(c) Not informing a suspect of the right to refuse to answer questions is a serious violation of interrogation procedure and in some cases the probative value of the confession obtained by interrogation of the suspect may be nullified (The Supreme Court, rendered on 23 June 1992, judgment 923 DO 682).

(d) In interrogating the accused, a public prosecutor shall not compel him to testify, induce his answers, or interrogate him coercively or insultingly (Article 128 of the Penal Procedure Rule).

78. Concerning Article 15 of the Convention, compelled confessions, which constitute an infringement of the right not to answer questions. The probative value of such confessions is therefore negated.

Issuance of Warrants, Interrogation of Suspects, and the Examination of the Legality of Arrest and Confinement

79. Powers of arrest or detention which restrict an individual's personal liberty may be abused and constitute a form of torture. Because of the gravity of the issue of detention, the Penal Procedure Code strictly limits the conditions for detention and mandates the issuance of a warrant for detention by a competent court judge in order to prohibit abuse of detention and secure human rights under judicial control (Articles 73, 200-2 and 201 of the Penal Procedure Code).

80. In an urgent case or one involving a flagrant offender, arrests may be made without a warrant, but the requirements are strictly stipulated. When a prosecutor needs to detain such an offender, he must apply for a detention warrant within 48 hours of the arrest, otherwise he must release the offender immediately according to the above Code (Articles 200-4 and 213-2 of the Penal Procedure Code). This provision is intended to keep the prosecutor from taking advantage of the arrest to extract

information or a confession from the suspect.

81. Urgent arrest is limited to cases in which there is valid reason to suspect that the crimes committed are punishable by penalty, penal servitude, life imprisonment, or three years or more; in which there is fear of the destruction of evidence or attempts to escape; and cases in which it is impossible to obtain a warrant from a judge of the competent district court because of urgencies. However, the prosecutor's immediate approval is required even in these cases (Article 200, Paragraph 3 of the Penal Procedure Code). An individual who is caught in the act of committing an offense or having just committed an offense; who is being pursued by law enforcement officers; who is carrying stolen goods or a weapon or other objects recognized as being used in connection with a crime; who has apparent evidence on his body or clothes; or one who attempts to flee when questioned, is regarded as a flagrant offender, and he may be arrested without a warrant (Article 211 of the above Code).

82. In accordance with the Constitution of the Republic of Korea, the Penal Procedure Code provides for the examination of the legality of confinement, originating from the writ of *habeas corpus* in common law. When a suspect, his defense counsel, lineal relative, etc., submits a petition to an appropriate court, the court shall hold an open trial to examine the legality of the confinement and the necessity of continued detention. If the Court finds that the confinement is illegal or unreasonable, the suspect's release shall be ordered by the Court's authority (Article 214-2 of the above Code). That is, if the detention is imposed as a form of torture, the Court may revoke the detention upon examination of the legality of the confinement. Even if the detention is legally legitimate, unreasonable acts such as torture committed during confinement may be revealed through the Court's inquiries. Thus, examination of the legality of confinement has great significance in this regard.

83. The Penal Procedure Code was amended in December 1995, allowing court judges to personally interrogate the suspect concerning the issuance of a detention warrant (enforced as of January 1997), and for exercising caution and prudence in cases of physical detention and prevention of illegal acts such as torture by investigative agencies (Article 201-2 of the above Code).

(a) The judge of a competent district Court who receives a request for a detention warrant for an arrested suspect, in accordance with the law, may question the suspect if he deems it necessary to examine the reasons for the detention (Paragraph 1 of the same Article).

(b) The judge of a competent district Court who receives a request for a detention warrant for a suspect not yet arrested shall issue a detention warrant for arrest if there are reasonable grounds of suspicion that the suspect committed the crimes, and if the judge deems it necessary to examine the reasons for the detention. After the suspect has been arrested and questioned, if there are valid reasons to detain him, the judge shall issue a warrant of detention for confinement (Paragraphs 2 and 6 of the same Article).

Inspection of Detention Centers

84. In the Republic of Korea, a public prosecutor, who has the same qualifications as a judge and whose status is guaranteed, takes charge of investigations, thereby ensuring fairness in the investigative process and the strengthening of human rights protection during investigations.

85. To prevent the infringement of human rights by such acts as physical detention and torture committed by investigative agencies, current laws order public and military prosecutors to regularly inspect detention places in police stations.

(a) The chief public prosecutor of the district public prosecutor's office or the chief of the branch office shall detail a public prosecutor, under the authority of said offices, to inspect places where suspects are detained in police bureaus or police stations at least once every month, in order to investigate whether or not there have been cases of illegal detention. The inspecting public prosecutor shall examine and question the detainee and shall examine documents relating to the detention (Article 198-2, Paragraph 1 of the Penal Procedure Code).

(b) If given valid reason to suspect that a prisoner has been detained through unlawful procedures, the public prosecutor shall order the prisoner's release or the immediate transfer of his case to the public prosecutor's office (Article 198-2, Paragraph 2 of the above Code). This is a provision to guarantee the effectiveness of a public prosecutor's inspection of detention places.

(c) Furthermore, public prosecutors shall direct and supervise judicial police officers and those who take charge of investigations to ensure their observance of the due process of law, in an effort to eradicate at all costs any act of cruelty during an investigation.

(d) Military prosecutors shall also inspect the detention places of military investigative agencies at least once every month, with a view towards eliminating illegal acts such as torture (Article 230 of the Martial Court Act).

86. On the other hand, both public and military prosecutors and judges may inspect prisons to ensure that the human rights of inmates are also guaranteed.

(a) **The Criminal Execution Act:** The Minister of Justice may perform a patrol examination of prisons, the Juvenile Reformatory and detention places, or order other officials in the Ministry of Justice to do so. Judges and public prosecutors may inspect prisons, the Juvenile Reformatory or detention places at any time (Article 5 of the Criminal Execution Act).

(b) **The Juvenile Reformatory Act:** The head of the Juvenile Reformatory may conduct interviews at any time with juveniles under protection to hear about their treatment or their personal affairs (Article 10 of the Juvenile Reformatory Act).

(c) **The Military Criminal Execution Act:** The General Chiefs of Staff in each Force may perform a patrol examination of prisons, or order other officials in the military to do so. Military judges and prosecutors in each Force may make inspection tours of prisons at any time (Article 3 of the Military Criminal Execution Act).

87. Furthermore, the Criminal Code prescribes that police officers must cooperate with public prosecutors in executing their duties of protecting human rights, and abide by the instructions of public prosecutors given in that regard, subjecting them to punishment in cases of violation. That is, a person who, while performing or assisting in police duties, interferes with the execution of the duties of a prosecutor concerning the safeguarding of human rights, or a person who does not follow the prosecutor's instructions concerning the vindication of human rights shall be punished by penal servitude not exceeding five years, or by suspension of qualifications for a period of time not exceeding ten years (Article 139 of the Criminal Code).

Quasi-Indictment, Appeal and Reappeal, and Constitutional Petitions

88. To ensure more severe punishment of those who commit torture, the Penal Procedure Code grants victims of torture the right to lodge complaints. Moreover, the Penal Procedure Code provides for quasi-indictment procedures by request for a ruling, apart from indictment procedures initiated by a public prosecutor (Article 260 to 265 of the Penal Procedure Code).

(a) In the Republic of Korea, the right of appeal is attributed to a public prosecutor, to ensure appropriate institution of the appeals process. In addition, to safeguard against possibilities that the exercise of prosecutorial power may be arbitrary or expedient, or affected by politics, quasi-indictment procedures are provided in relation to principal crimes.

(b) When a person lodges complaints or accusations of abuse by the authorities, including unlawful arrest and confinement, or of acts of violence or cruelty committed by investigating officials in the performance of duties (crimes such as those referred to in Articles 123 to 125 of the Criminal Code), and is notified of a public prosecutor's decision not to institute public prosecution, he/she may appeal to the competent High Court, according to the quasi-indictment procedures in trials, as delineated in Articles 260, 261, 262, 262-2, 263, 264, and 265 of the Penal Procedure Code.

(c) When the High Court rules that the case ought to be referred to the competent district court, public prosecution shall be deemed to have been instituted in the case, and a court-appointed advocate shall maintain the appeals process as a special prosecutor.

89. On the other hand, when a person who lodges complaints or accusations is dissatisfied with a military prosecutor's decision not to institute prosecution, he/she may appeal to the High Martial Court. Furthermore, contrary to the Penal Procedure Code, there are no provisions in the Martial Court Act restricting the scope of the crimes fit for application. Therefore, criminal punishment of those who commit acts of cruelty such as torture is more effectively guaranteed in the military (Articles 301 to 306 of the Martial Court Act).

90. A person who lodges complaints or accusations may appeal to the chief public prosecutor of the competent High Public Prosecutor's Office against a public prosecutor's decision not to institute a prosecution (Article 10, Paragraph 1 of the Public Prosecutor's Office Act), and may reappeal to the Prosecutor General if the initial appeal is rejected (Article 10, Paragraph 2 of the Act).

91. When a person who lodges complaints or accusations considers that his/her fundamental rights as guaranteed by the Constitution have been infringed upon due to a non-indictment decision by a public prosecutor, he/she may request to the Constitutional Court for an adjudgment on constitutional petition for that reason (Article 68 of the Constitutional Court Act).

Restrictions on Evidence

92. In order to ensure the due process of law during investigation, victims of torture are granted the right to lodge complaints. In such cases, the torturers are punished, and evidence obtained through torture shall not be used as proof of guilt. More detailed descriptions are found in the comments in relation to Articles 4, 13 and 15 of the Convention. In addition, with a view to preventing torture and other cruel, inhuman or humiliating treatment or punishment, statements on the prohibition of torture are included in the statutes and directives used for educating those who participate in investigations; all institutions and practices are under systematic review; and, taking

into account that the State shall be held liable for damages to torture victims, those who serve in state organs are obligated to supervise persons working under their charge, preventing illegal acts such as torture. More detailed descriptions are found in the comments in relation to Articles 10, 11 and 14 of the Convention.

Paragraph 2

93. The Constitution of the Republic of Korea and the international conventions to which the Republic of Korea accedes and promulgates comply with Article 2, Paragraph 2 of the Convention stipulating that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

94. The Constitution of the Republic of Korea states that the freedoms and rights of citizens may be restricted by law only when necessary "for national security, the maintenance of law and order or for public welfare" (Article 37, Paragraph 2 of the Constitution). However, "national security", "the maintenance of law and order" and "public welfare" are understood as norms included in fundamental rights in order to mitigate conflicts between certain rights and to guarantee all possible human rights. Strict and limited implementation of the National Security Law has been carried out, even when fundamental rights were to be limited on the basis of this concept. In addition, the Constitution provides that even when such restrictions are imposed, "no essential aspect of freedoms or rights shall be violated" (Article 37, Paragraph 2 of the Constitution), thus preventing abuse of the restriction by the State. Therefore, in the Republic of Korea, no reason can justify acts which violate the essential aspects of fundamental human rights.

95. According to Article 4 of the International Covenant on Civil and Political Rights, which the Republic of Korea has ratified and promulgated, even during officially declared public crises which threaten to destroy the nation, no one shall be subject to torture or cruel, inhuman and insulting treatment or punishment. In addition, according to the Geneva Convention of 12 August 1949 for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; the Geneva Convention of 12 August 1949 for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; the Geneva Convention of 12 August 1949 Relative to the Treatment of Prisoners of War; the Geneva Convention of 12 August 1949 Relative to the Protection of Civilian Persons in Time of War; and the Protocol Additional of 8 June 1977 to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts, significant violations of the conventions' provisions on armed conflict are considered to be war crimes, and torture is one of these violations. On the other hand, Article 6, Paragraph 1 of the Constitution of the Republic of Korea states that international covenants which are ratified and promulgated by the Republic of Korea have the same effects as domestic law. Therefore, even when extraordinary martial law is proclaimed to maintain public safety and order by the mobilization of the military force in time of war, armed conflict or similar national emergency; hostilities against enemies; and even when there is extreme disorder with significant difficulties existing in administrative and judicial functions, bodily injuries such as those inflicted by torture are absolutely prohibited under any albeit exceptional circumstances, and any violation shall be punished in wartime as well as in time of peace.

Paragraph 3

96. The relevant statutes and case laws of the Republic of Korea satisfy the conditions of Article 2, Paragraph 3 of the Convention, which provides that an order from a superior officer or a public authority may not be invoked as a justification of torture.

97. Every public official, in the performance of his duties, shall obey any order of his superior officer as an obligatory duty (Article 57 of the National Civil Service Act, Article 46 of the Local Civil Service Act). Public prosecutors, prosecution public officials and police officials are, in the performance of their duties, under instruction and supervision of their superiors, in accordance with the provisions of the Public Prosecutor's Office Act (Articles 7 and 46) and the National Police Agency Act (Article 24). However, as orders with respect to duties must be given according to due process and as they must not conflict with any laws, the execution of illegal orders given by superiors, e.g. orders of torture, cannot be regarded as one's obligatory duty. Therefore, if a public official commits an act of torture according to the orders of his superior, he is not exempted from penal responsibility.

98. The Supreme Court of the Republic of Korea also states: "As for a public official who performs his duties, his superior officer has no authority to order him to commit illegal acts such as crimes. Although it is true that a public official is under obligation to obey any legal order of his superior officer, if the order is clearly illegal or unlawful, such as an order to commit an act of cruelty to a person who has been summoned as a witness, it is no longer regarded as an obligatory duty to follow the order and therefore, he is not required to obey it." (The Supreme Court, rendered on 23 February 1988, judgment 87 DO 2358).

99. Military organizations, unlike civil society, require perfect unity to function in an orderly fashion. Nonetheless, orders from superior agencies or officers are expected to be obeyed only if they are legally legitimate. In cases in which illegal orders are given by superiors, such as instructions to commit acts of torture, the subordinates are under no obligation to follow them. They are not subject to penal punishment for mutiny. Rather, if persons execute such illegal orders, they are punished according to the relevant provisions of the Military Penal Law and the Criminal Code.

Article 3

100. The Constitution and relevant laws of the Republic of Korea correspond with Article 3 of the Convention, ensuring that a person will not be extradited to another State where he might be treated in a manner contrary to the Convention, thus preventing human rights violations.

101. As mentioned earlier, all citizens shall be assured of human worth and dignity, the right to pursue happiness, and protection from torture. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals (Article 10 of the Constitution). As for the fundamental human rights guaranteed by the Constitution, foreigners shall be treated equally as nationals (Article 11, Paragraph 1 of the Constitution). Considering the ideals and the spirit of the Constitution, the Government of the Republic of Korea shall not expel, return or extradite a person to another State where there are substantial grounds to suspect that he would be in danger of being subjected to torture.

102. Under any relevant domestic laws related directly or indirectly to the Convention, the Government of the Republic of Korea shall not extradite a person to another State where he is in danger of being subjected to torture.

    (a) The Extradition Act (5 August 1988, Law No. 4015) provides that a criminal may be extradited only if the punishment for an extraditable crime committed corresponds to capital punishment, imprisonment with or without hard labor for life or for more than one year under the laws of the Republic of Korea and the requesting State (Article 6 of the Extradition Act). However, the criminal shall not be extradited in a case where there is no valid reason to suspect that he committed an extraditable crime (unless he was convicted in the requesting State), or in a case where it is deemed that the criminal might be punished or suffer unfavorable consequences due to reasons of race, religion,

nationality or specified social organizations (Article 7, Subparagraphs 3 and 4 of the above Act).

(b) Moreover, the above Act provides that no criminal shall be extradited if the extraditable crime committed is of a political nature; or if it is deemed that an extradition request is made for the purpose of bringing to trial a separate crime of a political nature committed by the same criminal; or if the extradition is requested to execute a sentence of punishment for such crimes (Article 8 of the above Act). The above Act states that no criminal shall be extradited in a case where it is deemed inhuman to extradite him in light of the nature of the extraditable crime and the environment of the criminal (Article 9, Subparagraph 5 of the above Act), prohibiting extradition of cases in which acts of torture are foreseen.

(c) The Immigration Control Act provides that any foreigner who receives a deportation order for unlawful entry, etc. shall, in principle, be repatriated to the country of his nationality or citizenship. If such measures are impossible, he may be repatriated to another country of his choosing (Article 64, Paragraph 2 of the Immigration Control Act). On the other hand, it is provided that no refugee shall be repatriated to a country which, under Article 33, Paragraph 1 of the Refugee Agreement, prohibits deportation or repatriation (Article 64, Paragraph 3 of the above Act). Therefore, the Government of the Republic of Korea shall repatriate foreigners who receive deportation orders to countries to which they desire to be repatriated, according to the Immigration Control Act. For humanitarian reasons, foreigners shall not be repatriated in cases where there are substantial grounds to believe that persons are in danger of being subjected to torture in the country of his nationality.

(d) The International Judicial Cooperation on Criminal Cases Act (8 March 1991, Law No. 4343) provides that mutual cooperation is not required in cases where it is deemed that a criminal might be punished or subject to unfavorable penal consequences due to his race, nationality, sex, religion, or social status, or the fact that he is a member of a specified social organization, or by reason of his maintaining different political views, or where it is deemed that the crime under consideration for mutual cooperation is one of a political nature, or if the request for mutual cooperation is made for the purpose of an investigation or trial of another crime of a political nature committed by the same criminal (Article 6, Subparagraphs 2 and 3 of the International Judicial Cooperation on Criminal Cases Act). Therefore, this Act indirectly prevents the criminal from being deported, repatriated or transferred in a case where there are substantial grounds for believing that he is in danger of being subjected to torture in the requesting state.

103. Furthermore, because the Convention is an international treaty duly concluded and promulgated under the Constitution, it has the same effect as domestic laws. Therefore, Article 6 of the Convention prohibits the expulsion, return or extradition of a criminal to another State when there are substantial grounds for believing that he would be in danger of being subjected to torture. This Constitutional provision is applied in the Republic of Korea in the same capacity as domestic laws.

104. In addition, the Republic of Korea observes Article 3, Paragraph 2 of the Convention which provides that, for the purposes of determining whether there are substantial grounds for believing that a person would be in danger of being subjected to torture if that person was to be expelled, returned, or extradited to a relevant State, the competent authorities shall take into account all relevant considerations including, where applicable, the existence of a consistent pattern of gross, flagrant or mass violation of human rights in the State concerned.

Article 4

105. The Criminal Code of the Republic of Korea does not have a specific provision which directly deals with torture. However, the current Criminal Code and relevant special acts contain provisions which are sufficient to punish those who commit torture as defined in Article 1 of the Convention, fulfilling the requirements of Article 4, Paragraphs 1 and 2 of the Convention, and even designating acts of cruelty as punishable.

106. Current laws contain special provisions related to persons who engage in judicial, prosecutorial, police or other functions involving physical restraint.

(a) Article 125 of the Criminal Code provides that "a person who, in performing or assisting in activities concerning judgment, prosecution, police or other functions involving physical restraint, commits an act of violence or cruelty against a criminal suspect or against another person while performing his duties, shall be punished by penal servitude not exceeding five years, and suspension of qualifications not exceeding ten years." It is understood that an act of violence signifies the exercise of force against the human body, not necessarily exerted directly against a person, and that an act of cruelty includes all other acts, excluding acts of violence, which cause a person to suffer mentally and physically. Meanwhile, torture as defined in Article 1 of the Convention implies severe pain or suffering, both physical and/or mental, imposed by public officials, etc., to extract confessions or information relevant to a crime. Article 16 of the Convention stipulates provisions for cruel, inhuman or degrading treatment other than torture. Thus it may be interpreted that the concept of torture under the Convention is defined as more severe than concepts of an act of violence or cruelty under the Criminal Code of the Republic of Korea. Therefore, it may be said that, in a case in which a person who engages in activities concerning judgment, prosecution,

police or other functions involving physical restraint, commits torture, he shall be punished under Article 125 of the Criminal Code.

(b) The Criminal Code provides that if a person who performs or assists in activities concerning judgment, prosecution, police, or other functions involving physical restraint, arrest, or imprisonment of activities, another by abusing his official authority, he shall receive aggravated punishment of penal servitude not exceeding seven years and suspension of qualifications not exceeding ten years (Article 124, Paragraph 1 of the Criminal Code). In other words, if a person who engages in investigative activities arrests or imprisons another by abusing his official authority, he is subject to aggravated punishment for the higher degree of severity of the crimes he has committed.

(c) Furthermore, a person who commits such crimes as described in the preceding paragraphs, and causes injury, shall be punished by penal servitude for a minimum of one year. If his crime causes the death of another, he shall be punished by penal servitude of three years to life (Article 4-2 of the Act Concerning Aggravated Punishment Against Specified Crimes).

(d) On the other hand, if persons who perform activities involving physical restraint commit crimes for which the punishment is more severe than that provided for in Article 125 of the Criminal Code, such as rape or an indecent act by compulsion, as will be mentioned later, the act is regarded as a compound crime, and the punishment provided for the most severe crimes shall be imposed (Article 40 of the Criminal Code).

107. If a person, other than a public official as mentioned above, commits acts of torture as defined in Article 1 of the Convention, he shall be punished for the following crimes, under the relevant provisions elaborating upon the pattern of the crimes, such as an act of violence, intimidation, bodily injury, false arrest and illegal confinement. Specifically, if a public official commits a crime by taking advantage of his official authority, he shall be punished with an increase by one-half of the penalty specified for the crimes committed (Article 135 of the Criminal Code):

- Act of violence (Article 260, Paragraph 1 of the Criminal Code), penal servitude not exceeding two years.

- A person who commits an act of violence, thereby causing death or injury, shall receive the same punishment as for crimes of bodily injury, aggravated bodily injury, or death resulting from bodily injury, according to the results (Article 262 of the Criminal Code).

- Intimidation (Article 283, Paragraph 1 of the Criminal Code), penal servitude not exceeding three years.

- Obstructing a person, through force, from exercising his rights (Article 324 of the Criminal Code), penal servitude not exceeding five years-

- Bodily injury (Article 257, Paragraph 1 of the Criminal Code), penal servitude not exceeding seven years.

- Aggravated bodily injury (endangering a person's life or causing him to be crippled or incurably diseased) (Article 258 of the Criminal Code), penal servitude for a minimum of one year, but not exceeding ten years.

- Death resulting from injury (Article 259 of the Criminal Code), penal servitude for a minimum of three years.

- Cruelty to another under his protection or supervision (Article 273, Paragraph 1 of the Criminal Code), penal servitude not exceeding two years.

- Death or injury resulting from cruelty (Article 275 of the Criminal Code), more severe punishment by comparing penalties of abandonment, abandoning infants, and cruelty to a person under his protection or supervision, resulting in injury.

- False arrest or illegal confinement (Article 276, Paragraph 1 of the Criminal Code), penal servitude not exceeding five years.

- Aggravated false arrest or aggravated illegal confinement (Article 277 of the Criminal Code), penal servitude not exceeding seven years.

- Special false arrest or illegal confinement (Article 278 of the Criminal Code), punishment by increasing the penalty specified for the relevant crime by one-half.

- Sexual intercourse with a female under his protection or supervision through the abuse of occupational authority (Article 303 of the Criminal Code), penal servitude not exceeding five years.

- Rape (Article 297 of the Criminal Code), penal servitude for a minimum of three years.

- Indecent act by compulsion (Article 298 of the Criminal Code), penal servitude not exceeding ten years.

- Death or injury resulting from rape or an indecent act by compulsion (Article 301 of the Criminal Code), penal servitude for five years to life.

- Defamation (Article 307 of the Criminal Code), penal servitude not exceeding two years.

- Insult (Article 311 of the Criminal Code), penal servitude not exceeding one year.

- Bodily injury, an act of violence, false arrest, illegal confinement, or intimidation committed at night and/or by two or more persons (Article 2, Paragraph 2 of the Act Concerning the Punishment Against Acts of Violence and Other Crimes), punishment by increasing the penalty specified for the relevant crime by one-half.

- Bodily injury, an act of violence, false arrest, illegal confinement, or intimidation committed by using deadly weapons (Article 3 of the above Act), penal servitude for a minimum of three years.

108. Furthermore, the Criminal Code of the Republic of Korea provides that, in a case in which a public official abuses his authority and obstructs a person from exercising a right to which he is entitled, the official shall be punished by penal servitude not exceeding five years and suspension of qualifications not exceeding ten years for the act itself, although the crime committed was not an act of torture, violence or cruelty (Article 123 of the Criminal Code).

109. The Military Criminal Code provides that if a soldier treats a person cruelly or commits an act of cruelty through the abuse of his official authority, he shall be punished by penal servitude not exceeding five years (Article 62 of the Military Criminal Code). Furthermore, the National Security Planning Agency Act stipulates that a staff member of the National Security Planning Agency who, by abusing his official authority, illegally arrests or confines a person, or causes a person to perform a duty for which he is not responsible, shall be punished by penal servitude not exceeding seven years and suspension of qualifications not exceeding seven years (Article 19 of the National Security Planning Agency Act).

110. The Criminal Code of the Republic of Korea provides that when an intended crime is not completely carried out or if the intended results fail to occur, it shall be punishable as an attempted crime only if the punishment for the attempted crime is specifically provided for in each article concerned. The punishment for an attempted crime may be mitigated from the degree of punishment for a crime completely carried out (Article 25 and 29 of the Criminal Code). Regarding this statutory mitigation for criminal attempts, penal servitude for life may be reduced to limited penal servitude for a minimum of seven years. Limited penal servitude and a fine may be reduced by one-half of the term of the punishment (Article 55, Paragraph 1 of the Criminal Code).

(a) Under the current laws, the punishment for attempted criminal acts is provided for only in articles for unlawful arrest and unlawful confinement by public officials (Article 124, Paragraph 2 of the Criminal Code); bodily injury (Article 257, Paragraph 3 of the Criminal Code); false arrest and illegal confinement (Article 280 of the Criminal Code); intimidation (Article 286 of the Criminal Code); rape and indecent act by compulsion (Article 300 of the Criminal Code); acts of violence (Article 6 of the Act Concerning the Punishment Against Acts of Violence and Other Crimes); and abuse of official authority by staff members of the National Security Planning Agency

(Article 19, Paragraph 3 of the National Security Planning Agency Act). Therefore, in a case in which one of the crimes enumerated above also involved attempted torture, the criminal shall be punished by the penalties in the above provisions or by mitigated penalties.

(b) However, given that the current articles of the Criminal Code do not provide for punishment against attempted criminal and violent or cruel acts by investigative public officials (Article 125 of the Criminal Code), there has been some discussion as to whether or not measures need to be taken to amend the various Articles if the Republic of Korea accedes to the Convention. For an act to be declared torture as defined in the Convention, it must have caused severe pain or suffering, both mental and/or physical. In this regard, attempted torture under the Convention is understood as the initiation of an act of torture which does not cause severe pain or suffering. Also, as mentioned above in paragraph 106, Article 125 of the Criminal Code of the Republic of Korea punishes an act of violence or cruelty. Therefore, even if acts of investigative public officials constitute only attempted torture as defined in the Convention, their acts are still punishable under Article 125 of the Criminal Code of the Republic of Korea.

(c) Summarily, when a public official of the Republic of Korea commits an act constituting attempted torture as defined in the Convention, he shall be sentenced to punishment for committing, during the performance of his duties, cruel and/or violent acts which correspond with attempted bodily injury, attempted false arrest or illegal confinement, intimidation or attempts to intimidate, attempted rape or indecent act by compulsion, or an act of violence.

111. The Criminal Code of the Republic of Korea contains provisions for punishing co-principals or participants in a crime, according to the concreteness of their acts. Therefore, accomplices are punished as principal offenders of the said crime or given mitigated sentences.

(a) When two or more persons have jointly committed a crime, each shall be punished as a principal offender for the crime committed (Article 30 of the Criminal Code).

(b) Accessories to a crime committed by another person shall be punished for aiding and abetting, but their sentences shall be mitigated to less than that of the principals (Article 32 of the Criminal Code).

(c) If a person collaborates in the commission of a crime of which a person's status or position is an element, although he lacks such status, he shall be punished as a co-principal, an instigator, or an accessory, according to the concreteness of his act. However, if the severity of punishment varies with the accused person's status, the more severe punishment shall not be imposed on the person who lacks such status (Article 33 of the Criminal Code).

(d) A person who commits a crime by instigating or aiding and abetting another person who is under his control and supervision shall be punished with an increase by one-half of the maximum terms of punishment provided for the principal in a case of instigating a crime, and the full penalties shall be imposed on the principal in a case of aiding and abetting (Article 34 of the Criminal Code).

112. On the other hand, if an exercise of force by a person causes a degree of mental and physical suffering to another person, and if such an act is conducted in accordance with the law, or in pursuit of accepted business practices, or other actions which do not violate social mores, the act is not punishable (Article 20 of the Criminal Code).

(a) Disciplinary actions taken within reason by a principal toward students and those by the head of a juvenile reformatory, etc., are acts in accordance with the law and are not punishable. The latter part of Article 1, Paragraph 1 of the Convention provides that torture does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions. Therefore, the Criminal Code of the Republic of Korea does not contradict the Convention in this regard.

(b) However, such exercise of disciplinary force shall be made within necessary and acceptable limits. And if social mores are violated, the act of exerting force shall be punished. For example, if an officer hits a subordinate (e.g. private) on the shoulder three times with a rod in order to penalize the subordinate for misconduct and the use of profanity toward his battalion commander, the officer is beyond the limits of disciplinary punishment (The Supreme Court, rendered on 6 April 1971, judgment 71 DO 179). Furthermore, if a teacher, under the impression that a student used profane language directed at him, assaults the student without confirmed reason and causes injury, the act is considered an act of violence (The Supreme Court, rendered on 9 September 1980, judgment 80 DO 762).

113. Statistics gathered since 1990 on those who have been punished for violent or cruel acts committed by abusing their authority while engaged in investigations reveal that there were three such cases in 1990, two in 1991, one in 1992, three in 1993, and four in 1994. These are considered to be very low numbers (statistics for crimes other than violent or cruel acts committed through the abuse of authority were not available

because they were not classified into separate groups). Factors influencing these statistics may be that the principle of presumption of innocence applies to these crimes (cruel or violent acts committed through the abuse of authority) as they do to other crimes, and that such acts are often committed in covert or undetectable locations, making them difficult to prove. Most importantly, however, these statistics reveal changes in the perception of human rights held by those in the Republic of Korea who engage in investigative processes.

114. Furthermore, in a case in which a public official is involved in committing torture, the punishments stipulated above are accompanied by the following additional consequences:

(a) When a public official is involved in committing torture, an act which violates the relevant laws, the person entitled to appoint the official shall impose disciplinary actions distinct from the above punishments (Article 78, Paragraph 1 of the National Civil Service Act, Article 69 of the Local Civil Service Act). Specifically, when an act of cruelty is committed in military camps, the supervisor of the offender shall also be subjected to disciplinary action, taking into account the strict hierarchical nature of the military.

(b) If a public official has been disqualified, or his qualifications suspended pursuant to a judgment of the court, or if he has been sentenced to penal servitude or a punishment heavier than imprisonment without hard labor, including sentences with a stay period or deferred sentences, he shall be deprived of his status as a public official (Article 33 of the National Civil Service Act, Article 31 of the Local Civil Service Act).

(c) If the State or local Government has compensated individuals who suffered damage or injury inflicted by the unlawful action of a public official, such as torture, the State or local Government may demand reimbursement or

compensation from the public official. In other words, the public official shall be liable for reimbursement to the State or local Government (Article 2 of the National Compensation Act).

(d) In case the State is not held liable for damages or injuries caused by unlawful acts such as torture committed by a public official, the official must bear direct civil liability toward the victim(s).

115. If a public prosecutor decides not to indict a person suspected of committing torture, processes of appeal and reappeal, constitutional petition and request for ruling are available to the victims of torture. These measures are understood as guarantees of punishment against torture.

Article 5

116. The Criminal Code of the Republic of Korea is in accordance with Article 5, Paragraph 1 of the Convention which delineates the necessary measures for establishing jurisdiction on torture prevention.

117. The Criminal Code of the Republic of Korea adopts the territorial principle (Articles 2 and 4 of the Criminal Code), complemented by the nationality principle (Article 3 of the Criminal Code) and the protective principle (Articles 5 and 6 of the Criminal Code).

(a) Articles 2 and 4 of the Criminal Code are consistent with Article 5, Paragraph 1(a) of the Convention. The Criminal Code shall apply both to Korean nationals and to foreigners who commit crimes within the territory of the Republic of Korea (Article 2), which encompasses land, sea and air. Some are of the opinion that the words "who commit crimes" only specifies criminal conduct; however, the words are understood to include both the

criminal action and the results of the crime. The word "crimes" is suggested to include only the commission of crime but is acknowledged to include the commission and/or the results of the crime. The Criminal Code of the Republic of Korea also applies to foreigners who commit crimes on board a Korean vessel or Korean aircraft outside the territory of the Republic of Korea (Article 4 of the Criminal Code). This stipulation is the result of the application of the flag-state principle. The words "outside the territory of the Republic of Korea" include the high seas, territorial seas and air of foreign countries.

(b) Article 3 of the Criminal Code of the Republic of Korea corresponds to Article 5, Paragraph 1(b) of the Convention. The Criminal Code of the Republic of Korea also applies to all Korean nationals who commit crimes outside the territory of the Republic of Korea (Article 3 of the Criminal Code). It is the result of the application of the territorial principle complemented by the nationality principle. The words "Korean nationals" mean those who have the nationality of the Republic of Korea. The relevancy of the Criminal Code depends on whether or not they are nationals of the Republic of Korea at the time the crimes are committed.

(c) Articles 5 and 6 of the Criminal Code are consistent with Article 5, Paragraph 1(c) of the Convention. The Criminal Code applies to foreigners who commit crimes of insurrection or foreign aggression outside the territory of the Republic of Korea, and who commit crimes against the Republic of Korea or her nationals outside the territory of the Republic of Korea (Articles 5 and 6 of the Criminal Code).

118. The Criminal Code does not recognize any jurisdiction over crimes, including torture, other than those jurisdictions mentioned above. Therefore, the Republic of Korea does not have any jurisdiction over crimes such as torture committed abroad by foreigners against non-Korean nationals. It is understood that the Republic of Korea shall extradite criminals who commit torture, according to Article 8 of the Convention.

119. Therefore, it is construed that Article 5, Paragraph 3 of the Convention, which provides for the functioning of the Convention in the legal system of the Republic of Korea, does not have any special significance concerning the domestic laws of the Republic of Korea.

Article 6

Paragraph 1

120. The Penal Procedure Code and the Extradition Act of the Republic of Korea satisfy the requirements of Article 6, Paragraph 1 of the Convention which stipulates that a person alleged to have committed torture shall be taken into custody by the authorities of the country in which he is found, or have other legal measures taken to ensure his detainment.

121. As mentioned in relation to Article 5 of the Convention, the Criminal Code of the Republic of Korea shall apply both to Korean nationals and foreigners who commit crimes within the territory of the Republic of Korea. Furthermore, even in cases in which Korean nationals commit crimes outside the territory of the Republic of Korea or in which foreigners commit crimes against Korean nationals outside the territory of the Republic of Korea, provided that they are presently within the territory of the Republic of Korea, the Criminal Code of the Republic of Korea is also applicable to them, and it is possible to exercise jurisdiction. However, if a foreigner who has

committed crimes outside the territory of the Republic of Korea is found within the territory of the Republic of Korea, it is impossible to apply the Criminal Code of the Republic of Korea to him. In that case, he must be extradited according to the proper laws on the basis of the demand for his extradition by the State concerned. Moreover, although the Republic of Korea has jurisdiction over criminals, if the Government chooses not to exercise its jurisdictional authority, in principle, the criminals must be extradited to other States which have jurisdiction, in accordance with relevant laws (refer to Article 7, Paragraph 1 of the Convention).

122. In a case in which a person commits an act of torture, or participates in an act of committing torture, the subsequent punishment provided for by law is heavy. Therefore, in a case in which there is sufficient reason to suspect that a person has committed crimes, he shall be arrested if he refuses to comply with the request of the investigative agencies to appear before them or if there is reasonable grounds to suspect that he may resist compliance. He shall be detained if there is reasonable grounds to suspect that he may attempt to escape or destroy evidence (Articles 200-1 and 201 of the Penal Procedure Code).

(a) A warrant for arrest or detention shall be issued by the competent district court judge upon the request of the public prosecutor. Judicial police officers must request a warrant from the public prosecutor who, in turn, requests the warrant from the competent district court judge. The judge may then issue the warrant (Article 200-2, Paragraph 1 and Article 201, Paragraph 1 of the above Code).

(b) A warrant for arrest or detention shall be executed by a judicial police officer under the direction and authority of a public prosecutor. However, a warrant for arrest or detention issued against a suspect who is in a prison or detention house, shall be executed by a corrections officer under the direction and authority of a public prosecutor (Articles 200-5, 209, and Article 81,

Paragraph 1 and 3 of the above Code).

(c) In executing a warrant for arrest or detention, the warrant must be shown to the suspect, who shall promptly be taken to the designated place of custody (Article 200-5, 209, and Article 85, Paragraph 1 of the above Code).

(d) However, in special circumstances, as mentioned in paragraphs 80 and 81, exemptions from obtaining the mandatory warrant are admitted, such as a case of urgent arrest.

123. In a case in which a person has committed torture or participated in an act of torture and is to be extradited to a foreign country, he may be arrested, if it is necessary (Article 19 of the Extradition Act).

(a) The Minister of Justice shall, upon receiving documents related to an extradition request from the Minister of Foreign Affairs, send the documents to the director of the Seoul High Prosecutor's Office and order the director to have a public prosecutor under his jurisdiction request the Seoul High Court for a review of the permissibility of the extradition or of the impossibility of extraditing the criminal under the extradition treaty or the Extradition Act, or whether it is deemed reasonable not to extradite the criminal (Article 12, Paragraph 1 of the above Act).

(b) When the Minister of Justice issues an order to request an extradition review under Article 12, Paragraph 1 of the Extradition Act, the public prosecutor shall arrest the criminal on an extradition arrest warrant, except in a case in which the criminal has a fixed residence, and there is no suspicion that the criminal might attempt to escape (Article 19 of the above Act).

(c) The extradition arrest shall be carried out by a judicial police officer under the direction and authority of the public prosecutor, and the extradition arrest warrant shall be presented without fail to the criminal. The judicial police officer shall inform the criminal of the reason for his arrest and his entitled right to appoint a lawyer, and transfer the custody of the criminal to the public prosecutor without delay (Article 20, Paragraph 1 to 3 of the above Act).

(d) As for an arrest based on an extradition arrest warrant, the provisions of the Penal Procedure Code regarding procedural matters such as the right to interview are applicable (Article 20, Paragraph 4 of the above Act).

124. In the Republic of Korea, necessary legal measures may be taken to ensure the presence or detainment of a person suspected of committing acts of torture, such as arrangements for a search or ban against departure.

125. The Penal Procedure Code and The Extradition Act provide that a warrant of arrest, detention, or extradition shall include a term of validity and a footnote indicating that if the term of validity elapses, the warrant shall not be executed and shall be returned, restricting days of detention to the necessary minimum (Articles 200, 209 and 75 of the Penal Procedure Code and Article 19, Paragraph 3 of the Extradition Act). Also, in order to prevent unreasonable arrest, detention or extradition arrest, examinations of the legality of confinement or extradition arrest are provided for (Article 214-2 of the Penal Procedure Code, Article 22 of the Extradition Act).

126. If judicial police officers detain a suspect, the suspect shall be transferred to the public prosecutor within ten days. If a public prosecutor arrests a suspect or receives a suspect from a judicial police officer, he shall decide within ten days whether or not to institute a public prosecution. However, it is possible to extend the detention period once, for no longer than ten days (Articles 202, 203, 203-2, and 205 of the

Penal Procedure Code). To prevent a lengthy extradition arrest period, the Extradition Act also provides that if a criminal is arrested under the extradition warrant, the extradition review shall be requested within three days of the arrest (Article 13, Paragraph 2 of the Extradition Act). In this case, the Court shall make a decision on the review within two months from the date of detention (Article 14, Paragraph 2 of the above Act).

Paragraph 2

127. Provisions of the Panel Procedure Code and the Extradition Act of the Republic of Korea satisfy the conditions of Article 6, Paragraph 2 of the Convention which provides that any involved State Party or country shall make a preliminary inquiry into the facts to secure public prosecution or extradition of a suspect.

128. The public prosecutor and judicial police officers shall, when they ascertain that an offense has been committed, investigate the offender, the facts of the offense and the evidence, and necessary examinations may be made in order to carry out such investigations (Articles 195, 196, and 199 of the Penal Procedure Code). In addition, they may request for persons other than the suspect to give factual statements and to ask for expert evidence, interpretation or translation. Furthermore, the public prosecutor and judicial police officers may seize, search for or inspect evidence, in accordance with the warrant issued by a judge of the competent district court (Articles 215 and 221 of the Penal Procedure Code).

129. A Court which receives a request for an extradition review shall give the criminal and his lawyer an opportunity to state their opinions. The Court may also examine witnesses and order an appraisal, interpretation or translation (Articles 14, Paragraphs 5 and 6 of the Extradition Act). The public prosecutor may conduct search and seizure in accordance with the warrant issued by a judge of the Seoul High Court (Article 17, Paragraph 1 of the above Act). In a case in which the arrested suspect

is a foreigner, the Minister of Home Affairs may, with the aid of international criminal police organizations, conduct inquiries into any previous conviction(s) of the suspect, seek facts and certification of information needed to investigate the suspect, and request any relevant materials (Article 38 of the International Judicial Cooperation Criminal Cases Act).

Paragraph 3

130. In accordance with the Constitution, 'The Vienna Convention on Consular Relations", which the Republic of Korea acceded to, ratified and promulgated, has the same efficacy as the domestic laws of the Republic of Korea.

131. Therefore, consular officers shall be free to communicate with nationals of the sending State and shall have access to them. In a case in which a national of the sending State is arrested, imprisoned, in custody pending trial, or is detained in any other manner, the competent authorities of the receiving State shall immediately inform the consular post of the sending State, if the detainee so requests. Any communication addressed to the consular post by the detainee shall also be forwarded by the said authorities without delay. In addition, consular officers shall have the right to visit a national of the sending State who is imprisoned, in custody or in detention for the purpose of communicating and conversing with him, and arranging for his legal representation.

132. Guidelines for the Ministry of Justice of the Republic of Korea (BOP KOMI No. 01129-299), entitled "Directives for the Investigation of Crimes Committed by Foreigners", dated 30 April 1993, stipulate the following:

(a) When investigative agencies arrest or detain a foreigner, they shall immediately inform him that he is entitled to freely interview and communicate with consular or honorary consular officers of his home State stationed in the Republic of Korea, and that at his request, the consular officers or the honorary consular officers shall be immediately notified of his arrest or detention.

(b) In addition, if the person arrested or detained so requests, the investigative agencies shall send a communiqué containing the detainee's personal data and the particulars of his case, including his commission of a crime, the date and location of his arrest or detention, his current location, etc., to the head or honorary head of the consular post.

133. If the person in custody is stateless, in accordance with Article 6, Paragraph 3 of the Convention, which has the same effect as the Republic of Korea's domestic laws, the Republic of Korea shall assist him in communicating immediately with the representative of the State in which he principally resides.

134. Regarding matters which require caution in the investigation of foreigners, the Supreme Public Prosecutor's Office distributed a Manual for the Investigation of Foreigners (published on 31 August 1995) to each public prosecutor's office, thus promoting human rights during investigation or detention.

Paragraph 4

135. In accordance with Article 36 of the Vienna Convention on Consular Relations and Article 29 of the Extradition Act, when the Minister of Foreign Affairs receives from the Minister of Justice a take-over warrant, or is notified of the fact that the criminal is detained where he has been extradited and of the time period within which he is to be extradited, he shall notify the requesting State of the relevant details.

136. Furthermore, the Republic of Korea, pursuant to Article 6, Paragraph 4 of the Convention, shall immediately notify the States referred to in Article 5, Paragraph 1 of the Convention of the fact that a person is in custody and of the circumstances which warrant his detention; of the findings of the preliminary inquiry in compliance with Article 6, Paragraph 2 of the Convention; and of whether or not it intends to exercise jurisdiction.

Article 7

Paragraph 1

137. In the Republic of Korea, all cases filed and investigated are ultimately dealt with by a decision of a public prosecutor who presides over the investigation. Therefore, in a case in which a suspect in crimes such as torture is not to be extradited to the State which has jurisdiction, pursuant to Article 5 of the Convention, the case shall be transferred to a public prosecutor (Article 246 of the Penal Procedure Code).

Paragraph 2

138. The Penal Procedure Code of the Republic of Korea adopts the principle of discretionary indictment on the grounds that (1) it helps to realize concrete justice through the flexible implementation of criminal justice; (2) it offers criminals the opportunity for early rehabilitation, since instituting public prosecution may be reconsidered from the criminological point of view; (3) it accomplishes the objectives of general and special prevention; and (4) limiting the number of unnecessary public trials is economically advantageous.

139. The Penal Procedure Code provides that a public prosecutor may decide whether or not to institute a public prosecution, considering the age, character and conduct, intellect, environment of the offender, the offender's relation to the injured party, the

motive for the commission of the crime, the means and the result, and the circumstances following the commission of the crime (Article 247, Paragraph 1 of the Penal Procedure Code). However, the gravity of the crime must be taken into account above all else.

140. In the case of a court exercising criminal jurisdiction, it shall not distinguish between nationals of the Republic of Korea and foreigners, judging the offender in accordance with the same legal process.

141. In all criminal cases including torture, confirmation of facts must correlate with the evidence (Article 307 of the above Code); the probative value of evidence shall be left to the discretion of judges (Article 308 of the above Code); and judges shall decide according to the rules of evidence as prescribed by law (Articles 309 to 318-3 of the above Code).

Paragraph 3

142. The Constitution of the Republic of Korea guarantees fair treatment to all who undergo legal procedures involving crimes of torture. In other words, the provisions in Article 11, Paragraph 1 of the Constitution, which stipulate that "All citizens shall be equal before the law, and there shall be no discrimination against one's political, economic, social or cultural lifestyles and beliefs on account of sex, religion or social status", guarantee that even those who commit acts of torture are not discriminated against during investigation or in the trial procedure. Therefore, even if a person is suspected of committing acts of torture, he will not receive ill treatment, such as torture, while he is being investigated or tried.

143. As Article 12, Paragraph 1 of the Constitution of the Republic of Korea and Article 27, Paragraph 1 provide, respectively, that no citizens shall be arrested, detained, searched, seized, interrogated, punished, placed under preventive restrictions or

subject to involuntary labor except as provided by law, and that all citizens shall have the right to be tried in conformity with the law by judges qualified under the Constitution and the law, even a person suspected of committing an act of torture is guaranteed fair treatment under the law in all penal procedures.

144. The illegal arrest or detention of a person suspected of crimes of torture, violating the principle of the presumption of innocence as provided in Article 27, Paragraph 4 of the Constitution and Article 275-2 of the Penal Procedure Code and the warrant system as prescribed by Articles 200-2 and 201 of the Penal Procedure Code, shall become grounds for rescission of arrest and detention (Articles 200-5, 209 and 93 of the Penal Procedure Code); compel an examination of the legality of arrest or confinement (Article 214-2 of the above Code); and provide sufficient reason for quasi-appeal (Article 417 of the above Code). In addition, a person suspected of committing torture shall also be granted the right to make a statement (Article 286 of the above Code), the right to refuse to answer questions (Article 200, Paragraph 2 and Article 289 of the above Code), the right to apply for evidence (Article 294 of the above Code), and the right to request for preservation of evidence (Article 184 of the above Code).

145. The Penal Procedure Code provides that when a suspect of torture is arrested or detained, his defense counsel, or the person designated by the suspect if he does not have defense counsel, shall be informed of the basic facts and nature of the offense, the time and place of detention, the cause for detention, and the right to appoint defense counsel. The suspect may, insofar as laws permit, talk with any other persons, or deliver to or receive from them documents and other relevant materials and also receive medical treatment from a physician (Articles 200-5, 209, 87, and 89 of the Penal Procedure Code).

146. In addition, Article 3, Paragraph 5 of the Act concerning the Performance of Police Officials provides that a police official who has taken a person to the police station shall notify the person's family or relatives of his status, the location to which he has taken the person, and the objectives and reasons for taking the person, or grant the person the opportunity to have contact with his families without delay and inform the person of his right to prompt assistance of counsel. Paragraph 7 of the same Article provides that a person questioned on the street shall not be physically restrained, unless prescribed by laws regarding penal procedure, and shall not be coerced to answer questions against his will. It is evident that these provisions apply to persons suspected of acts of torture. Moreover, the Rules Concerning the Performance of Judicial Police Officials provide that a judicial police official shall inquire into the health of a suspect prior to detaining him, and that he shall report the case to a public prosecutor if there are grounds to believe that the detention may be a significant detriment to the health of the suspect. In addition, it is provided that in case counsel or a person to be appointed as counsel requests judicial police officials to receive documents or other relevant materials to be used for interviewing the detainee, or to arrange for medical treatment for the detainee from a physician, the officials shall deal with the request favorably, and they shall grant the appropriate treatment. Such appropriate treatment includes allowances or hygiene and medical care to the detained suspect (Articles 24, 27 through 29 of the Rules Concerning the Performance of Judicial Police Officials). These provisions also apply to suspects of torture crimes.

Article 8

Paragraph 1

147. The relevant laws of the Republic of Korea are consistent with Article 8 of the Convention in prescribing that offenses related to acts of torture be included as extraditable in any extradition treaty existing between States.