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UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review

Republic of Korea *

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Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its second session from 5 to 19 May 2008. The review of the Republic of Korea was held at the 6th meeting on 7 May 2008. The delegation of the Republic of Korea was headed by H.E. Mr. Kim Sung-hwan, Vice-Minister of Foreign Affairs and Trade of the Republic of Korea. For the composition of the delegation, composed of 26 members, see annex below. At its 10th meeting held on 9 May 2008, the Working Group adopted the present report on the Republic of Korea.
2. On 28 February 2008, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of the Republic of Korea: Peru, Egypt and Jordan.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of the Republic of Korea:
 - (a) A national report submitted in accordance with paragraph 15 (a) (A/HRC/WG.6/2/KOR/1);
 - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/2/KOR/2);
 - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/2/KOR/3).
4. A list of questions prepared in advance by Denmark, Latvia, the Netherlands, Sweden and the United Kingdom of Great Britain and Northern Ireland was transmitted to the Republic of Korea through the troika. These questions are available on the extranet of the UPR.

I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

A. Presentation by the State under review

5. At the 6th meeting, on 7 May 2008, H. E. Kim Sung-hwan, Vice-Minister of Foreign Affairs and Trade introduced the national report, reaffirming his country's strong commitment to promoting and protecting human rights at home and abroad. The Republic of Korea is sincerely fulfilling its voluntary pledges and commitments and underlined its policy to fully cooperate with the United Nations mechanisms and to play a constructive role. It achieved democracy, with the rule of law, pluralism and good governance achieved in a relatively short period of time, following almost 40 years of authoritarian rule. The Republic of Korea believes that its experience and lessons learned on the road to democracy and development deserve to be shared with other Member States. The delegation made reference to the legal framework, in particular the Constitution, noting that it enumerates the promotion and protection of a wide range of fundamental freedoms and human rights. Even though the Republic of Korea does not have a human rights act, a range of laws aim to realize and implement the spirit and substance of the Constitution. The Republic of Korea is a party to six core international human rights treaties and is currently undertaking domestic procedures for the ratification of the Convention on the Rights of Persons with Disabilities. When considering ratifying international human rights treaties, the Republic of Korea first conducts a review to consider whether domestic laws and practices comply with treaty obligations, which requires in some cases a somewhat longer period of review. The Republic of Korea also referred to the establishment, mandate, functions and role of the Human Rights Bureau in the Ministry of Justice in 2006, the National Human Rights Policy Council, the National Human Rights Commission of

Korea (NHRCK) and the Anti-Corruption and Civil Rights Commission (ACRC). It highlighted the National Action Plan (NAP) 2007-2011 for the Promotion and Protection of Human Rights, noting that the observations and recommendations by the United Nations treaty monitoring bodies were set as standards in the NAP. All stakeholders, including the NHRCK, civil society and the press can also submit their opinions on the ongoing NAP. The delegation noted that the recommendations and views of the NHRCK are taken into earnest account in the policy-making process.

6. The delegation also referred to specific human rights issues, including the right to liberty and security of persons, non-discrimination, women's rights and a multi-cultural society and indicated that it appreciates the concluding observations and recommendations of treaty bodies and continues to incorporate their opinions into the domestic legal system by amending relevant laws such as the Penal Procedure Code and the Criminal Administration Act. Other procedural measures are oriented towards the protection of the fundamental rights of detainees and crime suspects. On the issue of non-discrimination, the delegation noted that the Constitution clearly states that nobody shall be subject to discrimination. The Government is well aware of the importance of preventing ungrounded discrimination, whether direct or indirect. Reference was made to recent legislative developments, such as the draft Anti-Discrimination Act submitted to the National Assembly for deliberation. Regarding women's rights, the delegation indicated that the advancement of women's status and improvement of their rights remain a priority, referring to the creation of the Ministry of Gender Equality in 2001 and the integration of a gender perspective into all Government policies. The Republic of Korea has taken various measures, including strengthened legal measures to address the problem of violence against women. The delegation noted that many people of foreign origin are living in the Republic of Korea and that the Government has made efforts to build a society where their rights are fully respected. Reference was made to new legislation, such as the Basic Act on Treatment of Foreigners Residing in Korea, the Employment Permit System (EPS) introduced in 2004, as well as to the responsibilities of the Inter-Ministerial Committee on Policies Regarding Foreigners.

7. In responding to advance questions, the delegation indicated that the abolition of the death penalty should be considered in terms of its criminal justice function, social circumstances, and public opinion in a comprehensive way. It requires a national consensus building process along with further in-depth researches. On the issue of the rights of migrant workers, the delegation noted that, as is the case in many countries, foreigners who are not legally permitted to stay in the Republic of Korea should be sent back to their home country. However, they can seek remedies through the Ministry of Labour or civil law suits in case of delayed payment or compensation and are permitted to stay until all related procedures for remedies are taken. The delegation also reiterated their standing invitation to all special procedures, extended in March 2008 during the high-level segment of the seventh session of the Human Rights Council. Regarding consultations held with civil society during the process of preparing the national report, the delegation indicated that the Government sought to gather views of members of the National Assembly, professors, experts from international organizations and NGOs. A Consultation Meeting with NGOs was held on 18 March 2008. The delegation also indicated that the status of the NHRCK as an independent body from the Government remains intact under the present administration. The NHRCK was established in 2001 and has been accredited with "A" status by the International Coordinating Committee. Regarding the role of the Republic of Korea in sharing its experience of democratization and establishing a human rights framework, the delegation noted that it is actively participating in international initiatives to spread democracy, based on their conviction that democracy provides more favourable conditions for human rights. The delegation highlighted in particular the Community of Democracies, the Partnership for Democratic Governance, as well as the Alliance of Civilizations initiative. The Republic of Korea is endeavouring to expand its financial contribution to specialized funds for technical assistance in the field of human rights.

8. On the issue of practical measures undertaken to ensure that the Code of Criminal Procedure adopted in April 2007 is justly implemented during the arrest and interrogation process, the delegation indicated that the video-taping of interrogations is widely used and that the Government has conducted education programmes for law enforcement officials of the Prosecutor's Office on the amendments introduced in the new Code of Criminal Procedure. On the issue of domestic violence against women, the delegation indicated that the Government imposes more severe punishment on habitual offenders through the revised Special Act. Improved medical assistance is provided to victims, as part of the amended Act on the Prevention of Domestic Violence and Protection of Victims, and, in order to prevent recurrences of violence, various special treatment programmes for offenders are conducted.

B. Interactive dialogue and responses by the State under review

9. During the ensuing interactive dialogue, statements were made by 33 delegations, many of which congratulated the Republic of Korea for the comprehensive national report and its improved domestic human rights record in recent years. Numerous delegations also welcomed the creation of the NHRCK in 2001 with "A" status, the NAP, the readiness of the Republic of Korea to exchange opinions on human rights issues and its role within the international system, the de facto moratorium on the death penalty as well as the broad participation of civil society in preparing the national report.

10. Brazil noted the progress made on the status of implementation of the voluntary pledges and commitments to promote and protect human rights. Brazil encouraged the Government to work on the implementation and dissemination of observations of treaty bodies, recommended ratification of the Convention of the Rights of Persons with Disabilities without reservations, and asked what practical measures are being taken to guarantee the freedom of association and peaceful assembly to the fullest measure.

11. Indonesia requested further explanations on the main challenges and obstacles, if any, that were encountered in the implementation of the NAP. Indonesia valued the national efforts to promote and protect the rights of women and children, in line with CEDAW and CRC. While noting that discrimination against foreign workers is strictly prohibited, it recommended that efforts be strengthened to uphold the Act on Foreign Workers' Employment, in order to ensure the effective protection of foreign workers in the country.

12. Pakistan asked how the Republic of Korea ensures full and complete implementation of the Act on Protection for Non-regular Workers, whether the Basic Act on the Treatment of Foreigners successfully deals with discrimination against foreigners, and whether the EPS is used to discriminate against workers from countries which have not signed a MoU with the Republic of Korea. Pakistan acknowledged that some progress has been made to deal with social taboos regarding women's rights and enquired about constraints and challenges to further improve the human rights situation in the country.

13. The Democratic Peoples' Republic of Korea expressed concern at the continued application of the Security Law as a source of systemic violations of, in particular, freedom of expression and assembly. The "Ideology Conversion System" was once a cause of serious concern raised by the Special Rapporteur on freedom of expression. The people of the North have been defined as enemies and any contacts and communications with them are criminalized by the Security Law. While recalling that the Human Rights Committee, in its concluding observations of 1992, 1999 and 2006, expressed grave concern at the restrictions imposed on articles 9, 18 and 19 of the International Covenant on Civil and Political Rights (ICCPR) through the Security Law, the

Democratic Peoples' Republic of Korea recommended to the State to take concrete measures with a view to abolishing it. Furthermore, it expressed concern at the Security Surveillance Law, which restricts freedoms of former political prisoners and of prisoners of conscience and recommended that measures be adopted to address the situation. It also noted the concern expressed by the Committee against Torture in relation to allegations of torture in detention facilities and the improper definition of torture in the Criminal Code, and by the Committee on the Rights of the Child in relation to limitations on freedom of expression and assembly of students. It recommended the adoption of relevant measures for legislative and criminal justice improvements.

14. Turkey commended the Republic of Korea on its programmes to achieve gender equality and to promote children's rights, on the adoption of the Basic Act on the Treatment of Foreigners aimed at preventing discrimination against foreigners, and on a national plan to assist their integration into society. Turkey praised the Government for its awareness of challenges, such as the increasing elderly population and the traditional perception of human rights in society. Considering various NGO reports regarding detention centres, Turkey enquired about plans to improve the conditions in these facilities. Turkey also asked whether the Government plans to abolish the death penalty in the near future.

15. Algeria noted that migrant workers and irregular migrant workers continue to be challenged by discriminatory practices, including arbitrary detention and expulsion without due process, and that economic, social and cultural rights as well as the right to form trade unions are also challenged. Algeria encouraged the Republic of Korea to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and recommended that measures be taken in particular to protect and fulfil the rights of all women migrant workers and to ensure that they are not subjected to discriminatory practices. Furthermore, while noting that in 1999, the Human Rights Committee expressed its concern about the Act on Assemblies and Demonstrations, stating that it places restrictions on the right to assembly, Algeria asked what measures had been adopted to address this situation. It recommended that the guarantee provided for the freedom of association and assembly be enshrined into law.

16. Canada praised the Republic of Korea for amending its Civil Code in order to abolish the Family Head System, as recommended by the Human Rights Committee and CEDAW, acclaimed efforts to adopt recommendations made by Committee on the Elimination of Racial Discrimination and the Committee against Torture and recommended that the Republic of Korea enact a crime of torture as defined in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Evoking reports that law enforcement personnel often use excessive force when handling migrants and dealing with demonstrators, Canada expressed concern that detention centres are not managed in a manner that allows for the protection of their human rights and recommended that human rights training be provided to law enforcement personnel and that measures be taken to ensure that the human rights of migrants are protected at all times. Canada further recommended that all allegations of torture and ill-treatment by law enforcement officers be investigated. Canada also recommended that the Republic of Korea review its resident registration system to safeguard the right to privacy. Canada recommended that marital rape, child abuse and domestic violence be criminalized, perpetrators be prosecuted and sanctioned, human rights training be provided for officials dealing with instances of domestic violence and child abuse, and that child-sensitive procedures be adopted during criminal proceedings involving children. Evoking reports that migrant workers face persistent discriminatory treatment and abuse in the workplace, women migrant workers and their children being particularly vulnerable to trafficking and sexual exploitation, Canada recommended that the Republic of Korea place special emphasis on women and children when formulating policies to protect the rights of migrant workers.

17. France enquired whether the Republic of Korea envisaged formally abolishing the death penalty, or at least to adopt a *de jure* moratorium. It wished to hear more on measures envisaged to combat discrimination, including based on sexual orientation, particularly in the field of employment. France asked about measures envisaged to reform the statute of the NHRCK and to what extent these measures would contribute to strengthening the Commission in respect of the Paris Principles. Lastly, France recommended that the Republic of Korea sign the International Convention for the Protection of All Persons from Enforced Disappearance.

18. While expressing appreciation for the broad participation of the civil society in the preparation of the national report, Colombia asked the Republic of Korea to elaborate more on the on-line survey that facilitated the consultation process. Colombia also asked the Republic of Korea to provide more information on how the NHRCK mechanism to facilitate human rights education to private companies and the media.

19. Slovenia noted the recommendation by the Human Rights Committee that the Republic of Korea recognize the right of conscientious objectors to be exempted from military services. The Committee found a violation of article 18, paragraph 1, of ICCPR in two individual communications. Slovenia recommended that the Republic of Korea follow up on the Committee's recommendation to provide the authors of these communications with an effective remedy. It also recommended recognizing the right of conscientious objection by law, to decriminalize refusal of active military service and to remove any current prohibition from employment in government or public organizations. Furthermore, Slovenia noted the concern expressed by CEDAW at the persistence of patriarchal attitudes and deeply rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society, which are, as the Committee noted, a root cause of violence against women. It recommended that the Republic of Korea include a gender perspective into the UPR follow-up process in a systematic and continuous manner. While noting that the Republic of Korea took several actions to improve gender equality in employment and participation of women in the economy, Slovenia stressed that, according to several reports, sexual harassment continues to be relatively common. It noted the low prosecution rate in sexual assault cases, presumably due to the fact that sexual crime is categorised as an offence that is subjected to investigation only upon complaint from the victim. Slovenia asked what the Government is doing to change this trend, and recommended that this legal provision be reviewed, along with other relevant provisions, in order to enhance the protection of victims.

20. Belgium noted that the NHRCK has repeatedly demonstrated its independence from the Government since its creation in 2001. It recommended that the Government take steps towards abolishing the death penalty. Belgium highlighted the progress made in combating domestic violence but expressed concern about reports of prevalent illegal prostitution and sexual exploitation of women, two treaty bodies asserting in 2007 the persistence of trafficking in foreign women. While welcoming anti-AIDS policies, Belgium expressed regret about the persisting negative public attitudes vis-à-vis persons affected by AIDS. Belgium also enquired about policies in place to combat discrimination, and recommended, as CEDAW did, that a definition of discrimination against women in compliance with article 1 of the Convention be adopted and that the fight against trafficking in foreign women be intensified.

21. The Czech Republic expressed appreciation for all efforts the Republic of Korea has made to strengthen their human rights mechanisms, in particular for women. It enquired whether the Republic of Korea had conducted any analysis into the link between the high number of suicides and other sudden deaths in detention facilities, as noted by the Committee against Torture, and ill-treatment or acts of torture. It asked what measures have been adopted to better monitor detention facilities and to ensure thorough investigation of cases of ill-treatment or torture. The Czech

Republic recommended that the Republic of Korea further strengthen measures against torture and ill treatment, including accession to the Optional Protocol to CAT in the near future, and that it establish an effective national preventive mechanism. It enquired about legislative provisions criminalizing domestic violence and on instruments available to victims of such violence. It welcomed the recent draft anti-discrimination bill, and recommended that discrimination on the basis of sexual orientation be also included in the draft.

22. The Netherlands commended the Republic of Korea on its recently enacted anti-discrimination legislation and expressed hope that it will ensure equal treatment for vulnerable groups in society, such as women, children, gays and lesbians, disabled people and refugees. The Netherlands also acknowledged the adoption of legislation increasing penalties for domestic violence and asked whether similar legislation can be expected to combat sexual harassment in the workplace. The Netherlands finally recommended passing the special bill to abolish the death penalty into law in the new National Assembly that starts its term on 1 June 2008.

23. Malaysia noted the Government's projections according to which the Republic of Korea will have the highest ratio of population aged 65 or over around the year 2050, and welcomed its commitment to address this issue. Malaysia asked how, in addition to providing a social safety net to the elderly, the Government is addressing the concern expressed by CESCR in 2001 in relation to the hardship caused by family breakdown.

24. Azerbaijan welcomed the intention of the Republic of Korea to withdraw its reservations to Convention on the Elimination of All Forms of Discrimination against Women and ICCPR. It asked how non-discrimination is guaranteed, a concern also raised by the Committee on the Rights of the Child, given that the Constitution does not explicitly prohibit discrimination on specific grounds. Azerbaijan also wanted to know when and how the Government intends to modify the revised Code of Criminal Procedure to address the concern of the Human Rights Committee that persons detained do not enjoy an automatic right to be promptly brought before a judge to have the legitimacy of their detention determined.

25. China stated that the national report mentions one challenge relating to the marginalization suffered by some vulnerable groups due to economic and social reforms, and enquired about the effectiveness of the measures taken in this regard and the adoption of other measures, if any, to build the capacities of the vulnerable groups.

26. In response to concerns raised by various delegations on the issue of migrant workers, the delegation stated that the Government has set up various legal and systematic frameworks to abolish discrimination against foreign workers, in particular through the Act on Foreign Workers' Employment. The delegation referred to remedies for non-payment of retirement pensions and facilitation of entry and re-entry procedures. The Labour Relations Commissions operating within the Ministry of Labour receives such grievances. Various efforts have also been undertaken to provide vocational programme before the return of migrant workers to their countries.

27. On the question of the abolition of the death penalty, the Republic of Korea informed that an inter-ministerial consultation had been held to discuss the draft resolution tabled last November at the General Assembly on the moratorium to death penalty. However, this issue requires a consensus at the national level, and this will take time. On the application of the National Security Law, an issue raised by the international community, the Government of Korea reemphasized its caution and its vigilance to refrain from the arbitrary use and implementation of this law.

28. With regard to questions on the gender perspective in the UPR process, the delegation stressed the active and full participation of the Ministry of Gender and Equality in the preparation and follow-up process to the UPR. It referred to two amendments to the Special Act on Punishment of Domestic Violence in 2002 and the Act on the Prevention of Domestic Violence and Protection of Victims in 2004 that expand the role of prosecutors, authorizing them to issue temporary detention orders against perpetrators, and provides medical assistance to victims to the extent that the Government recovers medical fees in case the perpetrator lacks financial means.

29. On the question of freedom of association and peaceful assembly, the Republic of Korea reassured that relevant law is applied in the most prudent manner.

30. On the definition of torture the delegation recognized that there were no laws defining torture but there were several laws including the Penal Act that ban torture. The Republic of Korea stressed that improvements had been achieved on detention conditions. The NHRCK and the Human Rights Violation Reporter Center take action on these matters and the Government provides training to its own officials. The delegation stressed that suicide rates in detention centres are not higher than in the society as a whole and that efforts are made to further reduce death rates in correctional facilities, and noted that no death case of ill-treatment in correctional facilities had been reported since 2000.

31. With regard to anti-discrimination grounds, the delegation stressed that according to article 11 of the Constitution, there shall be no discrimination in political, economic, social or cultural life on account of sex, religion or social status. However, “sex, religion or social status” are just enumerative ones. Thus, discriminations based on other grounds stipulated in international human rights instruments are also prohibited under the Constitution.

32. The Republic of Korea did not view trafficking of foreign women as a large scale problem but the Government was nevertheless making every effort to prevent female migrants’ workers from being employed in sex industries or being trafficked. A certain type of sexual crime is subjected to investigation only upon complaint from the victim. But there are many circumstances, including cases of child victims under 13, where investigations are undertaken automatically.

33. Concerning the protection of non-regular workers a new law was promulgated on 1 July 2007. This law stipulates that an employer may hire fixed-term employees for a period not exceeding two years; fixed-term, part-time or dispatched workers are granted compensation and repair damages in case of undue discrimination, and an overall plan has also been put in place to strengthen their skills. Concerning the protection of foreign workers, there are the Act on Foreign Workers’ Employment to combat discrimination against foreign workers. In cases of non-payment of wages and retirement pay or other irregularities such as lack of security at the workplace, foreign workers are protected the same way as national workers. The Republic of Korea has built specific support centres for foreigners and provides them interpretation in seven languages, and trains foreign workers in terms of Korean language, habits and culture.

34. On improvements on equal opportunities, in order to promote women’s integration in the labour market, a number of efforts have been undertaken, including by providing subsidies for childbirth and childcare to improve work life balance. Training for reintegration is provided for women who have left the labour market. The principle of equal pay for equal value applies.

35. To prevent sexual harassment at the workplace, trainings are mandatory and sanctions are applied in cases of non-compliance.

36. The Philippines expressed appreciation for efforts to adopt a human rights based approach regarding the treatment of migrants and their families and encouraged ratification of ICRMW in a timely manner. It also asked about measures to promote understanding and respect for migrants within society, including undocumented migrants, and whether the media could play a significant role in this respect.

37. The United Kingdom of Great Britain and Northern Ireland welcomed the stance of the President of the Republic of Korea on human rights in inter-Korean relations and urged the Republic of Korea to play a still stronger role in the international protection of human rights. It encouraged the Republic of Korea to continue public and official awareness of human rights in order to ensure a fully inclusive society regardless of disability, gender and sexual orientation or national origin. The United Kingdom, while noting responses already provided by the State, joined other delegations in recommending the introduction and ratification of legislation to abolish the death penalty in the forthcoming term of the National Assembly. It asked information on the implementation of the Penal Code adopted in 2007, and hoped that the code would be fully and transparently implemented during the investigative process. It also enquired about any possible steps taken to reform the National Security Act. It recommended that this Act be brought in line with international standards regarding clarity of criminal law, and that active steps be taken to introduce alternatives to military services for conscientious objectors. It asked whether the Government is considering reviewing its position with regard to its reservation to article 22 of ICCPR and recommended the withdrawal of this reservation within a specific time frame. Finally, it recommended to the Republic of Korea to ratify the Optional Protocol to CAT and enquired when this might be likely.

38. Luxembourg noted that the death penalty may still be imposed for a series of crimes and offences in the Republic of Korea, noted that some 60 prisoners remain on death row and that in 2007 two death sentences were pronounced. Luxembourg recommended that the Government and the Permanent Commission on Law and Justice of the National Assembly comply with the obligations of United Nations reference texts and immediately work toward finalizing the legislative procedure underway with a view to the abolition in law of the death penalty. It further enquired about specific measures the Government intends to take to move forward in this debate at the level of public opinion and the National Assembly and about the foreseen timetable for the adoption of the law on the abolition of the death penalty.

39. Egypt asked for more information on the widespread societal discrimination against children with disabilities, a concern raised by the Committee on the Rights of the Child in 2003, and measures taken or envisaged in order to combat this phenomenon. It asked whether the Republic of Korea recognizes the ICRMW as a core human rights treaty and recommended that the Republic of Korea accede to that Convention.

40. Bangladesh noted that discrimination against foreign workers is strictly prohibited pursuant to the Act on Foreign Workers' Employment. However, in practice, there have been allegations of persistent discriminatory treatment, of abuse in the workplace, and of lack of adequate protection and redress for foreign workers. Bangladesh urged the Republic of Korea to make further efforts to implement existing legislative measures for the protection of migrant workers. It requested that the Government deal with the issue of irregular migration in a humane manner, consider regularizing migrant workers or at the minimum guarantee their fundamental human rights. Concerning female migrant workers entering the country with "entertainment" visas and being lured into the sex industry, Bangladesh asked whether the Republic of Korea envisaged reviewing the issuance of this category of visa.

41. The Russian Federation noted that treaty bodies and special procedures have expressed concern at the situation of foreign women who have married Korean citizens. Since the legal status of these wives depends entirely on their Korean husbands, this category has become one of the most vulnerable groups. It asked what measures have been taken to strengthen the protection of foreign women, also recalling information by treaty bodies on trafficking and prostitution of women, most of whom are illegal migrant workers and bear the criminal consequences of their exploitation, and asked what steps have been taken to combat trafficking in and exploitation of women.

42. Latvia raised the issue of cooperation with the special rapporteurs, referring to the visits of the Special Rapporteur on freedom of opinion and expression in 1995 and the Special Rapporteur on the human rights of migrants in 2006. Latvia requested the Republic of Korea to provide a timetable for the extension of a standing invitation to all special procedures.

43. Italy recommended maintaining the moratorium on the death penalty with a view to its abolition. Referring to concerns by CEDAW regarding the lack of a definition of discrimination against women, which fully complies with article 1 of the Convention, and to the persistence of deep-rooted stereotypes which are among the causes of violence against women, it recommended that the issue of improving women's rights be considered as one of the main priorities in the Government's human rights policies. Italy further recommended that the Republic of Korea urgently amend relevant legislation to expressly prohibit corporal punishment in schools and at home and implement educational measures promoting positive and non-violent forms of discipline.

44. Romania appreciated the progress made in fighting against discrimination and ensuring gender equality. It expressed its satisfaction with the responses provided by the delegation on measures adopted to protect women migrant workers from discriminatory practices and other abuses. It enquired about the Government's policy to protect the rights of asylum-seekers and refugees, in particular by ensuring a fair and transparent process to determine their refugee status and to ensure that they could maintain their living while their status is under consideration. Romania recommended that the Republic of Korea implement the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and ensure that refugee recognition procedures be improved in line with international refugee law.

45. Mexico asked about the effect in practice of the new legislation eliminating the Family Head System and establishing equal rights in the marriage and recommended that the Government carry out public campaigns to make these provisions more effective. Mexico also urged the Government to strengthen legislation regarding domestic violence and encouraged the Government to take measures to ensure that legislation address the protection of migrants, including access to the justice system. In this light, Mexico recommended the ratification of ICRMW and withdrawal of reservations to other treaties restricting the protection of migrant workers and their families. Finally, Mexico recommended that the Government take measures to abolish the death penalty.

46. Ukraine welcomed the efforts aimed at raising public awareness in the field of human rights, as well as steps taken to protect children from violence and prohibit corporal punishment. Ukraine wished to be informed about measures adopted to guarantee the right of persons to the highest attainable standard of health and about the NHRCK, in particular with regard to the impact of its recommendations.

47. Enquiring about policies in place to ensure that vague definitions in the National Security Law are not used to arbitrarily arrest and detain or intimidate individuals and whether there are plans to amend this law to ensure that it does not limit freedom of expression, the United States of

America recommended amending the National Security Law to prevent abusive interpretations of the law.

48. Australia noted that NGOs have expressed concern that 58 prisoners remain on death row and certain crimes still carry the death penalty, and enquired whether there is active consideration by the Republic of Korea to signing the Second Optional Protocol to ICCPR.

49. Tunisia noted with satisfaction the efforts undertaken to promote the rights of social categories having specific needs and commended the Republic of Korea for signing the Convention on the Rights of Persons with Disabilities.

50. Japan wanted to know when the Republic of Korea will ratify the Convention on the Rights of Persons with Disabilities. It also asked what measures the Government has taken so far to address violations of human rights on the Internet while protecting freedom of expression, given that wider use of the Internet has not only affected the privacy of individuals but also disseminated harmful information, such as discriminatory materials and child pornography.

51. Germany noted the concern of the Special Rapporteur on the human rights of migrants that foreign female spouses do not enjoy the same rights as Korean citizens, that they are seemingly not allowed to work legally and that their residence status depends entirely on their Korean husband, thus subjecting them to possible abuse. It asked about possible plans to change the relevant legislation in order to allow for a more active participation of female foreign spouses in the economic sphere and to shield them from abuse.

52. Noting that numerous immigrants coming from various countries are gradually being integrated into Korean society, Peru recommended ratification of ICRMW and of the Palermo Protocol and recalled that the Special Rapporteur on the human rights of migrants informed about human trafficking and potential abuse of the so-called artists' visas.

53. In response to additional questions, the Republic of Korea explained its policy on the ratification of international human rights treaties and withdrawal of reservations. The Republic of Korea is a party to six core international human rights treaties and continues to examine the possibility of ratifying other ones. The Republic of Korea also tries to withdraw reservations to core human rights treaties through active consultations with relevant stakeholders, and will continue these efforts and take various legislative measures to comply with international standards. Since the Optional Protocol to CAT took effect in June 2006, the Government began consultations to consider its ratification. These consultations are still in progress. In addition, the NHRCK conducts occasional visits and investigations into detention facilities, substantially engaging in counter-torture activities which constitute an integral part of the Optional Protocol to CAT. As explained in the report, the Republic of Korea is not a party to the ICRMW, the International Convention for the Protection of All Persons from Enforced Disappearance and the four ILO Conventions (Nos. 29, 87, 98 and 105). The ratification of the ICRMW will be thoroughly examined, taking into consideration the characteristics of relevant domestic legislation. The Republic of Korea continues to consider signing the International Convention for the Protection of All Persons from Enforced Disappearance and is examining the scope of its domestic legislation, including the revision of punishment provisions. Concerning the Convention on the Rights of Persons with Disabilities, the Republic of Korea is currently undertaking domestic procedures for its ratification and it hopes that these will be concluded soon. Regarding the withdrawal of reservations to article 22 of ICCPR, the delegation indicated that this will be decided taking careful consideration of the laws and systems.

54. The Republic of Korea indicated that the Government takes recommendations made by the NHRCK very seriously, while acknowledging that some recommendations cannot be implemented in reality on a short-term basis. As of late 2007, 67 per cent of recommendations made by the NHRCK related to human rights policies, legislation, mechanisms and practices and 87 per cent related to human rights violations and discrimination were accepted.

55. On the issue of aging and the low birth rates, the Republic of Korea, in order to prevent related problems, has come up with a comprehensive plan under which women who give birth and newborn babies receive support from various services. Older persons above the age of 65 have a basic old age pension and a long-term protection and medical treatment and also other job opportunities. Furthermore, subsidies and services are provided to for single-parent families and families in which children are living with their grandparents as well.

56. Regarding the questions on the social safety net, the Government has expanded its public assistance since the financial crisis that affected Korea, and has enhanced the national social pension scheme and health insurance system for the society at large, in particular for vulnerable groups. The Republic of Korea provides financial support as well as other programmes to ensure the independence of vulnerable persons.

57. On the protection of female migrants, the delegation reiterated its commitments to improving their situation. The Republic of Korea legislated the Act on Multi-Cultural Families Support in March 2008 under which the Government will provide various services such as counseling and education.

58. Regarding the issue of corporal punishment of children in the home, it is important to reflect the views of various sectors of society in order to amend legislation. Since 2007, the Republic of Korea has designated some pilot schools where corporal punishment is not practiced and alternative measures for student discipline in this regard are provided.

59. The Republic of Korea announced a new programme to give conscientious objectors the opportunity to participate in alternative in civilian service, in September 2007. For the implementation of the new system, the Government has to revise the Military Service Act, and considers submitting a revised Act to the National Assembly this year.

60. Reference was also made to the Ministry of Gender Equality, established in 2001. The Ministry grew and later incorporated Family Affairs in 2005. With the new Government that took office this year the Ministry was again reorganized. The Ministry is still active in promoting the rights of women and incorporating a gender perspective into all public policies. In connection with the issue of stereotypes, and questions of differences between of men and women, CEDAW in 2007 recognized efforts and progress made by the Republic of Korea in this area. However, due to the Confucian tradition, stereotypes still exist. In an effort to change stereotypes of women and promote gender equality, the Korean Institute for Gender Equality Promotion and Education was established in 2003 under the Ministry of Gender Equality. The Institute provides specialized training to better understand the issue of gender equality to general public and civil servants. The question of migrant women is an issue of considerable importance for the Republic of Korea and with a view to protecting migrant women's human rights, the Government operates shelters, one-stop service centres with interpretation services, for migrant women victims of domestic violence.

61. Regarding the issue of discrimination against persons with disabilities, the Republic of Korea at present is envisaging ratifying the Convention on the Rights of Persons with Disabilities. The Act on Anti-Discrimination Against and Remedies for Persons with Disabilities came into

effect in April of this year. A number of civil society organizations working in this area made considerable contributions to the drafting of this law. In order to have a stable implementation of the law, the Republic of Korea will continue analysing the situation in order to identify issues that need to be improved. The Republic of Korea will also conduct an evaluation to assess progress in this regard.

62. With regard to the issue of refugees, the Republic of Korea indicated that it has to improve the procedures to recognize the status of refugees. The Republic of Korea has to invite the NGOs to participate in this regard. The Republic of Korea works in close cooperation with UNHCR. As regards recognized refugees, the Republic of Korea provides opportunities for work. The Republic of Korea will try to amend the law so that applicants for refugee status can also have the right to work when they meet certain requirements.

63. In its concluding remarks H.E. Mr. Kim Sung-hwan, expressed appreciation for the active participation of delegates, as well as for the constructive comments on the national report. He noted that some points require more explanations and that due to time constraints, the Republic of Korea will try to give more answers in written form during the plenary session of the Human Rights Council in June. The Republic of Korea will review the observations and recommendations that Member States have made and remain open to other recommendations, post-UPR dialogue and from other United Nations human rights mechanisms. In the post-review process, the results will be fully shared and discussed with all stakeholders. The Republic of Korea takes serious note of some concerns expressed regarding the human rights of migrant workers and will engage in domestic discussion on that matter. For the enhancement of migrant's rights, the Republic of Korea will seek to learn from the best practices and experiences of other receiving countries. The Republic of Korea intends to accord more positive consideration to the accession to conventions not yet ratified.

II. CONCLUSIONS AND/OR RECOMMENDATIONS

64. In the course of the discussion, the following recommendations were made to the Republic of Korea:

- 1. To work on the implementation and dissemination of observations of treaty bodies (Brazil);**
- 2. To ratify the Convention of the Rights of Persons with Disabilities without reservations (Brazil);**
- 3. To strengthen efforts to uphold the Act on the Foreign Workers Employment in order to ensure the effective protection of the rights of foreign workers in the country (Indonesia);**
- 4. To take concrete measures with a view to abolishing the "Security Law" (Democratic Peoples' Republic of Korea);**
- 5. While expressing concern at the Security Surveillance Law, which restricts freedoms of former political prisoners and of prisoners of conscience to adopt measures to address the situation (Democratic Peoples' Republic of Korea);**
- 6. To adopt relevant measures for legislative and criminal justice improvements in relation to concerns expressed by the Committee against Torture in relation to allegations of torture in detention facilities and improper definition of torture in the Criminal Code, and by the Committee on the Rights of the Child in relation**

to limitations on freedom of expression and assembly of students (Democratic Peoples' Republic of Korea);

7. To accede to the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (Algeria, Philippines, Egypt, Mexico, Peru) , to withdraw reservations to other treaties restricting the protection of migrant workers and their families (Mexico) and to ratify the Palermo Protocol (Peru);
8. To take measures to protect and fulfil the rights of all women migrant workers and to ensure that they are not subjected to discriminatory practices (Algeria);
9. That the guarantee provided for the freedom of association and assembly be enshrined into law (Algeria);
10. To enact a crime of torture as defined in article 1 of the Convention against Torture (Canada);
11. To provide human rights training to law enforcement personnel and that measures are taken to ensure that the human rights of migrants are protected at all times and limit the uses of registration numbers to those strictly necessary for the provision of public services(Canada);
12. That all allegations of torture and ill-treatment by law enforcement officers be investigated (Canada);
13. To review its resident registration system to safeguard the right to privacy and limit the uses registration numbers to those strictly necessary for the provision of public services (Canada);
14. That marital rape, child abuse and domestic violence be criminalized, perpetrators are prosecuted and sanctioned, human rights training be provided for officials dealing with instances of domestic violence and child abuse, and that child-sensitive procedures be adopted during criminal proceedings involving children (Canada);
15. To place special emphasis on women and children when formulating policies to protect the rights of migrant workers (Canada);
16. To sign the International Convention for the Protection of All Persons from Enforced Disappearance (France);
17. To recognize the right of conscientious objection by law, to decriminalize refusal of active military service and to remove any current prohibition from employment in Government or public organizations, in line with the recommendation by the Human Rights Committee (Slovenia);
18. To include a gender perspective into the UPR follow-up process in a systematic and continuous manner (Slovenia);
19. Noting that sexual crime is categorized as an offence that is subjected to investigation only upon complaint from the victim, it was recommended that

this legal provisions be reviewed, along with other relevant provisions, in order to enhance protection of victims (Slovenia);

20. To maintain the current de facto moratorium (Belgium, Italy) and to progress towards the abolition of the death penalty (Belgium, Italy, Mexico) and to pass the special bill to abolish the death penalty into law in the new National Assembly that starts on 1 June 2008 (Netherlands, United Kingdom of Great Britain and Northern Ireland);
21. As recommended by CEDAW, that a definition on discrimination against women in compliance with article 1 of CEDAW be adopted and that the fight against trafficking in foreign women be intensified (Belgium);
22. To further strengthen measures against torture and ill-treatment, including accession to the Optional Protocol to the Convention against Torture in the near future, and that it establish an effective national preventive mechanism (Czech Republic);
23. That discrimination on basis of sexual orientation be also included in the draft antidiscrimination bill (Czech Republic);
24. That the National Security Act be brought in line with international standards regarding clarity of criminal law, and that active steps be taken to introduce alternatives to military service for conscientious objectors (United Kingdom);
25. The withdrawal of the reservation on article 22 of the International Covenant on Civil and Political Rights within a specific timeframe (United Kingdom);
26. To ratify the Optional Protocol to the Convention against Torture (United Kingdom);
27. Recommended that the Government and the Permanent Commission on Law and justice of the National Assembly comply with the obligations of United Nations reference texts and immediately work to finalize the legislative procedure underway with a view to the abolition in law of the death penalty (Luxembourg);
28. That the issue of improvement of women's rights be considered as one of the main priorities in the Government's human rights policies (Italy);
29. To urgently amend relevant legislation to expressly prohibit corporal punishment in schools and at home and implement educational measures promoting positive and non-violent forms of discipline (Italy);
30. To implement the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and ensure that the refugee recognition procedures be improved in line with international refugee law (Romania);
31. To carry out public campaigns to make the provisions of the new legislation eliminating the Family Head System and establishing equal rights in the marriage more effective (Mexico);

- 32. To strengthen legislation regarding domestic violence and to take measures to ensure access of migrants to services including access to the justice system (Mexico);**
 - 33. Amending the National Security Law to prevent abusive interpretation by the law (United States of America).**
- 65. The response of the Republic of Korea to these recommendations will be included in the outcome report adopted by the Human Rights Council at its eighth session.**
- 66. All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and /or the State under review thereon. They should not be construed as endorsed by the Working Group as a whole.**

Annex

Composition of the delegation

The delegation of the Republic of Korea was headed by H.E. Mr. KIM Sung-hwan, Vice-Minister, Ministry of Foreign Affairs and Trade, and composed of 26 members:

H. E. Mr. LEE, Sung-joo, Ambassador, Permanent Representative to the United Nations and Other International Organizations in Geneva;

H.E. Mr. CHANG, Dong-hee, Ambassador, Deputy Permanent Representative, Mission of the Republic of Korea in Geneva;

Mr. CHO, June-hyuck, Deputy Director-General for International Organizations, Ministry of Foreign Affairs and Trade;

Mr. PARK Hun-yul, Minister Counsellor, Mission of the Republic of Korea in Geneva;

Mr. CHANG, Jae-bok, Director, Human Rights and Social Affairs Division, Ministry of Foreign Affairs and Trade;

Mr. YANG, Dong-kyo, Director of Child and Youth Rights, Ministry of Health, Welfare and Family Affairs;

Mr. KIM, Hong-joong, Director of Rights Protection for Persons with Disabilities, Ministry of Health, Welfare and Family Affairs;

Mr. LEE, Sung-ju, Chief, Human Rights Division, Ministry of National Defense;

Ms. KANG, Sun-hye, Director of Liaison & Cooperation, Ministry of Gender Equality;

Mr. KANG, Nam-il, Counsellor, Mission of the Republic of Korea in Geneva;

Mr. LEE, Sang-bok, Director of International Cooperation, Ministry of Labor;

Mr. LIM, Hoon-min, Counsellor, Mission of the Republic of Korea in Geneva;

Mr. JUNG, Mino, First Secretary Mission of the Republic of Korea in Geneva;

Mr. HONG, Seok-in, First Secretary, Assistant to the Vice Minister, Ministry of Foreign Affairs and Trade;

Mr. BEK, Bum-hym, First Secretary, Mission of the Republic of Korea in Geneva;

Mr. KIM, Pil-woo, First Secretary, Mission of the Republic of Korea in Geneva;

Mr. JANG, Hyun-cheol, First Secretary, Human Rights and Social Affairs Division, Ministry of Foreign Affairs and Trade;

Mr. HONG, Kwan-pyo, Deputy Director, Ministry of Justice;

Ms. AHN, Ji-won, Third Secretary, Human Rights and Social Affairs Division, Ministry of Foreign Affairs and Trade;

Ms. LEE, Do-kyung, Assistant Director, International Cooperation Division, Ministry of Labor;

Ms. KIM, So-yeon, Assistant Director, Public Sector Labor-Management Relations Division, Ministry of Labor;

Ms. LEE, Jin-hee, Assistant Director, Ministry of Gender Equality;

Ms. SHON, Myoung-ji, Assistant Director, Ministry of Justice;

Ms. LIM, Sung-eun, Researcher, Korea Institute for Health and Social Affairs;

Mr. KIM, Hyung-kee, Assistant Director of Ministry of Education.
