



COUNTRY OF ORIGIN INFORMATION KEY DOCUMENTS

REPUBLIC OF KOREA (SOUTH KOREA)

3 SEPTEMBER 2009

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1. Preface

- i This Country of Origin Information Key Documents (COI Key Documents) on the Republic of Korea has been produced by COI Service, UK Border Agency (UKBA), for use by officials involved in the asylum/human rights determination process. It provides general background information about the issues most commonly raised in asylum/human rights claims made in the United Kingdom. The COI Key Documents includes information available up to 1 September 2009. It was issued on 3 September 2009.
- ii The COI Key Documents is an indexed list of key reports, papers and articles produced by a wide range of recognised external information sources. It does not contain any UKBA opinion or policy.
- iii For UK Border Agency users, the COI Key Documents provides direct electronic access to each source referred to in the document, via a link on the source numbers in the index and list of sources. For the benefit of external users, the relevant web link has also been included, together with the date that the link was accessed.
- iv As noted above, the documents identified concentrate mainly on human rights issues. By way of introduction, brief background information on *[country]* is also provided. Please note, this background material is not intended to provide a summary of the material contained in the documents listed.
- v This COI Key Documents and the documents listed are publicly disclosable.
- vi Any comments regarding this COI Key Documents or suggestions for additional source material are very welcome and should be submitted to COI Service as below.

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INDEPENDENT ADVISORY GROUP ON COUNTRY INFORMATION

- vii The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Chief Inspector of the UK Border Agency to make recommendations to him about the content of the UKBA's country of origin information material. The IAGCI welcomes feedback on UKBA's COI Reports, COI Key Documents and other country of origin information material. Information about the IAGCI's work can be found on the Chief Inspector's website at <http://www.ociukba.homeoffice.gov.uk>

- viii In the course of its work, the IAGCI reviews the content of selected UKBA COI documents and makes recommendations specific to those documents and of a more general nature. A list of the COI Reports and other documents which have been reviewed by the IAGCI or the Advisory Panel on Country Information (the independent organisation which monitored UKBA's COI material from September 2003 to October 2008) is available at <http://www.ociukba.homeoffice.gov.uk/>
- ix Please note: it is not the function of the IAGCI to endorse any UKBA material or procedures. Some of the material examined by the Group relates to countries designated or proposed for designation to the Non-Suspensive Appeals (NSA) list. In such cases, the Group's work should not be taken to imply any endorsement of the decision or proposal to designate a particular country for NSA, nor of the NSA process itself.

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2. Background information about the Republic of Korea (South Korea)

- 2.01 **Area:** 99,222 sq km (45% of the Korean peninsula)
Population: 48.5 million (2007 estimate)
Capital City: Seoul, population 10 million (The population of the capital city region is about 20 million. (Fielding, March 2008) [43])
People: Korean with small Chinese, Korean-Chinese and other East, Southeast and South Asian minorities. (Fielding, March 2008) [43]
Language: Korean
Religions: Wide range of religions from Shamanism, the oldest, to Buddhism, Confucianism, Chondogyo, Catholicism, and Protestantism.
Currency: ROK Won (KRW)
Major political parties: United New Democratic Party; Grand National Party (GNP); Democratic Labour Party (DLP); Democratic Party (DP).
Government: Presidential system backed by unicameral National Assembly of 299 members who are elected for 4 years.
President: Lee Myung-bak (elected December 2007 for a five-year term).
Prime Minister: Han Seung-soo (since 29 February 2008)

(All information from the UK Foreign and Commonwealth Office (FCO), Country Profile: South Korea, 1 June 2009 [1], unless otherwise stated)

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GEOGRAPHY

- 2.02 The FCO Country Profile: South Korea, updated 1 June 2009, noted:

“The Republic of Korea (ROK) forms the southern half of the Korean peninsula, that lies between China and Japan, and so is often referred to as South Korea. Its capital city, Seoul, is in the [far] north-west. The ROK has a land area about the same size as Wales and Scotland combined. The Demilitarised Zone (DMZ), that separates the ROK from the Democratic People's Republic of Korea (DPRK) to the north, is a 250-mile long strip of land, running from west to east, close to the 38th Parallel.” [1]

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2.03



OCHA Regional Office for Asia Pacific
REPUBLIC OF KOREA
Issued: 3 January 2008



The names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations

Map Ref: OCHA_KOR_Country_v2_080103

(Reliefweb, 18 February 2008) [32a]

ECONOMY

- 2.04 **GDP:** US\$857.5 billion (2008 est)
GDP per head: US\$26,000 at purchasing power parity (2008 est)
Real GDP growth: 2.5% (2008 est)
Inflation rate: 4.7% (2008)
Population below poverty line: 15% (2003 est.) (Central Intelligence Agency (CIA), 28 August 2009) [2]
Major Industries: Electronics, machinery, automotive, shipbuilding, steel (FCO, 1 June 2009) [1]
Exchange rate: £1 = 2,055 Korea Won (KRW) (xe.com, 19 August 2009) [42]

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RECENT HISTORY

- 2.05 The CIA World Factbook profile of South Korea, updated 28 August 2009, stated:
- “An independent Korean state or collection of states has existed almost continuously for several millennia. Between its initial unification in the 7th century - from three predecessor Korean states - until the 20th century, Korea existed as a single independent country. In 1905, following the Russo-Japanese War, Korea became a protectorate of imperial Japan, and in 1910 it was annexed as a colony. Korea regained its independence following Japan's surrender to the United States in 1945.” [2]
- 2.06 Prof. A.J. Fielding of Sussex University has noted in his Commentary on the Home Office COI Key Documents on the Republic of Korea, 4 March 2008, that: “Throughout most of its history, Korea has been submitted to domination by one or other of its much more powerful neighbours, first China, then Japan.” [43]
- 2.07 After World War II, a Republic of Korea (ROK) was set up in the southern half of the Korean Peninsula, while a Communist-style government was installed in the north (the Democratic Peoples Republic of Korea - DPRK). (CIA Factbook) [2]
- 2.08 The US State Department (USSD) Background Note on Korea, updated April 2009, recorded:
- “On June 25, 1950, North Korean forces invaded South Korea. Led by the U.S., a 16-member coalition undertook the first collective action under United Nations Command (UNC). Following China's entry on behalf of North Korea later that year, a stalemate ensued for the final two years of the conflict. Armistice negotiations, initiated in July 1951, were ultimately concluded on July 27, 1953 at Panmunjom, in what is now the Demilitarized Zone (DMZ). The Armistice Agreement was signed by representatives of the Korean People's Army, the Chinese People's Volunteers, and the U.S.-led United Nations Command (UNC). Though the R.O.K. supported the UNC, it refused to sign the Armistice Agreement. A peace treaty has never been signed. The war left almost three million Koreans dead or wounded and millions of others homeless and separated from their families.

“In the following decades, South Korea experienced political turmoil under autocratic leadership...[developing] a vocal civil society that led to strong protests against authoritarian rule. Composed primarily of students and labor union activists, protest movements reached a climax after Chun’s 1979 coup and declaration of martial law. A confrontation in Gwangju in 1980 left at least 200 civilians dead. Thereafter, pro-democracy activities intensified even more, ultimately forcing political concessions by the government in 1987, including the restoration of direct presidential elections.

“In 1987, Roh Tae-woo, a former general, was elected president, but additional democratic advances during his tenure resulted in the 1992 election of a long-time pro-democracy activist, Kim Young-sam. Kim became Korea’s first civilian elected president in 32 years. The 1997 presidential election and peaceful transition of power marked another step forward in Korea’s democratization when Kim Dae-jung, a life-long democracy and human rights activist, was elected from a major opposition party. [President Kim Dae-jung, was awarded the Nobel Peace prize in 2000 for his efforts to promote reconciliation on the Korean peninsula, culminating in an historic summit meeting with North Korean leader Kim Jong-il. (BBC News, 21 August 2009) [4e]] The transition to an open, democratic system was further consolidated in 2002, when self-educated human rights lawyer, Roh Moo-hyun, won the presidential election on a ‘participatory government’ platform. “ [3a]

2.09 The Freedom House report, *Freedom in the World 2009*, released 16 July 2009, related:

“In the December 2007 presidential election, former Seoul mayor Lee Myung-bak of the GNP [Grand National Party] ...won with 48.7 percent of the vote ... Lee took office as president in February 2008. The GNP scored another victory in the April [2008] parliamentary elections, winning 131 seats outright and an additional 22 seats through proportional representation [153 of the 299 seats]; the opposition Democratic Party (formerly the Uri Party) captured 66 seats outright and received 15 proportional seats ... At an April 2008 summit meeting between Lee and his U.S. counterpart in April, South Korea agreed to resume U.S. beef imports that had ended in 2003 when the United States recorded an outbreak of bovine spongiform encephalopathy (BSE), better known as mad-cow disease. The resumption was designed to encourage the countries’ respective legislatures to ratify a bilateral free trade agreement (FTA) signed in April 2007. However, opposition parties and groups opposed to the FTA mobilized mass protests ... Over the next two months, tens of thousands of people held candlelight vigils to protest U.S. beef.

" ...Buddhist monks and their followers protested against the president’s alleged regional and pro-Christian bias. Lee was a Christian church elder and had been accused of appointing only Christians to top posts. The various protests eventually subsided in August, after the government moved to renegotiate the import agreement and the president, acknowledging his administration’s missteps, replaced a number of senior advisers.

“On the North Korea issue, Lee had pledged to break from his predecessors’ policy of unconditional engagement with Pyongyang, arguing that relations should be linked to human rights improvements and disarmament cooperation by the North. Because the DPRK refused to fully disable its nuclear facilities or provide a complete account of its nuclear program during the year, the North-

South dialogue was largely frozen in 2008. Furthermore, the Lee administration stated in March 2008 that it would support resolutions in UN bodies that criticized North Korea's human rights violations. South Korea had repeatedly refrained from supporting such measures in previous years, with the exception of 2006, when the DPRK had conducted nuclear and ballistic missile tests." [6a]

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RECENT EVENTS AND POLITICAL DEVELOPMENTS

2.10

Events in 2008

February: Lee Myung-bak is cleared of fraud allegations four days before he is due to be inaugurated as President. (BBC News, 21 February 2008) [4c]

On 25 February Lee Myung-bak is sworn in as President (BBC News, 25 February 2008) [4d]

Han Seung-soo, a former foreign minister and president of the UN General Assembly, is appointed Lee Myung-bak's prime minister. (Economist Intelligence Unit, 28 April 2008) [44]

April: President Lee Myung-bak's conservative Grand National Party wins a slim overall majority in parliament.

May: Announcement that US beef imports are to be resumed as part of free trade deal sparks weeks of street protests.

June: - Faced with plummeting approval ratings, President Lee issues a public apology for failing to heed popular concerns.

October: South Korean banks become vulnerable to the global credit crisis. Government announces US.\$130bn financial rescue package to shore up banking system and stabilise markets.

November: North Korea tells South Korea to halt traffic across the land border from 1 December due to what it says is a policy of 'confrontation' from Seoul. (BBC Timeline, 22 July 2009) [4a]

Events in 2009

January: North Korea says it is scrapping all military and political agreements with the South, accusing the Seoul government of 'hostile intent'. (BBC Timeline, 22 July 2009) [4a] The DPRK had stepped up rhetorical attacks on the administration of President Lee Myung-bak, who resolved to stop the free flow of aid to the North unless it moved to end its nuclear weapons programme. (BBC News, 30 January 2009) [4i]

February: South Korea's central bank cuts interest rates to a record low, amid forecasts that the economy is likely to suffer an annual contraction. (BBC Timeline, 22 July 2009) [4a]

May: North Korea warns that it no longer considers itself bound by the terms of the truce that ended the Korean War in 1953. The immediate cause, it says, was South Korea's announcement that it would join the Proliferation Security Initiative (PSI) - a US-led campaign to search ships suspected of carrying weapons of mass destruction. (BBC News, 27 May 2009) [4f]

June: Talks between North and South Korea on the future of the Kaesong joint industrial complex end without agreement. (BBC News, 19 June 2009) [4g]

August: A 77-day occupation of the Ssangyong car plant by hundreds of laid-off workers ends as police storm the factory. (BBC News, 6 August 2009) [4h]

Former President and Nobel Laureate Kim Dae-jung dies. (BBC News, 18 August 2009) [4e]

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POLITICAL AND JUDICIAL SYSTEMS

- 2.11 The Economist Intelligence Unit (EIU), in its South Korea Country Profile 2008 (editorial closing date 28 April 2008) noted:

“South Korea is a constitutional democracy. The president is the head of state and serves a five-year term by direct election ... The president is also chief executive of the government and commander-in-chief of the armed forces. The State Council, or cabinet, which includes the president and the prime minister, is responsible for formulating government policy. The prime minister is appointed by the president. The National Assembly, or parliament, has one chamber and is directly elected every four years ... The National Assembly...currently has 299 seats. Of these, 245 are directly elected in a first-past-the-post system, with the remaining 54 seats distributed between parties in proportion to their share of the national vote.” [44] (p4-7)

- 2.12 The same source stated

“The South Korean constitution provides for an independent judiciary, with district courts, high courts and a Supreme Court, which rules on all appeals from lower courts. The Supreme Court is also empowered to review the legality of government decrees and regulations, and is final arbiter of the validity of presidential and general elections. South Korea maintains a separate Constitutional Court empowered to interpret the constitution and the constitutionality of laws, as well as to protect the basic rights of citizens.” [44] (p7)

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3. HUMAN RIGHTS

Overview

- 3.01 According to the US State Department *Country Report on Human Rights Practices for 2008*, Republic of Korea, (USSD Report 2008), published on 25 February 2008: “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, child abuse, and trafficking in persons remained serious problems.” [3b] (Introduction)

3.02 The FCO’s Country Profile: South Korea, updated 1 June 2009, commented on South Korea’s human rights that the

“...situation in South Korea has radically improved in parallel with the democratisation process. Much of this is the legacy of pro-democracy activist Kim Dae-jung (President 1998 – 2003), whose work was recognised with a Nobel Peace Prize in 2000. With the creation of the National Human Rights Council [Commission] of Korea (NHRCK) in 2001, adoption of UN protocols, domestic legislation and the formation of a 5 year National Action Plan (NAP), South Korea now has a world-class framework for the protection of human rights. In January 2007, renowned South Korean human rights expert, Ms Kang Kyung-hwa, was appointed Deputy High Commissioner to the UNHCR and the country will undergo universal peer review in spring 2008.” [1]

3.03 Freedom House in its *Freedom in the World 2009* report, South Korea, (Freedom House Report 2009) released on 16 July 2009, noted:

“South Korea is an electoral democracy. Elections are free and fair, and the government is elected on the basis of universal suffrage... Political pluralism is robust in South Korean politics, with multiple political parties competing for power... Despite the overall health of the South Korean political system, bribery, influence peddling, and extortion by officials have not been eradicated from politics, business, and everyday life. South Korea was ranked 40 out of 180 countries surveyed in Transparency International’s 2008 Corruption Perceptions Index.” [6a]

3.04 The Freedom House Report 2009 also noted with regard to civil liberties generally that

- the media are free and competitive;
- the constitution allows for freedom of religion and the government did not enforce any state religion;
- academic freedom is not restricted (bar statements in support of the North Korean government); there is freedom of association (“the Law on Assembly and Demonstrations requires only that the police be informed in advance of all demonstrations, including political rallies”);
- members of civil society and Non Government Organisations are active and able to operate freely;
- the judiciary is considered generally independent; and
- the police though occasionally culpable of verbally and physically abusing detainees are considered well disciplined and un-corrupt.

3.05 The same report noted, however, that the country’s few ethnic minorities faced legal and societal discrimination, and though women had legal equality they faced “de facto discrimination in society, with men enjoying more social privileges and better employment opportunities.” [6a]

3.06 In a letter addressed to the then President elect, Lee Myung-bak, dated 15 January 2008 and published in *The Korean Times*, Brad Adams, the executive

director of the Asia Division of HRW called for Mr Lee to pay attention to a number of areas of human rights concern. Mr Adams wrote:

“South Korea is a leading democracy in Asia, yet there are ways in which key rights are not fully protected. It has not executed any prisoner for more than a decade, but it still retains the death penalty. We would like to ask you to make South Korea the first Asian country to officially abolish the death penalty... Although the National Security Law has been used with declining frequency, and the punishments for violating it have become more lenient, its ongoing use remains problematic. Banning ‘praising or supporting’ North Korea is a violation of free expression, and, as such, we believe it is time for South Korea to either abolish or revise the law ... We ask for your attention to the socially weak or marginalized in the South Korean society as well, including sex workers, who have limited means of redress when facing abuse from their employers. We welcome the steps South Korea has taken to strengthen the protection of sex workers in recent years, but further measures are needed to protect those who voluntarily stay in the sex industry. Migrant workers are also known to face difficulties in forming trade unions and experience discrimination and abuse by their employers ... Finally, we urge you to take a strong stand in support of refugees and asylum seekers. Compared to other industrialized democracies, South Korea has been anything but generous in accepting those fleeing persecution.” [7]

- 3.07 The Korea Times reported on 2 August 2009 that an NGO, the Asian Human Rights Commission (AHRC), had requested the International Coordinating Committee of the National Institutions for Human Rights (ICC) to downgrade the status of the National Human Rights Commission of Korea (NHRCK), on the basis that the NHRCK was “under the strong political influence of the Lee Myung-bak administration”. The AHRC suggested that the new head of the NHRCK, Hyan Byung-chul, had been appointed by the President out of political interest, as Hyun himself had admitted to having no career record in human rights activities. The NGO further claimed that the Lee administration attempted to put the legal status of the NHRCK under the direct control of the Presidency in early 2008; this failed, but the NHRCK was restructured with a reduced staff and the Board of Audit and Inspection attempted a more rigorous inspection of the Commission’s activities and budget. “Such scrutiny and pressure does not align with the Paris Principles” stated the AHRC. [7b]

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WOMEN

Overview

- 3.08 South Korea ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1984. (Sixth periodic report of States parties, Republic of Korea, 5 March 2007) [8a] For an overview of South Korea’s implementation and application of the CEDAW, identifying both positive achievements and highlighting areas of concern, see the concluding comments of the [Committee on the Elimination of Discrimination against Women: Republic of Korea](#) dated 10 August 2007 (CEDAW Report 2007). [8b]
- 3.09 The USSD Report 2008 stated that the law forbids discrimination on the basis of, amongst other things, gender, marital status, pregnancy and child delivery,

and family status. The report added that the Government generally respected these provisions however "...traditional attitudes limited opportunities for women ... While courts have jurisdiction to decide discrimination claims [including but not only those filed by women], many of these cases were instead handled by the NHRC [National Human Rights Commission]. During the year 1,380 such cases were brought before the NHRC" [3b] (Section 5)

Domestic violence

3.10 The USSD Report 2008 stated:

"During the year the MOJ registered 11,048 cases of domestic violence and prosecuted 1,747 cases. According to an MOGE [Ministry of Gender Equality] survey, approximately 30 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' imprisonment or fined up to seven million won (\$5,300). 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 the police generally were responsive. [3b] (Section 5)

3.11 The CEDAW Report 2007 commented that while the Committee welcomed "...the amendments to the Act on Prevention of Domestic Violence and Protection of Victims and the Act on the Punishment of Sexual Violence and Protection of Victims, the Committee regrets that marital rape has not been criminalized." [8b] (page 3) However the USSD Report 2008 noted, "Although there is no specific statute that defines spousal rape as illegal, the courts have established a precedent by prosecuting spouses in such cases." [3b] (Section 5) The CEDAW Report 2007 noted also that the "Committee remains particularly concerned that under the Act on the Punishment of Sexual Violence and Protection of Victims the crime of sexual violence is prosecuted only upon complaint by the victim. The Committee also expresses its concern about the low rates of reporting, prosecutions and convictions of cases of violence against women. It is concerned about the lack of information and data provided about the prevalence of all forms of violence against women." [8b] (page 3)

3.12 According to the US State Department Country Report on Human Rights Practices 2007, Republic of Korea, released on 11 March 2008: "The government established some shelters for battered women and increased the number of childcare facilities. However, women's rights groups stated these measures fell far short of effectively dealing with the problem." [3h] (Section 5)

Harassment of, and other forms of violence against, women

3.13 The CEDAW Report 2007 noted with concern that acts of sexual violence against women can only be prosecuted if the victim complains, and marital rape is not criminalised [8b] (page 3) though the courts have set a precedent by prosecuting spouses in marital rape cases. (USSD Report 2008) [3b] (Section 5) The CEDAW Report added that there were low rates of reporting, prosecution and conviction of cases of violence against women (page 3) and commented

that the persistence of trafficking and exploitation of prostitution remained a concern. [8b] (page 4)

- 3.14 The USSD Report 2008 stated that rape remained a serious problem, and commented that

“The MOJ stated that there were 7,532 reports of rape and 3,581 prosecutions during the year [2008] ... A study by the Korea Institute for Health and Social Affairs and the Korean Institute of Criminology found that annually 17.9 of every 1,000 women were victims of sexual harassment, rape, or other sexual crimes, but the reporting rate for rape was only 7.1 percent. The penalty for rape is at least three years' limited imprisonment; if a weapon is used or two or more persons commit the rape, punishment ranges from a minimum of five years' to life imprisonment.” [3b] (Section 5)

- 3.15 The US State Department Country Report on Human Rights Practices 2006, Republic of Korea, released on 6 March 2007 (USSD Report 2006) noted that “The law defines sexual harassment as a form of gender discrimination. The Gender Discrimination Prevention and Relief Act covers almost all kinds of human relations – including, for example, relations between teachers and students and citizens and civil servants.” [3g] (Section 5) The USSD Report 2007 added:

“In recent years the government has made some progress in addressing sexual harassment, but the issue continued to be a problem. The 2005 revision of ‘Framework Act on Women's Rights Promotion’ stipulated that heads of organizations were obligated to take preventive measures against sexual harassment. Pursuant to the act, the government conducts an annual review of actions taken by public organizations concerning sexual discrimination, grants awards for improvements, and provides special retraining sessions for managers of suboptimal organizations. Private companies' obligations to take preventive measures against sexual harassment are stipulated in the Sexual Equality Employment Act. These efforts have had only limited success; the NHRC found that there continued to be a lack of understanding on what constitutes sexual harassment ... According to the NHRC, remedies for sexual harassment cases included issuance of recommendation for redress, conciliation, mutual settlement, and resolution during investigation. More cases were resolved through conciliation or mutual settlement, which were quicker and more efficient than the commission's investigation process ... During the year [2007] court rulings that overturned sexual harassment convictions, often at the request of the complainant, pointed to an underlying tolerance in society at large for sexual harassment in the workplace rather than any failing of the systems of redress.” [3h] (Section 5)

- 3.16 The USSD Report 2008 recorded that sexual harassment continued to be a problem: “The NHRC received 152 cases of sexual harassment during the year [2008]. 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.” [3b] (Section 5)

- 3.17 With regard to prostitution the USSD Report 2008 stated:

“Prostitution is illegal but widespread. In July [2008] police began a crackdown on alleged prostitution-related establishments in multiple areas of Seoul, closing 61 businesses in one district and prosecuting approximately 350 persons without physical detention. 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, 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.” [3b] (Section 5)

- 3.18 Commenting on the 2004 anti-trafficking and anti-prostitution laws, the HRW Report 2007 stated that “...the law does not protect those that either want to stay in the sex industry or cannot prove that they were coerced, while critics argue that police crackdowns pursuant to the law have driven many sex workers further underground, putting them in an even more vulnerable situation.” [5a]

Household registration and property rights

- 3.19 The USSD Report 2007 noted that the National Assembly had eliminated the household registration system in 2005 that made women legally subordinate to the male family head. [3h] (Section 5) The USSD Report 2008 stated, “The family 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. [3b] (Section 5)
- 3.20 The Freedom House Report 2009 confirmed that “...a landmark ruling by the Supreme Court in July 2005 granted married women equal rights with respect to inheritance. Previously, married women were considered to be part of their husband's family and were not eligible to inherit family property.” [6a]

Women in the workplace

- 3.21 The USSD Report 2008 observed that
- “Women continued to experience economic discrimination in pay for substantially similar work. According to the Korea Institute of Finance, a survey of financial services companies revealed that almost 60 percent of newly created jobs in this sector were filled by women. The portion of entry-level civil service positions that women filled increased from 3.2 percent in 1992 to 49 percent in 2007. The Ministry of Foreign Affairs and Trade reported that 67.7 percent of new diplomats were women. The Ministry of Labor (MOL) stated that the employment rate of females between the ages of 15 and 64 had risen approximately 10 percentage points since 1996, from 43.6 percent to 53.1 percent. Nevertheless, relatively few women worked in managerial positions or earned more than a median income, and gender discrimination in the workplace remained a problem. An MOL survey released in April found that 53.9 percent of respondents believed that sexual discrimination within the

workplace was a serious problem ... The law penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination could be fined up to approximately five million won (\$3,800) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Some government agencies' preferential hiring of applicants with military service (nearly always men) reinforced barriers against women, despite a Constitutional Court ruling that such preferential hiring was unconstitutional." [3b] (Section 5)

- 3.22 The CEDAW Report 2007 observed that women faced disadvantages in the workplace; they were concentrated in low wage jobs and more likely than men to be in irregular work. [8b] (page 6) The same report also noted that women were under-represented in decision-making areas, such as government, the judiciary and in politics. [8b] (page 5)

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CONSCIENTIOUS OBJECTORS

- 3.23 Article 39 of the South Korean Constitution states that "All citizens shall have the duty of national defense under the conditions prescribed by Act..." (The Constitutional Court of Korea, undated) [9] Military service is compulsory for men aged 20 to 30 years old. The period of conscription is between 24 to 28 months (this is to be reduced to 18 months in 2016). Women may also undertake military service but are limited to seven service branches. (CIA Factbook, 30 July 2009) [2] The NGO, War Resisters' International, noted in their report *Conscription in Korea* dated 21 April 2009:

"The duty to enlist in the Armed Forces lasts until the age of 31, but in case of draft evaders until 36 ... Military service lasts two years. However, large parts of conscripts (almost 200,000 out of 300,000-350,000 conscripts annually) perform most of their service in public administrations or elsewhere, and only perform four weeks of basic military training. For those, military service lasts 26 months. Which kind of service has to be performed depends on the medical examination, and the needs of the military ... After discharge from service, conscripts are obliged to serve approximately 160 hours of military training over a period of eight years." [29a]

- 3.24 The War Resisters' International (WRI) report of 21 April 2009 noted further: "Conscientious objection is not recognised, and annually about 600 conscientious objectors receive prison sentences of [usually] 18 months. The great majority of conscientious objectors are Jehovah's Witnesses, but since 2001 the number of non-religious conscientious objectors has increased." [29a] A War Resisters' International (WRI) paper dated 24 April 2009 noted that a South Korean conscientious objection movement, now known as 'Korea Solidarity for Conscientious Objection', was formed in 2000 and has worked in cooperation with WRI. Since then there have been a number of changes in the application of the law, including:

- a reduction of the usual punishment from three years to 18 months. (Under the present legal situation, this is the minimum punishment which will lead to a discharge from the military, and therefore avoid a new call-up);

- conscientious objectors are no longer tried by military courts, but by civilian courts. [29b]
- 3.25 The War Resisters' International (WRI) paper of 24 April 2009 stated that there has been a recommendation by the South Korean National Human Rights Commission to recognise the right to conscientious objection. In 2007, according to WRI, the Ministry of Defence announced that it would introduce the right to conscientious objection and substitute service. However, WRI noted in April 2009, "...with the change of government in 2008 this announcement is today no longer being honoured." [29b] In a public opinion survey commissioned by the Military Manpower Administration in August 2008, 68 per cent of the people surveyed said they were against allowing alternative service for conscientious objectors. (Yonhap News Agency, 25 December 2008) [15a]
- 3.26 The Amnesty International Report 2009, *State of the World's Human Rights*, Republic of Korea, released in May 2009, stated that:
- "Police imprisoned at least 408 conscientious objectors [in 2008], mostly Jehovah's Witnesses, for refusing compulsory military service. This significant drop in numbers compared to the 733 imprisoned in 2007 was largely because cases were not heard ahead of plans to introduce an alternative to military service in 2009. However, in December [2008] the Ministry of Defence put the plans on hold due to lack of public support." [17a]

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NATIONAL SECURITY LAW

- 3.27 The year 2008 marked 60 years since the National Security Law was introduced. "As of December [2008], there were at least nine detained individuals charged under the vague provisions of the NSL." (Amnesty International Report 2009, May 2009) [17a] The Freedom House Report 2007 commented that the National Security Law (NSL) "...assumes an antagonistic relationship between North and South Korea and combines legitimate counterespionage measures with vague prohibitions on 'anti-state activities' and 'benefiting the enemy,' and restrictions on expression, movement, and the media. The NSL retained support among a section of the public and Parliament, while opponents were divided between advocates of reform and total abolition. In the absence of a consensus on the matter, the NSL remained unchanged." [6c] The Freedom House Report 2009 observed that the National Security Law "is applied selectively and only rarely". [6a]
- 3.28 The USSD Report 2008 noted that
- "The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. However, the National Security Law (NSL) grants the authorities broad powers to detain, arrest, and imprison persons who commit acts the government views as intended to endanger the 'security of the state'. Critics continued to call for reform or abolishment of the law, contending that its provisions did not define prohibited activity clearly. The Ministry of Justice (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 [2008] authorities arrested 16 persons and prosecuted another 27 persons for alleged NSL violations. Of those prosecuted, four were found guilty; the remaining 23 were on trial as of year's end.” [3b] (Section 1d)

- 3.29 The Reporters without Borders Annual Report 2008, South Korea, released 13 February 2008, noted that “...although it is never used, Article 7 of the law on national security still allows a journalist to be imprisoned for expressing ‘sympathy’ with the North Korean regime.” [16]

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ETHNIC AND NATIONAL MINORITIES

- 3.30 The USSD Report 2007 noted that the law forbids discrimination on the grounds of national or regional origin, physical condition or appearance, ethnic origin, race and skin colour, and the Government generally respected these provisions. “However, traditional attitudes limited opportunities for... ethnic minorities. While courts have jurisdiction to decide discrimination claims, many of these cases [of all forms of discrimination, including those based on ethnicity and nationality] were instead handled by the [National Human Rights Commission] NHRC. From January to August [2007], 779 such cases were brought before the NHRC.” [3h] (Section 5)

- 3.31 According to the Freedom House Report 2009, “Because South Korean citizenship is based on parentage rather than place of birth, residents who are not ethnic Koreans face extreme difficulties obtaining citizenship. Lack of citizenship bars them from the civil service and also limits job opportunities at some major corporations. The country's few ethnic minorities face legal and societal discrimination.” [6a] The USSD Report 2008 stated:

“The country is racially homogeneous, with no sizable populations of ethnic minorities. Citizenship is based on parentage, not place of birth, and persons must demonstrate their family genealogy as proof of citizenship. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained ‘foreign’. Many foreign workers continued to report difficult working conditions.” [3b] (Section 5)

- 3.32 A state party report to the UN Committee on the Elimination of Racial Discrimination (CERD), dated 23 January 2009, stated: “...foreigners may apply for Korean nationality regardless of their race if they meet certain criteria set out in the Nationality Act.” This report mentioned also that the Government provides various services aimed at facilitating the settlement and integration of immigrants into Korean society. [8h]

- 3.33 *The Korea Times*, in article dated 21 June 2009, observed:

“South Korea is steadily moving toward a multicultural society. The number of foreign residents surpassed 1 million in 2007, accounting for over 2 percent of

the nation's entire population. The number of Koreans marrying foreigners last year reached 36,204, 11 percent of the total. In rural areas, the ratio was estimated to be far higher at around 40 percent. The number of foreign workers - documented and undocumented - stood at 720,000... But it is disappointing to see that foreign residents are still leading a difficult life here because of a lack of legislation and institutions to protect their rights and ban discrimination against them. A considerable number of foreign spouses, especially brides from Southeast Asian countries, are reportedly suffering from spousal abuse and domestic violence. Many foreign workers _ illegal laborers in particular _ have continued to complain about lower wages, bad working conditions, inhumane treatment and other discrimination in the workplace.” [7c]

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REFUGEES

3.34 South Korea signed the UN Refugee Convention in 1992, and between then and 2006 had granted protection to 48 out of 950 asylum applicants. Financial assistance for those granted refugee status was, according to Human Rights Watch, “almost non-existent”. (HRW Report 2007) [5a]

3.35 The USSD Report 2008 observed:

“The laws provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. However, 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 ... Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers and an alternative form of protection--a renewable, short-term permit--to those who meet a broader definition of ‘refugee’. During the year the government recognized 36 asylum applicants as refugees, many more than in past years. However, a complex procedure and long delays in refugee status decision making continued to be problems. At year's end approximately 1,500 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.” [3b] (Section 2d)

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North Koreans

3.36 The USSD Report 2008 recorded that “The government continued its longstanding policy of accepting refugees from the [Democratic People’s Republic of Korea – North Korea] DPRK, who are entitled to [Republic of Korea] ROK citizenship. The government resettled 2,809 North Koreans during the year [2008], resulting in 15,057 North Koreans resettled in the country.” [3b] (Section 2d) The Human Rights Watch *World Report 2009*, North Korea, released on 15 January 2009, noted that “South Korea accepts all

North Koreans as citizens under its constitution. South Korea has admitted more than 13,000 North Koreans..." [5d]

Treatment of North Korean refugees

- 3.37 The website of the Republic of Korea, Ministry of Unification, accessed on 31 July 2009, advised as follows:

"The South Korean government operates support facilities called *Hanawon* for newcomers from North Korea to help them resettle in South Korean society. Hanawon was established under the *Act on the Protection and Settlement Support of Residents Escaping from North Korea* of 1997. Hanawon includes a main center and one branch facility that together can accommodate 400 people simultaneously and 2,400 in one year ... The resettlement program at Hanawon is an eight-week course for social adjustment in the South. The ultimate objective of the course is to instill confidence in the newcomers, narrow the cultural gap, and motivate them to achieve sustainable livelihoods in a new environment ... Furthermore, the government provides them with a variety of financial and non-financial support to assist them with resettlement. The newcomers receive, for example, an initial cash payment, incentives related to employment and education, medical support, and favorable terms for leasing apartments. The government also creates a new family registry as they are South Korean citizens with all rights and privileges under the Constitution."

The Ministry of Unification website sets out a flow chart for the settlement of North Koreans, from their initial application onwards, and gives details of support provided after the initial eight-week course, both by the state and by NGOs. [45] A BBC News article of 9 July 2009 noted that all North Korean refugees "are debriefed by the South Korean security services before admission [to Hanawon], to ensure that they are not North Korean secret agents." [4j]

- 3.38 The BBC News article of 9 July 2009 commented that North Koreans had arrived in South Korea "after months, or years, of hardship and trauma, only to face another hurdle: how to adjust to what must seem like an alien landscape, with its bewildering, free-wheeling free market, and its strong emphasis on individual responsibility ... Compared to the old North Korean certainties of a command economy and family networks, capitalism can be very lonely." The BBC article recorded that since July 1999, when the first centre opened, the Hanawon project has provided medical treatment, psychological counselling and practical support to almost 16,000 refugees from the North. [4j]
- 3.39 The UN News Service reported on 25 January 2008 that the UN Special Rapporteur on the human rights situation in the Democratic People's Republic of Korea (DPRK - North Korea), Vitit Muntarbhorn, "welcomed" the efforts of the South Korean Government has made to assist people fleeing North Korea. Mr Muntarbhorn praised the support given by the South Korean Government to "... over 10,000 nationals from the DPRK it has accepted for settlement." [8d]
- 3.40 UN Special Rapporteur, quoted in the same source, also recommended that the government should provide "longer-term facilities to help them adapt to their new lives, and social, educational, employment and psychological back-

up, with family and community based networks; more family reunion possibilities; more protection to be afforded to those who do not receive the protection of other countries; and a more active information campaign using success stories of those who have settled in the Republic of Korea to ensure a positive image and nurture a sense of empathy for those who exit from the DPRK in search of refuge elsewhere.” [8d] The article recorded that the UN Special Rapporteur “...praised increased support for these persons, such as through longer term protection periods, the provision of pensions, and employment and other opportunities.” He was “‘encouraged by educational and training programmes for the young generation from the DPRK, complemented by caring neighbours who help them adapt to society’.” Mr Muntarhorn also highlighted the need for longer-term care for torture victims and older North Koreans who had escaped. He further called for more attention to be given to mixed marriages, where a North Korean has a relationship and child with a national of a third country (i.e. neither North nor South Korea) on the way to South Korea, but the child is left in the third country. [8d]

For further information on North Koreans in South Korea see the UK Home Office, Country of Origin Information Service, [COI Report on the Democratic People’s Republic of Korea](#).