



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination Eighty-first session

### Summary record of the 2187th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 21 August 2012, at 3 p.m.

*Chairperson:* Mr. Avtonomov

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*Fifteenth and sixteenth periodic reports of the Republic of Korea*

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*The meeting was called to order at 3 p.m.*

**Consideration of reports, comments and information submitted by States parties  
under article 9 of the Convention** *(continued)*

*Fifteenth and sixteenth periodic reports of the Republic of Korea  
(CERD/C/KOR/15-16 and CERD/C/KOR/Q/15-16)*

1. *At the invitation of the Chairperson, the delegation of the Republic of Korea took places at the Committee table.*

2. **Mr. Park** Sang-ki (Republic of Korea) said that the Republic of Korea was becoming a multicultural and multi-ethnic society with increasing speed. Inter-ethnic marriages had represented 10.8 per cent of all marriages contracted in 2010, and 4.3 per cent of the children born in 2012 were from mixed unions. The Government therefore attached greater importance to its policies to promote multiculturalism and social integration. In March 2012, the Republic of Korea had adopted the second National Action Plan for the Promotion and Protection of Human Rights, which comprised 209 programmes to strengthen human rights in the political, economic, social and cultural spheres and established new measures to safeguard the rights of persons whose situation in the country was irregular. In accordance with the Framework Act on Treatment of Foreigners Residing in the Republic of Korea, the Government had decided to launch a second Basic Plan for Policies on Foreigners (2013–2017). The first Plan, for 2008–2012, had enhanced public awareness of foreigners' rights, channelled more resources into projects for the social integration of foreigners in both the public and private sectors and resulted in the adoption of the Refugee Act. The Support for Multicultural Families Act had been passed into law in 2008 to assist the social integration of multicultural families in the Republic of Korea and to ensure a decent quality of life for them.

3. As at January 2012, the 500,000 foreign workers in the Republic of Korea had exercised their rights under labour legislation on the same footing as citizens of the Republic. In July 2011, a call centre had been set up to provide advisory services to foreign workers in several different languages. A total of 34 Multicultural Family Support Centres, offering language courses, counselling and medical services to immigrants, had been opened nationwide. As to foreign female spouses, the Government had set up an emergency support centre for foreign women victims of domestic violence, which provided 24-hour services in 11 languages. The Act on the Prevention of Domestic Violence and the Protection of Victims, which had been revised in May 2012, now allowed the police to enter a victim's home even without a warrant. There were 20 shelters for female immigrants who had been the victims of domestic violence. The revision of the Immigration Control Act had made it possible to issue temporary work permits on humanitarian grounds to foreigners and asylum seekers whose applications had been under consideration for more than 12 months. A refugee support centre would be opened in June 2013. The Refugee Act, adopted in February 2012, would enter into force in July 2013.

4. **Mr. Bang** Kitae (Republic of Korea) said that the Convention had been incorporated into domestic legislation and thus, like the other international instruments ratified by the Republic of Korea, had the same legal effects as domestic laws. Very few cases or judgements made reference to the Convention, undoubtedly because complaints about racial or ethnic discrimination were extremely rare. To prevent racial discrimination, the authorities focused on educating and training public officials in human rights. Racial discrimination was not defined by law, but several laws prohibited discrimination based on descent or ancestry, colour or ethnic origin. Moreover, the Act on the National Human Rights Commission contained a definition that was largely consistent with the definition of racial discrimination set forth in article 1 of the Convention. Racial motives could also be considered an aggravating circumstance in relation to an offence. A bill to prohibit

discrimination on the basis of race, skin colour and ethnic origin, which had not, however, provided for criminal sanctions for acts of discrimination, had been submitted to the National Assembly in November 2007, but rejected in May 2008. In March 2012, the National Human Rights Policy Council had decided to examine a draft fundamental law prohibiting discrimination, which contained a list of forbidden grounds for discrimination. The Social Sciences Research Institute had provided six human rights training courses for law enforcement personnel and immigration officials. A bill that would make human rights training a compulsory component of law faculty studies was also under consideration.

5. **Mr. Choi** Seong-Yu (Republic of Korea) said that, in August 2011, modules on multi-ethnic and multicultural understanding had been added to primary and secondary school curricula. Furthermore, in February 2012, teaching materials that provided more comprehensive coverage of inter-ethnic and multicultural understanding had been developed. New school textbooks had also been developed to sensitize pupils to the issue, starting in elementary school. Since July 2012, additional learning support, focusing on Korean language learning, had been offered to foreign students. The Republic of Korea had set up dedicated institutions for the training and education of foreigners, including migrant workers. The children of parents whose status was irregular received schooling on the same footing as children of citizens of the Republic, to ensure that they had the same chances of social adjustment. Immigrant children took Korean language courses specially designed for them, particularly in schools with large numbers of immigrant students.

6. **Mr. Yong** Ho Seong (Republic of Korea) said that the number of immigrants in the Republic of Korea continued to rise and was expected to stand at 3.2 per cent of the population by 2020. In August 2012, a national coordination committee had announced a global plan to raise multicultural awareness which aimed to take better account of the cultural specificities of the foreigners who had settled in the country. Under the plan, the Government intended to broadcast a series of radio and television programmes that would increase citizens' knowledge of the different cultures present in the country. Courses were offered to opinion leaders and journalists to encourage them to promote cultural diversity. To combat prejudice and stereotypical views of foreigners, brochures had been distributed to radio and television stations and press agencies, to stop them perpetuating such prejudices and stereotypes.

7. **Ms. Crickley** (Country Rapporteur) said that the Government should collect more statistics on the multi-ethnic character of society in the Republic of Korea. Noting with concern that the operating budget of the National Human Rights Commission had been slashed by around 20 per cent and that several of its members had resigned, she requested details on the current status of the Commission, the resources it had been allocated and the appointment of its members. Racial discrimination was not defined in the legislation of the Republic of Korea. Article 11, paragraph 1 of the Constitution prohibited discrimination based on gender, religion or social status, but did not mention race, colour, family, or national or ethnic origin. An indication as to whether the State party envisaged incorporating a definition of racial discrimination in its legislation would be appreciated.

8. With regard to article 2 of the Convention, she asked for information on the review of the bill to prohibit discrimination. Given that the 2012–2016 National Action Plan for the Promotion and Protection of Human Rights was under way, she asked for details on the stakeholders in the Plan as well as its monitoring and evaluation. In that regard, she urged the State party to ensure the participation of civil society organizations in the design, implementation and follow-up of measures that affected them. She requested specific data on the aid given to multicultural families, which seemed to be intended to integrate or even absorb or assimilate them into the society of the Republic of Korea. An explanation of the meaning of the term “multicultural family” would be appreciated. As to article 4, she was concerned about the small number of complaints that had been filed since, according to

some sources, the incidence of hate crimes and racially motivated crime had increased. In paragraph 50 of its report, the State party stated that racially motivated crimes could be penalized within the scope of existing legislation, and she asked for detailed information on the applicable provisions. The measures listed in the report, such as support and information centres for migrants and the establishment of shelters for women immigrants who had been the victims of domestic violence, were a positive development, but they were also testimony to the existence of problems that needed to be addressed.

9. With regard to article 5 of the Convention, she asked whether migrants had access to interpreters when they were involved in court proceedings. She noted with satisfaction the passing of the Refugee Act, which would come into force in 2013, as well as the streamlining of refugee procedures, but observed that, in comparison with other countries, the Republic of Korea took in few refugees. She wished to know where the support centres for refugees were located and whether they were used for other purposes as well. She asked whether the State party intended to register all births that took place in its territory so as to prevent statelessness.

10. She noted with interest that the State party was planning to end mandatory HIV/AIDS screening for migrant workers and asked for more details on the matter. She appreciated that the work permit system that had been introduced marked a huge step forward but noted that some permits imposed considerable restrictions on the freedom of movement of workers. Also, the obligation on migrant workers to leave the country for three months when they changed employer could prevent them from being naturalized, given that uninterrupted residence in the country for a period of five years was a prerequisite for obtaining citizenship of the Republic of Korea. Having received information that unionized migrant workers were harassed or deported, she wished to know about the right of migrant workers to belong to labour unions. It seemed that the work-related accident rate was high among female migrant workers and that the latter were frequently victims of sexual violence. Explanations of those matters would be appreciated. The E-6 work permit was apparently being used to traffic women. The small number of complaints about human trafficking by no means meant that trafficking was not a problem. She asked the delegation to provide information on the protection of the rights of trafficking victims. The Government should pay more attention to the issue of international marriages since, at present, foreign women could only obtain citizenship if their husbands so wished. Moreover, in the event of divorce, foreign women were not authorized to stay in the country except to raise their children or to look after their in-laws. Further comment on those matters by the delegation would be appreciated.

11. She wished to know how schools tackled the subject of multiculturalism in society and whether the children of immigrants had the opportunity to learn their language of origin. She understood that the second attempt to have the bill prohibiting discrimination passed into law had failed in 2012, but that the State party had subsequently made a commitment to re-examine the matter. The delegation should explain what that commitment implied and indicate whether a new timetable had been drawn up and whether there were plans to incorporate in the bill a definition of racial discrimination that conformed to the definition set forth in the Convention. She also wished to know whether the State party intended to involve the Ministry of Justice, the Ministry of Education and the civil society organizations that worked to protect migrants' rights in the implementation of the new cultural diversity awareness programme launched by the Ministry of Culture, Sport and Tourism.

12. More details should be provided on the development of the procedure for returning and deporting foreigners, the detention of persons awaiting deportation and the measures taken to guarantee that nobody could be deported while their appeal was still before the courts. Having heard from various sources that many migrant workers lost their residence

entitlement for administrative reasons, she asked for additional information on the measures taken by the authorities to ensure that migrant workers were not unduly deprived of the possibility of staying and working legally in the country and to protect the rights of those who lost their residence entitlement for no justified reason. Finally, she requested more information on operations to combat clandestine immigration.

13. **Mr. Kemal** said that he had noted that a national of the Republic of Korea had been convicted by a court for making racist remarks about a foreigner and that the Constitutional Court had ruled that article 2, paragraph 2 of the International Covenant on Economic, Social and Cultural Rights should be considered an integral part of domestic law, but the State party had not yet adopted a definition of racial discrimination. The adoption of a definition of racial discrimination and the criminalization of discriminatory acts would enable the State party to combat the problem more effectively.

14. **Mr. Murillo Martínez** asked whether, to combat racial discrimination, the State party applied the special measures provided for under the Convention and defined in the Committee's general recommendation No. 32 on the meaning and scope of special measures. Noting that, in its report, the Republic of Korea cited the designation of 20 May as "Together Day" as one of the steps taken to combat all forms of discrimination against foreigners, he asked what activities were organized on that day and how the immigrant population participated in the celebrations. He also wished to know if the introduction of Together Day had led to a reduction in racist speech or actions. The report also indicated that, since 2009, the Public Prosecutor's Office had been keeping statistics so as to effectively monitor foreign female victims of human trafficking. He wished to learn more about those statistics. He also requested more specific information on the status of foreigners seeking work in the Republic of Korea and on the operations of the support centres set up for migrant workers. He asked how many migrant workers had been deported for not having been employed by a company chosen by the Ministry of Labour. Finally, he wished to know whether the Republic of Korea intended to ratify International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).

15. **Mr. de Gouttes** recalled that there was still no law on racial discrimination in the State party and that, in order to make discriminatory language or discriminatory acts punishable by law, legal definitions of defamation, insult and assault needed to be established. Judges could in theory invoke racial motives as an aggravating circumstance in cases of racial discrimination, but they had never done so in practice. He enquired about the status of the bill to prohibit racial discrimination drawn up by the Ministry of Justice. The fact that very few complaints of racial discrimination had been filed in the Republic of Korea was, in his opinion, a direct consequence of the legislative gap. There were also no general judicial statistics on racism-related offences. Implementing article 6 of the Convention meant keeping records of complaints, prosecutions and sentences related to acts of racial discrimination. The low number of complaints was not a positive sign; it could reflect insufficient sensitization of the police and judicial authorities to such offences. Emphasis should be placed on the importance and seriousness of racial discrimination offences, as indicated in the Committee's general recommendation No. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system. He asked the Government of the Republic of Korea to provide more complete information on those matters in its next report.

16. He enquired about the Ministry of Justice's assessment of the National Action Plan for the Promotion and Protection of Human Rights. Examples of complaints of racial discrimination made to the National Human Rights Commission would be appreciated. He also requested details on the status, composition and resources of the Commission, as well as on how its members were appointed. He wished to know what the delegation considered to have caused the increase in xenophobic discourse and racial hatred in the country and he

asked whether racist hate speech was propagated by extremist organizations or policymakers, or whether it came from the Internet.

17. **Mr. Diaconu** noted that, according to the report, the rights of foreigners could be restricted on the basis of the principle of reciprocity. That principle could not, however, be applied in relation to human rights such as the right to a pension or victim support. Nor could it be applied to the claims for damages filed by crime victims. With regard to the burden of proof in racial discrimination cases, the report stated that it was up to the aggrieved party to substantiate the allegations. Victims of racial discrimination, however, rarely had the means to mount a defence or to provide proof. The burden of proof should therefore be reversed to protect victims, as was done in many other countries. He urged the State party to afford better protection to undocumented migrants in general. He also urged the State party to ratify the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

18. **Mr. Calí Tzay** said that, according to the law of the Republic of Korea, only marriages between citizens of the Republic and foreigners with residence permits were recognized as mixed marriages. The Republic of Korea might portray itself as a multi-ethnic and multicultural society, but in fact made no effort to accept foreign spouses. He wished to know why school attendance was lower among children of mixed unions than among other children and what was being done to alter that state of affairs. Refugees in theory had the right to work, but the duration of the visa they were granted was too short to make them really employable. They were therefore vulnerable and subject to abuse and multiple forms of discrimination. He enquired about the measures implemented by the Republic of Korea to prevent refugees from falling victim to ill-treatment. He also wished to know what steps had been taken by the State party to resolve the situation of undocumented migrant workers who found themselves in a legal vacuum in relation to the nationality laws and were unable to have their marriages recognized or the births of their children registered.

19. **Mr. Amir** said that, in its opening remarks, the delegation had stated that the Convention had been incorporated into domestic law. He wished to know whether the legal system of the Republic of Korea was a monist system and whether international instruments ratified by the State party took precedence over domestic law.

20. **Mr. Lindgren Alves** asked whether the Republic of Korea envisaged acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. According to information made available to the Committee, racist discourse was becoming more widespread in the State party and children of multicultural families were the victims of prejudice. The delegation should comment on that information and indicate what action the authorities of the Republic of Korea were taking to address the situation. He also wished to know how the State party defined multiculturalism and whether it favoured the separate coexistence of different communities or encouraged communities to integrate while recognizing their right to preserve their particular identities.

21. **Mr. Thornberry** asked the delegation to explain why the bill to prohibit discrimination submitted to the National Assembly in 2007 had not been passed into law. Noting that the Government had taken measures to safeguard the right of immigrant children to primary and secondary education, he wished to know whether it was true that the decision as to whether to admit a child into a school was generally left to the discretion of the school principal. If that was the case, the delegation should indicate whether school admissions criteria had been defined in such a way as to prevent any possible racial discrimination. Since asylum seekers, stateless persons and migrant workers could not, as a rule, approach the embassies of their countries to have the birth of their children registered,

he asked whether the State party had a comprehensive birth registration system for non-nationals in those categories. He asked how the right to a nationality established in article 5 of the Convention was implemented in practice and whether the State party intended to accede to the Convention on the Reduction of Statelessness. He noted that the integration programmes for multicultural families seemed to be designed for mixed couples, i.e. unions between citizens of the Republic of Korea and foreigners, and he wished to know whether foreign couples also benefited from such programmes. Finally, he asked how the transition between recognition of the multicultural nature of society and the promotion of multiculturalism had been managed.

22. **Mr. Kut**, referring to the statement in the report that a monitoring system to correct discriminatory practices on the grounds of race and nationality had been put in place (para. 46), said that it was unusual for public policy follow-up measures to also have a corrective function. He asked the delegation to describe the system in detail and to indicate whether the broader powers granted to the police with a view to enabling them to intervene in cases of marital violence against foreign women were limited to domestic violence cases or could be applied in all situations where the police came into contact with foreigners.

23. **The Chairperson**, speaking as a Committee member, said that, according to paragraph 105 of the report, the industrial trainee system introduced in 1993 had seriously infringed the rights of migrant workers and had therefore been replaced in 2004 by an employment permit system. However, the trainee system was subsequently mentioned elsewhere in the report, suggesting that it had still not been terminated. Clarification was needed on that point. According to available information, the Chinese community in the State party had established its own education system based on the Taiwanese one. He asked whether the diplomas issued under that system were recognized in the national education system and whether they afforded access to higher education. He also wished to know if the only choice open to all the Chinese persons living in the State party was to attend a school governed by either the Taiwanese system or the system of the Republic of Korea.

*The meeting rose at 5.50 p.m.*