

Information Report for the Committee on the Elimination of Racial Discrimination

1. Background information on the submission of the 13th and 14th periodic report

The Korean government previously requested the National Human Rights Commission of Korea (hereinafter referred to as "NHRCK") to comment on the draft of its 13th Periodic Report, which was made by the Republic of Korea in accordance with Article 9 of the International Convention of the Elimination of All Forms of Racial Discrimination (hereinafter referred to as "Convention"). This draft included status updates on the points raised by the Committee for the Elimination of All Forms of Racial Discrimination (hereinafter referred to as "Committee") in the Committee's concluding observations to the 11th and 12th combined periodic report submitted in the September of 2002. The draft report also included progress made in the implementation of the Convention from 2003 to 2005.

NHRCK reviewed the draft in June 2006 and stated its opinion to the government in accordance with Article 21¹ of the "National Human Rights Commission Act."

In July 2006, the Korean government subsequently submitted the 13th and 14th combined periodic report (hereinafter referred to as the "report") to the Committee, having reflected select parts of the NHRCK's recommendations and comments on the draft.

This periodic report will be considered during the seventy-first meeting of the Committee (August 9th~10th, 2007). To assist the Committee in reviewing the periodic report, the NHRCK will provide information focusing

¹ 'If a related state organ prepares a periodic report under the provisions of any international treaty on human rights, it shall hear opinions of the Commission.'(Article 21, National Human Rights Commission Act)

on the extent to which the NHRCK's review comments on the 13th periodic report have been reflected in the new report.

The purpose of providing this information is to foster constructive dialogue between the Committee and the Korean delegation, as the NHRCK is fully aware of the domestic situation regarding the implementation of the Convention in Korea and is currently actively monitoring the process. Hence for this purpose, an identical copy of this report shall be submitted to the Korean government so that its delegation may engage in constructive dialogue in the 71st meeting.

2. Evaluation of the 13th periodic draft report by the NHRCK

The NHRCK's original evaluation of the draft of the government's periodic report (hereinafter referred as the "draft") was as follows:

Because emphasis was placed on the ethnic homogeneity of the Republic of Korea, the Korean government's will to eliminate racial discrimination and its ongoing efforts towards the actualization of this goal were not sufficiently reflected in the draft.

There was insufficient presentation of specific statistics and data regarding the current situation in the draft.

There was a need for a comprehensive review, in consultation with civil society, of the current situation regarding racial discrimination while drafting the periodic report.

The will of the Korean government to carry out the recommendations given by the Committee regarding its eleventh and twelfth periodic report had not been confirmed.

3. Evaluation of the extent to which the NHRCK's comments have been reflected in the 13th and 14th periodic report

The Korean government submitted its 13th and 14th combined periodic report to the Committee in July 2006, having partially reflected the NHRCK's

review comments.

Sections relevant to the NHRCK

When giving its review comments on the draft, the NHRCK requested that the periodic report include the government's intention to legislate a law that prohibits discrimination in order to respond comprehensively and effectively against the practice. The report reflected this request in paragraph 26. The NHRCK subsequently recommended the Anti-Discrimination Act bill in July 2006 to the Prime Minister, and advised that initiative be taken to get it legislated.

The Committee, in its concluding observations on the eleventh and twelfth periodic reports, pointed out that additional mention regarding the interpretation of the term 'unreasonable discrimination' needed to be given. This misunderstanding was due to an error in the translation process, and has been addressed in paragraph 27 of the report.

Regarding paragraph 12, the NHRCK was established in accordance with the National Human Rights Commission Act in the year 2001, not 2005. Also, the statement that the current Act provides the legal basis for declaring discriminatory practices a crime, thereby making them subject to prosecution, is not true and needs to be revised. NHRCK can only conduct investigations on discriminatory acts of legal bodies, organizations, and private individuals, and can give recommendations on the basis of those investigations.

In addition, regarding paragraph 24, the NHRCK published its recommended guideline for the NAP (National Action Plan for Protection and Promotion of Human Rights) and submitted it to the president in February 2006, on the basis of which the government established and proclaimed the NAP in May 2007.

Emphasis on Ethnic Homogeneity

Regarding paragraph 5, the NHRCK advised that the '2006 National Survey on the Condition of Married Immigrants' be mentioned in the report,

and this has been reflected in the report accordingly. The NHRCK also advised that the report should include relevant statistics concerning racial and ethnic distribution among the population, but these statistics were not included nor mentioned in this periodic report. Accordingly, there is a need to address this issue in the next National Census and to mention the results in the forthcoming 15th report.

Concrete Statistics, Current Data and Detailed Revisions of the Report

Regarding paragraphs 23 and 53, the NHRCK recommended that the report should present relevant statistics and information on the nationality of recognized refugees and the rationale behind the decisions approving their refugee status. This information has not been included in the report.

Regarding paragraph 32, it was not the revision of the Enforcement Decree of the Immigration Control Act that ensured suffrage rights; it was the revision of the Public Official Election Act that brought about that effect.

Regarding paragraph 35, the government report contains an inaccuracy. The paragraph should state that, as of December 2001, the government permitted alien industrial trainees to work for two years after undergoing one year of training. Prior to December 2001, alien industrial trainees had only been permitted to work for one year following the completion of a two-year training program.

Regarding paragraphs 45 and 46, the NHRCK recommended that the report provide a more specific plan of action through which support for the so-called “mixed-bloods” will be provided, along with measures that will address the causes of such discrimination. This recommendation has not been reflected in the report.

Regarding paragraph 51, the NHRCK recommended that the report include the fact that the Ministry of Justice is addressing weaknesses of the Korean refugee recognition process, such as the lack of independence and expertise of the institution, through the revision of relevant laws. This recommendation is reflected in the report. For reference, as of 2007 the

Ministry of Justice is still carrying out the revision process.

Regarding paragraph 62, the report states that “citizens who possess residency rights (F-2)” have the right to vote. However, according to the Resident Voting Rights Act, only “citizens possessing the right to permanent residency and at the same time designated by the regulations of the local autonomous entity” (i.e. citizens with permanent residency (F-5)) have the right to vote. NHRCK recommended revising this statement, but this has not been reflected in the report.

Regarding paragraph 63, naturalized foreigners continue to suffer from social discrimination despite established laws and institutional mechanisms designed to protect them. The NHRCK recommended that the report should include information noting that the Korean government has recognized and is striving to resolve this situation, and it also recommended that the government include actual examples of efforts the government has undertaken to address social discrimination. However, this recommendation has not been reflected in the report.

Regarding paragraph 65, the report mentions “long-term foreign sojourners.” This terminology is not accurate, and the NHRCK recommended that the term be rephrased as “people having the right to permanent residency in the Republic of Korea.” This recommendation, however, was not included in the report.

Regarding paragraph 71, the NHRCK recommended that the report should not only include information on recognized refugees, but also on the legal status of refugee status applicants as well. For instance, legal residents among refugee applicants are prohibited from working, which leads to illegal employment and economic poverty due to the lengthy investigation period. This information has not been included in the report.

Regarding paragraph 81, the NHRCK recommended that the report present additional data from centers such as the one run by the Department of Labor, including the actual number of petitions and the resolution rates. The report reflected this recommendation by presenting the data in the “Notes” section of the report.

Regarding paragraph 88, the NHRCK recommended that the report should include more specific information and data regarding the operations of the shelter for victims of sex trafficking, such as its present operating conditions and its results. This data was not included in the report.

Regarding paragraph 90, the NHRCK recommended that excessive emphasis on pride from being ethnically homogeneous needs to be reduced, and that a human rights awareness program that stresses a comprehension of societies having multiple ethnic/cultural backgrounds should be included in the official education curriculum. The report, however, did not include this point.

Consultation with civil society in the production of the periodic report

Regarding paragraph 97, the Committee for the Elimination of All Forms of Racial Discrimination recommended in its concluding observations that, while drafting its periodic reports, the Korean government should consult with actors from civil society who work in the area of combating racial discrimination. The NHRCK accordingly recommended that the report include the progress of deliberations between the Korean government and civil society; however, the report did not honor this recommendation.

The Durban Declaration, Programme of Action, and Domestic Implementation

The report did not mention the Durban Declaration, Programme of Action, or domestic action plans, so the NHRCK advised that discussion of these elements should be included. However, this recommendation was not incorporated into the report.

4. Conclusion

The NHRCK welcomes all of the Korean government's accomplishments and its ongoing efforts to eliminate all forms of racial discrimination.

The NHRCK welcomes changes made in the 13th and 14th combined periodic report that reflect the recommendations the Commission made on the draft of the 13th periodic report. The NHRCK also recognizes that there is need for further accommodation of its recommendations in future government periodic reports.

The NHRCK recommends that, in future periodic reports, the Korean government needs to obtain statistics concerning the racial and ethnic distribution in the population and provide it as a supplement; the government should include a human rights awareness program that stresses a comprehension of societies having multiple ethnic/cultural backgrounds in the official education curriculum; it should refrain from placing excessive emphasis on pride from being ethnically homogeneous; and its reports should reflect the Korean government's will to eliminate racial discrimination as well as its ongoing efforts towards the actualization of this goal.

The NHRCK points out that in this periodic report, more statistics and data regarding the current situation need to be provided, and that specific revisions in the content of the report are also needed. Subsequent periodic reports need to be revised and supplemented by more data.

The NHRCK recommends that, in the drafting of subsequent periodic reports, the Korean government needs to consult with civil society to conduct a more comprehensive review of the current situation and issues regarding racial discrimination.