment of several "human rights protection centers for foreigners."

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 only in certain industries and have limited job mobility, but they generally enjoy the same rights and privileges as citizens. Foreign workers are limited in their freedom to change jobs. In 2009 the EPS law was amended to provide better protection to foreign workers. The amendments allow more flexibility in the length of contracts, ensure that job changes that are not the fault of the worker are excluded from their three allowable job changes, and permit the worker to change employers if the working conditions are deemed different from the contract terms. Unless the Ministry of Justice grants an extension on humanitarian grounds, workers lose their legal status if they lose their job and do not find a new employer within three months.

NGOs and local media reported that irregular workers were at a greater risk for discrimination because of their status and that 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 MOEL reported that foreign workers filed 4,646 complaints related to unpaid wages during the year.

[Back to Top](#)