

히 결혼·교육 등에 있어 어떠한 차별도 없도록 해야 하고, 이주노동자들의 의료보험 확대 실시 및 산재보험을 현실적으로 보장해야 한다.

▶ 노동권(제 6, 7조)

14. 사기업 뿐 아니라 공공부문에서도 정리해고 위주의 구조조정이 빠른 속도로 진행되어, 1995년에는 420,000명(2.0%)에 불과하였던 실업률이 1998년에 1,461,000명(6.8%), 1999년 1,353,000명(6.3%)으로 크게 증가하였고, 2000년 4월에는 900,000명(4.1%)까지 감소하였다가 2001년 2월에는 다시 1,069,000명(5.0%)으로 늘어났다. 여기에 실망실업자를 포함한다면 실업률은 더 높아질 것이다. 정부는 제2차 정부보고서에서 '다양한 고용형태'의 활성화란 측면에서 '파견근로자 보호에 관한 법률'을 언급하고 있으나 현행 근로자파견법은 합법적인 중간착취를 용인하면서 고용을 더욱 불안하게 만들고 있다. 정부는 경제 위기의 다른 원인들을 도의시한 채 인위적감정으로 구조조정을 이루려는 지금의 방식을 재고하고 정리해고가 최후의 수단임을 자각하여 일자리 유지를 위해 노력해야 하고, 실업자 재취업을 위한 교육·소개를 비롯한 종합적 실업대책을 마련하여야 한다.

▶ 비정규직 노동자의 권리(제 6, 7, 8조)

15. 고용이 불안하고 노동조건이 열악한 비정규직의 비중이 크게 확대되고 있다. 2000년 현재 경제활동인구의 52.2%가 비정규직 노동에 종사 중이며, 이에 포함되지 않은 계약직 노동자, 자영업자로 분류되는 특수고용형태의 노동자까지 포함하면 그 수는 더욱 커질 것이다. 수적 증가 뿐 아니라 정규직·비정규직 간의 임금격차도 심화되어, 정규직 노동자의 임금인상률은 1999년 12.1%, 2000년 8% 각각 상승했으나 임시·일용직과 10인 미만 사업체 상용직의 임금인상률은 1999년 -5%, 2000년 -2.5%로 오히려 임금이 줄어든 것으로 집계되고 있다. 비정규직 노동자들은 항상 고용불안에 시달리며 노동3권 또한 제대로 누리지 못하고 있다. 그러나 정부는 이를 고용형태 다양화의 자연스런 결과로 받아들이고 있으며 그 심각성을 인식하지 못하고 있고, 그 정확한 현황조차 파악하려고 하지 않고 있다. 정부는 비정규직 고용의 실태를 정확히 파악하고 이를 억제하기 위하여 기간의 정함이 있는 근로계약을 최대한 규제하고, 2년 이상 계속 근로한 파견근로자의 정규직 고용을 보장하며, 독립도급업자의 근로자성을 인정하고 노동법상 보호를 받게 하기 위한 적극적 정책을 추진하여야 한다.

▶ 산업보리(제 7조)

16. 산업재해율은 98년 이후부터 다시 증가하는 추세에 있다. 1999년 재해자수는 55,405명(0.74%)으로 전년도의 51,514명(0.68%)에 비해 3,891명(7.55%) 증가하였다. 사망자수도 1999년 2,291명(3.08%)으로 전년도의 2,212명(2.92%)에 비해 79명(3.57%)이 증가하였다. 이러한 증가세는 2000년 들어 더 심해지고 있다. 이는 각종 안전 관련 규제완화와 당국의 관리소홀로 현장의 안전관리가 허술해진 것이 원인이다. 또한 구조조정으로 인해 인원이 감축된 상태에서 작업량이 증가하고 이에 따라 노동강도가 강화되어 산재가 증가한 측면도 있다. 정부는 사업장의 안전보건관리를 감독하고 규제하는 기능을 강화해 노동자의 안전과 건강을 보호해야 한다.

▶ 노동3권(제 8조)

17. 위원회의 지적과 권고에도 불구하고 한국에서는 여전히 일반공무원과 대학교수의 노동3권이 완전히 박탈되어 있다. 한편, 최근 정부는 2002년부터 허용하기로 되어 있던 개별기업 차원의 복수노동조합을 다시 5년간 유예함으로써 단결권 실현을 가로막았다. 정부는 공무원·교수 단결권 보장을 위한 조치를 취하고, 단결권의 완전한 실현을 저해하는 복수노동 금지규정을 즉시 폐지해야 한다.

18. 한국에서는 여전히 평화적인 방법으로 이루어지는 노동자들의 파업에 대해 경찰력이 투입되는 강제진압이 진행 중이다. 2000년과 2001년에만 해도 롯데호텔 노동조합에서 1000여명, 사회보험노동조합 1000여명이 연행되었고, 이어서 이랜드, 대우자동차, 금융산업 노동조합 등 구조조정에 반대하는 파업의 참가자들이 형사처벌을 받았다. 노동자들의 평화로운 파업에 대하여 정부가 경찰을 투입하여 진압하고 노조 간부들을 형사처벌하는 것은 노사문제의 자율적 해결을 방해하고, 단체행동권을 심각하게 침해하는 것이므로 이는 즉각 중단되어야 한다.

▶ 사회보장권(제 9조)

19. 한국의 빈곤은 심화되어, 1999년 UNDP의 후원 하에 만들어진 한국의 빈곤에 관한 보고서는 최저생계비 이하의 지출을 하고 있는 인구가 전체 인구의 1/5에 달한다고 추정했다. 빈곤선 이하의 빈민들을 위한 소득보장제도인 국민기초생활보장제도는 수급자의 자격 조건이 구제도인 생활보호법에서보다 더욱 강화되었다. 즉, 현재의 재산 기준 및 주거면적 기준 등의 수급자 선정 기준 때문에 보호받아야 할 빈민들이 수급자에서 탈락하는 상황이 발생했다. 또 적정예산을 책정하지 않고 최저생활을 보장하기에는 턱없이 모자라는 현금급여를 지급해 빈민들이 최저생활을 보장받지 못하고 있다. 최저생계가 불가능한 생계비 보조금을 비판해 자살한 이들도 있었다. 정부는, 국민기초생활보장제도의 수급자의 선정기준을 완화하고, 최소한의 생활수준이 보장될 수 있도록 생계급여를 올려야 한다.

20. 사회보장예산의 규모는 여전히 열악한 상태이다. 사회보장에 대한 OECD 분류 기준을 사용해 보면, 한국의 총 사회지출비는 GDP대비 6.8%(97년)에 불과하다. 또한 정부의 2000년도 국방예산이 17%에 이르는데 반해, 2000년도 사회보장 예산은 총 정부 예산의 7.4%에 불과한 실정이다. 정부는 사회보장 예산을 대폭 확대해야 한다.

21. 5인 미만 영세사업장 노동자, 비정규노동자, 영세 자영업자 등 사회적 취약계층이 사회보험의 보호를 받지 못하고 있다. 따라서 이들은 산업재해나 실업을 당할 경우 극빈층으로 전락하기 쉽다. 최근 정부가 고용보험과 산재보험의 적용범위를 5인 미만 사업장 근로자와 비정규 근로자에게까지 확대시켰으나, 고용보험의 경우 전체 임금근로자의 48.6%, 산재보험의 경우 전체 임금근로자의 32.6%가 각각 적용대상에서 제외되고 있다(2000년 말). 실업률이 7.7%로 최고에 달했던 98년 당시 전체 실업자 중 고용보험제도에 의해 실업수당을 받는 비율은 9.6%에 불과했다. 국민연금제도에서 제외된 사람은 전체 경제활동인구의 44.4%로 추정된다(2000년 말). 정부는 비정규노동자 및 영세사업장의 노동자, 영세자영업자 등 일하는 빈곤층들이 4대 사회보험(고용보험, 산업재해보상보험, 의료보험, 국민연금)

의 적용과 혜택을 누릴 수 있도록 효과적인 정책과 방안을 수립해야 한다.

▶ 여성의 권리(제 2, 6, 7, 10조)

22. 2000년 4월 현재, 여성노동자 중 70.5%가 비정규직으로서 남성노동자 임금의 63.1%를 받고, 각종 수당·휴가·사회 보험에서 차별을 당하고 있다. 한편, 외환관리위기 이후 기혼여성, 장기근속여성에 대한 우선해고, 정리해고 후 비정규직으로 유도하는 등의 여성우선해고가 발생하고 있는데, 예를들어 1999년 농협중앙회는 흑자경영에도 불구하고 704쌍의 사내주부직원 중 691명을 퇴출시켰다. 정부는 비정규직, 가내노동자, 영세사업장 등 고용형태와 상관없이 노동관련법 적용을 전면확대하고, 탈법적인 여성부당해고에 대한 관리감독을 강화하며 고용상 차별에 대한 실효성 있는 구제절차를 마련하여야 한다.

23. 현행 법률은 산전후휴가를 60일로 정하고 있으나, 이는 14주를 보장하는 ILO조약 제183호(모성보호협약)의 기준에 미치지 못 할뿐 아니라, 법률에서 유급유산휴가제를 도입하지 않아 유산한 여성근로자들은 보호를 받지 못하고 있다. 또한 1997년 기준, 가정에서 양육이 가능한 아동을 제외하고 실제 보육을 필요로 하는 아동을 108만명에 이르는데 이중 1998년 말 기준 17,605개소의 보육시설에 55만 6천명의 아동을 보육을 받고 있으며, 이중 직장보육시설은 총 184개소로 5,823명만이 보육을 받고 있다. 정부는 산전산후휴가를 100일로 확대하고 유급유산휴가제를 법제화하며 이러한 유급휴가제의 비용을 사회보험에서 부담하도록 해야 한다. 또한 유급육아휴직제와 직장보육시설을 내실화하고 확대하여야 한다.

24. 한국사회에서 남녀가 결혼을 하면 여성은 반드시 남성의 호적(출생, 혼인, 사망 등의 신분변동사항을 기록하는 국가의 신분등록부)에 편입되고, 자녀가 출생하면 아버지의 호적에 출생사항을 기록하고, 아버지의 성을 따라야 한다. 이와 같은 호적제도로 인해 아들을 낳지 못한 여성은 가정에서 불이익을 당하고 있으며, 성감별에 의한 불법적인 인공임신중절술이 증가하고 있다. 이로 인해 1999년 여아 100명당 남아 109.6명으로 심각한 성비불균형 현상을 보이고 있다. 정부는 호적제도를 폐지하고, 성씨를 선택할 수 있도록 해야 한다.

▶ 아동의 권리(제 6, 10, 11조)

25. 14세이상 18세 미만 아동 중 경제활동인구는 1997년 42만 5천명, 1998년 41만 1천명, 1999년 43만 2천명, 2000년 44만 9천명인데, 이들 대부분은 비정규직 형태로 주방보조, 전단지 배포 등의 단순업무에 종사하고 있다. 2000년 10월 노동부의 조사결과에 의하면, 이 곳에서 일하는 아동들이 받고 있는 월 임금은 54만 7천여원으로 전체 노동자 평균임금의 30% 수준에 불과하고, 조사대상 업체의 48%에 해당하는 172곳이 1일 7시간의 법정근로시간을 초과하여 근로를 시키고 있다. 그러나 아동노동을 전담하는 정부기관이 없어 정기적인 관리감독이 제대로 되지 않고 있으며 지방노동관서에는 아예 아동노동에 관한 업무를 담당하는 공무원조차 없다. 정부는 아동들이 노동착취로부터 보호를 받도록 아동노동에 대한 전담부서를 설치하고 지속적으로 관리, 감독해야 한다.

26. 유흥업소에 고용되는 매춘 아동의 수가 증가하고 있다. 1999년 대검찰청이 유흥업소 등을 대상으로 단속한 결과 여종업원 8,033명 가운데 48.1%인 3,868명이 만 18세 미만의 아동인 것으로 밝혀졌다. 그러나 일반 형사사범의 영장기각률이 13.7%인데 비해 미성년자 매매춘 사건의 영장기각률은 50.8%로서, 미성년자 매매춘 사건의 피의자에 대한 처벌의 강도가 약하다. 그리고 매매춘을 한 아동에 대해서도 형사처벌을 하여 매매춘 아동의 정상적인 사회복귀를 어렵게 하고 있다. 실제로 2000년 2월, 당시 나이 16세의 소녀 2명이 매매춘 행위를 하다 경찰에 입건된 것을 비판해 아파트 25층에서 뛰어내려 자살한 일도 있었다. 정부는 아동매매업자에 대한 처벌을 강화하고, 매매춘 아동을 형사처벌하는 것이 아니라 이들이 정상적인 사회복귀를 하도록 하기 위한 실질적인 대책을 세워야 한다.

27. 2000년 현재 가정에서 식사를 해결하지 못하는 아동의 숫자는 16만 4천명에 이른다. 정부는 위 아동에게 중식을 지원하고 있으나, 저녁식사를 제공받는 아동의 숫자는 22,589명에 그치고, 이마저 방학 동안에는 보장되지 않고 있다. 2000년 한 민간단체의 조사결과에 의하면 결식아동 가정 209가구 중 생활보호대상가구는 36.3%에 그쳐, 아이들이 식사를 제대로 못할 만큼 생활의 고통에 시달리는 가구들이 정부로부터 아무런 공공부조 혜택을 받지 못하고 있다는 것을 보여주고 있다. 정부는 결식아동의 휴일·방학중에도 식사를 공급받을 수 있도록 예산을 확충하고, 아이의 식비를 감당하기 어려운 가정은 필수적으로 국민기초생활보장의 수급대상이 되도록 해야 한다.

▶ 주거권(제 11조)

28. 임대주택 혹은 이주비 등의 법적인 보호 장치는 공공개발사업이나 재개발사업으로 인해 퇴거당하는 사람들에게만 제공될 뿐이며 민간개발로 인해 퇴거를 당하는 사람들에게는 제공되지 않고 있다. 공공개발이나 재개발의 경우에도, 세입자들은 주택이 철거되는 자에 대한 임시수용 혹은 주택자금 융자지원 등의 조치를 적용받지 못하고 있다. 정부는 민간 개발로 인해 강제퇴거를 당하는 사람들에게 대해서도 법적인 보호 조치를 마련해야 한다. 또한 도시개발법에서 규정하고 있는 임시주거시설을 가옥주 뿐 아니라 세입자에게도 제공해야 한다.

29. 1998년 상반기 도시가계 조사에 따르면 월세가구 중 주거비가 가계지출의 30%를 넘는 가구는 25.6%에 이르고 있다. 한편, 보건복지부는 2000년 현재 5천명 이상의 노숙자가 있는 것으로 집계하고 있다. 또한 겨우 한 사람이 간신히 누울 수 있을 정도의 좁방이나 적절한 시설이 갖춰지지 않은 비닐하우스에서 사는 사람들도 상당수 있다. 그러나 정부는 과도한 주거비 부담에 대한 대책이나 주거빈곤에 대한 뚜렷한 대책을 마련하지 못하고 있다. 2001년 3월 4일에는 서울의 비닐하우스에서 잠자던 일가족 10명이 숨지는 화재사고도 발생했다. 이러한 사고는 주거빈곤 상태를 방치한 정부에게 책임이 있다. 정부는 저소득층이 적절한 주택을 부담가능한 비용으로 이용할 수 있도록 해야 한다. 또한 노숙자, 비닐하우스촌, 쪽방 거주자 등 주거빈곤에 대한 대안을 마련해야 한다.

▶ 건강권(제 12조)

30. 의료보험이 시행되고 있지만 여전히 환자와 가족들이 부담해야 하는 비용이 많다. 전체 의료비에 서 본인이 직접 부담해야 하는 돈은 외래의 경우 70%, 입원의 경우 47%에 이르고 있다. 이는 빈곤선 이하의 저소득층을 대상으로 하는 의료보호 제도에서도 동일하게 나타난다. 의료보험 적용 범위에서 벗어난 의료서비스에 대해서는 저소득층들도 본인이 진료비 전액을 부담하고 있다. 의료보험이 적용 되는 의료서비스에 대해서도 저소득층 중 근로능력이 있다고 분류되는 환자들은 아무리 가난하다 할 지라도 진료비의 20%를 본인이 부담하게 되어 있다. 정부는 본인이 직접 부담하는 진료비 수준을 낮춰야 하며, 빈곤선 이하의 빈민들에게는 진료비 없이 의료를 이용할 수 있도록 해야 한다.

31. 한국 정부의 보건 의료 예산 수준은 대단히 열악하다. 정부 예산 중 보건 의료 예산이 차지하는 비중은 95년 0.35%, 96년 0.36%, 97년 0.34%, 98년 0.30%, 99년 0.28%로 계속 줄고 있다. 또한 한국의 의료 체계는 기형적일 정도로 민간 부문에 의존하고 있는데, 병상 수 기준(1998년)으로 보면 공공부문은 15.5%, 민간 부문은 84.5%이다. 민간 부문이 큰 비중을 차지하다보니, 의료기관들은 대체적으로 이익이 많이 남는 방식으로 의료서비스를 제공하고 있다. 정부는 공공의료기관을 대폭 확충해야 하며, 현재 0.3% 수준에 머물러 있는 보건예산 비중을 정부 예산의 5%까지 증액해야 한다.

32. 불법체류 이주노동자들에게는 의료보험이 적용되지 않기 때문에 필요한 때 의료서비스를 이용하지 못하고 있으며 이는 곧 질병을 악화시키는 원인으로 작용하고 있다. 교도소의 경우, 의료 인력이 부족해 2000년 현재 의사 일인당 담당 수용자 수가 1,104명이며 1인당 하루 진료 인원은 245명으로 의료 인력이 매우 부족한 상황이다. 이에 수감자들은 건강권을 제대로 누리지 못하고 있다. 정부는 이주노동자, 수감자 등 사회적 소수자에 대한 건강대책을 마련해야 한다.

33. 한반도 주둔 미군기지에 의한 환경피해가 날로 증가하고 있다. 기름오염, 소음·진동, 오폐수에 의한 수질오염, 쓰레기 불법매립, 살충제 살포 등이 그 내용이다. 주한미군기재 주변에 살고 있는 지역 주민들은 비행폭격장과 비행기 이착륙 등에 의한 소음피해와 오폐수 무단방류에 의한 수질오염 피해 등으로 정신적, 육체적 피해를 당하고 있다. 그러나 한국정부는 미군기재 주민피해 실태 조사에 미온적인 태도를 보이고 있으며, 미군당국 역시 한미주둔군지위협정(SOFA)을 근거로 미군시설물과 기지에 대한 환경조사 및 공개를 하지 않고 있다. 최근 SOFA개정협상에서 환경조항 신설에 양국이 합의했으나 구체적인 실행 조항이 빠져있다. 정부는 SOFA개정협상에서 환경오염피해에 대한 원상회복 및 손해배상 의무조항을 신설하고 동시에 미군 당국의 오염실태조사와 관련한 시설 및 구역에의 접근보장 의무 등 구체적인 의무조항을 명시해야 할 것이다.

▶ **교육권(제 13조)**

34. 한국의 공교육은 매우 열악한 상황에 놓여있다. GDP 대비 공교육비의 비율은 4.4%(1997년)로 OECD 국가 중 최저 수준이다. 반면, 사교육비는 지나치게 높아 교육의 부익부 빈익빈을 초래하고 있다. 1999년 교육부의 조사에 의하면 가계에서 부담하는 과외비 총액은 6조 7천7백10억원이다. 이는 1999년 정부의 교육부 예산이 17조원, 총 공교육비가 28조원인 것과 비교할 때 매우 큰 규모이다. 과외비 지출이 음성적으로 이뤄지는 것을 감안할 때, 사교육비의 규모는 훨씬 클 것이다. 정부 출연기관

인 한국교육개발원의 조사에 따르면 1998년 사교육비의 전체 규모는 29조원에 이른다. 정부는 공교육에 대한 재정을 확충해 공교육을 정상화하고, 사교육에 대한 가계 부담을 줄여야 한다.

35. 비싼 대학등록금은 저소득 계층이 학습 능력에 따라 고등교육을 균등하게 접근할 수 있는 권리를 제약하고 있다. 전체고등교육기관의 83%를 차지하는 사립대학들은 최근 10년 동안 등록금을 3배 이상이나 인상했다. 대학 운영비를 지나치게 등록금에 의존하고 있기 때문이다. 고등교육비의 구성을 백분율로 비교해 보면, 공공재원 대 민간재원의 비율이 22대 78이다. 정부는 고등교육에 대한 투자를 늘려, 과도한 등록금 부담을 줄여야 한다.

▶ **문화적 권리(제 15조)**

36. 국가보안법에 의한 표현의 자유 침해는 여전히 심각하다. 지난 97년 인권영화제에 출품되었던 다큐멘터리이자 1948년도에 있었던 국가에 의한 민간인 학살을 다룬 작품인 '레드헌트'가 국가보안법 위반으로 기소되어 법정공방이 진행되었으며, 또한 화가 신학철의 '모내기'란 작품이 국가보안법 위반 유죄판결을 받아 폐기될 상황에 처해있다. 정부는 표현의 자유를 제약하는 국가보안법을 폐지해야 한다.

**Economic, Social and Cultural Rights
in the Republic of Korea
(Abstract)**

NGOs' Alternative Report

to the UN Committee on Economic, Social and Cultural Rights
on the Second Periodic Report submitted by the Republic of Korea
Under Article 16 & 17 of the International Covenant
on Economic, Social, and Cultural Rights

April 2001

KOREA NETWORK For the 2nd Submission of the Alternative Report under ICESCR

Factors and Difficulties in the implementation of the ICESCR (Chapter 2)

1. The situation of economic, social and cultural rights in the Republic of Korea has been seriously worsened for recent years, in consequence of unprecedented financial and foreign currency crisis and structural adjustment programs suggested by IMF and IBRD as remedies to the economic crisis. The structural adjustment was considered in the same light with making labor flexible. As a result, unemployment and temporary employment increased, and gaps between regular and irregular workers were widened in the respect of social and cultural participation as well as income. After the structural adjustment was imposed, the income of the upper 10% increased by 4%, while that of the lower 20% decreased by 17.2%. Also, the Gini Coefficient has changed from 0.283 in 1997 to 0.316 in 1998, and 0.320 in 1999. This figures just reflects urban workers' situation, therefore if we make an estimate of the situation of the Korea nation as a whole, we can find that the Gini Coefficient has changed from 0.399 in 1997 to 0.440 in 1998, and 0.437 in 1999. In addition, the privatization of public sectors such as electricity, communication and health, which are the main areas under government-led structural adjustment, may not only increase the cost of public services but also hamper the equal access to such public services.

2. The way to weather the economic crisis was given in the form of loosened regulations on corporations, weakened control over the discharge of pollutants and the destruction of natural resources. Also, the cutback on medical and health budgets, the increased price of imported medical supplies and the user-pays principle contributed to undermining the public good of health care services.

3. The unique political situation that Korea is the only divided country in the world is also reflected in the concept of human rights. The Korean government tries to restrict those rights in the name of national security. In addition, this results in large expenditures on defense, and although in a declining trend, the defense budget is still very large. The share of defense budget was 20.8% in 1996, 20.7% in 1997, 18.3% in 1998, 16.4% in 1999, 17% in 2000, and 17.1% in 2001.

The Status of the ICESCR in Domestic Jurisdiction (Chapter 3)

4. In the second periodic report, submitted to Human Rights Committee under Article 40 of

ICCPR in 1997, the Korean government confirmed the superiority of the Covenant over domestic law. Meanwhile, in the initial report in 1996 submitted to the Committee Against Torture and submitted to the CESCR in 1995, the Korean government stated "the *lex posterior* rule and the principle of the precedence of special law shall be applied when conflicts between domestic laws and the Covenant arise. This shows that Korean government's position over the status of international human rights treaties is too vague. The government should state what is its official position concerning the legal relationship between the ICESCR and domestic laws.

5. The government stated in the last consideration that it is not necessary to incorporate the ICESCR into the system of domestic law with special legislative measures or procedures under the current constitution system. However, we note that in many instances legislation is highly desirable and in some cases may even be indispensable to realize the Covenant rights. The government should state that how much the government has sincerely tried to enact specific domestic laws aimed directly at the realization of the Covenant rights.

6. The Republic of Korea is only at the initial stage in international human rights law education. International human rights law has not yet been introduced as regular curriculum by most of educational institutions across the country. The second periodic report states international human rights law was introduced in 1997 as curriculum of the Judicial Research and Training Institute. However, only a few students have so far participated in this course because that course is not mandatory, but elective. The government should make plans to offer international human rights law course at educational institutions. And it should establish international human rights law course as a mandatory in the Judicial Research and Training Institute.

Rights of Refugees (Chapter 4)

7. As of February 2001, there is only one person who was recognized as a refugee by the Korean government though 104 people applied for the refugee status. The stingy policy of the government concerning refugee recognition can be found in its imposition of too much burden of proof on asylum seekers and in unreasonable provisions on the time limit for refugee status application and appeal. The Korean government should revise the law concerning refugees in accordance with international standards. And it should assign experts with a human rights education for the refugee affairs.

8. Asylum seekers are not given any shelter or any assistance including means of living, education and medical services. As a result, making a bare living without any protection, they just have to wait for the determination result of the Ministry of Justice, which could take 2 or more years. The legal(or sojourn) status of asylum seekers or refugees should be clearly provided in the domestic law. Also, the financial assistance and institutional measures, including educational and medical services, should be offered by the government to protect economic and social rights of asylum seekers and refugees.

Rights of the Handicapped (Chapter 5)

9. According to the survey by the Korea Institute of Health and Social Affairs in 2000, the unemployment rate of the handicapped reached 27.4% in 1995 and 28.4% in 2000. This makes up 6.8 times of the entire unemployment rate. Under the present legislation, any industry constituting more than 300 employees is required to hire at least 2% of the employees from the handicapped. Nevertheless, the actual employment quota of the handicapped is still far lower than 2% employment quota. According to statistics by the Korean Employment Promotion Agency for the Handicapped, the employment rate of the handicapped in private sectors was 0.45% in 1996, 0.46% in 1997, 0.54% in 1998, and 0.91% in 1999. Although it may seem that the employment rate more or less rose in 1999, the actual reason was that due to bankruptcy of businesses since 1998 the number of industries subject to this law had fallen. In reality, the trend is that employers would rather get off with a fine than hire the handicapped. Even the government itself has a tendency to avoid hiring the handicapped. The employment rate of the handicapped in public sectors was 0.88% in 1996, 0.99 in 1997, 1.08% in 1998 and 1.23% in 1999. One of reasons for this situation is that the government, just focusing on building large-scaled and modernized vocational training institutes for the handicapped, does not take into account the job development that reflects vocational aptitude and physical traits of the handicapped. It also does not provide the handicapped with opportunities to master the skills that are in demand in labor market at present. In 1999, the separation rate of the handicapped trained in segregated vocational training centers reached 79.2%. The Korean government should enforce more active measures on the industry owners in order to make them comply with the liability for employing the handicapped. And the handicapped should be given vocational training together with the non-handicapped in the general vocational training centers in order to help their integration into the regular labor market.

10. Early education is critical for preschool children with handicap because it helps stimulate the development of physical, social and mental capacities of these children. Nevertheless,

according to the 1999 annual report on education for the handicapped children, only 42.3% of preschool children with handicap were receiving early education. Also, due to the lack of schools for the handicapped children, preschool children with handicap are being trained in private early education institutions, causing the parents financial burden which leads to discord in these families. There should be a kindergarten situated in every school so that every handicapped child is granted access to free preschool education. In case of government-funded kindergartens or kindergartens provided by welfare centers there should be one instructor who specializes in education for the handicapped when there are more than two handicapped children within the class.

11. Although the Act to install accommodations in areas such as public facilities, public housing, transport, telecommunication and the workplace is in operation, the actual installation rate in these areas is only 74.4%. On 22 January 2001, a handicapped couple while using the wheelchair lift at the subway station fell off and died because the wire that had been sustaining the lift was cut loose. This accident shows that the handicapped are having great difficulties in using these facilities due to defective conditions. Although 'Easy Access Act for the handicapped, the elderly and pregnant women' is restricted to public agencies and facilities, it cannot be enforced in supermarkets, drug stores, and restaurants where everyday life is made. The government must make sure that designated architectures and buildings install accommodations for the handicapped. Moreover, institutional mechanism needs to be refurbished and financial support extended to install necessary accommodations to all facilities often utilized by handicapped people in their daily lives.

Rights of Migrant Workers (Chapter 6)

12. In the Republic of Korea, there is no institutional framework for the migrant workers to stay and work legally with all the fact that much migrant labor force is needed in reality. Industrial trainees, making up 29.6% of total migrant workers, are suffering from labor exploitation, without being given a worker status though they are actually providing labor force. The average working hours of trainees is more than 12 hours a day and the average wage is merely 648,000won(US\$498), which is less than 60% of what Korean workers make for the same amount of work. Moreover, according to the rule of the Ministry of Justice, the employer takes about 50% of trainee's remuneration and puts aside it regardless of the trainee's will until the trainee finishes the training course and departs from the International airport. The government introduced the Training Working System, which requires 2 years of training and then guarantees the worker status for 1 year upon passing the qualification exam. However, this type of working

trainees are only 0.3% of the total migrant workers, and their working condition such as remuneration and working hours didn't get better after getting the working trainee visa. This situation results in an increase of the undocumented workers, making up 64.5% of the total migrant workers. The Labor Standard partly applies to those undocumented workers, however, they cannot raise a question because of their illegal staying status even when their employer violates the related provisions. They just have to endure all poor working conditions. **The government should assure the legal status of the migrant workers by abolishing the Trainee System and by fundamentally correcting the policy of recruiting migrant workers.**

13. Migrant workers are hardly benefited from any basic social insurance such as health insurance and industrial accident insurance. Theoretically, the industrial accident insurance is also applied to undocumented workers, however, due to their illegal staying status their industrial accidents are usually concealed. The health insurance is not applied to them at all. In case of trainees, only small amount of industrial accident compensation is given because they are recognized as just a trainee, not a worker. Even though trainees are entitled to health insurance, the employers avoid contracting the health insurance. Also, institutional and social discrimination against migrant workers in marriage and education of their children causes the destruction of family. **The Korean government should ratify the 'International Convention for the Protection of Rights of All Migrant Workers and Members of their Family', and establish a social and legal system which genuinely ensures migrant workers enjoy economic, social and cultural life as Korean do. Particularly, there should be no discrimination in marriage, education and inhabitation. Also, the full application of health insurance and industrial accident insurance should be genuinely ensured.**

Right to Work (Chapter 7)

14. Large number of workers were driven out of their jobs, due to large-scaled corporate restructuring that were always accompanied by massive workforce reduction. As a result, unemployment has soared: unemployment which stood at 420,000 (2.0%) more than tripled in 1998 with 1,461,000 (6.8%). Following the initial peak, the steep rise tempered off slightly, returning figures of 1,353,000 (6.3%) in 1999, and 900,000 (4.1%) in 2000. However, the rise in unemployment has returned to increase again in 2001. In February, the figure reached 1,069,000 (5.0%). The second periodic report refers to 'the Act relating Protection of Dispatched Workers' as a measure for the promotion of diverse forms of employment. The reality, however, is that this law makes the employment far more unstable, institutionalising and legalising middle exploitation. **The government must recognise that retrenchment dismissal must be the**

absolutely last means of carrying out any corporate structural adjustment and under a comprehensive programme to retain jobs.

Industrial Safety and Health(Chapter 8)

15. Industrial accident started to increase again from 1998. The number of injury in 1999 is 55,405(accident rate: 0.74%), which shows an increase of 3,891 injuries, or 7.55% from 51,514(0.68%) in 1998. The number of death has increased from 2,212(death rate: 2.92%%) in 1998 to 2,291(3.08%%) in 1999, increasing by 79, or 3.57%. The situation got worse in 2000. The actual reason of this increase is that due to related deregulation the management of the security and health in workplace has been weakened and the inspection by authority also has been weakened since the economic crisis. This is also because workers had to put up with the more amount of work after massive layoff, which strengthened labor intensity, causing more injuries in the workplace. **The Korean government should recognize the responsibility for worker's safety and health and strengthen its role to inspect and regulate safety and health management in workplace.**

Irregular workers (Chapter 10)

16. Irregular workers account for more than half, 52.2% to be exact, of the total economically active population and the number is on the rise. The actual figures is estimated to be higher than statistics by the government because this excludes contract workers who renew their contracts on an ongoing basis and workers classified as independent contractor. The gaps between regular and irregular workers are widening in social and cultural participation as well as in income. The increase rate of the wage of regular workers was 12.1% in 1999 and 8% in 2000 while the increase rate of the wage of irregular workers was -5% in 1999 and -2.5% in 2000. Irregular workers are also suffering from permanent employment instability and deprived of worker's basic rights. More serious problem is that the government argues, intending to intensify the flexibility of the labor market, that the increase of irregular workers is a natural result of diversifying employment relationships. **The government should investigate the scale, the actual status and the increasing tendency of irregular workers accurately and carry out a policy based on this investigation. It also should make it clear that employing irregular workers deepens the instability of employment and threatens workers' rights, and should carry out a policy to restrict the increase of irregular workers.**

Basic Labour Rights (Chapter 9)

17. Despite of CESCR's recommendations, public servants and university professors are excluded from all basic labour rights. In addition, in early 2001, the government moved to prolong the "transitional measure" for further five years, disallowing the formation of plural unions at enterprises up to December 31, 2006. **The Korean government must guarantee the basic labour rights for all public servants and university professors, immediately rescind the provision that prohibits the existence of multiple unions at enterprise level and guarantee the right to organise or join a union of one's free choice.**

18. The Korean government still abuses police force and criminal punishment against the peaceful strikes. A large number of workers were arrested and subjected to criminal punishment for their participation in strike action: More than 1,000 workers of the Hotel Lotte Workers Union were arrested and 7 were indicted and imprisoned (June 2000). More than 1,000 workers of the National Social Insurance Workers Union were arrested and 8 were indicted and imprisoned for their strike action (June 2000). Workers and union leaders of the E-Land Workers Union, the Daewoo Motors Workers Union, Banking Industry Workers Union were also arrested and subjected to indictment and imprisonment. **The Korean government must ensure that police force is not deployed against striking workers to break up their peaceful action and also ensure that no trade union leader or member is arrested and subject to criminal punishment for the exercise of their legitimate right.**

Right to Social Security (Chapter 11)

19. The poverty in Korea has been aggravated. The Report on Korean poverty sponsored by UNDP indicated that one-fifth of the total population lives below minimum living standards. The National Basic Livelihood Security Act(NBLSA) as a program of income security for the people living below minimum living standards is more strict than the former Living Protection Act in its eligibility criteria. Its property criterion and 'size of house' criterion made it difficult for the poor to become its recipients. Besides, the government did not allocate the budget needed to guarantee minimum living standards for its recipients. Accordingly, the level of cash benefits is rather adjusted lower than the minimum cost of living. Some people even committed suicide grieving about the low level of cash benefits. **The government should ease the eligibility criteria of the NBLSA and increase the level of benefits of it to guarantee the minimum living standards for the poor.**

20. Social security budget is still insufficient. Under the OECD standards, gross public social

expenditure of Korea was 6.8% of GDP in 1997. While 17% of total government expenditure was spent on defense expenditure, only 7.4% was spent on social welfare in 2000. **The government should have a time-fixed plan to increase the social security budget.**

21. The disadvantaged people such as the temporary and part-time workers, workers in small businesses and self-employed people have not actually been protected by the social insurances. Therefore, they have a higher likelihood of falling into poverty in time of being unemployed or having an industrial accidents. Although the government recently expanded Employment Insurance and Industrial Accident Compensation Insurance plans to include workers in small businesses with less than five employees, EI and IACI exclude 48.6% and 32.6% of the total wage earners respectively at the end of 2000. In 1998 when the unemployment rate was highest at 7.7%, only 9.6% of the total unemployed received unemployed benefits. The National Pension is also estimated as of late 2000 to exclude 44.4% of the population participating in economic activities. **The government needs to have effective policies and plans to include working poor such as irregular workers, workers in small business and the poor self-employed within the social insurance system.**

Rights of Women (Chapter 12)

22. As of April 2000, the share of women in irregular position is 70.5% out of the total women work force. Women workers in irregular positions suffer from the same long hours as those in regular positions, receiving only 63.1% of male workers payment and being discriminated in various benefits, leaves and social insurance. In the process of restructuring employment after the economic crisis, new forms of gender inequality have emerged, and the most typical form is the practice of 'firing women first'. At the National Agricultural Cooperative Federation, firing of women based on sexual discrimination was done frequently including firing of 691 married women out of 704 married couples through a restructuring program within the organization after the economic crisis in 1999. **The application of the labor law needs to be expanded throughout workers of all workplaces including irregular workers, household laborers, and small-scale business. Management and supervision should be strengthened to watch out for unlawful firing of women. Specific process that is effective for equal employment needs to be made.**

23. Although the current birth leave is defined as a total of 60 days, it does not meet the standard of 14 weeks set by the ILO Convention. Also, the Korean government has not yet legalized the paid leave system for miscarriage, creating much hardship for women workers.

Moreover, according to the assumption by 1997 statistical data, the number of children needing day-care service other than those children who can be reared at home is reaching 1,080,000. Among these children, 556,000 children are receiving day-care service at 17,605 day-care facilities at the end of 1998. The number of workplace day-care facilities is a total of 184 that can look after only 5,823 children, tremendously lacking in the number. **Paid leave before and after giving birth should be increased to 100 days and paid by social insurance. Paid leave for mothers who had a miscarriage, and the leave system for a regular check-up on mother and fetus should be legalized. Paid leave for child rearing and working day-care facilities should also be increased.**

24. In Korean society where the patriarchal ideology is predominant, when a man and a woman marry, the woman must place her name in the husband's Hojeok(a status registry that records changed items of a person including birth, marriage and death), and when a child is born, the birth of the baby is recorded in the Hojeok of the father. Due to this strong patriarchy, those women who could not bear sons are living under disadvantageous circumstances and the number of illegal abortion after determining the gender of the child has increased in the era of having few children. As a consequence of these current trends, the ratio of female children vs. male children in 1999 was 100 girls per 109.6 boys. **The Family Headship System(Ho-Ju) needs to be abolished, and the family structure centering around the particular lineage should be improved by giving democratic freedom in selecting surnames.**

Rights of Children (Chapter 13)

25. The number of working children between 14 and 18 has been 425,000 in 1997, 411,000 in 1998, 432,000 in 1999, and 449,000 in 2000. Most of them are doing simple labor such as assistance in kitchen or giving out advertisement leaflets. According to the report of the Ministry of Labor in September 2000, the average monthly wage of the working child was 547,000 Korean Won, only 30% of the average wage of whole workers. Moreover in 172 stores or 48% of stores under survey, the child was overworking though working hours under the law is 7 hours a day. The main reason for this situation is that there is no governmental authority that fully responsible for child labor and it is not supervised regularly. **The Korean government should set up authorities, which are fully responsible and able to supervise child labor so that children can be protected from labor exploitation.**

26. There is a sharp increase of children employed in merrymaking business and child prostitutes. In 1999, the Prosecutors Office investigated cases of young girls receiving pocket

money from older men for their sexual services, and out of 8,033 female employees working in bars and such places, 48.1% were under 18. But suspects of money-for-sex relationship between young girls and older men are not punished properly. Among 61 arrest warrants to suspects of such indecent relationship, 31 cases or 50.8% were denied during first half of the year 2000. The rate is 3.7 times higher than average denial rate of arrest warrants on criminal cases(13.7%). Considering child prostitutes are also victims of patriarchal society, they should be excluded from criminal prosecution as the prosecution makes it harder for child prostitutes restoration into society. In February 2000, two 16-year-old girls actually committed suicide after being prosecuted for prostitution. **Punishment on child prostitute racketeer should be intensified. Child prostitute should not be prosecuted and measures should be taken to help these children restored to the society.**

27. By the year 2000, the number of children who were not able to have adequate meals at home reached 164,000. The Ministry of Education is providing these children with lunch in school. Nevertheless, these meals are not provided during the holidays and the number of children that are provided with dinner meals is only 22,589. According to the survey of a NGO, which provides starving children with lunch, among 209 families with children skipping meals, only 36.3% of them were benefited from the public assistance system. It means that families who are too poor to provide their children with lunch are not getting any public aid from the government. **The Korean government should expand its budget to provide adequate meals to children who skip their meals during holidays and vacation as well as during the school semester. Moreover, families unable to cover expenses for food for their children should necessarily be beneficiaries of the National Minimum Living Standards Security Act.**

Right to an Adequate Standard of Living (Chapter 14)

28. There is no legal protection such as rental housing or movement subsidy for tenants evicted by private developments. Protections have been given only to the limited people evicted by public development projects or redevelopment projects, even in the case of which, temporary accommodations or housing loans for those whose houses are demolished due to redevelopment projects are applied not to the tenants. **The government should introduce legal protections for those who are to be forcibly evicted due to private development. Also temporary accommodations enshrined in the Urban Re-development Law should be provided not only for homeowners but also for tenants.**

29. According to the survey on urban household income and expenditure in the first half of 1998,

25.6% of tenants spend more than 30% of total household expenditure on housing. According to the Ministry of Health and Welfare, the number of homeless was over five thousand in 2000. There are quite many people who live in such a small room which accommodate not more than one person or live in "vinyl-house" without appropriate facilities. However, the government has no counter measures against excessive housing expenses and housing poverty. On 4 March 2001, ten family members of a household died in a fire in a "vinyl-house village" in Seoul, responsibility of which lies in the government having neglected the condition of housing poverty. The government should enable the low-income households to enjoy the right to adequate housing at affordable expenses. Also the government should provide alternative policies for the various forms of housing poverty such as homelessness, overcrowding, poor facility and unstable occupancy.

Right to Health (Chapter 15)

30. With the coverage of Korean National Health Insurance systems, however, patients and their families are still heavily burdened by health care costs. The costs amounts to 70% of the total costs for outpatient care services and to 47% for inpatient care services. Medical Aid for the low-income group is exactly in the same conditions. Even the low-income group is benefited for health care services covered by the National Health Insurance only, and they have to pay the total cost for other services. Moreover, if person A is able to work, no matter how poorer s/he is than person B who is unable to work, person A has to pay 20% of health care costs even within the medical aid system. The government should reduce health care costs and ensure that health care services be given to people below poverty line free of charge.

31. The health care budget in Korea is incredibly small. The share of health care budget was 0.35% of total government budget in 1995, but it has decreased from 0.36% in 1996 to 0.34% in 1997, to 0.30% in 1998 and to 0.28% in 1999. In addition, the Korean health care system is disproportionately dependent on the private sector. In 1998, private beds were 84.5% and 15.5% were public. Due to the huge private sector, health care facilities provide services in ways to generate more profits. The government should expand the public health care facilities and increase the budget allocation to health care from current 0.3% to 5%.

32. Since undocumented migrant workers are not covered by the National Health Insurance, they do not seek health care services in time, which may aggravates their diseases even further. Also the health of prisoners is not protected at all. As health care manpower is not enough, one physician is currently in charge of 1,104 prisoners total, which means s/he has to see 245

prisoners a day. Therefore, the prisoners are not ensured of right to health. The government should have health care policy to secure the health of minority such as migrant workers and prisoners.

33. Environmental pollution by US military base in the Korean peninsula has increased; noise around the air bases, noise and water pollution around the bombing sites, water pollution from wastewater disposal, soil pollution from the toxic waste within the army bases etc. Residents around the US military base physically and psycho-socially suffer from noise and water pollution. However, the Korean government takes a hesitating attitude toward investigating the environmental damage of residents around the US military base. US military authority also hasn't opened their military base and facilities to the environmental investigation, based on Status of Forces Agreement(SOFA) governing the legal rights of US troops in Korea. In the course of recent negotiation on revising SOFA, both sides agreed to include a provision on environmental protection in the SOFA's Agreed Minutes. However, it lacks actual content to ensure the environmental protection. The Korean government should include appropriate measures to restore the environment to its original state as well as the concrete clause to ensure the access to the US military base for the environmental investigation purpose.

Right to Education (Chapter 16, 17)

34. Public education of Korea is in very poor condition. Public educational expenditure as a percentage of GDP is 4.4%, the lowest among OECD countries in 1997. On the contrary, private educational expenditure is so high that the educational gap between the rich and the poor gets wider. According to the survey of the Ministry of Education in 1999, the sum of expenditure on private tutoring was estimated at 6,771 billion won(US \$5,209 million). it is very large sum of money considering that 1999 budget of the Ministry of Education was 17 trillion won(US\$13,706million) and total sum for public education was 28 trillion won(US\$21,537million). Considering expenditure on private tutoring usually goes unnoticed in Korea, total sum of expenditure on private education may be even more than estimated. The government should expand public education budget to normalize public education and lessen the households' heavy burden for private education.

35. Tuition fees for higher education are so high that it becomes a major obstacle for the poor to have access to equal opportunities for higher education. Private universities constituting 83% of the total higher educational institutions have increased tuitions three times as much during the past ten years. The problem lies in the fact that the management of universities depends on

tuition fees too heavily. As we indicate higher education finance by each sector, public finance and private finance is 22% and 78% respectively. **The government should increase investment on the secondary education and lessen the excessive tuition fees' burden.**

Right to Cultural Life (Chapter 18)

36. It is still very serious to limit the freedom of expression by the National Security Law(NSL). The "Red Hunt" has been in the court until this year, which is on the civilian massacre and was submitted to the 2nd Human Rights Film Festival in 1997. "Rice-Planting" of the artist Shin Hak-Chul is sentenced on a charge of violation of the NSL and is endangered to be discarded. **The Korean government should abolish or revise the NSL that has encroached on the freedom of expression.**

구두발표문

Oral Presentation

: Economic, Social and Cultural Rights in the Republic of Korea

23 April 2001

Madam Chairperson and the distinguished members of the committee, my name is Kyung-Shin Park. I am here with Joo-Young Lee of Sarangbang Group for Human Rights and Gi-Youn Kim of Lawyers for a Democratic Society. We represent seventeen human rights organizations from the Republic of Korea that wished to express their concerns about the status of economic, cultural, and social rights in the Republic of Korea.

Recurrence

<Picture 1: A bleeding strike worker beaten by the riot police> It is six years ago that Jin-Young Moon, also representing Korean civic organizations, began his presentation with a picture of a striking worker's bleeding head. It is painful that I have to come back here and start the presentation with the same hateful image: that of people coaxed into the promise of fairness under market economy only to be violently awakened to the reality of a hopelessly lopsided competition when they were fired for no cause. When they protested the unfair rules of competition, what you see in front of you is the result. Since the last presentation in 1995, the Committee made recommendations as to violent suppression of labor movement and our president received a Nobel Peace Prize. Yet the same thing has been repeated. He was a former worker of none other than Daewoo Motors, one of the largest carmakers in the world. This happened early this April when the workers fired from Daewoo Motors were trying to enter their union office under a court order that permitted their entry.

Corporate restructuring has put many out of work. The Korean government has played a central role in such matter. The main problem is that the government's economic policy has been anything but fair. The Korean government has not brought about fundamental changes to the rules and customs that have governed the activities of various actors in the market and adversely affected distribution of wealth, mass-producing the poor.

<Table 1: The trends of income differential> The unfairness of the government's restructuring drive is apparent. The income of the upper 10% increased by 4%, while that of the lower 20% decreased by 17.2%. Also, the Gini Coefficient has changed from 0.283 in 1997 to 0.316 in

1998, and 0.320 in 1999. <Table 2: Budget expenditures by function in 2000> Despite the worsening income differential, the government's defense budget is 1.5 times larger than the social development budget.

1. Right to Work

Now, one clear way of mass-producing the socially weak is by hoarding quality jobs for a limited number of people and pushing others completely out of workplace.

<Table 3: Annual number of the unemployed and the unemployment rate> The government itself has been at the forefront of aggravating the unemployment situation for a reason that most debt-ridden corporations were at the mercy of creditor-banks which were in turn heavily regulated and underwritten by the government. Therefore, the government is the responsible party for the worsening unemployment situation. The government must recognize that termination should be absolutely the last means of carrying out any corporate restructuring and should be done accompanied by a comprehensive job retention program. For example, the Daewoo workers, shortly before being fired, had proposed to take pay cuts in return for keeping jobs only to be flatly rejected. This year, the unemployment rate is up to 5% again and this does not include many workers who stopped looking for work because the prospect for job is so dim.

2. Irregular workers

Another way of producing the socially weak is to give people bad jobs. Notice the increase in the number of irregular workers, the category that includes day laborers and temporary workers who work the same number of hours as regular workers. <Table 4: International Comparison of irregular employment rates> They now account for 52.2% of the total workforce. Compare to other countries. The figure does not even include those hired on yearly renewable contracts or those who are in essence employees but only classified as independent contractors by the employers. <Table 5: Comparison irregular worker's wage with regular worker's one> Notice the wage differentials between regular workers and irregular workers. In surveyed categories, irregular workers receive roughly one half what regular workers receive. This is when they work the same hours. And the situation is worsening. Regular workers received pay raise of 8% in 2000. In the same year, irregular workers received 2.5% pay cut.

The problem is that the government welcomes the increasing number of irregular workers as a sign of increasing flexibility in labor market. The government even takes pride in "the Act

relating Protection of Dispatched Workers", which in reality has eroded further the job stability of irregular workers hired on dispatch. Some of irregular workers are insurance commission agents, who are considered independent contractors by the Labor Standards Act. They are not protected by workers' compensation. When one of the female agents could not come to work for a month due to pregnancy, she was terminated immediately and the government did nothing about it. There were cases of irregular workers fired for attempting to join unions. <Table 6: Coverage rate of each social insurance program according to the employment type> Please compare the social insurance coverage rate between regular employees and irregular employees. Every day, people are fighting losing battles at workplaces. Under the current rules, no matter how hard they work, they are bound to join the never-ending rows at welfare offices.

3. Rights of Women

<Table 7: Irregular employment rates by sex> Note that a much higher proportion of female workers are irregular workers compared to male workers. As of April 2000, the share of women in irregular position is 70.5% out of the total women work force. Women workers in irregular positions suffer from the same long hours as those in regular positions, receiving only 63.1% of male workers payment and being discriminated in various benefits, leaves and social insurance. In the process of restructuring employment after the economic crisis, new forms of gender inequality have emerged, and the most typical form is the practice of 'firing women first'. At the National Agricultural Cooperative Federation, firing of women based on sexual discrimination was done frequently including firing of 691 married women out of 704 married couples through a restructuring program within the same workplace after the economic crisis in 1999. ILO requires 14 weeks of pregnancy leave while the Korean law provides for only 8. The Republic of Korea has about one million children in need of childcare but all workplace childcare facilities together can hold only five thousand. I do not know of any OECD country so thoroughly programmed to keep women from workplaces.

4. Rights of the handicapped

Note the unemployment rate six times higher among the handicapped than the non-handicapped. Remember that that unemployment rate is calculated using only those who can work, those who are able-bodied for the purpose of some gainful employment. <Table 8: Employment status of the handicapped in private sector> The government did make a superficial attempt to ensure equal opportunity for the handicapped by requiring large workplaces to set aside 2% of the position for the handicapped. However, the handicapped

occupy only 0.91% of jobs in private sectors and 1.23% in public sectors.

<Picture 2: A handicapped student at the bottom of a stairway> The pressure to weigh down the handicapped in competition is everywhere. You are looking at a college student at the bottom of a stairway that she needs to go up every morning to listen to her lecture. Ladies and Gentlemen of the Committee, the problem is that almost all the college campuses, the ivory towers of intellect do not fare better than her school, no matter how prestigious they are. In Korea, schools, whether private or public, are heavily regulated by the government, the real responsible party for the sorry state of affairs. The situation is closely modeled after by the private sector accommodations such as restaurants and theaters that wholly lack handicapped access. Although the Act to install accommodations in areas such as public facilities, public housing, transport, telecommunication and the workplace is in operation, the actual installation rate in these areas is only 74.4%. <Picture 3: A wheelchair lift of the subway station where the fall off occurred> On January 22nd, 2001, an elderly handicapped couple fell off a wheelchair lift at a subway station when the wires cut loose. The wife died, leaving the severely injured husband alone in the cruel world. This was after two similar accidents in past two years.

5. Rights of Migrant workers

Yet another way of mass-producing the socially weak is to import them from overseas. Every country needs surplus labor to keep the system going. Every country needs marginal labor in order to paying the right prices to its own workers for dirty, dangerous, and difficult jobs. Korea has imported many people into territory and turned them into the socially weak through the infamous Industrial Trainee Program, a two-year trainee visa. The Industrial Trainee Program is a systematic and legitimized way of recruiting marginal labor from less developed countries without entitling them to any basic labor rights.

<Table 9: The number of migrant workers in Korea by the status> As of August 2000, there were two hundred sixty thousand foreign workers. 29.6% of them are industrial trainees and 5.9% are lawfully working. The remaining 64.5%, mostly former industrial trainees are undocumented.

Let's focus on industrial trainees. The idea is that they are trainees, not workers. In reality, they do not receive much training. They give labor. But, because they are classified as trainees, all the laws protecting the workers apply them in much abridged form, not to mention, complete deprivation of the right to organize. As a result, for the same job, foreign workers receive only about 60% of the wages that Korean workers receive.

Migrant workers are hardly benefited from any basic social insurance such as health insurance and industrial accident insurance. Theoretically, the industrial accident insurance is also applied to undocumented workers, however, due to their illegal staying status their industrial accidents are usually concealed. The health insurance is not applied to them at all. The government may point out that the undocumented workers are also covered by minimum wage laws and industrial accident insurance. However, in order to benefit from the laws, the undocumented workers have to submit to the relevant authorities their status, which are under a duty to relay the information to the immigration services. In case of trainees, only small amount of industrial accident compensation is given because they are recognized as just a trainee, not a worker. Even though trainees are entitled to health insurance, the employers avoid contracting the health insurance. The Korean government should abolish the Industrial Trainee Program and fundamentally correct the policy of recruiting migrant workers.

Meanwhile, institutional and social discrimination against migrant workers in marriage and education of their children causes the destruction of family. The Korean government should ratify the 'International Convention for the Protection of Rights of All Migrant Workers and Members of their Family', and establish a social and legal system which genuinely ensures migrant workers enjoy economic, social and cultural life as Korean do.

6. Basic Labor Rights

Can the socially weak fight against the discriminatory actions that make them socially weak? Six years ago, the Committee pointed out that there was no justifiable cause for prohibition of the right to form unions by teachers and recommended to allow both teachers and civil servants the rights to form unions and strike. The government argues that civil servants are allowed to form 'workplace councils' and teachers' unions received legal recognition. However, public employee workplace councils are not unions in any sense. They are not allowed to bargain, and they are not allowed to strike. <Picture 4: Strike workers beaten by the riot police> When the workplace councils united to form a national association, it was branded illegal and is being repressed. Teachers' unions are tied behind their backs because, again, they cannot strike and their salaries and other terms and conditions of employment are not freed from direct government regulation and opened to free bargaining.

Workers in different categories are not allowed to form their own respective unions because of the ban on union pluralism, the evil specifically warned against by ILO. We are not arguing

against workers' right to designate an exclusive, common agent for them. By 'union pluralism', we mean that workers in all categories, not some, should be allowed to form their unions. Presently, under the pretext of exclusive representation, the government is not recognizing a union of, for instance, irregular workers where regular workers already formed their own union.

The government is active in keeping out the voices of the socially weak criticizing the uneven playing fields. <Picture 5: Strike workers beaten by the riot police> In December 2000, the members of the Korean Financial Industry Workers Union struck for seven days and gathered at a retreat center away from the place of business. The government called the gathering 'interference with business' and dispersed them by force. Three of seven union leaders were arrested then and are still detained. In this over-inclusive application of the 'interference with business' rule that management can rely on in bargaining with unions. One of high-level officials even proudly told reporters that he administered job cuts intentionally to induce the union into a strike, which the government can crack down and in the process arrest the union leaders. We already saw what the government meant by 'crack-down'. <Picture 6: Crack down on the trade union workers>

The government claims in its second periodic report the committee that it takes appropriate actions when unions violate the law. Let me remind you the members of the Committee that the person bleeding from the head we saw earlier was engaging in a legal action in every way, expressly permitted by a court order.

7. Right to Social Security

Koreans are known to mean well. There are so many laws that mean well. However, social right is not about good intention. It is about the result. Please peruse the government's reports to the Committee carefully. There is so much talk on which law was passed to protect what right. What is curiously lacking is the report on how much the law was enforced in resulting in what concrete benefits to the people. The government does not understand the essence of social right correctly.

One fifth of the population in Korea live in poverty. The Korean government, for having taken an active part in putting people in where they are, has a duty to provide a safety net for them. However, the level of protection is simply too low despite all the promises delivered by the government through an array of legislative initiatives.

The Korean government is taking pride in the new National Basic Livelihood Security Act which was supposed to guarantee minimum living expenses to all regardless of the earning potential of the beneficiaries. However, it is under this new system that a handicapped person committed suicide by swallowing pesticide when his monthly benefits a little less than \$200 was abruptly cut to about \$50. The reason was that his son, a 17 year-old who quit school to make living working at a Chinese restaurant was making \$400 a week. The son was not even living with him at the time. Yet another person jumped off a building to his death when his benefits were cut by two thirds for the reason of his wife's income. The new law came with tightening of the eligibility criteria and with an insufficient budget, actually resulting in downward adjustment of the benefit amounts.

8. Working conditions and Industrial accidents

<Table 10: Rates of fatal injuries per 1000 persons: manufacturing> Industrial accident started to increase again from 1998. The number of injuries in 1999 was 55,405 (accident rate: 0.74%), which shows an increase of 3,891 injuries, or 7.55% from 51,514 (0.68%) in 1998. The number of death has increased from 2,212 (death rate: 2.92%) in 1998 to 2,291 (3.08%) in 1999. The situation got worse in 2000. The actual reason of this increase is that due to related deregulation on the management of the security and health in workplace has been weakened and the inspection by authority also has been weakened since the economic crisis. This is also because workers had to put up with the more amount of work after massive layoff, which strengthened labor intensity, causing more injuries in the workplace. The Korean government should recognize the responsibility for worker's safety and health and strengthen its role to inspect and regulate safety and health management in workplace.

9. Right to an Adequate Standard of Living

<Picture 7& 8: houses to be forcibly evicted > There is no legal protection from eviction such as rental housing or movement subsidy for tenants evicted by private developments. Protections have been given only to the limited people evicted by public development projects or redevelopment projects, even in the case of which, temporary accommodations or housing loans are available to landowners but not to tenants.

<Picture 9&10&11: shacks, vinyl-house village> 25.6% of tenants spend more than 30% of total household expenditure on housing. The number of homeless was over five thousand in 2000. Many people live in "vinyl-house" without appropriate facilities. On 4 March 2001, ten

family members of a household died in a fire in a "vinyl-house village" in Seoul.

10. Right to Education

<Table 11: Educational Expenditure as a percentage of GDP, by source of funds> The gap between the rich and the poor gets even wider as public education, the great equalizer between the rich and the poor, is in shambles.

Public educational expenditure as a percentage of GDP is 4.4%, the lowest among OECD countries in 1997. The proportion of private educational expenditure is very high. The sum of expenditure on private tutoring was about one half of the 1999 budget of the Ministry of Education. Tuition fees for higher education are so high that this becomes a major obstacle for the poor to have access to equal opportunities. Private universities, 83% of all universities, on average have increased tuition three times during the past ten years.

Early education is critical for preschool children with handicap because it helps stimulate the development of physical, social and mental capacities of these children. Nevertheless, only 42.3% of preschool children with handicap were receiving early education. Also, due to the lack of schools for the handicapped children, preschool children with handicap are being trained in private early education institutions, causing the parents financial burden which leads to discord in these families.

11. Right to Health

With the coverage of Korean National Health Insurance systems, however, patients and their families are still heavily burdened by health care costs. Deductions amount to 70% of the total costs for outpatient care services and to 47% for inpatient care services. The health care for those below the poverty line imposes an equally burdensome cost on the beneficiaries. Moreover, the deductions are increased to 20% if the beneficiaries have an earning potential no matter how poor they are.

<Table 12: The trend in the total amount and the proportion of health care budget in the governmental budget> The health care budget in Korea is incredibly small. The share of health care budget was 0.35% of total government budget in 1995, but it has decreased from 0.36% in 1996 to 0.34% in 1997, to 0.30% in 1998 and to 0.28% in 1999. Therefore, the increase in the absolute amount that the government points out in response is actually non-responsive. In addition, the Korean health care system is disproportionately dependent on the profit-seeking

private sector. In 1998, private beds were 84.5% and 15.5% were public. The government should expand the public health care facilities and increase the budget allocation to health care from current 0.3% to 5%.

12. Rights of Children

The average monthly wage of the working child was 547,000 Korean Won(US\$420), only 30% of the average wage of whole workers. Moreover, 48% of stores under survey, the child was overworking above and beyond the daily legal maximum of 7 hours.

There is a sharp increase of children employed in merrymaking business and prostitution. Out of 8,033 female employees working in bars and such places, 48.1% are under 18. What is worse, the government's response is misdirected. Arrest warrants against males customers are 3.7 times more likely to be denied than arrest warrants in general. On the other hand, the government does not treat the children with care. In February 2000, two 16-year-old girls actually committed suicide after being prosecuted for prostitution.

In 2000, the number of children who were not able to have adequate meals at home reached 164,000. The Ministry of Education is providing these children with lunch in school. Nevertheless, these meals are not provided during the holidays and the number of children that are provided with dinner meals is only 22,589.

13. Rights of refugees

<Table 13: Asylum applications and refugee status determination> As of February 2001, there is only one person who was recognized as a refugee by the Korean government though 104 people applied for the refugee status. The stingy policy of the government concerning refugee recognition can be found in its imposition of too much burden of proof on asylum seekers and in unreasonable provisions on the time limit for refugee status application and appeal. Asylum seekers are not given any shelter or any assistance including means of living, education and medical services during the two or possible three years spent in waiting for the determination of the approving authorities.

15. Right to Cultural life

The government argues that there is no censorship. There may not be censorship but there is

clearly criminal prosecution of various artistic expressions under the National Security Law(NSL). The film "Red Hunt", submitted to the 1997 Human Rights Film Festival, has been debated on its criminal liability under NSL until this year. <Picture 12: Rice-Planting by Shin Hak-Chul> The artist Shin Hak-Chul was convicted of a NSL violation for his painting "Rice-Planting." The painting may be destroyed. The Korean government should abolish or revise the NSL that has encroached on the freedom of expression.

Madam Chairperson and the distinguished members of the committee, it has been made clear to us that the Republic of Korea does not take the Covenant seriously. Of course, the Covenant entered the public discourse since the country became the signatory to it, but it was not upon the government's initiative but upon the initiative of the organizations and individuals who saw hypocrisy in the difference between the realities and the promises. The government seems to take pride in the new proposal for National Human Rights Commission Bill about to be passed in a few days. This bill, among other things, is designed to empower a government entity to investigate and prosecute any act of discrimination against a person on the basis of several categories. However, the proposed National Human Rights Commission will only turn out to be a civil rights division under the Ministry of Justice, which is likely to be biased in favor of the government and will not have subpoena powers. Also, human rights organizations' proposal to include in the scope of investigation infringement of all rights covered by the Covenant was explicitly rejected by the government. However, we have learned that the government does take the Committee's comments seriously and does try to make improvements on those areas pointed out by the Committee. Please use your power to force the government to bring whatever modicum of change it can. Thank you.

List of Issues에 대한 정부답변서

IMPLEMENTATION OF THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Issues to be taken up in connection with the consideration of the second periodic report of the Republic of Korea concerning the rights covered by articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.23)

I . General Information

A. General legal framework within which human rights are protected

1. In light of the Committee's decision to give effect to its follow-up procedure in the framework of the consideration of reports, the Committee would appreciate information on the specific measures the ROK Government has taken to implement the recommendations contained in the concluding observations of the Committee (E/C.12/1995/3) with respect to the State party's initial report.

As described in detail in the second periodic report of the Republic of Korea, the Korean government has adopted a variety of measures to implement the recommendations contained in the concluding observations of the Committee (E/C.12/1995/3) with respect to its initial report.

First, the National Basic Livelihood Security Act for the protection of the low-income class was enacted in August 12, 1999, and entered into force on July 1, 2000. This recent enactment enabled the introduction of a comprehensive public assistance system which emphasizes state responsibility in protecting those people in absolute poverty. Priority is placed on securing the minimum living standard for the poor in need of government protection.

Secondly, to protect and promote the rights recognized under the Covenant, labor- and welfare-related laws and acts were either adopted, amended or supplemented in conformity with international standards.

For example, the Workmen's Accident Compensation Insurance expanded its scope of application from workplaces with less than five workers to all workplaces, and the Foreign Workers Protection System was introduced and enforced to protect the fundamental rights of foreign workers.

Next, the Sexual Equality Employment Act has been enforced since April, 1988 to improve working women's status and welfare through securing gender equality in employment, protecting maternity and fostering vocational abilities. The Special Commission of Women's Affairs, established in March 1998 and under the direct control of the President, upgraded to the Ministry of Gender Equality, a central government organization, in January 2001.

Last, if the National Human Rights Commission currently under consideration in the National Assembly is established and operates as planned, it will further contribute to improve the human rights situation in the Republic of Korea.

2. In its second periodic report, the State party indicates that it is planning to establish a National Human Rights Commission to better protect and promote human rights. Please inform the Committee of whether the aforementioned Commission has been established in accordance with the 1991 Paris Principles, its mandate and powers, and the concrete effect it has on the promotion and protection of human rights in general, and of economic, social and cultural rights in particular.

Since the Commission on Human Rights adopted a resolution in 1993 recommending that every state establish national human rights commissions, the Korean government has made substantial efforts to formulate a draft of the National Human Rights Commission Act that reflects public opinion to the broadest possible extent. The National Human Rights Commission Act, if enacted and enforced, will give birth to a National Human Rights Commission.

After releasing the first draft of the National Human Rights Commission Act in September 1998, the government assessed public opinion by holding ruling party- government joint consultations, public hearings and meetings with NGOs. The government revised the draft

and submitted it to the National Assembly in April 1999.

However, the deliberations and public hearings invited a broad and hot debate, in particular on how to secure the elements of effective functioning of the said Commission as stated in the 1991 Paris Principles. The government will continue to incorporate diverse public opinions to ensure the enactment of a broadly-supported National Human Rights Commission Act within this year and the establishment of an efficient National Human Rights Commission that is wholly independent of outside interference.

The draft Act which is currently being prepared and which will be submitted to the National Assembly in due time aims to enhance the independence of the National Human Rights Commission by eliminating any type of governmental interference such as on the Commission's personnel, budgets and mandates. The Commission's work consists of investigating and restoring fundamental civil rights that are unjustly violated by government officials and individuals alike. The National Human Rights Commission is to open an investigation on human rights violations by petition or by direct authority.

The various remedies will include suspension of the violations, apology by the accused to a victim, damage restoration and compensation, and necessary measures to prevent identical or similar human rights violations from recurring. The draft also offers a variety of systematic measures to assure the practical efficacy of investigations and the implementation of the Commission's decisions.

3. In its previous concluding observations, the Committee urged the State party to make sure that the status of the Covenant be superior to all national law. Please describe any changes or progress made in this respect.

Article 6 (1) of the Constitution of the Republic of Korea stipulates: treaties duly concluded and promulgated under the Constitution and generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea. It follows from the above provision that the Covenant has the same effect as a

domestic law.

In general, there are no conflicts between domestic laws and treaties, whether bilateral or multilateral, as these are signed and ratified after due consideration, both as a whole and article by article. If a conflict should arise, however, it is the official position of the government of the Republic of Korea that it is for the Supreme Court, which has final rights to the interpretation of law, to decide on the relation between the concerned domestic laws and treaties.

The Supreme Court will base its judgement on the general principles such as the principle of *lex posterior derogat priori* and the principle of *generalibus specialia derogant*.

B. Information and Publicity

4. Please describe the action taken by the State party to inform and sensitise the Korean society and competent authorities of the rights embodied in the Covenant.

The government has taken measures to make the rights embodied in the Covenant known to its competent authorities, public organizations and people. The measures taken by the government can be found in para. 6 of the second periodic report.

Among others, the government published various human rights instruments including treaties, declarations and charters, which were disseminated throughout schools, research institutes, universities, libraries, and governmental organs.

The government also hosted a joint "Subregional Workshop on Human Rights Education" in December 1999 with Office of the High Commissioner for Human Rights.

II. Issues Relating to the General Provisions of the Covenants (arts. 1 to 5)

Article 2: Non-discrimination

5. In its concluding observations regarding the Republic of Korea's initial report, the Committee urged the State party to meet the needs of the most vulnerable groups of society, including foreign workers. Please indicate what steps have been taken to protect foreign workers, the poor, the homeless, and the disabled.

The government has taken steps to protect the most vulnerable groups such as foreign workers, the poor, the homeless, and the disabled. First of all, the government enacted "the Guideline on the Protection of Foreign Workers" in October 1998, which brought the foreign workers under the scope of labor-related laws such as the Labor Standard Act, the Minimum Wage Act and the Industrial Safety and Health Act to foreign workers irrespective of possible Immigration Control Act violation. In addition, the government has expressed its willingness to protect the fundamental rights of the foreign workers by ratifying the Convention Concerning Discrimination in Respect of Employment and Occupation in December 1998.

In applying the Immigration Control Act to its violators, the Government has set and implemented the principle of "first remedy, then punishment," by which all remedies are administered for foreign workers before the violation is dealt with, to guarantee the effectiveness of measures to protect foreign workers. In addition, the "Safety Education Team for Foreign Workers," composed of industrial safety inspectors and officials of the Industrial Safety Corporation, has been in operation to prevent industrial accidents of foreign workers. From a humanitarian point of view, the government is in practice undocumented foreign workers' children access to primary education.

The government has introduced and enforced the Basic Welfare System for the protection and promotion of the fundamental rights of poor workers. It has also expanded the Legal Aid Programme to workers whose wages are under 1,500,000 won(US\$ 1,250) per month to enable them to benefit from the legal aid service for just a small administrative fee.

The government has a comprehensive welfare system to help the homeless. The first phase of the system focuses on meeting the basic needs of the homeless. There are more than 150 shelters nationwide, where free meals, medical aid and counselling services are provided. At the next stage, special facilities such as rehabilitation centers for the treatment of alcoholics and drug addicts are also available. The government encourages the social reintegration of the homeless by providing them with funding to start small business or employment opportunities in the public or private sector.

Measures taken to protect the disabled were described in Paras. 42-44 of the second periodic report of the Republic of Korea under the International Covenant on Economic, Social and Cultural Rights (ICESCR).

6. Please indicate the number and nationality of asylum-seekers who applied for refugee status during the last five years, and the number of accepted applications. Please indicate the measures taken to ensure that they enjoy economic, social and cultural rights without discrimination.

As of December 31, 2000, the total number of asylum-seekers who applied for refugee status amounts to 102. Applicants are composed of 26 Congolese, 21 Burmese, 18 Algerians, 10 Iranians, 5 Afghans, 4 Liberians, 4 Pakistanis, 3 Iraqis, and 32 other.

Every application for refugee status has been carefully reviewed by the Screening Committee for Refugee Recognition comprising of representatives from seven government ministries and the Korean Red Cross. The 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees and relevant domestic laws serve as guidelines in granting refugee status.

The Korean government recently granted refugee status to an Ethiopian applicant taking into consideration the likelihood of persecution pending his deportation to his home country. However, the majority of asylum-seekers were not granted refugee status since their motives for applying were strictly economic or immigration-related and thus were deemed inadequate.

For humanitarian reasons, the Korean government allows asylum-seekers to continue their stay in Korea for up to 6 months. During this period, they are exempt from penalty even though they are employed illegally, without work permits.

Article 3: Equality between men and women

7. Kindly describe the evolution of the status of women in Korean society in terms of work opportunities, wage equality, inheritance, domestic violence, education opportunities and other aspects of traditional discrimination described in the State party's initial report. The Committee would also like to know what specific steps have been taken to redress the imbalances in the status of women in Korean society.

The government has been making significant efforts to realize the ideals of gender equality in terms of various aspects of discrimination, modern or traditional. The improvements in the status of women in Korean society was addressed in paras. 22-45 of the country's second report under the International Covenant on Civil and Political Rights (ICCPR), as well as parts of the second periodic report under the International Covenant on Economic, Social and Cultural Rights (ICESCR).

First of all, measures taken to promote women's work opportunities were described in paras. 33-36 of the country's second periodic report. Women's wages were an average 63.1% of men's in 1998, compared with 62.5% in 1997. The gender-based wage gap has thus been narrowed. The general trend on wage gaps can be found in Table 15 under para. 61 of the second periodic ICESCR report. Women's education was addressed in paras. 396-398 of the second periodic ICESCR report.

In order to actively protect the victims of domestic violence, the government enacted the Prevention of Domestic Violence and Victim Protection Act in December 1997. In accordance with the Act's provisions, both the central and local governments have devised legal

and institutional arrangements to prevent domestic violence, protect victims, and provide them with medical care and counseling. In addition, the government has been implementing the Overall Plan for Eradication of Domestic Violence since its establishment in 1998.

The Korean government has also adopted the following legislative measures to improve the gender discrimination law and system: amendment of the chapter "Domestic Relation and Inheritance" in the Civil Code; revision of the "Korean Nationality Act" to give women the right to choose their nationality; amendment of the "Establishment Act of a Military Academy" to enable the recruitment of female students; amendment of the gender-discriminating provisions on allowances for civil servants; revision of the "Equal Employment Act" to prohibit indirect discrimination and sexual harassment at the workplace; and enactment of the "Gender Discrimination Prevention and Relief Act" to monitor cases of gender discrimination in institutions and at the workplace.

The government has also sought to improve the representation of women in various circles of Korean society. For example, the target ratio of women's participation in governmental committees is to be set at 30% by the year 2002 (20.4% in 2000). The Political Party Law was also revised so as to contribute to the expansion of women's participation in the public sector and politics. The Female Public Employee Target System aims to ensure the recruitment of women into the public sector.

III. Issues Relating to Specific Provisions of the Covenant (arts. 6 to 15)

Article 6 : Right to Work

8. Please indicate whether the State party intends to ratify ILO Convention No. 2 and 29

Article 3 of ILO Convention No. 2 provides : The Members of the ILO which ratify this Convention and which have established unemployment insurance systems shall, upon terms agreed between the Members concerned, make arrangements whereby workers belonging to one Member and working in the territory of another shall be admitted to the same insurance benefit rates as those obtained by workers belonging to the latter.

According to the provisions of Employment Insurance Act, enacted in December 27, 1993 and amended in January 12, 2000, foreign illegal workers and foreign industrial trainees are not eligible for unemployment insurance under the Act. Thus, in the case of illegal workers and industrial trainees staying in Korea who correspond to the profile described in Article 3 of ILO Convention No. 2, Korean domestic law provisions may not be in conformity with those of Convention No. 2, thereby rendering ratification of Convention No. 2 difficult at present.

Convention No. 29, concerning the suppression of forced or compulsory labor in all its forms, stipulates in Article 2-(2)-(a) that work or service exacted in virtue of compulsory military service laws for work of a purely military character will not be considered "forced or compulsory labor."

The Korean government, in this regard, consulted the ILO whether certain provision of its Military Service Act are in conformity Article 2-(2)-(a) of the Convention. The Military Service Act of the Republic of Korea allows, in certain cases, drafted personnel to substitute military service with public service, depending on the applicants' qualifications or physical examination results. For instance, those with necessary academic qualifications, categorized as research or technical personnel, will be given the option of serving in the defense industry, while those who fail to meet physical requirements will serve as administrative personnel in government organs.

Therefore, these personnel duties perform which are not of a purely military character in the strictest sense, though they are still subject to military law, which means that they act as a stand-by military force, ready for immediate transfer as a combat force in case of a national emergencies. Personnel fulfilling their military obligations through this

service, are integrated into reserve forces and mobilized in times of war just like those who serve actively.

The incompatibility of domestic law provisions with those of Convention No. 29 and the unique security situations which demand that a conscription system exist, lead the government to believe the ratification of Convention No. 29 is not envisaged in the foreseeable future.

9. Please describe the effect of measures taken by the State party during the last two years to combat unemployment, especially among the vulnerable groups, such as women, migrant workers and the disabled.

The active use of various measures has caused the unemployment rate of 8.6%, which peaked in February 1999, to decrease to 3.6% as of the end of June 2000. The unemployment rate among women which was 5.1% in 1999, decreased to 3.3% in 2000. The unemployed in general were provided unemployment benefits as of April 1999. The Act on the National Basic Livelihood Protection was also legislated in August 1999.

The government has taken measures concerning vulnerable groups such as women, migrant workers and the disabled. The second periodic report contains measures for women (paras. 38-41), the disabled (paras. 42-44), the elderly (paras 47-48), and for the low-income class (paras 47-48).

The government has provided more general measures to combat unemployment through providing vocational training tailored to industries' needs for the unemployed. Also Work-Net, an employment services information network, was established in April 1999 to provide comprehensive information on employment want-ads and job-offers, and arrangements and training.

10. Please indicate the employment rate of college graduates desegregated by gender.

The employment rate of college graduates by gender may be broken down into two categories: recent graduates entering the labor market, and the proportion of graduates out of the economically active population.

The following tables show the total number of recently-employed graduates, and the employment rate of recent college graduates by gender.

Table 1. Total number of recent graduates

	1995	1996	1997	1998	1999	2000
Total	387,696	410,871	447,354	478,590	511,984	542,196
Female	175,564	186,790	207,256	226,469	247,932	267,957
Male	212,132	224,081	240,098	252,121	264,052	274,239

Table 2. Total number of recent graduates who are employed

	1995	1996	1997	1998	1999	2000
Total	225,568	246,848	261,747	244,724	271,210	322,568
Female	97,556	107,217	118,503	116,259	133,744	159,957
Male	128,012	139,631	143,244	128,465	137,466	162,611

Table 3. Employment rate of newly-employed graduates by gender

	1995	1996	1997	1998	1999	2000
Average (%)	58.2	60.1	58.5	51.1	53.0	59.5
Female (%)	55.6	57.4	57.2	51.3	53.9	59.7
Male (%)	60.3	62.3	59.7	51.0	52.1	59.3

- employment rate of new graduates = total number of graduates employed for the year ÷ total number of graduates for the year
- statistics in Table 1-3 were compiled by the Korea Educational Development Institute.

Table 4. below shows the employment rate among college graduates out of the total number of the economically active population by gender in 1999:

	(1)	(2)	(3)	(4)
Average	5,083,000	4,812,000	271,000	94.7%
Male	3,534,000	3,344,000	190,000	94.6%
Female	1,549,000	1,468,000	81,000	94.8%

- (1) total of the economically active population, (2) number of employed, (3) number of unemployed, (4) employment rate

The employment rate for female college graduates was 94.8% in 1999, 0.2% higher than the same rate for males. The higher rate is partly due to the disproportionately smaller number of economically active women graduates compared to that of men.

Table 5. Employment rate (%) of college graduates by gender

	1991	1992	1993	1994	1995	1996	1997	1998	1999
Male	96.7	97.0	96.2	96.7	97.5	97.5	97.3	94.4	94.6
Female	95.5	95.4	95.3	95.7	96.6	97.2	96.3	94.3	94.8
Total	96.4	96.6	96.0	96.5	97.3	97.4	97.0	94.3	94.7

11. What measures has the State party taken to combat discrimination against divorced women in the work place ?

While the domestic labor law does not regulate discrimination against divorced women explicitly, they, like all women, have been protected by the provisions on the prohibition of gender discrimination.

Article 7 : The Right to Just and Favourable Conditions of Work

12. Korea's restructuring of some aspects of its economy and industry during the last decade has negatively affected women's employment opportunities, in particular in the garment and shoe industries, which

primarily hired women. Women had to seek work from sub-contracting agencies at much lower pay, irregular hours and less or no fringe benefits. Please indicate how the State party has remedied or envisages to remedy this situation.

The last decade's restructuring has also affected the garment and shoe industries, which, in turn, has negatively affected women's employment opportunities since those labor-intensive industries primarily hired women.

To remedy the unstable employment of women, the government has issued instructions to workplace which primarily reduced the number of women workers or tried to do so. The government has also taken more active measures such as operating institutionalized centers to monitor any discrimination against women in terms of employment and to protect the rights of women laid-off during restructuring. The government has reinforced strengthened means to check on employment equality and increased the number of consultation offices for gender equality in employment.

In this respect, in accordance with provisions of the Act on Improvement of Working Life and Support for Employment Security, in effect since August 1997, the government provides financial support to companies which can keep their workers employed as they convert to a different type of business, and subsidies to companies that reemploy women workers who have been displaced from certain types of business.

General measures to support the expansion of women's employment opportunities are stated in paras. 40-41 of the country's second periodic report.

13. What laws and workplace programmes protecting gender equality in the labor market are being enacted and enforced in the State Party ? What steps are the party taking to combat sexual harassment in the workplace ?

To protect gender equality in the labor market, laws and workplace programmes have been enacted and enforced. Article 11 of the Constitution prohibits gender discrimination in employment and working conditions. The Labor Standards Act and the Basic Employment Policy Act provisions also prohibit gender discrimination in employment and working conditions. The Equal Employment Act contains detailed provisions on the prohibition of gender discrimination, violations which are penalized in all steps of employment whether it be recruitment, hiring, training, promotion, assignment or dismissal.

The following are examples of important articles prescribed in the major national laws enacted and enforced to secure gender equality in the labor market:

- Article 11 of the Constitution provides: all citizens shall be equal before the law, and there shall be no discrimination in political, economic, social or cultural life on the basis of sex, religion or social status.
- Article 32 of the Constitution provides: women shall not be subjected to unjust discrimination in employment, wages and working conditions. And Article 34 of the Constitution prescribes the state party's duty to endeavor to prevent gender discrimination.
- Article 19 of the Basic Employment Policy Act indicates: during recruitment or hiring, an employer shall not discriminate for reason of sex, religion, social status, birthplace or school, but assure equal opportunity to employees.
- Article 5 of the Labor Standards Act states: an employer shall not discriminate against workers based on their sex, or practice discrimination in employment conditions based on nationality, religion or social status.

The Equal Employment Act has also played an important role in securing gender equality in the labor market. Some examples are:

- Article 2-2 (Definition) : For the purpose of this Act, the term "discrimination" shall mean different conditions of employment or work or any other disadvantageous measures imposed or taken by the employer against workers on the basis of sex, marriage, status

in family, pregnancy, or any other reason. The Act stipulates that employers who apply personnel standards or conditions considered significantly difficult to meet by workers of one sex are regarded as practicing discrimination against those workers.

- Article 6 (Recruitment and Employment): (1) Employers shall provide women and men equal opportunities when recruiting. (2) Employers recruiting or hiring women shall not bind them to nor impose on them certain physical conditions such as appearance, height, weight, or other conditions such as being single, or any other condition irrelevant to job performance as specified in the Ordinance of the Ministry of Labor.
- Article 6-2 (Wages) : Employers shall pay equal wages for work of equal value in the same business.
- Article 7 (Training, Assignment and Promotion) : Employers shall not discriminate against women workers on the basis of marital status, pregnancy, child-delivery, training, assignment or promotion.
- Article 8 (Age Limit, Retirement and Dismissal) : Employers shall not discriminate against women with respect to retirement age and dismissal of workers.
- Article 9 (Vocational Guidance) : The employment security agency shall take necessary measures for vocational guidance such as offering material related to surveys, research, etc. on employment information, job offers, etc, so as to help working women choose a job according to their aptitude, ability, experience and skill, and facilitate their acquaintance with the job.

To combat sexual harassment at the workplace, the government has taken necessary measures based on the following provisions:

- Article 2-2 of the Equal Employment Act provides that the term "sexual harassment at work" refers to all unfavorable actions in employment or deterioration of the working environment through sexual humiliation of workers by employers, superiors or other workers, by taking advantage of their work positions, using sexually abusive language and behavior or making such language or behavior a condition for any kind of reward.
- Article 8-2 of the Equal Employment Act provides that to prevent

sexual harassment at work and create a safe working environment, employers shall take measures including providing educational programs to prevent sexual harassment at work, taking disciplinary actions against or implementing other equivalent measures against those who sexually harass other workers.

14. Why are companies with less than ten workers exempt from the applying the 1998 minimum wage, and how does this affect the workers' right to fair remuneration ?

Considering management and payment capabilities of small-sized businesses, effects which minimum wage has on low paid workers and administrative work ability of the businesses, the government has expanded the scope of minimum wage coverage in phases.

In 1998, minimum wage was not applied to workplaces with less than 10 employees. However, the Enforcement Decree of the Minimum Wage Act was revised in September 1999 to expand minimum wage coverage to workplaces with less than five employees. A legislative bill on the Minimum Wage Act to expand minimum wage coverage to all workplaces, was passed through the National Assembly on 9 October 2000, and enforced from 24 November 2000.

15. How many illegal foreign workers lived in Korea over the last three years ? What steps are being taken or envisaged by the State party to legalize their work in Korea ?

Table below shows the number of illegal foreign workers in Korea

	1997	1998	1999
Illegal Foreign Workers	148,048	102,489	119,848

According to Immigration Control Act provisions, illegal foreign

workers cannot obtain a work permit or any legal status while staying illegally in the country.

Nevertheless, the fundamental rights of foreign workers, whether legal or illegal, are protected on equal footing with those of domestic workers through government-applied domestic labor laws such as the Labor Standards Act, the Industrial Safety and Health Act, the Wage Claim Guarantee Act and the Minimum Wage Act. Also the departments of labor inspection and industrial safety inspection at regional labor offices have provided education on foreign workers' rights stated in labor laws.

16. Please provide updated statistical information on the number of occupational accidents and diseases since the last report or for the past five years desegregated by occupational, age and gender.

The tables below show Industrial Accidents by occupation (Table 1), by age (Table 2), and by gender (Table 3), and Occupational Diseases by age (Table 4), and by gender (Table 5).

Table 1. Industrial Accidents by Occupation

occupation	'95	'96	'97	'98	'99
Total	78,034	71,548	66,770	51,514	55,405
physical scientists and related technicians	1	18	17	3	7
architects, engineers and related technicians	1,216	959	895	650	711
aircraft and ship officers	20	61	55	31	59
life scientists and related technicians	2	3	19	3	1
medical, dental, veterinary and related workers	11	31	38	23	27
statisticians, mathematicians, systems analysts, etc	8	71	7	3	6
economists	0	3	0	0	1
accountants	0	61	42	0	1
jurists	1	23	13	11	18
teachers	0	7	18	14	12
workers in religion	0	5	2	1	0
authors, journalists and other writers	1	7	26	11	7
sculptors, painters, photographers and others	1	14	13	4	8
composers and performing artists	2	4	9	8	6
athletes, sportsmen and other related workers	2	3	9	1	1
professional, technician and other related workers	2	14	14	6	15
legislative officials and government administrators	0	2	0	1	1
managers	622	811	1,292	815	966
clerical supervisors	55	141	104	122	101
government executive officials	1	12	0	0	1
stenographers, typists and card-punching operators	2	12	3	1	1
bookkeepers, cashiers and related workers	18	30	25	22	43
computing machine operators	7	3	3	0	2
transport and communications supervisors	31	27	37	14	27
transport conductors	0	5	36	0	2
mail distribution clerks	8	25	21	1	8

occupation	'95	'96	'97	'98	'99
telephone and telegraph operators	102	173	59	13	1
clerical related workers not elsewhere classified	435	688	700	787	1,006
managers : wholesale and retail trade	2	6	21	30	45
working proprietors (wholesale and retail trade)	4	12	27	0	0
sales supervisors and purchasers	0	13	9	9	8
technical salesmen, commercial travellers, etc	97	106	96	67	30
insurance, real estate, securities and business services salesmen and auctioneers	4	5	13	3	2
salesmen, shop assistants and related workers	151	374	296	259	311
sales workers not elsewhere classified	11	629	516	13	13
managers (catering and lodging services)	6	13	13	57	103
working proprietors (catering and lodging services)	0	16	4	0	0
housekeeping and related service supervisors	0	114	82	1	2
cooks, waiters, bartenders and related workers	109	247	198	182	344
maids and related housekeeping services workers	1	10	12	7	1
building caretakers, cleaning personnel	390	682	780	641	768
launderers, dry-cleaners and pressers	1	5	4	24	3
hairdressers, barbers, beauticians	0	1	1	1	0
protective service workers	153	337	383	364	476
service workers not elsewhere classified	127	187	195	106	220
farm managers and supervisors	3	3	2	19	3
farmers	2	8	3	2	1
agriculture and animal husbandry workers	16	24	27	23	47
forestry workers	14	26	48	64	72
fishermen, hunters and related workers	27	17	20	31	19
production supervisors and general foremen	52	124	187	126	90
miners, quarrymen, well drillers and related workers	1,287	1,241	1,107	641	688
metal processors	175	479	564	220	168
wood preparation workers and paper makers	22	130	162	58	60

occupation	'95	'96	'97	'98	'99
chemical processors and related workers	43	86	212	26	18
spinners, weavers, knitters, dyers	102	393	225	107	106
tanners, fellmongers and pelt dressers	2	0	10	5	1
food and beverage processors	82	86	187	56	91
tobacco preparers and tobacco product makers	977	200	31	95	149
tailors, dressmakers, seamsters, upholsterers	64	35	55	13	28
shoemakers and leather goods makers	3	25	10	4	6
cabinetmakers and related woodworkers	1,117	177	173	88	51
stone cutters and carvers	4	52	42	14	11
blacksmiths, toolmakers and machine-tool operators	487	665	379	224	286
machinery fitters, machine assemblers and precision instrument makers (except electrical)	3,099	1,433	1,012	1,186	929
electrical and electronics workers	502	1,288	1,259	953	782
broadcasting station and sound equipment operators, and cinema projectionists	3	15	18	15	8
plumbers, welders, sheet metal and structural metal preparers and erectors	759	1,496	1,221	697	618
jewellery and precious metal workers	0	8	9	0	0
glass formers, potters and related workers	66	74	52	31	34
rubber and plastics product makers	7	59	94	33	123
paper and paper board products makers	0	119	123	8	16
printers and related workers	59	151	121	60	98
painters	145	365	265	135	155
production and related workers	12,836	10,389	10,467	8,185	9,153
bricklayers, carpenters and construction workers	5,543	6,469	7,059	4,632	3,307
stationary engine and related equipment operators	8	32	29	9	10
material-handling and related equipment operators, dockers and freight handlers	1,017	1,180	958	643	638
transport equipment operators	32,169	19,736	16,811	2,338	1,858
labourers not elsewhere classified	13,738	18,993	17,407	17,857	22,918
workers reporting unidentifiable or inadequately described occupations				7,558	7,326
workers not reporting any occupation			314	1,049	171

Table 2. Industrial Accidents by Age

age	1995	1996	1997	1998	1999
Total	78,034	71,548	66,770	51,514	55,405
Less than 18	196	107	228	144	193
18 - 24	6,750	5,452	5,870	4,166	5,075
25 - 29	10,506	9,293	8,438	6,562	7,058
30 - 34	23,343	9,611	8,803	6,823	7,408
35 - 39	10,190	11,613	10,656	7,911	8,441
40 - 44	8,457	9,661	8,896	7,245	8,138
45 and over	18,592	25,811	23,879	18,663	19,092

Table 3. Industrial Accidents by Gender

gender	'95	'96	'97	'98	'99
Total	78,034	71,548	66,770	51,514	55,405
Male	69,492	63,815	59,818	45,917	48,660
Female	8,542	7,733	6,952	5,597	6,745

Table 4. Occupational diseases by Age

age	1995	1996	1997	1998	1999
Total	1,120	1,529	1,424	1,288	1,521
Less than 18	0	0	0	0	0
18 - 24	9	22	15	22	31
25 - 29	18	62	55	33	57
30 - 34	31	84	71	77	80
35 - 39	99	241	149	105	142
40 - 44	141	251	168	140	196
45 and over	822	869	966	911	1,015

Table 5. Occupational Diseases by Gender

Gender	1995	1996	1997	1998	1999
Total	1,120	1,529	1,424	1,288	1,521
Male	951	1,136	1,277	1,161	1,348
Female	169	393	147	127	173

Article 8 : Trade Union Rights

17. Please indicate whether the State Party intends to ratify ILO Conventions Nos. 87 and 98.

Convention No. 87 concerning the Freedom of Association and Protection of the Right to Organize provides workers and employees with the right to establish and join organizations of their own choosing without prior authorization, to draw up their organizations' constitutions and rules, and establish and join their federations and confederations. A few domestic law provisions, such as on the establishment of trade unions for public officials, do not comply with the Convention provisions, rendering ratification of Convention No. 87 difficult at the moment.

Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively addresses the protection of workers from anti-union discrimination and any act of interference by any other organization. While domestic laws do not conflict with the Convention provisions, the ROK, in compliance with ILO indications, cannot ratify Convention No. 98 until it has successfully ratified Convention No. 87.

18. Please explain the ban on public servants' and public and private school teachers' joining trade union, bargaining collectively and striking.

The government has made every effort to promote the rights of all workers in accordance with the provisions of the Constitution on three basic labor rights. However, the labor rights of public officials and teachers have been recognized within the limits permitted by separate laws and regulations in light of their status and the special nature of their work with regard to public interests.

The Public Officials Act recognizes three basic labor rights of public officials involved in manual work for railway, postal and national healthcare services. All other public officials labor right to unionize was agreed to be recognized in phases in the first session of the Tripartite Commission held in February 1998. Phase one was the agreement to establish and operate the Public Officials' Workplace Association (POWA). Trade unions can then be formed, based on experience accumulated through POWA operation and in taking public opinion into account.

Under the agreement, the Act on the Establishment and Operation of the POWA was enacted on 20 February 1998 and enforced from 1 January 1999. A total of 149 POWAs have been operating since 31 October 2000. The agreement aims to gradually allow public officials the rights to organize and bargain collectively, though it reserves the recognition of collective action rights at this stage.

In addition, the first session of the above-mentioned Tripartite Commission also produced an agreement on the enactment of the Act on the Establishment and Operation of Trade Unions of Teachers. Under this enforced Act, teachers' rights to organize and bargain collectively are recognized, while their collective action rights are limited so as not to impede on citizens' right to learn. At present, two national teachers trade unions are operating.

19. Please provide information on the number of strikes that have taken place since the economic reforms and please indicate how these strikes have been handled by the State party.

There were 129 strikes in the country in 1998, 198 in 1999, and 250 in 2000.

The government has been encouraging the parties concerned to settle industrial disputes in a voluntary and peaceful way observing related regulations. The government has also taken preventive measure, such as anticipating potential reasons for dispute and guiding disputing parties into dialogue, which has contributed to keeping industrial disputes from developing into strikes. However, in cases where strikes entail violent acts and destructive activities, relevant government authorities have reacted sternly by strictly applying relevant laws and regulations, while remaining within necessary minimum limits to maintain social order.

20. Please provide information on the status and function of the Labour Relations Commission, the number of complaints received and the number of cases resolved by the arbitration of this Commission.

The Labor Relations Commission is an administrative authority, composed of representatives from labor, management and public interest groups. The Commission adjudicates and mediates cases, disputes and other matters that arise in labor-management relations. It is organized in three levels relating to the scope of authority and work: National, Regional, Special Labor Relations Commissions.

Article 2 (2) of the Labour Relations Commission Act stipulates that: the National and Regional Labor Relations Commissions shall be governed by the Minister of Labor and the Special Labor Relations Commission shall be attached to the Chief of the Central Administrative Authority. The Commission, regardless of its category, has discretion over functions and duties within its authority.

In 1999, a total of 6,324 complaints related with adjudication were received: There were 4,839 (76.5%) unfair dismissal cases; 1,224 (19.4%) unfair labor practice cases; and 261 (4.1%) other cases. Of these 6,324 cases, 5,410 were referred for adjudication to the Commission, which adjudicated 2,687 cases (990 of which employee's position were recognized with an order for remedies) and reconciled or cancelled 2,732 cases. In addition, the Commission successfully mediated 216 of 862 cases referred to it in 1999. In the same year,

the Commission was referred 222 cases for arbitration.

Article 9 : Right to Social Security

21. Please inform the Committee on the measures taken to implement the Committee's recommendation in its previous concluding observations on the need to expand Korea's social security system in the light of Korea's rapid economic growth.

The government has implemented aggressive social policies for 「productive welfare」, focused on: protecting the basic livelihood of the underprivileged so they can live in dignity, providing them with opportunities to participate in economic and social activities, and alleviating structural poverty.

The 「productive welfare」 policies fall under three categories: (1) securing a stable life for the people by strengthening the social insurance system through means such as medical insurance and national pension schemes; (2) alleviating absolute poverty by securing basic livelihood for all people living under the minimum standard of living; (3) fostering "a caring society" by expanding social programs for the underprivileged class which includes the elderly, disabled, and children.

To develop and implement the social insurance system, the government first adopted measures required for financial integration and reinforcement of the medical insurance scheme: In July 2000, the National Medical Insurance Corporation and Workers' Association joined forces to form one organization to stabilize the implementation of the national health insurance scheme. Equity was improved by applying the principle of contributing the same insurance payment for the same income. The medical insurance payment period was increased from 330 to 365 days per year to reduce the burden on long-term care patients. The government's financial support was increased for the stable and sound operation of the medical insurance scheme.

The government has also taken measures to expand and fix the national pension scheme: since July 2000 Special Elderly Pension has been paid to those over 60 who live in rural areas and have been

pension subscribers for more than five years. Employees of small businesses with less than five workers have been incorporated into the scheme since October 2000 to decrease their out-of-pocket payment. The government established a comprehensive social safety network by introducing a national livelihood security system: Livelihood allowance has been paid to the low-income class living under the minimum standard of living, regardless of age and ability to work. About 1,540,000 persons were paid 205,000 won(US\$ 166) per month in 2000, while 540,000 persons were paid 178,000 won(US\$ 148) per month in 1999.

The government has taken various measures to protect the basic livelihood of the underprivileged in society such as the elderly, the disabled, single-parent families, and children. These include:

- for the welfare of the elderly: expanding pension recipients (from 660,000 persons in 1999 to 715,000 in 2000), providing free meals for those in need, and reducing the age bracket of those benefiting from the decreased out-of-pocket insurance payments.
- for the welfare of the disabled: expanding the definition of disability to those with chronic renal and heart disorder, severe mental illness, and autism, enforcing the Promotion of Employment and Self-support of the Disabled Persons Act, implementing an order system for the government and public institutions to purchase products manufactured by disabled persons in order to promote their production activities, and raising funds to expand accommodation facilities for the disabled
- for child welfare; introducing a system of obligatory report on child abuse to prevent violence against children, providing free education of 5-year-old children of the low-income class, and paying the tuition of high-school students with low-income single parents.

22. Please explain what measures have been taken to provide industrial accident compensation for workers suffering from injuries, diseases or disabilities.

The Industrial Accident Compensation Insurance System has been in operation to compensate workers for work-related injuries, diseases or

disabilities due to neglect on behalf of employers. Insurance benefits such as medical care, disability, funeral expense assistance, survivors' family benefits and injury/disease compensation pension are provided to workers suffering from any injury or disease requiring more than four days' care, or from physical disabilities or deaths (in which case the worker's family would be compensated) caused by their duties.

Under the Industrial Accident Compensation Insurance System, the Government collects an insurance premium from employers on an annual basis in preparation for cases where employers cannot afford to pay workers or their families adequate compensation, while supporting part of the office work expenses for the Insurance System. The Korea Labor Welfare Corporation has overseen this System's operations so as to promote the efficiency and professionalism of insurance-related tasks.

Financial support covering living and school expenses has been provided to severely disabled workers who have lost the ability to work because of industrial accidents in an effort to help them build and stabilize their livelihood. Medical service facilities, self-help workshops, and rehabilitation programs have been in place to help injured workers recover, return to their normal lives and rehabilitate themselves.

Article 10 : Protection of the Family, Mothers and Children

23. Statistics compiled by the Health and Welfare Ministry of Korea showed that in 1998, 9,292 children under 18 were either placed into state care or deserted by parents grappling with family problems related to the economic crisis. Please explain what measures have been taken by the State party to prevent the exploitation of these children

The government has adopted appropriate measures to keep children from being exploited in any way by their absent or neglectful guardians who have not attended to their needs.

In 1992, a total of 9,292 children were protected, as the table below illustrates. Of this total, 5,112 were accommodated and sheltered in the following: 4,948 in children's facilities; 132 in facilities for disabled children; and 32 in facilities for unmarried women. Of the remaining 4,180, 2,379 children were cared for in foster homes; 1,283 were adopted; and 518 were provided with livelihood allowance as heads of household. With the country's improved economic situation, the number of children needing protection has decreased from 9,292 in 1999 to 7,693 in 2000.

[Table] Current status and contents of child protection for 1999

Total	Types of Protection							
	Accommodation at Facilities				Foster Homes			
	sub-total	healthy children	disabled children	unmarried	sub-total	foster homes	adopted	others
9,292	5,112	4,948	132	32	4,180	2,379	1,283	518

24. Please indicate what legal and administrative measures have been taken by the government to combat marital rape and other forms of violence against women.

The government has taken a variety of legislative and administrative measures to combat sexual and other forms of violence against women, though the country has no legal system, specific to the concept of "marital rape."

First of all, as a general legal basis, the Act on Punishment of Sexual Violence and Protection of Victims Thereof was enacted on 5 January, 1994 and enforced from 1 April 1994. In accordance with the relevant provisions of the Act, the Government has taken various administrative measures to prevent sexual violence against women, protect the victims of such violence, and punish violators. Among those measures are (1) operating 59 consultation centers on sexual violence, (2) operating 7 protection centers for victims of sexual violence, (3) training consultants on sexual violence, and (4) providing

sexual education for adolescents.

There is also an additional measure for the special purpose of protecting victims of domestic violence: the Act on Prevention of Domestic Violence and Protection of the Victims, enacted in December 31, 1997 and enforced from July 1, 1998. The government has taken measures in addition to besides punishing violators: (1) operating 116 consultation centers on domestic violence, (2) operating 27 protection centers for victims of domestic violence, and (3) providing training on preventive measures against domestic violence, and raising awareness of this.

Emergency response services are also provided for women in urgent need of protection, and 53 emergency shelters are operated.

25. What measures is the government taking to combat the problem of street children ?

Among measures to combat the problem of street children, the government has provided consultation and supervision to enable them to return home. However, street children without a home to return to are placed and cared for in government-operated facilities.

The street children accommodated at these facilities have been provided with the basic elements of food, shelter, and clothing. The government has provided them with opportunities to attend schools during their stay at the facilities. Those suffering from particular diseases have been provided with medical services and drug addicts have been provided with continuous treatment and consultation.

26. Please indicate the minimum working age for children and explain what government measures have been adopted to protect children from exploitation

According to Article 62 of the Labor Standards Act, persons under the age of 15 shall not be employed, unless they have a permit issued by the Minister of Labor. The employment permit may be issued on request specifying work type, provided this activity would not impede compulsory education. The permit can not be issued for an occupation detrimental to the applicant's health.

Article 63 of the Labor Standards Act stipulates: Those who are under 18 shall not be employed for any work detrimental to morality or health. Article 67 of the Act also provides: Working hours of a person aged between 15 and 18 shall not exceed seven hours per day and forty-two hours per week. If both parties have reached agreement, working hours may be extended up to an hour per day, or six hours per week.

According to the Enforcement Decree of the Labor Standards Act, the Minister of Labor reserves the right to cancel employment permits that have been acquired under false pretense, and order the employer to terminate employment of any person under 15 engaged in harmful or dangerous working activities.

In addition, to prevent arbitrary labor contracts lacking the consent of minors, Article 65 (1) of the Labor Standards Act provides that neither parent nor guardian shall enter into a labor contract on behalf of a minor. According to Article 65 (2) of the Act, a parent and guardian of a minor or the Minister of Labor may terminate a labor contract if it is disadvantageous to the minor.

The government ratified Convention No. 138 on Minimum Age in January 1999, and is pushing forward Convention No. 82 on Worst Forms of Child Labor unanimously adopted at the 87th International Labor Conference, for ratification within this year.

27. Please indicate whether the State party envisages ratifying the Optional Protocol to the Convention on the Rights of the Children on the sale of children, child prostitution and child pornography, and what measures it has taken to protect children from sexual exploitation.

The Korean government has signed the Optional Protocol to the Convention on the Rights of the Children on the sale of children, child prostitution and child pornography, and is considering its ratification in a favorable light. The government wants to participate in international collaborative efforts to eradicate these problems.

To protect children from sexual exploitation, the Korean government is enforcing severe punishment for crimes related to the sale or exploitation of children, in accordance with the Criminal Act, Child Welfare Act, and Sexual Protection for Adolescents Act.

In order to supplement legal punishment as stated in the recently enacted Sexual Protection for Adolescents Act, personal information on the sexual exploiters, buyers and sellers of children is publicly announced to disgrace their social status.

An emergency call service operates to receive any report on sexual violence and exploitation against children. If a crime occurs, it is reported to the Police Office, and officers are immediately mobilized to provide the needed medical treatment or protection.

28. According to the State Party's report, 40% of the population lived below the poverty line, despite Korea's rapid economic growth. Please explain the State Party's policies on the matter.

That "40% of the population lived below the poverty line" was a misstatement that should read "40% of the low-income class lived below the poverty line" instead. This is determined from research carried out every five years. Statistics were shown in paras. 192-193 of the ROK's second periodic report.

Protection of the low-income class has been implemented through the National Basic Livelihood Security Act enacted on August 12, 1999. This newly enacted Act is a public assistance system devised to strengthen the government's responsibility to protect the low-income

class by securing the minimum standard of living for those in absolute poverty who need government protection.

Basic livelihood security - livelihood, residential, educational, and medical aid - has been provided for eligible recipients regardless of age or ability to work. Comprehensive self-aid services such as job placement, vocational training, joint self-aid programs, and special loans have been provided for persons able to work. There are also supplementary conditional benefits and income tax breaks to attract people to work.

To secure a basic livelihood for the low-income class earning less than the minimum cost of living, the government has, first of all, provided living expenses for households with an income below the minimum cost of living, regardless of the age of beneficiaries and their ability to work. The number of eligible recipients increased from 540,000 persons in 1999 to 1,540,000 in 2000. An additional house maintenance benefit (17,000 won(US\$ 14) per month) has also been provided to stabilize low-income households.

29. In its previous concluding observations, the Committee recommended that the State Party take appropriate measures to guarantee more effectively the right to housing and, in particular, to ensure that no evictions are carried out without offers of alternative housing in accordance with the Committee's general comment No. 4. Please indicate whether the Committee's recommendation has been implemented. Furthermore, please provide detailed information on the number of the people who had been evicted as a result of the redevelopment process over the last five years and whether they have been adequately compensated.

Information on the efforts to ensure that no evictions are carried out without offers of alternative housing was provided in paras. 216-217 of the country's second periodic report. According to the provisions of Article 27 of the Urban Redevelopment Act, developers cannot execute a redevelopment project unless they either provide temporary accommodations for residents whose homes are to be demolished, within the redevelopment area concerned or at an appropriate facility

outside of the area, or unless they take necessary measures corresponding to the aforementioned temporary accommodation such as providing housing loans.

Furthermore, in accordance with the Special Regulation on Acquisition of Public Lots and Compensation for Losses, developers must provide these tenants with either temporary housing or, if tenants prefer, alternative rental payments.

The table below shows the number of those forcibly evicted due to housing redevelopment projects were 1995-1999 period and measures taken. A total of 64 areas redeveloped during that period. Redevelopment association members among the evicted are those who disagree with the implementation of redevelopment projects. All residents (tenants) were counted as having been forcibly evicted from their homes.

total number of the evicted		measures taken	
A	B	C	D
2,038	35,012	17,441	12,387

A : redevelopment association members B : residents
C : temporary housing D : alternative payments

30. Please provide information on the extent of homelessness in the Republic of Korea.

The homeless, defined as those who beg or roam the streets for an extensive period of time without having regular shelters, have been housed in social security facilities in accordance with the Livelihood Assistance Act, as stated in para. 213 of the country's second periodic report.

There are 150 temporary shelters nationwide operated by various religious groups and civil organizations to protect the homeless, and a government grant is provided for their food and clothing. Those needing long-term protection due to severe physical and mental disabilities are placed in 45 welfare facilities. The government is

taking measures to implement various rehabilitation and self-aid programs to enable the homeless to return to society as quickly as possible.

31. Please provide information on the functioning of the Residential Protection Target Groups referred to in paragraph 223 of the State party's second periodic report. What are the criteria for eligibility and how many Koreans profit from the programme ?

The Residential Protection Target Groups, once recognized under the now-obsolete Livelihood Protection Act, have since been incorporated into a comprehensive system to protect the low-income class: the National Basic Livelihood Security Act, enacted on August 12, 1999 and enforced as of July 1, 2000. The National Basic Livelihood Security Act established a public assistance system stressing the state's responsibility in protecting the population in absolute poverty. Focus is placed on securing the minimum standard of living for the poor.

This system provides livelihood, residential, educational, medical, funeral, and maternity aid to eligible recipients, regardless of age or ability to work, and provides comprehensive self-aid services including vocational training and special loans for those who are able to work. The criteria for eligibility is based on the minimum standard of living. Households with an income which falls below the minimum cost of living are selected as recipients. Most eligible recipients are the population in absolute poverty.

In accordance with Article 2 of the National Basic Livelihood Protection Act, the minimum cost of living for the year, defined as minimum cost needed to maintain a healthy and cultural life, varies depending on region, household type, income and expense level, living patterns, and inflation rate. This is determined based on an investigation carried out every five years. Households without a main breadwinner or heads of household unable to work are eligible for benefits if their evaluated individual means fall under the criteria determined by the Minister of Health and Welfare every year.

As of September 30, 2000, there were approximately 1,540,000 eligible

recipients under the National Basic Livelihood Security System. The minimum per capita standard of living based on a poverty line in the year 2000 is 320,000 won per month.

In determining the benefit amount, Article 7 of the National Basic Livelihood Security Act stipulates a principle of supplementary payment: the higher the income of recipients, the less benefits they receive. The table below shows the amount of benefits by member(s) per household.

(US\$ 1 = 1,200 won)

member(s) per household	one	two	three	four	five	six
benefits (thousand won)	320	540	740	930	1,060	1,200

Article 12 : Right to Health

32. Please indicate the evolution of State expenditure on public health care over the last five years.

Expenditure on Public Health Care by Ministry of Health and Welfare and its Affiliated Institutions

(US\$ 1000)

Year	1996	1997	1998	1999	2000
Health Promotion	114,773	102,257	106,813	138,833	140,414
Medical Policy	76,146	85,094	110,799	98,473	71,124
Food & Drugs	10,854	16,715	3,657	1,514	3,148
Med. Technology	40,885	54,027	74,070	63,320	66,372
Health Insurance	840,742	947,226	1,032,230	1,108,596	1,348,239
Medical Aid	303,446	422,736	486,338	716,662	913,503
Total	1,386,846	1,628,055	1,813,907	2,127,398	2,542,800

※ The expenditure of local governments, health institutes and other public health care ministries were not included.

33. Please provide information on the measures taken by the State party to eradicate the practice of identifying the sex of fetuses leading to unsafe abortions and to a high rate of maternal mortality.

The country's tradition of preferring a son to a daughter and the development of medical technology have been responsible for the practice of identifying the sex of fetuses in the country. Table one shows the number of artificial abortions per 1000 women and the ratio of women who have experienced artificial abortion. Table two shows gender ratio at birth.

[Table 1] Number and Ratio of Artificial Abortion

year	number of abortions ¹	ratio of abortions ²
1991	1.1	53%
1994	0.8	49%
1997	0.7	44%

- 1) average number of artificial abortions per 1,000 women
2) ratio of women who have experienced an artificial abortion(s)

[Table 2] Gender Ratio at Birth

year	1981	1985	1990	1995	1996	1997	1998	1999
ratio	107.2	109.5	116.5	113.2	111.6	108.2	110.1	109.6

※ number of male infants per 100 female infants

The practice of identifying the sex of fetuses in the country has led to unsafe abortions and to a high rate of maternal mortality. It has also had negative effects on the society such as an increase in involuntarily unmarried persons, sexual crimes, and threats to women's reproductive health. To root out this practice, the government has prohibited medical personnel, from identifying the sex of fetuses, strengthened its supervision, and inflicted a heavy penalty on violators.

The government has also taken measures to improve the legislative framework and social awareness against gender discrimination, including:

opening more jobs to women, providing health insurance benefits for wives' parents, revising the Sexual Equality Employment Act, revising the Family Act to secure the status of women as household heads and equal inherited property between men and women, eradicating gender discrimination through such as measures as enacting the Framework Act on Women's Development and enforcing gender equality through the acquisition of nationality.

34. Please explain the extent of medical assistance offered by the State party to refugees and asylum seekers, notably those housed in reception centers.

According to Article 8 of the Framework Act on Social Security, the application of the social security system for foreigners residing in Korea is based on the principle of reciprocity and determined by related laws and regulations. However, there is no provision concerning the application of the Medical Service Act to any foreigner, including refugees and asylum seekers. So far, foreigners' rights to social security benefits have not been accepted. It should be noted that the current absence of applicable regulations on this matter is closely related to the very limited number of eligible applicants.

As of yet, there are no reception centers for refugees and asylum seekers. The government, however, from a humanitarian point of view, will take appropriate measures to provide medical assistance to refugees and asylum seekers.

35. Please indicate what percentage of the State budget was earmarked for education during the past five years.

As described in paras. 369-371 of the ROK's second periodic report, the Korean government recognizes investment in education as essential for individual and national development, and therefore, emphasizes the need to secure the education budget. Refer to Table 68 of the second report for the scale of the education budget.

Education Budget (1996 - 2000)

(100 million won)
(US\$ 1=1,200 won)

Year	GDP	Government Budget (A)	Education Budget(B)	Ratio (B/A)
1996	4,184,790	629,327	159,284	25.3 %
1997	4,532,764	683,417	184,903	27.1 %
1998	4,443,665	807,629	177,894	22.0 %
1999	4,837,778	884,850	182,509	20.6 %
2000	5,224,800	949,120	201,103	21.2 %

36. While primary education is free, secondary and tertiary education fees are high. This explains, in part, the disparities between the educational levels of women and men. Please explain the persistence of the above education policies despite Korea's rapid economic growth.

As free secondary education requires the government to bear an enormous financial burden, which currently amounts to 4.1 trillion won (about US\$ 3.4 billion, US\$ 1=1,200 won) a year, the government has offered free secondary education step by step from middle school. At this stage, students of low-income families are provided subsidies, ensuring proper education for children of disadvantaged groups.

The government has made efforts to expand opportunities for higher education, although free tertiary education has not been provided due to budget restraints. There are also certain limitations in lowering tertiary education fees because most funds come from students' tuition fees.

However, relatively high education fees for higher education do not seem to contribute to the disparities between the educational levels of men and women. In fact, as of year 2000, the number of female

graduates of higher education(colleges, graduate schools) roughly equals that of male graduates.

Moreover, government subsidies for low income families are provided without taking the gender of recipient students into account. Statistics also show that the percentage of female students at the higher education level has increased from 36.9% in 1996 to 38.3% in 2000, while education fees have increased 30.6% over the same period.

37. Please explain why no human rights education is made available at primary, secondary and higher levels of education despite the 1993 Vienna Conference on Human Rights call on states to provide such education.

The government has fostered the respect for human rights in students' minds by including human rights education in its formal education curriculum. Human rights, an essential element of school education, are taught in all scopes of school activities including curricular, extracurricular and elective activities. Human rights are reflected in the curriculum's goals and objectives, and integrated into the teaching of other subjects such as social studies and ethics.

In addition, primary and secondary schools have tried to help students acknowledge the importance of human rights by fostering a culture of respect for human rights in schools by banning corporal punishment and guaranteeing students' procedural rights in the discipline process.

Human rights education at the higher levels is left to the discretion of the education institutions. The government has encouraged higher education institutions to incorporate human rights education into their curriculum without interfering in their academic autonomy.

38. To what extent does the Korean government exercise censorship on cultural and educational activities ?