

REPUBLIC OF KOREA

EXECUTIVE SUMMARY

The Republic of Korea (South Korea or ROK) is a constitutional democracy governed by President Lee Myung-bak and a unicameral legislature. In 2008 the Grand National Party obtained a majority of National Assembly seats in a free and fair election. Security forces reported to civilian authorities.

The primary human rights problems reported were the government's interpretation of national security and other laws to limit freedom of expression and restrict access to the Internet as well as incidents of hazing in the military.

Other human rights problems included some official corruption; sexual and domestic violence; children engaged in prostitution; trafficking in persons; societal discrimination against foreigners, defectors from the Democratic People's Republic of Korea (DPRK or North Korea), and persons with HIV/AIDS; and limitations on worker rights.

The government took steps to prosecute officials who committed abuses, and impunity was not evident.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

During the year there were 40 suicides among military personnel, 10 of which were attributed to hazing, mistreatment, or an inability to adjust to military life. The Ministry of National Defense (MND) conducted independent investigations of these incidents and made no arrests. The ministry maintained a suicide prevention program.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports that government officials employed them.

During the year the MND reported 14 hazing incidents resulting in physical injuries.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, including access to potable water, and the government permitted monitoring visits by independent human rights observers.

The Ministry of Justice reported that the total number of prisoners as of December was 45,038, of whom 2,429 were women, 456 were juveniles, and 14,405 were pretrial detainees. According to the nongovernmental organization (NGO) International Center for Prison Studies, the correctional facilities were designed to hold 44,430 prisoners. Authorities confined male and female prisoners in similar quarters, but each was specifically designed to meet particular population needs. For example, women's prisons contained special examination areas for women's health concerns and annual checkups.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government monitored prison and detention center conditions.

Although there were no prison ombudsmen, prisoners could petition the Ministry of Justice's Human Rights Violations Center or the National Human Rights Commission to make prison abuse claims. As of December, 212 petitions were submitted to the justice minister, all of which the Ministry of Justice investigated. One case was granted relief; the others were dismissed, refused, or transferred to other agencies. Of the 74 cases filed with the Human Rights Violations Center, one resulted in findings of relief for the petitioner, 17 cases were dismissed, 51 cases were refused, and five were transferred. The International Committee of the

Red Cross, which maintains an office in Seoul, did not request prison visits during the year.

Authorities managed prison records according to law, maintained them for various periods at relevant institutions, and systematically transferred them to the national records center after 30 years.

There are no legal steps requiring alternative sentences for nonviolent offenders, but penalty fees, social services, and suspended sentences were determined on a case-by-case basis and used regularly.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. The National Security Law grants authorities the power to detain, arrest, and imprison persons believed to have committed acts intended to endanger the “security of the state.” NGOs continued to call for reform or repeal of the law, contending that its provisions do not define prohibited activity clearly. The Ministry of Justice maintained that the courts had established legal precedents for strict interpretation of the law that preclude arbitrary application.

In February the Supreme Court upheld a lower court ruling that prosecutors did not release false information about four NGO members who had been convicted in 2010 of illegal contact with agents of the DPRK and distribution of North Korean press material for the purpose of exalting DPRK leader Kim Jong-il in 2008. Two defendants had been sentenced to prison, and two defendants were placed on probation with sentences suspended.

Role of the Police and Security Apparatus

The Korean National Police Agency is responsible for internal security, under the supervision of the Ministry of Public Administration and Security. Civilian authorities maintained effective control over police, and the government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving security forces during the year.

Arrest Procedures and Treatment While in Detention

The law requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not

available and authorities believe that a suspect may destroy evidence or escape capture if not arrested quickly. In such cases a public prosecutor or police officer must prepare an affidavit of emergency arrest immediately upon apprehension of the suspect. Police may not interrogate for more than six hours a person who voluntarily submits to questioning at a police station. Authorities must release an arrested suspect within 20 days, unless an indictment is issued. Ten additional days of detention are allowed in exceptional circumstances.

There is a bail system. Human rights lawyers stated that authorities generally did not grant bail for detainees who were charged with committing serious offenses, might attempt to flee or harm a victim, or had no fixed address.

The law provides for the right to representation by an attorney, including during police interrogation. There are no restrictions on access to a lawyer, but authorities can limit a lawyer's participation in an interrogation if the lawyer obstructs the interrogation or discloses information that impedes an investigation. The courts respected a defendant's right to a lawyer. During the trial stage and, under certain circumstances, during the pretrial stage, an indigent detainee may request that the government provide a lawyer.

Access to family members during detention varied according to the severity of the crime being investigated. There were no reports of denial of access to legal counsel.

Arbitrary Arrest: As of the end of July, authorities arrested 10 persons for violating the National Security Law, indicted six, and placed four others under investigation. Of those indicted, courts convicted two, and trial proceedings continued for four.

In January police arrested a man for posting Internet messages that praised the North Korean government and its officials. He received a two-year suspended sentence.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government respected judicial independence in practice.

Trial Procedures

The law provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, the right to a speedy trial, the right of appeal, and freedom from retroactive laws and double jeopardy. Trials are open to the public, but judges may restrict attendance if they believe spectators might disrupt the proceedings. There is a public jury system, but jury verdicts are not legally binding. Court-appointed lawyers are provided by the government (at its expense) in cases where defendants cannot afford to provide their own legal counsel. When a person is detained, the initial trial must be completed within six months of arrest. Judges generally allowed considerable scope for the examination of witnesses by both the prosecution and defense. Defendants have the right to be present and consult with an attorney. They may confront or question witnesses against them, and they may present witnesses and evidence on their behalf. Defendants have access to relevant government-held evidence.

Political Prisoners and Detainees

The Ministry of Justice stated that no persons were incarcerated solely because of their political beliefs.

The law requires military service by all male citizens and does not distinguish conscientious objectors from others who do not report for it; the penalty is up to three years in prison. Watchtower International, a Jehovah's Witnesses organization, reported that in December there were 761 Jehovah's Witnesses serving an average of 18 months in prison for conscientious objection. As of December Watchtower reported it was monitoring 155 cases on appeal to the Supreme Court and 15 cases before the Constitutional Court, two of which involved reservists. Constitutional Court rulings on the matter, most recently in 2011, upheld the law's constitutionality.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, and there were no problems enforcing domestic court orders. Citizens had court access to bring lawsuits seeking damages for, or cessation of, a human rights violation. Administrative and judicial remedies are available for alleged wrongs.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice. The law establishes conditions under which the government may monitor telephone calls, mail, and other forms of communication for up to two months in criminal investigations and four months in national-security cases. According to a National Assembly audit, the number of court-approved wiretappings significantly decreased, from 589 in the first half of 2010 to 58 in the first half of 2011.

The government continued to require some released prisoners to report regularly to the police in accordance with the Security Surveillance Act.

The National Security Law forbids citizens from listening to DPRK radio programs in their homes or reading books published in the DPRK if the government determines that the action endangers national security or the basic order of democracy in the country. These prohibitions were rarely enforced, however, and viewing DPRK satellite telecasts in private homes is legal.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The law provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Censorship or Content Restrictions: The independent media were active and expressed a wide variety of views generally without restriction. Under the National Security Law, the government may limit the expression of ideas that praise or incite the activities of antistate individuals or groups.

On March 21, the UN special rapporteur on the promotion and protection of the right to freedom of opinion and expression issued a report on his May 2010 visit. While laudatory of progress made, the report also expressed concern about increased restrictions on freedom of expression and specifically cited as concerns laws broadly making defamation a crime (which the rapporteur labeled as “...inherently harsh and [having a] disproportionate chilling effect...”) and

providing the potential for controlling the dissemination of election or candidate information and banning books.

In September the Supreme Court rejected a prosecution appeal and reaffirmed district and appeals court verdicts of not guilty in the case of four producers and one writer from the Munwha Broadcasting Corporation's *PD Notebook* program who had been charged in 2009 with spreading false rumors about the alleged health risks of eating U.S. beef.

Internet Freedom

There were some government restrictions on access to the Internet and reports that the government monitored e-mail and Internet chat rooms.

Under the National Security Law, anyone who knowingly supports or encourages antistate entities faces punishment of up to seven years in prison. According to an October press report, the online activities of as many as 40 citizens were under investigation for such an offense.

The government blocked violent, sexually explicit, gambling-oriented, and other Web sites found to violate law and order, including, but not limited to, the illegal trade of internal organs, food, or medical supplies; violation of intellectual property rights; and the encouragement or planning of suicide. The government also continued to block DPRK Web sites and direct access to the DPRK's YouTube channel and Twitter account. Although viewing Web sites praising the DPRK regime remains lawful, disseminating information about those Web sites, including posting links to the sites, remains unlawful under the National Security Law. For example, authorities compelled Web site operators in September 2010 to remove more than 80,000 pro-DPRK comments, according to a media report.

In December the Korea Broadcasting and Communication Commission established a new "Media Information Review/Investigation Team" to monitor social networking services, applications, and online advertisements. According to media reports, the team is charged with reviewing pornography, the distribution of false information, defamation, cyber stalking, violations of laws on national security and the protection of juveniles, and any other criminal acts. If prohibited materials are found, the commission is empowered to issue the user a warning; prohibited material not thereupon removed would result in the blocking of the user's account.

The March 21 UN special rapporteur on freedom of expression, reporting on his May 2010 visit, also stated concern about the law assigning the responsibility for controlling information on the Internet to intermediaries or private companies rather than to an independent body.

At year's end the Constitutional Court had not determined the constitutionality of the government's expansion of the Network Act to require identity verification in order to permit messages to be posted on all Web sites operating a domestic server with more than 100,000 visitors per day. A civic organization had requested the determination and alleged the expansion was an effort to limit freedom of expression since the law had previously set the threshold at 300,000 visitors per day.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice. The law prohibits assemblies that are considered likely to undermine public order and requires police to be notified in advance of demonstrations of all types, including political rallies. Police must notify organizers if they consider an event impermissible under this law. Police routinely approved demonstrations, although they reportedly banned some protests by groups that had not properly registered or that were responsible for violent protests in the past.

From August to November, after repeated warnings, police used water cannons to disperse demonstrators at labor and political protests that police stated were illegal; organizers claimed the protests were registered and legal. There were no reported injuries or subsequent legal actions.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice. Associations operated freely, except those seeking to overthrow the government.

c. Freedom of Religion

See the *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Foreign Travel: In many cases travelers from the ROK to the DPRK must receive a Ministry of Unification briefing before departure. They must also demonstrate that their trip does not have a political purpose and is not undertaken to praise the DPRK or criticize the ROK government.

Government officials restricted the movement of certain DPRK defectors by denying them passports.

Citizens convicted of a crime for which the potential sentence is two years' imprisonment or longer may have their passport privileges revoked by the Ministry of Foreign Affairs and Trade.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. However, the government did not routinely grant refugee status or asylum.

The Ministry of Justice's increase in the number of staff reviewing refugee applications and the movement of adjudication authority to the Seoul Immigration Office streamlined bureaucratic procedures and provided better access to translators--actions that resulted in quicker application processing. During the year the government approved 42 applications and denied 277, compared with 47 approvals and 168 rejections during 2010.

In July the Seoul Administrative Court--in an unprecedented reversal of a Ministry of Justice denial--granted refugee status to three Iranian Muslims who had converted to Christianity while living in the country.

Nonrefoulement: On September 6, police and immigration officials arrested Jin Jingzhe, a self-proclaimed Chinese practitioner of Falun Gong who arrived in South Korea in 2008, and his wife. As of year's end authorities had released her, but his asylum request had been denied, and he remained in detention in Suwon under the threat of deportation to China. Since 2009, authorities have reportedly returned to China 10 individuals who claimed to be Falun Gong practitioners, after courts refused their refugee/asylum requests.

Employment: Those granted refugee status are given resident status with employment authorization.

Access to Basic Services: Refugees are provided with basic living expenses and medical expenses if their income falls below the poverty line.

The government continued its longstanding policy of accepting refugees from the DPRK who are entitled to citizenship in the ROK. The government resettled 2,737 such refugees during the year, and there were at year's end approximately 23,000 North Korean refugees living in South Korea. The DPRK Refugee Support Foundation provided services to assist refugees as they adjust to life in South Korea, including rental assistance, exemption of education fees, medical service assistance, business loans, and employment assistance. The government also operated 30 Centers to Adjust to Regions, which educated refugees on adaptation to specific geographic areas, provided counseling services, and supported social adjustment.

Temporary Protection: Government guidelines provide for offering both temporary refugee status in the case of a mass influx of asylum seekers and an alternate form of protection--a renewable, short-term permit--to those who meet a broader definition of "refugee." During the year the government provided temporary humanitarian protection to 32 persons who may not qualify as refugees.

As of January the Office of the UN High Commissioner for Refugees reported 179 stateless persons in the country. It was unclear how many of them were children of refugees or migrants unable to obtain South Korean citizenship under the country's laws; authorities, however, gave them the same status as their parents.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens age 19 or older.

Elections and Political Participation

Recent Elections: National Assembly elections in April 2008 were free and fair.

During an October 26 by-election, National Election Commission Web sites suffered denial of service attacks. Police in December arrested a staffer of a Grand National Party member and four others, and the lawmaker resigned his position.

Participation of Women and Minorities: In general elections, 50 percent of each party's candidates for the 54 seats decided by proportional ballot must be women, and 30 percent of each party's candidates for the 245 single-member constituencies are recommended to be women. At year's end there were 45 women in the 299-seat National Assembly, with two of 16 National Assembly standing committees chaired by women. One of 14 Supreme Court justices and three of 15 cabinet ministers were women.

There were no members of minority groups in the National Assembly.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government implemented the law effectively. There were reports of officials receiving bribes and violating election laws. As of July, according to the Ministry of Justice, 243 government officials had been prosecuted for abuse of authority, bribery, corruption, embezzlement, misappropriation, or falsification of official documents. As of December, courts convicted 10 National Assembly members of accepting illegal political funds and fined four, suspended four, and stayed the sentences of two. Four lost their National Assembly memberships.

By law public servants above a specific rank must register their assets, including how they were accumulated, thereby making their holdings public. Several government agencies are responsible for combating government corruption, including the Board of Audit and Inspection, which monitors government

expenditures, and the Public Service Ethics Committee, which monitors civil-servant financial disclosures and activities. The Anticorruption and Civil Rights Commission, operating on an annual budget of more than 63 billion won (approximately \$54 million), manages public complaints and administrative appeals regarding corrupt government practices. During the year the commission logged approximately 32,000 civil petitions and reported investigating all of them and dismissing 35 percent as noncomplaints. The commission acted on 3,014 claims and used alternate dispute resolution to resolve the majority of them. The commission also evaluates the “good governance and cleanliness” of public organizations and during the year decreased the number of organizations under its purview from 712 in 2010 to 705.

The country has a freedom of information act, and in practice the government granted public access to citizens and noncitizens alike, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Government Human Rights Bodies: The National Human Rights Commission (NHRC), an independent government body established to protect and promote human rights, has no enforcement power, and its decisions are nonbinding. The NHRC investigates complaints, issues policy recommendations, and conducts education campaigns. In 2009 the UN Committee on Economic, Social, and Cultural Rights expressed concerns about NHRC independence as well as its downsizing by 21 percent when ministries were downsized significantly less. On the NHRC’s 10th anniversary in November, local media outlets also questioned the commission’s independence.

Ombudsman activities are the responsibility of the independent Anticorruption and Civil Rights Commission, which interacted with various government institutions, including the Office of the President, National Assembly, and ministries. The commission addressed complaints and concerns from both citizens and foreign residents and was trusted by the public (see also section 4).

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law forbids discrimination on the basis of race, gender, disability, and social status, and the government effectively enforced it.

Women

Rape and Domestic Violence: The law criminalizes rape. Although there is no specific statute that defines spousal rape as illegal, the courts have established a precedent by convicting spouses in such cases. The penalty for rape is at least three years in prison; if a weapon is used or two or more persons commit the rape, punishment ranges from a minimum of five years' imprisonment to life. If the perpetrator is a relative of the victim, the minimum prison sentence for rape or sexual assault increases from five years to seven and from three years to five, respectively.

During the year the Ministry of Justice stated that there were 9,144 reports of rape; 19,830 total reports of sexual violence, including rape; 20,159 offenders arrested; and 3,947 rape cases and 8,883 sexual violence cases, including rape, prosecuted. No information was available on convictions or sentences. In 2010 there were 18,985 reports and 8,385 prosecutions.

The law defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to six months. This order may be extended up to two years. Offenders may be sentenced to a maximum of five years in prison and fined up to seven million won (approximately \$6,000) for domestic violence offenses and sentenced to a maximum of two years in prison and fined up to 20 million won (\$17,000) for violating domestic violence restraining orders. Offenders also may be placed on probation or ordered to see court-designated counselors. The law requires police to respond immediately to reports of domestic violence, and they were for the most part responsive.

On June 29, the National Assembly passed the Special Act on the Punishment of Domestic Violence, which became effective on October 26. When there is a danger of domestic violence recurring and there is an immediate need for protection, the act allows a provisional order to be issued ex-officio or at the request of the victim. The provisional order may restrict the defendant from living in the same home or approaching within 109 yards of the victim and includes contacting the victim through the use of telecommunication devices. The Ministry of Justice reported the number of domestic violence cases decreased from 7,359 in

2010 to 2,511 in 2011. No information was available on prosecutions, convictions, or sentences.

Sexual Harassment: The law obligates companies and organizations to take preventive measures against sexual harassment, and the government enforced the law effectively. Civil remedies are generally available for sexual harassment claims. At public institutions, administrative remedies are also available. The Ministry of Gender Equality and Family, which reports annually to the Cabinet Council and National Assembly, provided sexual harassment prevention training to approximately 15,000 public institutions.

Reproductive Rights: The law allows couples and individuals to decide freely the number, spacing, and timing of their children and to have the information and means to do so free from discrimination. Access to contraception and maternal health services, including skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care, were widely available. Women were equally diagnosed and treated for sexually transmitted infections.

Discrimination: Women enjoy the same legal rights under the constitution as men. The law permits a woman to head a household, recognizes a wife's right to a portion of a couple's property, and allows a woman to maintain contact with her children after a divorce. The law also allows a remarried woman to change her children's family name to her new husband's name.

The law penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination may be fined up to five million won (approximately \$4,300).

The Ministry of Employment and Labor reported that the labor force participation of women between the ages of 15 and 64 increased from 53.6 percent in July 2010 to 54 percent as of July 2011. To increase the participation of women, the ministry maintained employment-training centers for women at 72 locations to provide job assistance to women, especially those with gaps in their employment history. The ministry also maintained an affirmative action program for public institutions with 50 or more employees and private institutions with 500 or more employees. The program requires these institutions to comply with a hiring plan devised by the ministry if they do not maintain a female workforce greater or equal to 60 percent of the average of relevant occupations.

The number of women in entry-level civil service positions and new diplomatic positions continued to increase. However, women continued to experience a pay gap, since a higher percentage of working women tended to fill lower-paying, low-skilled, contract jobs.

Children

Birth Registration: Citizenship requires that one parent be a citizen of the country at the time of birth. Citizenship is also given in circumstances where parentage is unclear or if a person would otherwise be stateless. Domestic NGOs estimated that there were as many as 20,000 unregistered children in the country at the end of 2010.

Child Abuse: In 2010 a total of 9,199 child-abuse cases were reported to the Ministry for Health and Welfare. The ministry's Child Protection Center intervened in 5,657 of the cases, 75 of which involved abuses in orphanages and childcare facilities. The ministry maintained shelters that provided protection, counseling, and treatment services to child abuse victims.

Sexual Exploitation of Children: The minimum sentence for rape of a minor is 10 years' imprisonment, and the minimum sentence for other sexual assaults involving a minor 13 years of age or younger is seven years. Other penalties include electronic monitoring of offenders and the public release of their personal information. The age of consent is 13 years; moreover, it is illegal to deceive or pressure anyone under age 19 into having sexual intercourse. In August the National Assembly revised the Act on the Protection of Children and Juveniles from Sexual Abuse to give sexual-violence victims the right to a court-appointed attorney.

As of July the Act on Pharmacologic Treatment of Sexual Offenders' Sexual Impulse authorized courts to order a person convicted of a sexual crime against a child (under age 16) and diagnosed as a sexual deviant to undergo reversible hormonal treatment to curb the level of sexual impulse.

The law prohibits child pornography. Offenders who produce or possess it for the purpose of selling, renting, or distributing it for profit are subject to a maximum of seven years' imprisonment and may be fined up to 20 million won (approximately \$17,000). According to the National Police Agency, children were engaged in prostitution. As of July authorities caught 1,184 adolescents between the ages of

13 and 19 buying or selling sex, which accounted for an estimated 9.7 percent of total offenders.

The Ministry of Gender Equality and Family maintained 10 centers that provided counseling, treatment, and legal assistance to child victims of sexual violence.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For country-specific information see the Department of State's report at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

There is a small Jewish population consisting almost entirely of expatriates. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services or other areas, and the government effectively enforced the law. The government effectively implemented laws and programs to ensure that persons with disabilities had access to buildings, information, and communications. The law establishes penalties for deliberate discrimination of up to three years in prison and 30 million won (approximately \$26,000). The government, through the Ministry of Health and Welfare, continued to implement a comprehensive set of policies that included encouraging public and private buildings and facilities to provide barrier-free access, providing part-time employment, and employing a task force to introduce a long-term care system. The government operated rehabilitation hospitals in six regions, plus a national rehabilitation research center to increase opportunities and access for persons with disabilities.

Any business with 50 full-time employees or more is required to meet an employment quota for persons with disabilities (3 percent for government agencies,

2.3 percent to 3 percent for public organizations, and 2.3 percent for private companies). Foreign companies operating in the export processing zones (EPZs) are exempt from these requirements. Any private company or public organization with 100 full-time workers or more is subject to a monthly penalty amounting to 530,000 won (approximately \$460) for each person with a disability whom it fails to hire and, if the employment rate of workers with disabilities does not reach 50 percent of the required quota, an additional charge is imposed. During the year authorities charged establishments that failed to employ any persons with disabilities based on the minimum wage (approximately 940,000 won per month or \$800). The government enforced this new requirement in phases, beginning with employers of 300 or more full-time workers and expanding gradually to include employers with 100 or more full-time workers.

Another part of enforcement involved disclosing in the media and the official gazette the names of businesses that fail to meet the quotas. In July the Ministry of Employment and Labor published the names of 39 government ministries and local governments, 64 public institutions, 749 private companies with 300 employees or more, and 1,357 private companies with between 100 and 300 employees that failed to meet the quotas.

On October 4, the Support for the Activities of Persons with Disabilities Act that the National Assembly passed in January became effective. Under it the government provided assistance to persons with disabilities, including bathing, home nursing care, and mobility assistance. The government also provided financial assistance to low-income persons with severe disabilities.

On August 4, the National Assembly passed the Support for Children with Disabilities Welfare Act (scheduled to become effective in August 2012). It would provide support for the health and welfare of children with disabilities, including a support center, nursing service, and medical aid. The government also expanded services for children with disabilities by providing monthly financial aid to those with brain damage, furnishing up to 320 hours per year of in-home services to the families of children with disabilities, and operating a cultural program and family camp.

In July for the first time in the company's history, the Korean Broadcasting System hired a visually impaired anchor. The anchor competed with 522 other candidates to obtain the highly sought-after position. Broadcasting companies continued to provide closed captions and signing interpreters for their hearing-impaired audiences.

National/Racial/Ethnic Minorities

Essentially racially homogeneous, the country's growing ethnic minority population passed the 1.2 million mark in 2010. To meet the projected growth in ethnic minorities due to the increasing number of migrant workers and foreign brides, the Ministries of Gender Equality and Family and of Employment and Labor continued programs to increase public awareness of cultural diversity and to assist foreign workers, wives, and multicultural families to adjust to life in the country.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The Ministry of Justice reported that the constitution's equality principles apply to lesbian, gay, bisexual, and transgender (LGBT) persons. The law that installed the NHRC prohibits discrimination on the basis of sexual orientation and gives the NHRC the authority to review cases of such discrimination. From January 1 to July 31, the NHRC received one case of alleged discrimination against LGBT persons but did not find merit in the case.

There are no specific laws punishing offenders or providing remedy to victims of discrimination or violence against LGBT persons. However, the government did punish perpetrators of violence against LGBT persons according to the law.

Military and societal discrimination against LGBT persons persisted. In March the Constitutional Court found the military code of conduct provision that criminalizes consensual same-sex sexual activity between military personnel to be constitutional.

Other Societal Violence or Discrimination

Some observers claimed that persons with HIV/AIDS continued to suffer from societal discrimination and social stigma. The law protects the confidentiality of persons with HIV/AIDS and protects them from discrimination.

During the year the NHRC reported there were 287 employment-discrimination cases filed. Seven complaints alleged age discrimination, and the NHRC recommended remedies in two of the cases.

The media reported some violence against foreigners. For example, in May a man killed his foreign wife. The government continued to crack down on illegal matchmaking agencies and increased monitoring of legal ones. Additionally, the government opened premarriage education centers for those who plan to marry foreigners and provided language training and counseling to foreign spouses. Local NGOs and the media also reported that North Korean resettlers, although supported through government-funded resettlement programming, continued to face discrimination.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides workers with the right to associate freely in accordance with regulations. In July new amendments took effect that authorize union pluralism; they allow multiple unions to form at a single enterprise but permit only a single negotiation channel with management. The law constrains the right to organize freely for some workers, including public sector employees.

The law permits workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. The law prohibits antiunion discrimination and allows for reinstatement of workers terminated for union activity.

The constitution and law provide for the right to strike but limit it in certain circumstances. Among the workers employed at major defense corporations subject to the Defense Acquisition Program Act, those working in the areas of electricity generation, water supply, or production of defense products are not allowed to strike. This list of “essential services” prohibited from striking is more broadly defined than international standards specify. Strikes are also prohibited for national and local government officials.

By law unions must submit a request for mediation to the National Labor Relations Commission before a strike; otherwise, the strike is illegal. In most cases the mediation must be completed within 10 days; in the case of essential services, within 15 days. Strikes initiated following this period without majority support from union membership are illegal. Striking also is prohibited when a dispute has been referred to binding arbitration. Additionally, if striking employees resort to violence, unlawfully occupy premises, or damage facilities, their actions are

deemed illegal. Strikes not specifically pertaining to labor conditions, including wages, benefits, and working hours, are also illegal.

Striking workers may be removed by police from the premises and, along with union leaders, prosecuted and sentenced. The law prohibits retribution against workers who conduct a legal strike. The National Labor Relations Commission may require and has required employers found guilty of unfair practices to reinstate workers fired for union activities.

The law permits some public servants to bargain collectively, although it restricts public service unions from collective bargaining on topics such as budgetary and policy-making matters. The law further prevents special public servants from joining unions unless they are equivalent to a general public official of grade six or below and are not engaging in foreign affairs and managing diplomatic information.

As a result of new regulations allowing for union plurality, workers had more options for selecting a union and saw an overall improvement in union services. As of August 23, according to the Korea Employers Federation, 398 new trade unions had been established. The government recognized a range of other labor federations, including independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and government research institutes. All labor federations generally operated without government interference.

In practice laws banning education workers from engaging in certain political activities, such as joining a political party or openly endorsing a political party or candidate, have constrained unions' abilities to advocate for their positions. In January the Seoul District Court dismissed cases against 159 members of the Korean Teachers and Education Workers Union or found them not guilty of charges that they joined a political party when they launched antigovernment petitions in 2009. Many teachers, however, were assessed fines for contributing to a political party.

On September 15, the Seoul Administrative Court ruled against the Immigration Service's effort to deny Migrants Trade Union President Michael Catuira a work visa and deport him. At year's end the Immigration Service's appeal was pending.

Although the constitution and law provide workers the right to strike and exempt them from legal responsibility in the case of a legal strike, in practice workers may

still be penalized for striking if they engage in other illegal activities. For example, workers who use violence or participate in illegal activities may be prosecuted for “obstruction of business.” This charge was often used to detain labor leaders and strikers in labor demonstrations, as in the case of Kim Jin-seok, who illegally occupied a crane from January until November during the Hanjin labor dispute. Once the strike ended, authorities issued a warrant for her arrest.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government generally enforced the law effectively; however, there were reports that some men and women from foreign countries were subjected to forced labor. Migrant workers who traveled to the ROK for employment sometimes incurred thousands of dollars in debts, contributing to their vulnerability to debt bondage. Observers noted that migrant workers commonly faced conditions indicative of forced labor, including deceptive recruiting practices, nonpayment of wages, and restrictions on workers’ freedom of movement by withholding of passports (see section 7.d.).

During the year there were some media reports that alleged that migrant workers were subjected to forced labor on ROK-flagged fishing vessels operating in the New Zealand exclusive economic zone. The ROK government initiated an investigation into the allegations, which continued at year’s end.

Also see the Department of State’s *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law protects children from exploitation in the workplace and prohibits the employment of persons under age 15 without an authorization certificate from the Ministry of Employment and Labor. Authorities issued few such certificates for full-time employment, because education is compulsory through middle school (approximately age 15). To obtain employment, children under age 18 must obtain written approval from either parents or guardians. Employers must limit minors’ overtime hours and are prohibited from employing minors at night without special permission from the ministry. The government effectively enforced this law through regular inspections, and child labor was not considered a problem.

d. Acceptable Conditions of Work

Authorities set the annual national minimum wage at 4,320 won (approximately \$3.73) per hour, a 5.1 percent increase over 2010 and equal to the increase in the minimum cost of living. The minimum cost of living for a family of two was 942,197 won (\$800) per month, and the 2011 *Poverty Statistics Yearbook* reported that one-fourth of household incomes failed to meet the minimum.

The law requires employers to allow 30 minutes' rest in a four-hour work period and one hour's rest in an eight-hour work period, to be taken within the work period. However, foreign companies operating in the EPZs are exempt from some labor regulations, including provisions that mandate paid leave, also referred to as "weekly rest."

Persons working in the financial/insurance industry, publicly invested companies, state corporations, and companies with more than 20 employees are required to receive premium pay for work in excess of 40 hours per week at a 50 percent higher rate. The law also allows a flexible workhours system under which employers may require laborers to work up to 48 hours during certain weeks without paying overtime, so long as average weekly work hours for any given two-week period do not exceed 40 hours (and 52 hours during certain weeks without paying overtime, so long as average weekly work hours for any given three-month period do not exceed 40 hours). Management may ask employees to work up to 56 regular hours in a given week, during which workers may work more than 12 hours per day, if both the employer and the employee agree.

The government sets health and safety standards and is responsible for monitoring industry adherence to these standards.

A set of regulations, including the Employee Permit System (EPS), outlines legal protections for migrant and foreign workers. Permit holders may work only in certain industries and have limited job mobility, but they generally enjoy the same rights and privileges as citizens.

The government conducts labor inspections both proactively according to regulations and reactively in response to complaints. As of December there were 311 labor inspectors for industrial safety and welfare countrywide. According to the Korea Occupational Safety and Health Agency (KOSHA), inspectors at times faced difficulties in conducting inspections due to opposition from business owners or managers. The government provided technical assistance via KOSHA to resolve deficiencies discovered during inspections.

Foreign workers legally employed in Korea are registered in the EPS. Workers registered with the EPS and legally employed in the country have more rights than workers who are illegally employed. According to the Ministry of Employment and Labor, as of November there were approximately 547,000 foreign workers residing in the country, approximately 497,000 of whom were admitted under the EPS.

Contract and other “nonregular” (part-time) workers accounted for a substantial portion of the workforce. The ministry reported that as of March there were approximately 5.77 million nonregular workers, comprising approximately 34 percent of the total workforce. In 2010 nonregular workers, as reported by the ministry, performed work similar to regular workers but received approximately 87 percent of the wages of regular workers.

The government continued to use the EPS to increase protections for and controls on foreign workers, while addressing the labor shortage in the manufacturing, construction, and agricultural sectors. In order to assist both employers and workers to understand better the applicable laws and regulations, the government provided pre-employment training to newly arrived foreign workers, workplace-adaptation training to those who changed workplaces, and training to employers who hired foreign workers.

On September 29, the Constitutional Court rejected a challenge to the EPS law’s three-workplace-changes limit as violating employment freedoms. Unless the Ministry of Justice grants an extension on humanitarian grounds, workers lose their legal status if they lose their job and do not find a new employer within three months. As of August 1, a revision to the Enforcement Regulations of the Act on Foreign Workers’ Employment allows employers to apply to rehire foreign workers within seven days of the expiration date of the permit, easing the earlier deadline of at least 45 days.

The government implemented social services and legal precedents to address complaints about the working conditions of foreigners. During the year the Ministry of Employment and Labor provided training on the EPS to employers hiring foreign workers and continued programs previously implemented for foreign workers to ease the difficulties of living and working in the country, including free legal advice, counseling, translation services, health checkups in their native language, and the establishment of several “human rights protection centers for foreigners.” In an effort to reach more foreign workers, telephone services were available in 10 languages.

NGOs and local media reported that nonregular workers were at greater risk for discrimination because of their status and that foreign laborers sometimes faced physical abuse and exploitation from employers in the form of longer working hours and lower wages than their Korean counterparts. The NGO Korea Migrant Center received reports of abuse of female entertainment visa holders. The ministry reported that foreign workers filed 5,227 complaints related to unpaid wages during 2011.

The government reports descriptions of and statistics on work-related injuries and fatalities on a quarterly basis on its Web sites. As of September there were 69,066 industrial, work-related accidents, a decrease of 3,005 compared with the same period in 2010. There were also 1,582 fatalities reported, a decrease of 10 compared with the same period in 2010. KOSHA provided training and subsidies to improve work safety and reduce work-related accidents. Since extending its services to migrant workers, KOSHA made training modules and materials available in 10 languages at worksites.