

REPUBLIC OF KOREA 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Republic of Korea (South Korea or ROK) is a constitutional democracy governed by a president and a unicameral legislature. The two national elections during the year were fair and free: On April 11, the New Frontier Party retained control of a majority of National Assembly seats, and on December 19, Park Geun-Hye of the same party won the presidency. Security forces reported to civilian authorities.

The primary human rights problems reported were the government's interpretation of the National Security Law and other laws to limit freedom of expression and restrict access to the Internet as well as the jailing of conscientious objectors to military service.

Other human rights problems included some official corruption, sexual and domestic violence, children engaged in prostitution, trafficking in persons, and societal discrimination against the following: defectors from the Democratic People's Republic of Korea (North Korea or DPRK); ethnic/racial minorities; lesbian, gay, bisexual, and transgender (LGBT) persons; persons with HIV/AIDS; and foreigners. There were also 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 72 suicides among military personnel, generally attributed to mistreatment, hazing, or an inability to adjust to military life. As in previous years, the Ministry of National Defense (MND) conducted independent investigations of these incidents but 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 credible reports that government officials employed them during the year.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers.

Physical Conditions: According to the Ministry of Justice, the total number of prisoners as of July 31 was 45,201, of whom 2,440 were women and 573 were under age 19. According to the nongovernmental organization (NGO) International Center for Prison Studies, correctional facilities had a capacity of 45,960 persons as of June. Authorities confined male and female prisoners in separate but similar quarters specifically designed to meet particular population needs and generally confined foreign prisoners in separate but otherwise equal facilities with the same rules.

The Ministry of Justice reported that all (with the number unspecified) prisoner allegations that prison guards used violence and abusive language were unfounded. Six foreign prisoners interviewed during the year in the largest facility for them, Cheonan Prison, reported no serious complaints, threats to their safety, abuse from prison guards, or problems with physical conditions. Women's prisons contained special examination areas for women's health concerns and annual checkups. Prisoners had access to potable water. From January through November, there were 23 deaths of inmates in prisons or pretrial detention centers, 20 from natural causes and three from suicide. There was no evidence of negligence by prison authorities with regard to those deaths.

Administration: 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, community service, and suspended sentences were determined on a case-by-case

basis and used regularly. Prisoners and detainees had reasonable access to visitors as well as freedom of religious observance.

There were no prison ombudsmen, but prisoners and detainees could request investigations and submit complaints without censorship to the Ministry of Justice and National Human Rights Commission (NHRC), or via the national Human Rights Violation Hotline Center. Authorities investigated credible allegations of inhuman conditions and documented the results of such investigations in a publicly accessible manner. Authorities investigated all 187 petitions submitted to the Justice Ministry during the year with no findings of unfair treatment of prisoners by prison officers. Also during the year 46 petitions were filed with the hotline center.

Improvements: On November 12, authorities completed a new floor heating system in Cheonan Prison designed to keep indoor temperatures at 68 degrees Fahrenheit.

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.” Domestic and international NGOs continued to call for reform or repeal of the law, contending that its provisions do not clearly define prohibited activity. The Ministry of Justice maintained that the courts had established legal precedents for strict interpretation of the law that preclude arbitrary application.

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 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. Authorities may not interrogate at a police station for more than six hours a person who voluntarily submits to questioning. Authorities must either indict or release an arrested suspect within 20 days. The law allows 10 additional days of detention 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. There were no reports of denial of access to legal counsel.

Arbitrary Arrest: During the year authorities indicted 59 persons for violating the National Security Law. Courts convicted 15 individuals and acquitted three, and trial proceedings continued at year's end for the remaining 41.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government respected judicial independence in practice. However, a March 14 NGO Asian Human Rights Commission report claimed that senior judicial officials limited the independence of junior judges by taking disciplinary actions against them while the seniors avoided such action against themselves, even when allegedly faced with accusations of involvement in corruption cases. The report also cited Supreme Court Disciplinary Board actions that allegedly constrained the free speech of judges, lightly punished a senior judge, and interfered with a prosecutor. Additionally, on November 28, the NGO World Justice Project's Rule of Law Index 2012-13 found the country's administrative agencies transparent and

corruption-free but also noted the presence of political interference within the judiciary.

Trial Procedures

The law provides defendants with a number of rights in criminal trials, including the presumption of innocence; the protection against self-incrimination; the right to be informed promptly and in detail of charges, with free interpretation as necessary; the right to a speedy trial; the right of appeal; and freedom from retroactive laws and double jeopardy. When authorities detain a person, the initial trial must be completed within six months of the arrest.

Trials are open to the public, but judges may restrict attendance if they believe spectators might disrupt the proceedings. There is a jury system, but jury verdicts are not legally binding. In serious cases, according to 2008 rules made permanent during the year, a jury may reach a verdict for certain felonies, such as murder and rape, but only with the consultation and consent of the judge. The defendant also must request a jury trial beforehand.

The government (at its expense) provides court-appointed lawyers in cases where defendants cannot afford legal counsel. Judges have considerable scope to examine witnesses for 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 present witnesses and evidence on their behalf. Defendants also may have access to relevant government-held evidence.

Political Prisoners and Detainees

The Ministry of Justice stated that there were no persons incarcerated solely because of their political beliefs. However, some NGOs argued that individuals arrested for violations of the National Security Law or for strike activities qualified as political prisoners.

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. There is no provision for alternative service by conscientious objectors. Watchtower International, a Jehovah's Witnesses organization, reported that as of November 30, there were 733 Jehovah's Witnesses serving an average of 18 months in prison for conscientious objection and that the Supreme Court has rejected all 208 such cases appealed since 1950. In October the UN Human Rights

Committee called on South Korea to stop imprisoning conscientious objectors and expunge the criminal records of those convicted.

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 the Ministry of Justice, courts approved 96 wiretaps during the year, of which 65 were on behalf of the National Intelligence Service. A March 30 NGO Asian Human Rights Commission report criticized the Prime Minister's Office for allegedly engaging in "illegal surveillance" in the guise of corruption investigations of former and incumbent public officials, legislators, trade unionists, academics, police officials, and journalists who criticized government policy.

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 such an action endangers national security or the basic order of democracy in the country. Enforcement of these prohibitions continued to be rare, however, and viewing DPRK satellite telecasts in private homes is legal.

By law public officials may not perform a "collective act for any labor campaign." There is an exception for those who already actually have a union-related job. A Seoul court in January imposed individual fines ranging from 300,000 to 500,000 won (approximately \$282 to \$470) on 134 teachers and government employees for paying dues and /or donating to the Democratic Labor Party.

Section 2. Respect for Civil Liberties, Including:

a. 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. However, under the National Security Law, the government may limit the expression of ideas that praise or incite the activities of “antistate” individuals or groups. The Ministry of Gender Equality and Family monitors song lyrics and may ban releases it considers offensive.

In addition, those whom authorities deem to have criticized the country’s political leaders may be punished. In December the Korea Communications Standards Commission (KCSC) issued a warning to the comedy show, *Gag Concert*, after a television broadcast in which comedian Chung Tae-ho reportedly gave advice to the president-elect in a joking way. The KCSC stated that it was inappropriate for the comedian to use an informal language form when addressing the president-elect. Also in December, at the request of the Seoul Election Commission, the Seoul District Prosecutors’ Office launched an investigation into Hong Sung-dam, an artist who painted an image of the president-elect giving birth to her late father, a former president, because the painting allegedly disparaged the candidate’s image.

In late January workers went on strike at the Korean Broadcasting System and the Munhwa Broadcasting Corporation, both of which are majority-owned by the government, to protest what they called a tightening control of news content by the administration of then president Lee Myung-bak.

Many ministries required journalists to join a club to get full access to information, including that in regular briefings by ministry officials. Critics alleged that the clubs often developed rules that can be discriminatory against other journalists and could lead journalists to practice self-censorship in exchange for access.

Libel Laws/National Security: The law broadly defines and criminalizes defamation, which could have a chilling effect on news coverage. For example, on September 17, prosecutors charged former police chief Cho Hyun-oh with defamation for stating, on the night before former president Roh Moo-hyun committed suicide in 2010, that police had found large amounts of money belonging to Roh in a bank under a borrowed name.

Internet Freedom

There were some government restrictions on Internet access, and the government monitored e-mail and Internet chat rooms without judicial oversight. Internet access was available and used widely.

Under the National Security Law, anyone who knowingly supports or encourages “antistate” entities faces up to seven years’ imprisonment. For example, authorities detained activist Park Jeong-keun on January 11 and indicted him on January 31 for using his Twitter account to retweet approximately 100 DPRK propaganda posts. On November 21, the Suwon District Court sentenced Park to 10 months’ imprisonment but suspended the sentence after taking into account his promise not to repeat acts “praising and glorifying” North Korea and his statement that he intended to lampoon North Korea, not praise it. Additionally, from January through October 2011, according to Amnesty International, government officials deleted approximately 67,300 Web posts deemed to have harmed national security by “praising North Korea and denouncing the U.S. and the government.”

The government Office of Internet Communications Review determines whether posts made on social networking sites, such as Twitter and Facebook or in chat rooms, contain unlawful content, defined as harmful or illegal speech. If the government finds prohibited materials, it is empowered to warn the user. If the prohibited materials are not thereupon removed, the user’s account may be blocked.

The government also 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 is lawful, disseminating information about those Web sites, including posting links to the sites, is unlawful under the National Security Law.

On August 23, in response to a civic organization’s request, the Constitutional Court ruled that the 2007 law requiring the use of real names in online discussions was unconstitutional. Previously, Web sites with more than 100,000 visitors per day required users to authenticate their identity with their resident identification number.

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 considered likely to undermine public order and requires notification of police 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.

On January 10, police arrested 29 persons demonstrating against the construction of a naval base on Jeju Island but released them two days later. A February 9 report from the NGO Asian Human Rights Commission described the event as “peaceful,” although authorities maintained that the demonstrators blocked construction. Since 2007 authorities have arrested more than 100 individuals in antibase demonstrations.

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 through force or violence.

c. Freedom of Religion

See the Department of State’s *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 (UNHCR) 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 South Korea to North Korea are required to obtain permission from the Ministry of Unification before departure. The travelers must demonstrate that their trip has no political purpose and is not designed to praise North Korea or criticize the South Korean government. Visiting North Korea without government approval is punishable by up to 10 years in prison under the National Security Law.

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 Refugee Act, enacted by the National Assembly in February, allows asylum seekers to apply at their point of entry, protects their right to an attorney, and bans forced repatriation. The government has an established system for providing protection to refugees, but in practice the government does not routinely grant refugee status or asylum in most cases.

During the year 1,143 individuals requested refugee status to avoid persecution in their home countries, according to media reports. In 2011 a total of 1,011 persons applied, and the Ministry of Justice or the Seoul Administrative Courts granted refugee status to 42. The government does not include refugees from North Korea in these statistics.

Requests for asylum continued to increase markedly. During the year the government approved 60 applications and provided humanitarian status to 31 individuals, compared with 42 approvals in 2011. The acceptance rate of asylum applicants is "far from sufficient," according to the UNHCR annual report released in June.

Refoulement: As of late November, Jin Jingzhe, a self-proclaimed Chinese practitioner of Falun Gong who arrived in South Korea in 2008 and was arrested in September 2011, remained detained at Hwasung Foreigner's Protection Center under threat of deportation and awaited a court's decision on his appeal.

Employment: The government gave resident status to anyone granted refugee status and authorized the person to seek employment.

Access to Basic Services: The government provided refugees 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 North Korea, who are entitled to citizenship in South Korea. The government resettled 970 such refugees during the first half of the year, raising the total to slightly more than 24,000 since 2002. Many refugees from North Korea alleged societal discrimination by South Koreans and cultural differences that resulted in adjustment difficulties. The government provided adjustment assistance services to recently settled refugees, including rental aid, exemption from education fees for middle- and high-school students, medical service assistance, business loans, and employment assistance. The government also operated nationwide Centers to Adjust to Regions that educated refugees about adapting 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." From January to October, the government provided temporary humanitarian protection to 18 persons who may not qualify as refugees.

Stateless Persons

As of year's end the Justice Ministry reported 177 stateless persons in the country, including three children under age 18. However, by law a person born in South Korea to parents who are stateless or whose nationality is unclear obtains Korean citizenship.

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

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

Elections and Political Participation

Recent Elections: National Assembly and presidential elections on April 11 and December 19, respectively, were free and fair.

During an October 2011 by-election, National Election Commission Web sites suffered denial of service attacks. Police arrested a secretary of the former speaker of the ruling Grand National Party and six others in December 2011, and the lawmaker resigned his position. Authorities indicted seven individuals for violating election and information/infrastructure-protection laws, and on December 11, a court convicted and sentenced six individuals and found one not guilty.

Participation of Women and Minorities: In general elections, half of each party's candidates for the 54 seats decided by proportional ballot must by law 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 the new president-elect was a woman, and there were 47 women in the 300-seat National Assembly. Women chaired two of the 16 National Assembly standing committees, and one of the 14 Supreme Court justices was a woman. In addition, two of the 16 cabinet ministers were women.

The National Assembly included one ethnic minority group member: Jasmine Lee, an ethnic Filipino and the first naturalized Korean to serve there. Soon after her election in April, thousands of individuals wrote racist messages about her on social media.

Section 4. Corruption and Lack of Transparency in Government

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. For example, one lawmaker lost his National Assembly seat on March 15 for violating the Political Fund Act, and another lost his seat on May 10 for embezzlement. Also during the year, authorities indicted but did not detain three other lawmakers for illegally receiving political funds as well as another three lawmakers for illegally receiving bribes; the trials of all six continued at year's end.

By law public servants above a specific rank, including elected officials, must register their income and assets, including how they accumulated them, and thereby make 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 manages public complaints and administrative appeals regarding corrupt government practices. These agencies operated effectively and independently with sufficient resources and actively collaborated with civil society. During the year the commission received 34,347 civil petitions and reported investigating 33,242 of them as of year's end.

The country has a freedom of information law, and the government granted public access to citizens and noncitizens alike. In August the country submitted its national action plan under the global Open Government Partnership.

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. However, on February 10, the NGO Asian Human Rights Commission reported “the search and seizure of seven places[,] including the offices of several rights group[s] and of houses belonging to their staff by [the] National Intelligence Service on February 9...under the National Security [Law]....”

Government Human Rights Bodies: The NHRC, established as an independent government body to protect and promote human rights, has no enforcement power, and its recommendations and decisions are nonbinding. It investigates complaints, issues policy recommendations, and conducts education campaigns. On August 3, then president Lee Myung-bak reappointed the NHRC chair, Hyun Byung-chul, to a new three-year term despite complaints from NGOs and legislators from both major political parties that the reappointment process was not transparent. NGOs believed the NHRC, while adequately staffed, was not independent of the Office of the President and was overly focused on North Korean problems.

Ombudsman activities are the responsibility of the independent Anticorruption and Civil Rights Commission, which was adequately resourced. It issued annual reports and interacted with various government institutions, including the Office of the President, the National Assembly, and ministries. The commission continued to address complaints and concerns from both citizens and foreign residents, and observers noted that it generally enjoyed the public's trust (see also section 4).

The country's truth and reconciliation committee, which investigated and exposed human rights abuses during the period from Japan's colonial rule through the military dictatorships in the late 1980s, was disbanded in 2011.

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

The law forbids discrimination based on race, gender, disability, sexual orientation and social status, but not that based on language or gender identity, and the government effectively enforced the existing prohibitions.

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 without a weapon increases from three years to five; if a weapon was used or with two or more persons committed the crime, the minimum penalty increases from five years to seven.

During the first half of the year, the Ministry of Justice stated that there were 4,590 reports of rape and 10,471 total reports of sexual violence, including rape. There were 21,912 cases of sexual violence reported in 2011, with 20,189 offenders arrested. Of those, authorities held 2,614 in custody.

The Ministry of Gender Equality and Family stated it operated 31 centers for victims of sexual violence that supported 20,746 individuals through November, with 148,954 instances of counseling, medical aid, case investigations, and legal assistance.

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 \$6,600) for domestic violence offenses. Noncompliance with domestic violence restraining orders may result in a maximum sentence of two years in prison and a fine of up to 20 million won (\$18,800). Authorities may also place offenders on probation or order them 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.

When there is a danger of domestic violence recurring and an immediate need for protection, the act allows a provisional order to be issued ex officio or at the request of the victim. This 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 telecommunication devices. According to the Ministry of Gender Equality and Family, there were 6,848 cases of domestic violence reported in 2011, compared with 7,359 in 2010. The Ministry of Justice reported 2,773 cases filed with it during the year, compared with 2,511 in 2011, and authorities issued indictments in 454 cases. There were no statistics available on case outcomes, 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. Business owners are subject to a penalty of up to 10 million won (approximately \$9,400) for an incident of sexual harassment in the workplace, but there is no specific criminal punishment.

Civil remedies are generally available for sexual harassment claims, and education about sexual harassment was made widely available nationwide. At public institutions, administrative remedies are also available. The Ministry of Gender Equality and Family reported 219 cases of sexual harassment in 2011.

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 and coercion. Contraception and maternal health services--including skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care--were widely accessible and available.

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 the family name of her children to her new husband's name.

The law provides a fine of up to five million won (approximately \$4,700) for companies found guilty of practicing sexual discrimination against women in hiring and promotions. Through September the NHRC received 11 cases of alleged sexual discrimination.

The Ministry of Employment and Labor reported that the female workforce participation rate between the ages of 15 and 64 was 55.3 percent as of September 2012, up 0.8 percent from September 2010. Overall, women held slightly fewer than 42 percent of all jobs in the country as of July. The number of women in entry-level civil service positions and new diplomatic positions continued to increase.

Nationwide, there were 100 "New Work for Women Centers" that provided employment support and vocational training for women. 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. When the Public Procurement Service evaluates submitted bids, it gives weight to those businesses with effective affirmative action measures.

Women continued to experience a pay gap, since a higher percentage of working women tended to fill lower-paying, low-skilled, contract jobs. For example, an Organization for Economic Cooperation and Development report described the pay gap as 39 percent in 2010 and little changed over the preceding decade. A May 25 newspaper analysis reported that women in the banking industry earned on average 57 percent of the earnings of men and 88 large companies paid women 61 percent of the pay of men on average. The analysis also noted that the women surveyed worked an average of 7.7 years, while the men worked an average of 12 years.

In addition, women held less than 1.5 percent of the boards of directors' seats of the country's 100 biggest companies (11 of 801 seats), according to official data from the Financial Supervisory Service and Statistics Korea released in August. Moreover, only 10 percent of Korean managers were women, and an online corporate management survey during the year of the top 1,000 South Korean

companies by revenue found that a female chief executive officer led only eight firms and that most of the eight were family members of the company's owner, according to media reports.

Children

Birth Registration: Citizenship requires that one parent be a citizen of the country at the time of birth. Authorities also grant citizenship in circumstances where parentage is unclear or if the baby would otherwise be stateless.

Child Abuse: In 2011 there were 6,058 child-abuse cases reported to the Ministry for Health and Welfare. Of those, 111 cases reportedly occurred in child welfare facilities, including orphanages. The ministry operates facilities to treat and protect victims of child abuse and runs programs for families designed to prevent its reoccurrence. A law revised during the year requires individuals in 22 occupations (increased from 12) to report possible cases of child abuse.

Child Marriage: The minimum legal age for men and women to marry is 18.

Sexual Exploitation of Children: The age of consent is 13. It is illegal to deceive or pressure anyone under the age of 19 into having sexual intercourse.

The penalty for rape of a minor under the age of 13 ranges from a minimum of 10 years in prison to a maximum of life imprisonment. The minimum penalty drops to five years in prison for rape of a minor between the ages of 13 and 19. Other penalties include electronic monitoring of offenders and the public release of their personal information. A court may also order a person convicted of a sexual assault on a minor under the age of 16, diagnosed as a sexual deviant and deemed likely to repeat the crime, to undergo reversible hormonal treatment (chemical castration) to curb the level of sexual impulse. One such punishment occurred during the year.

Several new laws took effect during the year and were enforced: On February 1, the statute of limitations was abolished concerning rapists and sexual exploiters of minors who were under age 13 or had disabilities. Providing information about where to find child prostitutes became illegal. In March the law that made it a crime to rape girls was expanded to include boys. On December 18, the National Assembly passed a law that abolishes the requirement that a victim must press charges to punish a person accused of a sexual crime. The new law, scheduled to take effect in June 2013, also allows victims with disabilities or under age 13 to

give a statement for use in a trial if it would be difficult for them to communicate in court.

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. In addition, any possessor of child pornography may be fined up to 20 million won (approximately \$18,800). During the year authorities forwarded 104 child pornography cases to prosecutors at the Ministry of Justice who indicted two individuals for possession.

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

International Child Abductions: On December 13, the country became 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, air travel and other transportation, access to health care, or the provision of other state services, and the government effectively enforced the law. The government also 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 \$28,200). 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.

The employment rate for persons with disabilities was 35.5 percent in 2011, according to the Ministry of Health and Welfare. 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 \$500) 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 may be 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 \$880). 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 employment quotas, which the Ministry of Employment and Labor did twice during the year.

The government provided a pension system for adults and children with disabilities, an allowance for children with disabilities under age 18 whose household income is below or near the National Basic Livelihood Security Standard, and a disability allowance for low-income persons age 18 and older with mild disabilities. The National Pension Service decides the severity of the disability, and local governments provide the pension directly to the qualified persons.

The NHRC received 1,324 complaints of disability-related discrimination during the year. Of those, the commission requested a police investigation in one case and issued a recommendation in 114 cases, and the government resolved 20 cases by agreement. The commission rejected or deemed nonadmissible most of the remainder.

Children with disabilities qualified as special education beneficiaries and attended a special school that was free for persons between ages 3 and 17. Children with severe disabilities may receive hospitalized education.

On August 5, the Support for Children with Disabilities Welfare Act took effect. Implementation began during the year, including design of a support center to provide information and case management services for children and their families.

National/Racial/Ethnic Minorities

The number of foreigners living in South Korea, essentially a racially homogeneous country of approximately 50 million persons, reached 1.45 million at the end of the year. According to the Ministry of Justice, 177,854 foreigners were in the country illegally as of the end of the year.

Societal discrimination against ethnic/racial minorities was common but underreported. Through September the NHRC received six cases of alleged ethnic and racial discrimination.

To meet the steady growth of 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. The government also continued to operate multicultural and migrant-worker help centers.

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 LGBT persons. The law that established the NHRC prohibits discrimination based on sexual orientation and authorizes the NHRC to review cases of such discrimination, but the law does not specify discrimination based on gender identity.

There are no laws either specifying punishment for persons found to discriminate against LGBT persons or providing remedy to victims of discrimination or violence. During the year the NHRC reported 12 cases of such alleged discrimination. In one case, in which a local government rejected an advertisement calling for a halt to discrimination against sexual minorities, the commission ruled

that the local government should have accepted the advertisement and recommended that the government prevent such an incident in the future. The commission rejected seven other petitions, dismissed two after investigation, and resolved two by agreement.

There were no known cases of violence against LGBT persons during the year, although concern about stigmatization likely prevented some victims from reporting incidents of discrimination and abuse. For example, an online survey of 221 teenage sexual-minority individuals, published in the *Hankyoreh* newspaper during the year, found that more than half reported “serious” or “very serious” discrimination in schools due to their sexual orientation.

Numerous activists and NGOs criticized the NHRC for dismissing during the year a complaint by the gay and lesbian group, Sexual Minorities Believing in God. The complaint stated that the Yoido Full Gospel Church in Seoul deleted an Internet forum for gay and lesbian Christians on June 3, two days after starting it.

Consensual same-sex sexual activity between military personnel is prohibited in the armed forces (a prohibition that the Constitutional Court found to be constitutional in March 2011).

LGBT groups kept a very low profile, because same-sex relationships are not widely accepted in the country. For example, few entertainers were openly gay, and one who was “outed” claimed that various shows fired him as a result. On September 6, a Korean Broadcasting System cable television channel (Joy) carried *XY Her*, a program with a transgender cast, reportedly a first in the country, but cancelled it after one episode due to opposition from conservative activists. One LGBT organization, the Gay Voters Party, stated that it was planning to request police protection in Seoul for the program cast. However, it did not do so, because the cast apparently declined to supply the personnel records the police required.

Other Societal Violence or Discrimination

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. The NHRC reported two cases of alleged discrimination against persons with HIV/AIDS during the year. One case was dismissed; the other was under investigation as of year’s end.

Foreign teachers of English are required to take a test to prove they are not HIV positive before qualifying for a work visa. Ethnic Koreans are exempt from that requirement. In July the Office of the UN High Commissioner for Human Rights accepted a discrimination claim filed by a New Zealand woman living in South Korea who challenged the mandatory test. The claim was pending at year's end.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutory instruments, protects the rights of workers to form and join independent unions in accordance with regulations, conduct legal strikes, and bargain collectively. The legal protections were respected in practice, and government enforcement was effective. The law also places some restrictions on these rights: Although the law allows multiple unions to form at a single enterprise, it permits only a single negotiation channel with management. The unions may voluntarily select their negotiating channel. If they are unable to do so, the union with the largest number of members bargains on behalf of all members of the participating unions. Temporary or "irregular" workers are prohibited from joining unions.

In addition, the law limits the right to strike in certain circumstances, such as for workers in "essential services." The list of essential services, which is more broadly defined than international standards specify, includes those services that, if suspended, could "endanger the lives, health, physical safety, or daily life of the public," such as railroads, air transport, communications, water supply, hospitals, and utilities. Moreover, individuals designated by labor unions as essential may not strike. Strikes are also prohibited for national and local government officials, with some exceptions for specified public servants.

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. 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. If striking employees resort to violence, unlawfully occupy premises, or damage facilities, their actions are deemed illegal, and strikes not specifically pertaining to labor conditions, wages, benefits, or working hours, are also illegal. The law sets penalties for the above illegal strike activities at imprisonment up to five years or a

fine up to 50 million won (approximately \$47,000), depending on the offense, and the government effectively enforced applicable law.

The law prohibits retribution against workers who conduct a legal strike. 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 National Labor Relations Commission may require employers found to have engaged in unfair practices to reinstate workers fired for union activities and did so during the year.

Labor federations generally operated without government interference. 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.

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, constrained unions' abilities to advocate for their positions.

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 were subjected to forced labor. The law prohibits most aspects of trafficking and prescribes imprisonment of up to 10 years for sex trafficking and five years for labor standards violations. These penalties are commensurate with those for other serious crimes. The government also reported using other criminal statutes related to kidnapping and juvenile protection to prosecute and punish trafficking offenses.

Authorities prosecuted 29 forced-labor cases from January through the end of November and made arrests for labor trafficking in 19 of them. In addition, the government operated 88 shelters nationwide for foreign migrant workers and funded NGOs that conduct outreach to help potential victims.

There were approximately 500,000 low-skilled migrant workers from elsewhere in Asia in the country, many of whom were working under the government's Employment Permit System (EPS). Migrant workers who traveled to the country for employment sometimes incurred thousands of dollars in debts, contributing to their vulnerability to debt bondage. Migrant workers commonly faced conditions

indicative of forced labor, including deceptive recruiting practices and nonpayment of wages.

In 2011 the government began investigating allegations that Indonesian migrant workers were subjected to a range of forced labor practices on ROK-flagged fishing vessels operating in the New Zealand exclusive economic zone. The crewmembers requested that charges not be filed, according to Ministry of Foreign Affairs and Trade officials, and as of the end of 2012, the investigation continued. The NHRC also investigated the allegations and recommended that relevant institutions and business owners strengthen remedial measures to protect such employees from foreign countries and promote their rights, and that relevant governmental branches should provide institutional remedial measures to protect the rights of foreign sailors and apply existing regulations if there are allegations of violations.

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 the law through regular inspections, and child labor was not considered a problem.

d. Acceptable Conditions of Work

The annual national minimum wage was 4,580 won (approximately \$4.30) per hour. A person making the minimum wage for a 40-hour workweek would earn significantly less than the minimum monthly cost of living for a family of four, which was 1,495,550 won (\$1,410), according to the Ministry of Health and Welfare. The law requires equal pay for equal work when men and women do work of equal value in the same business. Nevertheless, wage inequality was a concern (see section 6, Women).

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 work hours 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. 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. In such cases employers should pay overtime, according to the Ministry of Employment and Labor.

The government sets occupational health and safety standards and is responsible for monitoring industry adherence to these standards. To heighten the effectiveness of standards, authorities during the year adopted stronger punishments to allow immediate judicial action against violators. Penalties for violations were increased to up to seven years in prison and fines to up to 100 million won (approximately \$94,100). The government conducted labor inspections both proactively, according to regulations, and reactively, within a month after an accident occurred. As of November there were 320 full-time labor inspectors working in 47 local offices countrywide. The government also conducted educational programs to prevent accidents.

Legally employed foreign workers are registered in the EPS. A set of regulations, including the 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. Contract workers, irregular workers and part-time workers accounted for a substantial portion of the workforce.

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 preemployment training to newly arrived foreign workers, workplace-adaptation training to those who changed workplaces, and training to employers who hired foreign workers. The government also provided interpreters to EPS workers and a call center with service available in 14 languages. The Ministry of Employment and Labor continued programs previously implemented for foreign workers, including free legal advice, counseling, translation services, health checkups in their native language, and the establishment of several “human rights protection centers for foreigners.”

Foreign workers who enter the country with a work visa as professional, lecturer, or artist may by law change their jobs easily. However, workers under the EPS faced several restrictions. Such workers lose their legal status if they lose their job and do not find a new employer within three months. Regulations that took effect August 1 deprived migrant workers of the right to peruse lists of companies that were hiring when they wanted to change jobs, which made it more difficult for these workers to change jobs freely. Employers effectively controlled the list of job-seeking workers and have the right to contact the person they choose.

Migrant laborers are required to return home after four years and 10 months in the country but may apply to reenter after three months. By law a person must live in the country for at least five years to qualify for citizenship. In addition, if a migrant worker is not able to get a job within three months, authorities may cancel his/her work permit, forcing the intending worker to return home. This situation was particularly difficult for seasonal workers, such as those involved in agriculture or construction. Moreover, according to NGOs, contract changes, such as the deduction of accommodation or meal expenses from wages, also victimized migrant workers.

The law prohibits discrimination against irregular workers and requires the conversion of those employed longer than two years to permanent status. Both labor and business groups complained that the two-year conversion provision forces many businesses to limit the contract terms of irregular workers to two years and incur the cost for entry of new workers every two years. NGOs and local media reported that irregular workers were at greater risk for discrimination because of their status and that foreign laborers sometimes faced physical abuse and exploitation by employers in the form of longer working hours and lower wages than their citizen counterparts received.

The government reports descriptions of and statistics on work-related injuries and fatalities on a quarterly basis on its Web sites. As of November there were 85,234

industrial, work-related accidents reported (an increase of 264 compared with the same period in 2011) and 1,977 fatalities (an increase of 43 compared with the same period).