



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

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Committee on the Elimination of Racial Discrimination

**Combined twentieth to twenty-second periodic
reports submitted by the Republic of Korea under
article 9 of the Convention, due in 2022***

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* The present document is being issued without formal editing.



Introduction

1. In accordance with Article 9, Paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as “the Convention”), the Republic of Korea submits its 20th, 21st, and 22nd combined periodic report. The information contained in the present report is set out in accordance with the general guidelines concerning the form and content of reports submitted by States, revised in January 2007 (CERD/C/2007/1).

2. The present report deals mainly with the legislative, judicial, administrative, and other measures taken by the Government of the Republic of Korea in the practical implementation of the provisions of the Convention and the progress achieved during the period from 2017 to 2021. This report also contains status updates on the points raised by the Committee on the Elimination of Racial Discrimination (hereinafter referred to as “the Committee”) in its concluding observations (CERD/C/KOR/CO/17-19) with respect to the country’s 17th, 18th, and 19th combined periodic report (CERD/C/KOR/17-19).

3. From January 12, 2022, to March 8, 2022, in preparation for this report, the Republic of Korea consulted with civic organizations working to combat racial discrimination (Para. 38 CERD/C/KOR/17-19). Moreover, in accordance with Article 21 of the *National Human Rights Commission Act*, the government requested the opinion of the National Human Rights Commission of Korea (NHRCK) on the initial draft and received it on March 3, 2022. On April 6, 2022, the government held a meeting on the opinions of civic organizations and the NHRCK to consult and reflect on the opinions as appropriate.

I. General Information

A. Naturalization

4. A total of 55,549 persons were naturalized between 2016 and 2020. The total number of naturalized citizens from 2011 to 2020 amounts to 115,688. Chinese immigrants take up the majority of naturalized Korean citizens, followed by those from Vietnam and Cambodia. In 2020, 13,885 persons were naturalized. Among them, 7,932 were Chinese (57.1%), 4,076 Vietnamese (29.4%), 375 Filipinos (2.7%), 302 Cambodians (2.2%), and 145 Mongolians (1.0%).

Table 1
Number of Naturalized Citizens by Year
 (Unit: Person)

Year	2016	2017	2018	2019	2020
Naturalized Citizens	10 108	10 086	11 556	9 914	13 885

B. Stateless Persons

5. One hundred fifty-six stateless persons were identified as residing in the Republic of Korea as of 2020. Among them, 102 were registered aliens who entered with a long-term visa valid for 91 days or more, while 54 were not registered aliens who entered with a short-term visa valid for 90 days or less.

6. Stateless persons residing in the Republic of Korea can be classified into four categories: i) those who were stateless and issued travel documents from the country of residence prior to their entry into the Republic of Korea,¹ ii) those who are stateless temporarily as they renounce their original nationality after losing their newly obtained

¹ Ethnic Koreans (*Koryo Saram* or *Köpe Capam*, majority of whom reside in Uzbekistan) who have not been granted a new nationality after the collapse of the Soviet Union in 1991.

Korean nationality [the loss of Korean nationality is the result of their earlier failure to renounce the original nationality upon acquiring Korean nationality²], iii) those who are in the process of reinstatement of original nationality after their Korean nationality is canceled³ due to conviction for fake marriage or forgery/alteration of passport, and iv) ethnic Chinese who defected from the Democratic People's Republic of Korea⁴ and Vietnamese refugees.⁵ Generally, they can obtain Korean nationality, as can foreigners of other countries residing in the Republic of Korea, should they meet the requirements set forth under the *Nationality Act*.

Table 2

Application and Requirements for Types of Naturalization

Foreigners who have not obtained the nationality of the Republic of Korea may acquire nationality in case they meet the requirements in accordance with the Nationality Act. The types of naturalization specified in the Nationality Act are general naturalization (Article 5), facilitated naturalization (Article 6), and special naturalization (Article 7), of which specific requirements are listed below.

<i>Relevant Article</i>	<i>Requirements</i>
Article 5 of the <i>Nationality Act</i> (General Naturalization)	<p>He/she shall have had a domicile in the Republic of Korea for at least five consecutive years.</p> <p>He/she shall have qualifications for permanent residence (F-5) in the Republic of Korea.</p> <p>He/she shall be an adult under the <i>Civil Act</i> of the Republic of Korea.</p> <p>He/she shall meet the requirements regarding good conduct, such as complying with statutes.</p> <p>He/she shall be able to support himself/herself.</p> <p>He/she shall have basic knowledge as a national of the Republic of Korea.*</p> <p>* Korean language proficiency, understanding of Korean customs, etc.</p> <p>The Minister of Justice shall acknowledge that granting permission for naturalization to him/her does not compromise national security, maintenance of order, or public welfare.</p>
Article 6 of the <i>Nationality Act</i> (Facilitated Naturalization)	<p>All requirements are identical to those for general naturalization, but subjects are exempted from having to reside in the Republic of Korea for five consecutive years and be qualified for permanent residence.</p> <p>(For those who resided in the Republic of Korea for more than three years)</p> <p>A person whose father or mother was a national of the Republic of Korea</p> <p>A person who was born in the Republic of Korea and whose father or mother was born in the Republic of Korea</p>

² In this case, they may promptly obtain Korean nationality through reacquisition or reinstatement of nationality.

³ The reason for the cancellation falls under the circumstances prescribed in Article 8 of the Convention on the Reduction of Statelessness, in which the person may be deprived of nationality.

⁴ They are born to a Chinese father and North Korean mother in the Democratic People's Republic of Korea and are de facto stateless persons as the Chinese government does not protect them. They may obtain Korean nationality under the *Nationality Act*.

⁵ Vietnamese who escaped Vietnam following the Vietnam War and settled in the Republic of Korea may obtain Korean nationality if they wish to do so.

A person adopted by a national of the Republic of Korea who was an adult under the *Civil Act* of the Republic of Korea at the time of adoption

(For those who resided in the Republic of Korea for two years or more than one year)

A spouse of a national of the Republic of Korea who is sustaining normal marriage status

A person who was unable to sustain marriage due to the death or disappearance of his or her spouse or any other causes unattributable to him or her

A person whose marriage is suspended and is or shall be taking care of a minor born within the marriage relationship

Article 7 of the
Nationality Act
(Special
Naturalization)

All requirements are identical to those for general naturalization, but subjects are exempted from having to reside in the Republic of Korea and proving the ability to support themselves.

A person whose father or mother is a national of the Republic of Korea (except for those who were adopted as an adult)

A person who has contributed significantly to the Republic of Korea

A person acknowledged for contributing to the national interests of the Republic of Korea who has an excellent ability in a specific field, such as science, economy, culture, and sport.

C. Foreign Residents

7. The number of foreigners residing in the Republic of Korea⁶ and the proportion of foreign residents to the total number of registered national citizens had been steadily increasing until 2019, while they decreased in 2020. As of 2020, the proportion of foreign residents among the total number of registered national citizens is 3.93%.

Table 3

Registered Citizens and Foreign Residents in the Republic of Korea by Year

(Unit: Person)

Year	2015	2016	2017	2018	2019	2020
Foreign Residents	1 899 519	2 049 441	2 180 498	2 367 607	2 524 656	2 036 075
Registered National Citizens	51 529 338	51 696 216	51 778 544	51 826 059	51 849 861	51 829 023
Ratio	3.69%	3.96%	4.21%	4.57%	4.87%	3.93%

8. A total of 2,036,075 foreigners are residing in the Republic of Korea as of 2020, of which 894,906 are Chinese (44%), 211,243 Vietnamese (10.4%), 181,386 Thai (8.9%), 145,580 Americans (7.2%), 49,800 Filipinos (2.5%), and 26,515 Japanese (1.3%). Among 2,036,075 foreigners residing in the Republic of Korea as of 2020, 811,211 persons (39.8%) are ethnic Koreans with nationalities from other countries, 81.7% or 662,845 of which have Chinese citizenship.

⁶ Includes long-term residents, short-term visitors, and legal and illegal immigrants.

9. The number of undocumented immigrants had decreased to reach the 200,000-level until 2016 but has steadily increased since 2017 when it exceeded 250,000. However, since 2019, because of the COVID-19 pandemic, the number stands at the 390,000-level. As of 2020, the proportion of undocumented immigrants among foreigners residing in the Republic of Korea is 19.2%.

Table 4
Proportion of Foreigners Residing in the Republic of Korea by Year
(Unit: Person)

Year	2017	2018	2019	2020
Foreigners Residing in the Republic of Korea	2 180 498	2 367 607	2 524 656	2 036 075
Legal Residents (Short/Long Term)	1 929 457 (597 399/1 332 058)	2 012 481 (679 874/1 332 607)	2 134 375 (792 853/1 341 522)	1 643 879 (425 752/1 218 127)
Undocumented Immigrants (Short/Long Term)	251 041 (167 140/89 901)	355 126 (264 044/91 082)	390 281 (293 150/97 131)	392 196 (281 857/392 196)
Proportion of Undocumented Immigrants	11.5%	15.0%	15.5%	19.2%

10. The number of foreigners who married Korean citizens (i.e., immigrants through marriage) increased significantly since 2002 until the increasing trend slowed down after April 2014 when the government strengthened the visa screening process to enhance the soundness of international marriages. As a result, the proportion of immigrants through marriage among the total foreign population has been moving downward, but the COVID-19 pandemic decreased the absolute number of the foreign population, thereby increasing the said proportion to reach 8.3% as of 2020. The majority of immigrants through marriage are female: 137,878 (81.2%) are female and 30,716 (18.2%) male. By nationality, there are 60,072 Chinese (35.6%), 44,058 Vietnamese (26.1%), 14,595 Japanese (8.7%), 12,002 Filipinos (7.1%), 5,929 Thai (3.5%), and 4,638 Cambodians (2.8%).

Table 5
Share of Immigrants through Marriage among the Total Number of Foreigners Residing in the Republic of Korea by Year
(Unit: Person)

Year	2017	2018	2019	2020
Foreigners Residing in the Republic of Korea	2 180 498	2 367 607	2 524 656	2 036 075
Immigrants through Marriage	154 457	159 206	166 025	168 594
Proportion of Immigrants through Marriage	7.1%	6.7%	6.6%	8.3%

D. Refugees and Refugee Applicants

11. Since the Republic of Korea's ratification of the Convention Relating to the Status of Refugees in 1992, a total of 71,042 persons have applied for refugee status by the end of 2020; 1,091 of them were recognized as refugees,⁷ and 2,370 applicants were granted residence permits on humanitarian grounds (humanitarian status holders).⁸ In 2020, refugee

⁷ The number of recognized refugees includes those recognized through the Refugee Status Determination (RSD) procedure by the Ministry of Justice and those admitted through administrative litigation against the denial of refugee status.

⁸ A person permitted to stay on humanitarian grounds refers to an alien to whom the category of refugees does not apply, but for whom there are reasonable grounds to believe their life or personal

status screening for 6,766 persons was finalized. Yearly statistics from 2017 to 2020 are as follows:

Table 6
Annual Statistics on Refugees and Humanitarian Status Holders

(Unit: Person)

	Total		2017		2018		2019		2020	
	M	F	M	F	M	F	M	F	M	F
Recognized Refugees	413		121		144		79		69	
	217	196	69	52	73	71	38	41	37	32
Humanitarian Status Holders	1 210		316		508		231		155	
	973	237	204	112	455	53	183	48	131	24

12. Statistics on recognized refugees and applicants who have been granted residence permits on humanitarian grounds as of 2020, categorized by gender, age, and nationality, are as follows:

Table 7
Refugees and Humanitarian Status Holders by Gender

(Unit: Person)

	Total	Male	Female
Recognized Refugees	1 091	638	453
Humanitarian Status Holders	2 370	1 825	545

Table 8
Refugees and Humanitarian Status Holders by Age

(Unit: Person)

	Total	0–4 yrs	5–17 yrs	18–59 yrs	60 and over
Recognized Refugees	1 091	209	153	727	2
Humanitarian Status Holders	2 370	271	215	1 867	17

Table 9
Refugees by Nationality

(Unit: Person)

Total	Myanmar	Ethiopia	Bangladesh	Pakistan	Iran	D.R. Congo	Others
1 091	353	134	120	80	55	44	305

freedom may be egregiously violated by torture or other inhuman treatment or punishment or other circumstances.

Table 10
Humanitarian Status Holders by Nationality

(Unit: Person)

<i>Total</i>	<i>Syria</i>	<i>Yemen</i>	<i>Myanmar</i>	<i>China</i>	<i>Pakistan</i>	<i>Côte d'Ivoire</i>	<i>Others</i>
2 370	1 231	757	37	35	32	29	249

Table 11
Application for Refugee Status at Ports of Entry (2017–2020)

(Unit: Person)

	<i>Applied</i>	<i>Referred</i>	<i>Not Referred</i>
Total	923	288	635
2017	190	22	168
2018	505	241	264
2019	175	13	162
2020	53	12	41

Table 12
Comprehensive Statistics on Refugees (1994–2020)

(Unit: Person)

<i>Applied</i>	<i>Status Screening Complete (34 836)</i>			<i>Status Screening Ongoing (20 094)</i>		
	<i>Recognized as Refugee</i>	<i>Granted Humanitarian Permit</i>	<i>Not Recognized as Refugee</i>	<i>Preliminary Screening</i>	<i>Raised Objection</i>	<i>Withdrawn</i>
71 042	1 091	2 370	31 375	14 976	5 118	16 112

Table 13
Annual Statistics on Applicants, Recognized Refugees, and Humanitarian Sojourners (1994–2020)

(Unit: Person)

	<i>Total</i>	<i>'94-'12</i>	<i>'13</i>	<i>'14</i>	<i>'15</i>	<i>'16</i>	<i>'17</i>	<i>'18</i>	<i>'19</i>	<i>'20</i>
Applicants	71 042	5 069	1 574	2 896	5 711	7 541	9 942	16 173	15 452	6 684
Recognized Refugees	1 091	324	57	94	105	98	121	144	79	69
Humanitarian Sojourners	2 370	171	6	533	198	252	316	508	231	155

II. Information on Articles (Articles 1–7 of the Convention)

Article 1 Definition of Racial Discrimination

A. Consideration of Enactment of Anti-Discrimination Legislation

13. In the Concluding Observations (CERD/C/KOR/CO/17-19) adopted upon the consideration of the 17th to 19th periodic reports, the Committee advised the country to adopt

a comprehensive law that defines and prohibits direct and indirect racial discrimination on all prohibited grounds of discrimination in line with Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (Para. 6 CERD/C/KOR/17-19).

14. In August 2018, the Government of the Republic of Korea included the “legislative overhaul to guarantee rights to equality” as a sub-task in the 3rd National Action Plan for the Promotion and Protection of Human Rights (NAP) (2018–2022). Relevant bills were introduced to the National Assembly on four occasions – the Anti-Discrimination Act in June 2020, the Equality Act in June 2021, and the Equality Act and the Equality and Anti-Discrimination Act in August 2021. However, conflicts over specific grounds for the prohibition of discrimination, such as sexual orientation, remain as barriers to legislation. Should the National Assembly collect public opinions on various issues pertaining to the legislation on comprehensive anti-discrimination, the government is fully committed to cooperating.

Article 2

Government Policies for Elimination of Racial Discrimination

A. Basic Plans for Policies on Foreigners

15. Per the Framework Act on Treatment of Foreigners Residing in the Republic of Korea, which encompasses all foreigners, the government established and implemented the 1st Basic Plans for Policies on Foreigners (2008–2012) and the 2nd Basic Plans for Policies on Foreigners (2013–2017) and is currently executing the 3rd Master Plan for Immigration Policy (2018–2022). In accordance with the 3rd Basic Plans, the government emphasizes the order, safety, self-sufficiency, and participation of immigrants. It is also making efforts to improve the legal system to create a just society that respects human rights and diversity and for future-oriented governance grounded on cooperation. In line with the Basic Plans, the government decided to clarify the legal status of foreigners depending on their stay permits and develop broadcasting and educational programs and create cultural communication channels to embrace the increasing number of immigrants in Korean society.

B. Consideration of Establishing a Mechanism to Collect Statistics on Racially Motivated Crimes

16. The Committee recommended the government to establish a mechanism that collects statistics on racially motivated crimes, disaggregated by race, color, ethnicity, national origin, religion, immigration status, gender, and other indicators that would identify intersecting forms of discrimination (Para. 6 CERD/C/KOR/17-19).

17. Crime statistics in the Republic of Korea are categorized by the crime charged. Not all crimes in which the victim is a foreigner can be deemed motivated by racial discrimination. Therefore, as of now, the government does not manage separate statistics on racially motivated crimes. Should the National Assembly enact an anti-discrimination act that specifies “racial discrimination” as a type of crime charged, the government plans to set up the relevant statistics mechanism accordingly.

C. Usage of the Term “Illegal Immigrants”

18. The Committee advised the government to review its legislation and official documents to eliminate the term “illegal immigrants” and avoid its use in the future (Para. 8-d CERD/C/KOR/17-19).

19. The term “illegal immigrants” is used in the current laws of the Republic of Korea,⁹ such as the Immigration Act. It refers to foreigners who violated the current laws and are

⁹ Article 9, Paragraph 1-1 of the *Framework Act on Treatment of Foreigners Residing in the Republic of Korea*, Article 90, Paragraph 2-1 of the *Immigration Act*, etc.

residing in the Republic of Korea without lawful immigration status. In case law enforcement agencies replace the expression “illegal immigrants” with other terms such as “undocumented immigrants,” it could be misinterpreted as a gesture to alleviate the crackdown and punishment on illegal immigrants who have violated the Immigration Act. The term “undocumented immigrants” stands opposite to “documented immigrants.” Using this term could be interpreted as referring to “foreigners that do not hold the obligation for foreigner registration” as they are legally staying in the country in the short term for tourism purposes, etc., which is possibly confusing. Going forward, the government plans to carefully review the option of using a more toned-down term than “illegal immigrants.”

D. Extension of the Definition of Multicultural Families

20. The Committee recommended that the country increases its efforts to provide adequate administrative and judicial support to immigrants through marriage who return to their country of origin with their Korean children in relation to divorce proceedings and child custody. Also, the Committee advised expanding the definition of “multicultural families” specified in the Multicultural Families Support Act to not only refer to families composed of at least one Korean citizen, providing the same level of benefits to all family members without discrimination (Para. 22, 24 CERD/C/KOR/17-19).

21. With an increase in immigrants through marriage returning to their countries of origin with a child after divorce, there are cases in which the child’s rights to residence, education, and medical treatment are not guaranteed. Therefore, since 2019, the government has been operating the “Overseas Multicultural Family Support Project” that supports the education, child-rearing, self-sufficiency, and legal aspects of immigrants through marriage and their children who have returned to their original countries.

22. The Korean government adopted policies for multicultural families back in the early 2000s, targeting immigrants and their Korean spouses to address issues associated with the rapidly increasing international marriages. Thus, the Multicultural Families Support Act was enacted in March 2008, initially targeting immigrants of both genders and their Korean spouses. Its coverage was expanded to include acknowledged and naturalized Koreans and their families in 2011 (Amendment of the Multicultural Families Support Act, April 4, 2011).

23. To expand the definition of multicultural families under the Multicultural Families Support Act, a partial amendment of the Multicultural Families Support Act that includes “North Korean defectors” as defined in Article 2, Paragraph 1 of the North Korean Refugees Protection and Settlement Support Act and “persons recognized as refugees” as defined in Article 2, Paragraph 1 of the Refugee Act has been proposed recently. However, there are dissenting opinions regarding the fairness to Korean nationals and possible overlapping issues with other laws. To widen the definition of multicultural families, the government will prepare a more rational proposal by collecting the opinions of relevant ministries, experts, and the public and by establishing a social consensus.

Article 4

Active Countermeasures for the Elimination of Acts Based on Racial Superiority or Hatred

A. Punishment of Racially Motivated Acts of Crime

24. The Committee recommended the country to amend its criminal code to consider racist motivations as aggravating circumstances with respect to criminal offenses, in line with Article 4 of the Convention (Para. 6 CERD/C/KOR/17-19).

25. Acts of violence, defamation, and insult that are racially motivated are punishable in the Republic of Korea under the current law. Also, racial discrimination is considered a motive in determining the extent of punishment. Racially motivated acts of violence are punished under the Criminal Act, Punishment of Violences Act, Act on The Aggravated Punishment of Specific Crimes, Act on Special Cases Concerning the Punishment of Specific

Violent Crimes, etc. Racially motivated acts of defamation and insult are punished under the Criminal Act, Act on Promotion of Information and Communications Network Utilization and Information Protection, etc. Among sentencing determinants that judges shall respect under the law, racially motivated acts of crime are considered a “motive for crime.” Therefore, they function as “condemnable motives” of special sentencing determinants based on the sentencing guidelines. Article 51 of the Criminal Act dictates that “the motive for the commission of the crime” is considered in determining punishment. The Sentencing Commission of the Supreme Court specifies “condemnable motives” as one of the special sentencing determinants for crimes of violence. The government plans to consider the necessity of legislative advancements to criminally regulate racially motivated acts of hate crimes and expressions of hate.

Table 14

Article 51 of the *Criminal Act* (General Principles for Determination of Punishment)

In determining punishment, the following shall be taken into consideration:

1. The age, character and conduct, intelligence, and environment of the offender
2. Offender’s relation to the victim
3. The motive for the commission of the crime, means, and result
4. Circumstances after the commission of the crime

Definition of Sentencing Factors (amended and applied on August 15, 2018)

“Condemnable Motives of Crimes of Violence” refer to cases in which one or more of the following are applied.

- An offense committed out of retaliation, grievances, or hatred
- Cases where the offender enjoyed committing the crime itself
- Other cases with comparable factors

Article 5

Equality and Prohibition of Discrimination in Exercising Rights

A. Registrations of Birth and Decrease of Stateless Persons

26. The Committee recommended the government to ensure that all children born in the Republic of Korea are registered, regardless of their nationality and residence status. Also, it advised eliminating barriers to Korean citizenship for children born out of wedlock, between a Korean father and a foreign mother. Furthermore, the Committee recommended the government to ratify the 1961 Convention on the Reduction of Statelessness (Para. 28, 35 CERD/C/KOR/17-19).

27. The government prepared a draft of the “*Act on Registration of Birth of Foreign Children*” (tentative). The Act allows the parents to register the birth of their child whose nationality is not Korean (who is not granted Korean nationality per the *Nationality Act*) if he or she is born in the Republic of Korea and allows them to view the relevant certificates or request issuance. The main objective is to allow the parents to verify the birth and identity of their child. The Ministry of Justice did consultation on inter-departmental roles and responsibilities, the composition of foreigner registration numbers, and joint jurisdiction issues. Also, the Ministry is currently preparing the proposal for the “*Act on Registration of Birth of Foreign Children*” (tentative).

28. The Nationality Act of the Republic of Korea follows *jus sanguinis*, granting nationality at the time of birth if the mother or father is a Korean citizen. For exceptional

cases, including when the parents are unknown, *jus soli*¹⁰ is applied to prevent the occurrence of stateless persons at birth. Furthermore, the Act includes regulations that prevent statelessness later in life – it has the nationality retainment report system¹¹ for Korean nationals wishing to maintain their nationality after they acquire foreign nationality due to non-voluntary reasons, such as marriage, acknowledgment, and adoption. Also, dual nationality is allowed¹² for foreigners who acquire Korean nationality from marriage, etc. The Nationality Act of the Republic of Korea suffices most of the 1961 Convention on Statelessness requirements to prevent statelessness at birth and later in life. The need to introduce a separate regulation to guarantee birth registration irrelevant to nationality and residence status is not great. In consideration of the Korean Nationality Act based on the Personal Principle, granting the responsibility of final nationality acquisition to the country of birth following the Convention is not applicable. The government will carefully review the introduction after comprehensively considering cases of other countries. Furthermore, it will support the stable residence of stateless persons by granting them sojourn status and opportunities to acquire a nationality. As of late December 2020, the number of stateless persons residing in the Republic of Korea is 156. One hundred and two of them have registered as foreigners, and 54 have entered the country with short-term visas.

Table 15
Statistics of Stateless Persons Residing in the Republic of Korea

(Unit: Person)

	Total	Stateless at Time of Entry	Nationality Revoked	Unregistered for Birth at Country of Birth	Did Not Renounce Original Nationality After Naturalization	Etc.*
Long-term Sojourn	102	42	24	13	12	11
Short-term Sojourn	54	Entered the country with tourism (B-2) or short-term (C-3) visas				

* Four ethnic Chinese persons who defected from the Democratic People's Republic of Korea, five refugees, and two persons whose nationality had been annulled.

29. When reporting the acquisition of nationality upon acknowledgment, foreigners shall submit a document that proves the foreigner status according to Article 2, Paragraph 2, Subparagraph 1 of the Enforcement Rule of the Nationality Act, which is customarily their foreign passport. In case passport issuance is hindered by the laws or system of the birth mother's country of origin, the government recognizes documents equivalent to passports. If the laws of the birth mother's country of origin do not grant nationality to her child, the government grants nationality by acknowledgment without the passport submission after the verification process (see below two example cases). As illustrated, if a child born out of wedlock between a Korean father and a foreign mother wishes to become a Korean national, in case the situation is deemed difficult to submit a foreign passport, the government allows for a simplified procedure, i.e., receiving other alternative documentation. If a child born out of wedlock between a Korean father and a foreign mother wishes to acquire Korean nationality, the government plans to actively grant opportunities to obtain nationality and provide necessary support to establish early status relationships, etc.

¹⁰ Article 2, Paragraph 2 of the *Nationality Act* states that an abandoned child found in the Republic of Korea shall be deemed born in the Republic of Korea, preventing the occurrence of stateless persons at birth.

¹¹ Article 15, Paragraph 2 of the *Nationality Act* stipulates that a person who acquired foreign nationality following marriage, adoption, acknowledgment, or foreign laws may retain their nationality by declaring his or her intention to the Minister of Justice.

¹² Dual nationality has been allowed for naturalized persons due to marriage, etc., since 2011.

Table 16

Examples of Verification Documents for Foreigners

(Example 1) China does not issue a passport to a child born overseas. The government recognizes the travel certificate issued by the Chinese Embassy in the Republic of Korea to be equivalent to a passport.

(Example 2) A child born in a common-law marriage between a Korean father and a Malaysian mother cannot acquire Malaysian nationality. Upon the verification process of the Malaysian Government, the Republic of Korea accepts the report of nationality acquisition even without the submission of a passport.

B. Measures to Ensure Refugee Status Determination be Conducted in a Professional Manner

30. The Committee recommended that the government takes measures to guarantee that the refugee status determination (RSD) procedure is conducted in a professional manner and ensure access to clear information about the process in the language that the refugees understand. Also, it requested the government to ensure that any decision related to asylum seekers and refugees is fair and based solely on protection needs and recommended to provide and strengthen human rights training for immigration officers, etc. (Para. 14 CERD/C/KOR/17-19).

31. The government applies operational protocols for public officials in charge of refugees to enhance their expertise. Public officials in charge of refugees are required to take minimum hours of education on refugee affairs procedures, and their training grades are reflected in the final performance evaluation. Also, the government designates certain public officials dealing with refugees to take exclusive charge of refugee works for a maximum of five years. By limiting organizational transfer unrelated to their opinions, the government is making efforts to cultivate professional and specialized persons for refugee affairs. To strengthen the independent and objective screening function for refugee-related objections, the government separated and newly created the “Refugee Appeal Division” from the original “Refugee Division” in February 2020. The original “Refugee Division” has been reorganized as “Refugee Policy Division” to focus on supervising preliminary screening organizations (immigration offices or immigration centers) and policy establishment for refugee status determination. With the addition of the Refugee Appeal Division, the government improved the speed, fairness, and expertise of refugee objection screening procedures of the Ministry of Justice (special administrative appeals), strengthening the protection for refugees who are in dire need of international protection.

32. The government continues to strengthen RSD-related education to improve the expertise of public officials in charge of refugees. By cooperating with external organizations such as the UNHCR Representative in the Republic of Korea, it expanded the scope of training provided by field experts. Furthermore, the government systemized the training courses to include individual country status and published and shared RSD-related materials, including RSD manuals and precedents on refugee litigations. The government also newly established a research group composed of refugee investigators in charge of objections and researched fact-finding methodology, analysis of precedents of refugee litigations, and analysis of the country status of major refugee application nations to improve the expertise in fact-finding. Since May 2020, the government has strengthened communication with external refugee experts such as the UNHCR, civic organizations, and academia. It held meetings to discuss cooperative measures to enhance the expertise and fairness of fact-finding for the raised objections. Furthermore, the government hired external private experts with excellent language skills who majored in regional studies of main refugee application nations as professional personnel to be exclusively in charge of country status investigations. This is to prevent the depreciation of speed, accuracy, and fairness that could arise when public officials in charge of RSD and objections personally investigate the information of the country of origin to determine the credibility and possibility of persecution. The government is committed to ensuring the overall expertise and fairness of RSD procedures.

33. The Korean Refugee Act specifies the qualifications and duties of screening officers. In addition to the screening officers, the Ministry of Justice (MOJ) separately designates the public officials in charge of refugees to clarify the distinction between refugee affairs. Meanwhile, it is pursuing an amendment of the Refugee Act to ensure that screening officers and public officials in charge of refugee duties receive training and education on applicant interviews, expert knowledge required for fact-finding, and status and treatment of refugees specified in the Refugee Act. Also, the current Refugee Act states that the Refugee Committee comprises 15 members. The MOJ aims to amend the Act to promote the expertise and fairness of screening by increasing the number to 50 and expanding the proportion of private experts while strengthening the expertise of objection screening procedures by distinguishing the roles of the whole committee and subcommittees. On top of the amendment of the Refugee Act, the MOJ plans to strengthen screening training to improve the expertise of public officials in charge of refugees and refer to the selection criteria and education for refugee officials of major countries to improve the capacity building of the officials and enhance their expertise.

34. The Refugee Act of the Republic of Korea ensures that foreigners receive professional assistance in the RSD procedures, including the positive help of immigrant officials for foreigners who inquire about applying or express the willingness to apply, assistance from attorneys-at-law, accompaniment of the applicant's trusted persons, interpretation by an interpreter with specific qualifications, prohibition of disclosure of personal information of the applicant and their company during interviews, etc. Furthermore, the government posted guidelines on refugee applications and placed related brochures at airports, ports of entry, and immigration offices in charge of accepting and screening refugee applications. It also posted refugee application processes on the MOJ's Korea Immigration Service and Hi Korea (a comprehensive information portal for foreigners) websites to ensure the applicants have access to relevant information. In addition, the government individually distributes e-book brochures on RSD procedures and notes for staying in the Republic of Korea to foreigners who have applied for refugee status, assisting easier access to relevant information.

35. In case an applicant is unable to express themselves duly in Korean, the government assigns an interpreter with specific qualifications to interpret the refugee interview process. This enables the applicant to acquire information in the language they can comprehend. Upon the applicant's request, the government assigns an interpreter of the same gender as the applicant.

36. The Refugee Act of the Republic of Korea stipulates that interpretation must be provided for refugee applicants during interviews. The MOJ is looking to amend the Act to guarantee interpretation during the application and submission processes as well, to prevent cases in which asylum seekers cannot fully express themselves in the application and submission procedures due to linguistic limitations arising from various countries of origin and backgrounds and their inadequate status. Moreover, to prevent the acquisition of false information due to inaccurate interpretation in the screening process, the MOJ is strengthening interpretation expertise by appointing professional refugee interpreters certified by external agencies.

37. The Institute of Justice (IOJ), under the Ministry of Justice, is strengthening human rights education for immigration officers by including mandatory or establishing new courses on the human rights of foreigners. The IOJ includes mandatory courses on the human rights of foreigners for new immigrant official trainees, such as "Foreigners and Human Rights," "Practice of Protection of Foreigners," and "Comprehensive Understanding of Immigrants." It newly created "Capacity Building for Controlling the Stay of Foreigners" in 2021 and educated the trainees on "Preventing the Violation of Labor Standards Act and Infringement of Human Rights" and "Legislation for Labor Contracts" to guarantee the labor rights of migrant workers. Major training content includes social integration of migrants, protection of human rights of foreigners, multicultural sensitivity training, understanding and tasks of Korean multicultural societies, the practice of refugee protection, and legislation for labor contracts. The IOJ conducted training on 112 trainees in 2016, 239 in 2017, 224 in 2018, 249 in 2019, 131 in 2020, and 232 in 2021. The IOJ, while continuing to provide education to protect the human rights of foreigners, including migrants, refugees, and multicultural families, plans to expand the scope of education recipients by utilizing content online. The

IOJ will newly establish “Understanding Mutual Culture Through the Eyes of Foreigners Residing in Korea (10 sessions),” “Course for Refugee Committee Members (12 sessions),” and “Counselling for Foreigners Under Protection (five sessions)” in the cyber training program. The objective is to educate more public officials in legal administration, including immigration officers, and help them cultivate a higher awareness of human rights, i.e., prohibition of racial discrimination.

Table 17

Status of Foreigner-related Education of Immigration Officers, Including Immigrants, Refugees, and Multiculturalism (2016–2021)

<i>Year</i>	<i>Training Period</i>	<i>Course Name</i>	<i>Subject</i>	<i>No. of Trainees</i>
2016	4.6.–4.8.	Immigration Integration Affairs	Policies on immigrants through marriage	20
			Policies on settlement support for migrants	
			Policies on immigration integration	
	6.22.–6.24.	Human Rights Sensitivity at Immigration	Human rights and human rights sensitivity	18
	7.20.–7.22.	RSD Affairs	UNHCR and protection of refugees	18
9.7.–9.9.	Human Rights Sensitivity at Immigration	Human rights and human rights sensitivity	20	
2016	11.7.–12.9.	Newcomer Training for Grade 9 Immigration Officers	Understanding European and American cultures	36
			Understanding multiculturalism	
			Realities of the DPRK	
			Understanding immigration integration	
			Refugee affairs	
			Protection of foreigner affairs	
			4 courses (5 sessions)	
2017	2.22.–2.24	RSD Affairs	UNHCR and protection of refugees	20
	3.8.–3.10.	Immigration Integration Affairs	Policies on immigrants through marriage	19
			Policies on settlement support for migrants	
8.21.–9.1.	Newcomer Training for Grade 9 Immigration Officers	Understanding immigration integration	43	

<i>Year</i>	<i>Training Period</i>	<i>Course Name</i>	<i>Subject</i>	<i>No. of Trainees</i>
		(recruitment of experienced officials)		
	9.4.–9.29.	Newcomer Training for Grade 9 Immigration Officers	Foreigners and human rights Understanding Chinese culture Realities of the DPRK Understanding immigration integration Refugee affairs Protection of foreigner affairs	157
				3 courses (4 sessions)
2018	1.17.–1.30.	Newcomer Training for Grade 9 Immigration Officers	Understanding immigration integration	53
		(recruitment of experienced officials)		
	8.6.–9.14.	Newcomer Training for Grade 9 Immigration Officers	Foreigners and human rights Middle Eastern history and culture Understanding immigration integration Refugee affairs Protection of foreigner affairs	171
				1 course (2 sessions)
2019	2.25.–3.22.	Newcomer Training for Grade 9 Immigration Officers	Understanding immigration integration Refugee affairs Protection of foreigner affairs	34
	3.25.–4.5.	RSD Affairs	Problems with Korean refugee system seen through cases of human rights violations of refugees Middle Eastern political situation, society, and culture African religion and culture International refugee protection of UNHCR	33
	8.19.–9.27.	Newcomer Training for Grade 9	Understanding multicultural societies Foreigners and human rights	182

<i>Year</i>	<i>Training Period</i>	<i>Course Name</i>	<i>Subject</i>	<i>No. of Trainees</i>
		Immigration Officers	Understanding Middle Eastern history	
			Human rights of foreigners seen through cases of human rights violations	
			Understanding immigration integration	
			Refugee affairs	
			Protection of foreigner affairs	
	2 courses (3 sessions)			249
2020	2.24.–4.3.	Newcomer Training for Grade 9 Immigration Officers	Understanding multicultural societies	62
			Understanding immigration integration	
			Refugee affairs	
			Foreigner protection affairs	
			Foreigners and human rights	
	8.24.–8.28.	RSD Affairs	History and culture of ethnic Koreans (<i>Koryo Saram</i>)	22
	8.31.–9.25.	Newcomer Training for Grade 9 Immigration Officers	Understanding immigration integration	47
			Refugee affairs	
			Foreigner protection affairs	
			Foreigners and human rights	
	2 courses (3 sessions)			131
2021	2.1.–2.17.	Newcomer Training for Grade 9 Immigration Officers	Understanding immigration integration	102
			Refugee affairs	
			Foreigner protection affairs	
			Foreigner protection affairs II	
	5.10.–5.28.	Newcomer Training for Grade 9 Immigration Officers	Foreigners and human rights	69
			Understanding immigration integration	
			Refugee affairs	
			Foreigner protection affairs	
	7.26.–7.30.	RSD Affairs	Country Status on Russia	16
			Country Status on Kazakhstan	
	9.9.–9.10.	Capacity Building for Controlling the Stay of Foreigners	Preventing violation of Labor Standards Act and human rights infringements	14
			Legislation for labor contracts	

<i>Year</i>	<i>Training Period</i>	<i>Course Name</i>	<i>Subject</i>	<i>No. of Trainees</i>
	10.25.–11.12.	Newcomer Training for Grade 9 Immigration Officers	Foreigners and human rights Understanding immigration integration Refugee affairs Foreigner protection affairs	31
	3 courses (5 sessions)			232
	5 courses (22 sessions)			1 187

38. In addition, the Government of the Republic of Korea continues to provide human rights education for immigration officials who deal with refugee applicants. It also established an internal capacity-building course composed of MOJ personnel to strengthen human rights education. In-person training on human rights has been temporarily suspended due to the COVID-19 situation, but the MOJ plans to normalize and continue the education.

Table 18

Status of Human Rights Education for Immigration Officials (2016–2021.08)

<i>Year</i>	2016	2017	2018	2019	2020	2021.08
No. of trainees (persons)	298	484	509	388	115	145

39. The government has provided scheduled and unscheduled RSD education to public officials in charge of refugee status determination. The various training courses included training on international conventions, such as international human rights law, the Universal Declaration of Human Rights, and the UN Convention on the Rights of the Child, and sessions designed to improve human rights sensitivity. Additionally, the MOJ trained refugee interpreters on human rights issues, including the definition of refugees and specific characteristics surrounding refugee interpretation. It also educated the interpreters to maintain neutrality and not be biased toward any particular gender, religion, or values and to protect the personal information of the applicants. The government is pursuing to amend the Refugee Act to include the clause on mandatory training for refugee screening officers and public officials in charge of refugees. The amendment would make it compulsory for the officers and officials to complete relevant training programs, including courses on human rights such as international human rights treaties. Furthermore, the MOJ operates a professional certification system for refugee interpreters to ensure that only skillful interpreters who have passed the training and evaluation courses via external professional agencies provide interpretation. It plans to further strengthen human rights education for refugee interpreters by including human rights education in the certification curriculum. Moreover, the MOJ will strive to protect the human rights of refugee applicants in the RSD process by conducting regular and frequent human rights education for public officials in charge of refugees and refugee interpreters. In parallel, it will systematically ensure to include human rights training in curriculums by cooperating with the UNHCR Representative in the Republic of Korea and other external professional agencies, thereby strengthening human rights education.

C. Granting Residence Permit for Immigrants through Marriage Regardless of Responsibility for Termination of Marriage or Child-Rearing Status

40. The Committee's concern that immigrants through marriage are not allowed to stay in the Republic of Korea unless they perform typically female-gendered roles (Para. 21

CERD/C/KOR/17-19) stands untrue. The requirements and criteria for the residence status of immigrants through marriage after divorce are identically applied to each person regardless of the gender. Raising a child, supporting family members, and proving the responsibility of termination of marriage are mutual responsibilities to be shared between spouses, not traditionally female roles.

41. It is difficult to accept the recommendation that the government shall allow the permanent residence of immigrants through marriage after the termination of marriage, even when they hold the prime responsibility for divorce. The Supreme Court has ruled it appropriate to allow the permanent residence of immigrants through marriage (F-6 visa holders) who are unable to sustain a normal marriage relationship due to causes unattributable to them (when the prime responsibility of dissolution of marriage falls to their spouse who is a Korean national).¹³ The government has taken the following actions to ensure these immigrants' right to stay in the Republic of Korea after their marriage to a Korean spouse ends in divorce. First, it has been operating ombudsman offices for foreigners' residence at immigration and foreigner offices since December 2019. When deemed necessary, the government discerns the responsible party among marriage immigrants and their spouses for dissolution of marriage through deliberation and resolution of the ombudsman office composed of external experts, etc. Also, since January 2021, even when the child reared by marriage immigrants reaches adulthood, the MOJ allows them to continue to reside with a residency (F-2) visa, considering the living foundation already formed in the Republic of Korea and their bond with their child. However, should immigrants through marriage be allowed to continue residing in the Republic of Korea regardless of the responsibility for termination of marriage or child-rearing status just because they were once spouses to a Korean national, concerns could rise over the violation of the child's human rights (possible avoidance of child-rearing duties after divorce and acts against the child's welfare). In addition, it could lead to a rise of victims of international marriage, particularly from sham marriages and human trafficking that leverage guaranteed residency as a bait. The government plans to improve the relevant systems to establish a sound international marriage culture and promote the rights of all entities of international marriage.

Note: For the past two years (2020–2021), 715 cases were approved for extension of residence status after the termination of marriage, and 65 were declined. The ombudsman office for foreigners' residence deliberated on four cases whose grounds for decline were unclear.

D. Strengthening the Rights and Promoting the Social Integration of Female Migrant Spouses

42. The government has monitored international marriage agencies every year since 2009 to reinforce regulation and monitor their illegal acts. In 2012, the law was amended to mandate international marriage brokers to take training courses provided by the Korean government as a precondition to registering as an international marriage brokerage business. Also, measures to ensure financial soundness and stability of small-scale international marriage brokers, including a minimum capital requirement of 100 million KRW, were imposed.

43. In 2008, the Korean government began operating pre-arrival overseas programs for soon-to-be immigrants through marriage before they enter the Republic of Korea to prepare them with a better understanding of international marriage and Korean lifestyle and culture. Through these programs, the government helps immigrants through marriage to settle in Korean society and contributes to preventing various issues that could arise afterwards, including familial disputes. Furthermore, the government operates the "international marriage guidance program" for people who invite foreign spouses from seven countries (China, Vietnam, the Philippines, Cambodia, Mongolia, Uzbekistan, and Thailand). The program intends to introduce the culture of the foreign spouses' countries and the legal requirements for inviting foreign spouses to the Republic of Korea.

¹³ Supreme Court ruling 2018Du66869.

44. Moreover, the government provides Korean language training, home visit education (on child-rearing based on life cycle stages and living support services such as guidance on child's homework), interpretation and translation, case studies, etc., through "Family Centers" installed in 230 regions across the country to expedite the social integration of immigrants through marriage. The government also offers education and counseling for Korean spouses and family members of immigrants through marriage to help them settle into Korean society early on.

45. The government operates 32 protective shelters for migrant women to protect migrant women who have been victimized by domestic violence, etc. Migrant women and their children can reside together at the facilities, which also provide medical and legal support, treatment and recovery programs, and vocational training.

46. Since 2006, the government has been operating the "Danuri Call Center" for marriage migrant women. The Center, available for counseling 24/7, provides information on living in the Republic of Korea and protects migrant women's human rights. The call center consultants provide counseling in 13 languages and support the transfer to hospitals, police, and protective facilities.

E. Expansion of Health Insurance Coverage

47. The Committee recommended the government to take measures to increase the health insurance coverage of migrants and ensure that all migrant children are covered by health insurance, including the children of foreigners not covered by national health insurance. Also, the Committee recommended the government to amend the national health insurance scheme to cover all migrants and at the same fees as Korean nationals (Para. 32-a CERD/C/KOR/17-19).

48. Following the amendment of the National Health Insurance Act (which took effect in July 2019), it became mandatory for foreigners to enroll in the national health insurance program after six months since coming into the Republic of Korea, while it was a selective choice before. While the enrollment of international students studying in the Republic of Korea in the national health insurance program was initially deferred, it was made compulsory in March 2021. Health insurance coverage for foreigners residing in the Republic of Korea is continuously increasing. Furthermore, the government overhauled the system to allow humanitarian status holders, originally ineligible except for recognized refugees, to enroll in health insurance (which took effect in January 2019). On the health insurance enrollment of the self-employed insured, only the immigrants through marriage with residence permits were eligible for immediate enrollment at entry. Still, its coverage was expanded to include international students studying in the Republic of Korea following the amendment of the Health Insurance Coverage on Long-staying Expats and Foreigners (which took effect in March 2021). Also, immediate enrollment at the time of entry was additionally applied to non-professional job holders and qualifiers for permanent residence (which took effect in October 2021), strengthening the rights to health of the vulnerable population and foreigners who are expected to stay in the Republic of Korea over an extended period.

Note: Increase in number of foreigners enrolled in health insurance: December 2018 (970K) -> December 2019 (1.24M) -> December 2021 (1.26M)

49. Furthermore, on enrolling migrant children in health insurance, the government has made continued efforts to increase health insurance coverage to expand the guaranteed rights to health of vulnerable groups such as migrant children and refugees. The government amended the Enforcement Rule on National Health Insurance Act (which took effect in January 2019) to allow humanitarian status holders not recognized as refugees and their families to enroll in health insurance as self-employed insured. The amendment of the Health Insurance Coverage on Long-staying Expats and Foreigners (which took effect in July 2019) alleviated the burden of insurance premiums by imposing the minimum or same premium as Korean nationals to minors in single households. Moreover, insurance premium standards are set at individual levels for foreigners because the concept of "household" based on the Residence Registration Act does not apply. However, the amended law allows children under

19 to be integrated into households. With this partial application of the “household” concept to foreigners, their insurance fee burden has been eased.

50. On imposing the same fees as Korean nationals to foreigners, the government imposed the average fee of all insured persons as the baseline for the self-employed insured foreigners (which took effect in January 2019) because it cannot account for their assets and income in other countries. However, the government applies the same imposition and collection criteria as Korean nationals for permanent residence status holders and immigrants through marriage expected to stay in the Republic of Korea for an extended period. Moreover, the Health Insurance Coverage amendment on Long-staying Expats and Foreigners (which took effect in January 2019) led to a 30% reduction in insurance fees, even for humanitarian status holders. Insurance premium reduction standards had been based on residence status thus far, but with the amendment of relevant laws that reduces 22% for foreigners residing in farming and fishing communities and 50% for those in islands and remote areas, the government continues to alleviate the burden of insurance fees for vulnerable foreign populations.

F. Provision of Social Support Irrespective of National Origin

51. The Committee recommended the government to review its social security policies to ensure that all persons living on its territory, irrespective of their national origin, receive basic social support (Para. 32-b CERD/C/KOR/CO/17-19).

52. Basic requirements of the national basic living security system state that the recipients be Korean nationals residing in the Republic of Korea – it does not provide support for foreigners. However, in accordance with Article 32 of the Refugee Act*, the government applies national basic living security benefits to recognized refugees and foreigners living in the same economic and living zones** as Korean nationals. The national basic living security system stipulates that the income and property of applicants and abilities of obligatory providers should meet the selection criteria to acquire the status as recipients. However, since public assistance requires the effective utilization of limited resources, a careful review is warranted when expanding the scope of recipients. As part of an inclusive social security policy, the government may include marriage immigrants in need of help when considering expanding the recipients.

G. Guarantee of Eligibility Conditions for the Emergency Aid and Support System

53. The Committee recommended the government to take measures to ensure equal eligibility conditions for all to the Emergency Aid and Support System without discrimination (Para. 32 CERD/C/KOR/CO/17-19).

54. Same as the National Basic Living Security System, the Government of the Republic of Korea follows the principle of reciprocity for the Emergency Aid and Support System. However, in accordance with Article 5-2 of the Emergency Aid and Support Act, foreigners residing in the Republic of Korea who meet certain criteria* are provided with emergency support from a humanitarian perspective. In addition, in case a victimized foreigner’s country of origin has a Cross-Guarantee Agreement with the Republic of Korea, they are eligible for support not under the Emergency Aid and Support Act but the Crime Victim Protection Act, including medical and psychological treatment costs, emergency living expenses, etc.

* The national basic living security system is based on the *Framework Act on Social Security*, which stipulates that the reciprocity principle be followed when applying the living security system to foreigners residing in the Republic of Korea.

** Refer to foreigners who are pregnant from marriage to a Korean national or those who share livelihood or residence with direct ascendants who are Korean nationals, *per the National Basic Living Security Act*.

Table 19

Foreigners Legally Eligible for Emergency Support

Foreigners residing in the Republic of Korea who meet the standards below shall be eligible for emergency support (Article 5, Paragraph 2 of the *Emergency Aid and Support Act*, Article 1, Paragraph 2 of the *Enforcement Decree of the Emergency Aid and Support Act*).

1. Persons who are married to a Korean national
2. Persons who have divorced a Korean national or whose spouse has deceased and is taking care of a lineal ascendant or descendant who is a Korean national
3. Persons recognized as refugees under Article 2, Paragraph 2 of the *Refugee Act*
4. Persons who sustained damage due to fire, crime, or natural disasters to no causes attributable to their own
5. Persons who are recognized by the Minister of Health and Welfare to be in need of emergency support
 - Those who have sustained damage due to disasters, etc., to no causes attributable to their own
 - Humanitarian status holders per Article 2, Paragraph 3 of the *Refugee Act*

55. Furthermore, the Committee expressed concern over the government withholding support based on the Emergency Aid and Support System when both the victim and the perpetrator of the crime are migrants (Para. 31 CERD/C/KOR/CO/17-19). However, the current system is not discriminatory against foreigners, considering that even the perpetrators who are Korean nationals that have been arrested or incarcerated in correctional facilities are not eligible for public assistance. Also, foreigners who have been victimized by a crime due to no fault of their own are eligible for support if they meet the criteria stipulated in the Emergency Aid and Support Act.

H. Undocumented Migrants

56. The Committee recommended the government to take measures to prevent violence targeting undocumented migrant workers and intensify human rights training delivered to police and immigration officers (Para. 16 CERD/C/KOR/CO/17-19).

57. Upon identifying undocumented foreigners, the Korean police transfers the undocumented persons in question to Regional Immigration Services. However, the police do not conduct pre-emptive crackdowns on undocumented migrants. In addition, the police do not investigate the Migrants' Trade Union (MTU) or human rights advocates just because they are involved with undocumented migrants. Moreover, the police actively utilize and promote the "exemption from notification obligation of illegal immigrants"* system operated by the MOJ, taking measures to ensure that undocumented migrants who have suffered from various crimes do not undergo any unfair treatment because of their reports to the authorities.

Table 20

Statistics on Police Utilizing the Exemption System from Notification Obligation of Illegal Immigrants

(Unit: cases)

	2015	2016	2017	2018	2019	2020	Total
Total	85	111	116	115	117	142	686

* A system that exempts the police from the obligation to report to immigration offices in case they acknowledge the existence of illegal immigrants while investigating victims of major crimes.

58. Furthermore, the Korean National Police Agency (KNPA) established the “Plan for Advancement of Human Rights Education on Police Officers (2018–2022)” and developed training content, including human rights programs, materials, and videos. The KNPA enacted the “Police Code of Conduct on Human Rights (instructions)” to strengthen education on the prohibition of discrimination and adherence to the principles protecting the vulnerable and minority groups. Article 6 of the Police Code of Conduct on Human Rights specifies that “police officers shall not discriminate against anyone without reasonable cause due to their gender, religion, disability, medical history, age, social status, nationality, ethnicity, political views, etc., in the course of police work, and shall protect the human rights of persons who require special protection due to physical, mental, economic, and cultural differences.” The KNPA published and distributed a commentary on the Police Code of Conduct of Human Rights and included the relevant articles in the basic training materials for human rights education for police officers, training the police force on the principle of non-discrimination. The KNPA provides mandatory human rights education of a minimum of six hours per year to all police officers. The curriculum includes content on the prohibition of discrimination and protection of the vulnerable and minorities.

59. The statistics on the police transferring unregistered migrants to Regional Immigration Services after acknowledging their status during police work are as follows. The table below includes forced arrests and transfers based on the undocumented migrants’ voluntary consent.

Table 21
Statistics of Police Transfer of Unregistered Migrants to Regional Immigration Services

(Unit: person)

	2016	2017	2018	2019	2020	Total
Total	8 546	6 105	7 426	9 782	8 268	40 127

I. Guaranteeing the Right to Education for Immigrant Children, Including the Children of Undocumented Immigrants

60. The Committee recommended that the government amends the Framework Act on Education to extend compulsory education to all children without discrimination and advised taking measures to increase the enrollment rate of migrant children in regular schools to enhance their integration into Korean society (Para. 30 CERD/C/KOR/CO/17-19).

61. The Government of the Republic of Korea concurs that a proactive review is required for the amendment of the Framework Act on Education. However, there should be a mid- to long-term deliberation, as amendments should follow a social consensus reached through ample discussion. The Ministry of Education has been continuously advancing the relevant systems, which are as follows. First, Articles 19, 75, and 89-2 of the Enforcement Decree of the Elementary and Secondary Education Act guarantee the right to education for all migrant children regardless of the residence status of their parents. Secondly, Articles 10-2 and 12 of the Elementary and Secondary Education Act ensure free education for migrant children so that anyone would have access to and the right to receive practical education without discrimination. Third, the government provides customized support for migrant children by improving the academic accreditation procedures, distributing Korean learning materials, providing various training and counselling, supporting additional educational expenses, etc. Fourth, the government continues to build a consensus by offering “training on understanding multiculturalism” to students, parents, and teachers. Fifth, the government operates specific procedures on “how to record school transcripts” to ensure that students who are not registered as foreigners in the Republic of Korea (those who do not have foreigner registration numbers) receive practical school education with proper academic registration. Sixth, the Ministry of Education guides the provincial and city offices of education to prevent discrimination or rejection of admission for illegal immigrants or migrant children when

entering elementary, middle, and high schools*. The Ministry plans to polish the relevant laws and system further to guarantee that all children receive an education without discrimination.

62. The Ministry of Justice (MOJ) has implemented the “Measures for Conditional Remedy of Illegal Migrant Children Born in Korea” since April 19, 2021, for foreigners who are born and have stayed in the Republic of Korea for 15 consecutive years or more, who are in middle or high schools or have graduated high schools. The system grants residence permits for academic purposes, etc., after screening the criteria, such as school enrollment records and adherence to the law. This is in consideration of the fact that foreign children who have been enrolled in public schools after being born and staying in the Republic of Korea for a long time have already formed a sense of linguistic and cultural identity that is equivalent to that of Korean nationals, and it is difficult for them to return to their parents’ home country. Furthermore, starting from February 1, 2022, the MOJ expanded the scope of application eligibility for residence permits to include 1) foreign children born in the Republic of Korea, 2) foreign infants or children under the age of 6, and 3) foreigners who are enrolled in elementary, middle, or high schools or have graduated high schools after entering the Republic of Korea past infancy and residing in the Republic of Korea for more than 6–7 years. This decision reflects the recommendations by the National Human Rights Commission of Korea and a review of the implementation results thus far.

63. Since 2011, the Government of the Republic of Korea has been operating “Rainbow Schools” designed to assist the social adaptation of migrant adolescents outside of schools. A total of 13,002 adolescents have participated in Rainbow School programs as of July 2021, which offer Korean language, society, and cultural education. Also, the government started providing career and vocational training in 2013 to strengthen the capacity for the self-reliance of adolescents with migration backgrounds. A total of 1,264 persons have been provided with the training courses thus far. The government currently provides cultural, educational, and institutional experience opportunities for adolescent defectors from the Democratic People’s Republic of Korea at the early stage of their arrival to assist with a smoother adaptation to Korean society, 1400 persons have been provided with the education since 2009. Furthermore, the government converted the original in-person education into online training to minimize the educational discrepancy of adolescents arising from the COVID-19 pandemic. It continues to enhance the adaptability and efficiency of online education for children and adolescents who have migration backgrounds.

J. Protection of Rights of Foreign Workers

64. The Committee recommended the government to amend the Employment Permit System and other legislation applicable to migrant workers to a) facilitate family reunion, b) remove restrictions that prevent migrant workers from changing their workplace, c) extend the minimum period of stay, and d) enable migrant workers to change to a different type of visa more easily (Para. 10 CERD/C/KOR/CO/17-19).

65. Considering that foreign workers who enter the Republic of Korea through the Employment Permit System are a non-professional workforce (residence status: non-professional (E-9) visa), the government limits the accompaniment of family, duration of stay, and employment per the short-term circulation principle (prevention of permanent residence). However, per Articles 18 and 18-2 of the Act on the Employment of Foreign Workers, E-9 visa holders may work as employees within three years of entry into the Republic of Korea. Also, in the case of re-employment, the period of employment is extended by one year and ten months, allowing for a maximum of four years and ten months of

* (Entrance to elementary and middle schools) Guided the provincial and city offices of education in charge of establishing the basic plan for the assignment of schools and related affairs to ensure there is no discrimination such as rejection of entrance in the 2022 school season (October 2021).

(Entrance to high schools) Emphasized at the working-level meeting of officials in charge of high school entrance of 17 provincial and city offices of education (August 2021) to ensure there is no omission or discrimination against illegal immigrants or migrant foreigners in the 2022 school season.

employment. Foreigners who obtained the certification for exceptionally permissible employment may work for an additional four years and ten months or nine years and eight months. Following the amendment of the Act on the Employment of Foreign Workers on April 13, 2021, E-9 visa holders may extend the period of employment for one year in case of a spread of infectious diseases or natural disasters. They are allowed to work and stay in the Republic of Korea for a maximum of five years and ten months. However, the Employment Permit System has been introduced to resolve the workforce shortage for companies that could not hire Korean nationals. Therefore, it is to a certain extent inevitable to place restrictions on changing workplaces, considering that visas are issued based on the premise of a labor contract with the employer.

66. In case of expiration or termination of the labor contract by the employer, E-9 visa holders may change their place of work three times within the first three years of initial employment and two times in the re-employment period (one year and ten months). For causes unattributable to foreign workers (i.e., employers' fault including beating or delayed payment), they may change workplaces however many times they want without the employer's consent. After 2017, the government newly created causes eligible for change of workplaces unattributable to foreign workers over four occasions. Going forward, it plans to prepare ways for advancement by collecting opinions from experts as well as from labor and management.

Table 22

Addition to Eligible Causes for Change of Workplace Unattributable to Foreign Workers

March 2018	<p>Change of workplace is allowed in case an employer who provided a greenhouse as a place of residence fails to abide by the corrective order asking to take voluntary measures to improve living conditions.</p> <p>Change of workplace is allowed if the actual accommodations are different from the information provided by the employer to foreign workers on the employment permit application.</p>
January 2019	<p>Emergency change of workplace (within three days) is allowed in case the employer sexually assaults a foreign worker.</p> <p>Change of workplace is allowed if the accommodation's facility criteria fails to meet the standards.</p> <p>The definition of "offenders" that treat foreign workers unjustly has been expanded to include not only the employer but also the employer, work colleagues, lineal ascendants of the employer, etc.</p> <p>Discretionary criteria such as "in case it is difficult to maintain labor relationship" are deleted and clarified.</p>
July 2019	<p>Change of workplace is allowed in case the dormitory requirements specified in Articles 55 and 58-2 of the <i>Enforcement Decree of the Labor Standards Act</i> are not met.</p> <p>Change of workplace is allowed in case the employer fails to provide information about dormitories to foreign workers or includes incorrect information and does not take any corrective action.</p>
April 2021	<p>Change of workplace is allowed in case of a severe disaster resulting from a violation of the <i>Occupational Safety and Health Act</i>.</p> <p>Change of workplace is allowed in case employers provide an illegally constructed place or residence that violates the <i>Farmland Act</i>, <i>Building Act</i>, etc.</p> <p>Change of accommodations is allowed in case the employer recommends resignation due to causes such as agricultural or fisheries off-season.</p> <p>Change of accommodations is allowed in case the employer fails to enroll in mandatory social insurance, etc.</p>

67. Since August 1, 2017, the MOJ has been operating the “Skilled Worker (E-7-4) Points System” for foreigners conducting normal employment activities in the Republic of Korea with non-professional (E-9), maritime crew (E-10), or work and visit (H-2) visas for five years or more during the recent 10-year period. Foreigners who meet the requirements may work in the Republic of Korea over a long period, accompanying family members, and are also eligible to acquire permanent residency status or nationality if they meet the necessary criteria. As of July 2021, 3,215 foreigners have shifted to E-7-4 status holders (see below table). The MOJ, through consultations with relevant ministries, including the Ministry of Employment and Labor, continues to expand the quota every year (1,000 persons in 2020 -> 1,250 in 2021).

Table 23
Statistic on Status Changes to Skilled Worker (E-7-4)

As of July 31, 2021 (unit: person)

	2017	2018	2019	2020	2021
Number of Permitted Persons (Total: 3,215)	293	471	706	983	762

68. The Committee recommended that the government makes the necessary amendments to the legislation applicable to migrant workers to eliminate discrimination against non-citizens in relation to working conditions and work requirements and to combat discrimination between national and foreign workers firmly, including by strengthening its labor inspections in industries employing migrant workers, without prejudice to their immigration status. The Committee further requested the government to include statistics on the visits of the labor inspection body or any other body conducting labor inspections in its next periodic report, including on violations found and any remedies or penalties imposed (Para. 12 CERD/C/KOR/CO/17-19).

69. The current Labor Standards Act of the Republic of Korea applies to all workers in businesses or places of business. Article 6 of the Labor Standards Act specifies that “an employer shall neither discriminate against employees on the basis of gender, nor take discriminatory treatment in relation to terms and conditions of employment on the ground of nationality, religion, or social status,” prohibiting nationality-based discrimination against foreign workers. Meanwhile, Article 63 of the Labor Standards Act states that provisions pertaining to work hours, recess, and holidays are not applied to agricultural, cattle breeding, sericulture, and fisheries businesses. However, this clause is universally applied to all workers, including Korean nationals, considering the industry-unique characteristics and business specificities impacted by weather and climate patterns. The frequently changing work hours in nature render it difficult to apply a uniform recess schedule.

70. Every year, the Government of the Republic of Korea and labor inspectors who are special judicial police officers jointly conduct additional inspections on equal treatment, prohibition of forced labor, prohibition of violence, etc., in addition to the basic checklist per the Labor Standards Act. The government also conducts status checks on unfair treatment, workplace bullying, and sexual harassment against migrant workers. As a result of such inspections, businesses that have violated the law on labor conditions or forced labor regulations are required to take administrative and legal measures or have their employment permits canceled or restricted to give disadvantages when designating new foreign workers. In case a foreign worker with an employment permit cannot continue to work due to forced labor or assault, they may change their place of work. Also, a foreign worker who sustained damage due to the employer’s violation of labor relations regulations may proceed with rights relief procedures, including filing a petition to regional employment and labor offices or making a charge, same as with Korean workers. Upon detecting the violation of labor relation regulations, regional employment and labor offices take necessary administrative and judicial measures under the relevant laws.

Table 24
Violation Statistics After Guidance and Inspection on Businesses Hiring Foreign Workers

(Unit: business, count)

	No. of Inspected Businesses	Violation Count*	Violation Type					Other Acts**
			Act on the Employment of Foreign Workers	Labor Standards Act	Minimum Wage Act	Occupational Safety and Health Act	Equal Employment Opportunity and Work-Family Balance Assistance Act	
2017	3 069	7 053	2.223	3 407	130	292	410	591
2018	3 128	5 658	2 307	1 802	105	221	696	527
2019	3 063	6 895	2 105	2 495	569	289	872	565
2020	1 502	1 597	816	372	34	171	140	64
2021	2 310	4 750	1 020	2 193	490	107	670	270

* Number of law violations at each place of business, including that of domestic and foreign workers.

** Act on the Promotion of Employees' Participation and Cooperation, Act on the Guarantee of Employees' Retirement Benefits, Act on the Protection of Fixed-term and Part-time Employees, Act on the Protection of Temporary Agency Workers, Immigration Act, etc.

Table 25
Measures Taken for Law Violation of Businesses Hiring Foreign Workers

(Unit: business, count)

	Number of Inspected Businesses	Number of Businesses that Violated Laws*	Measures Taken				Notification to Relevant Agencies
			Corrective Action	Judicial Measures	Fines	Administrative Measures, etc.	
2017	3 069	1 550	6 255	8	264	134	392
2018	3 128	1 855	5 040	6	178	84	350
2019	3 063	1 672	6 391	1	181	58	264
2020	1 502	555	1 443	17	78	37	22
2021	2 310	1 334	4 597	3	47	58	45

* Number of businesses that violated relevant laws, including violations of domestic and foreign workers.

71. For employers hiring foreign workers, the Government of the Republic of Korea provides education on the Labor Standards Act and the Occupational Health and Safety Act, as well as on the prevention of sexual assault and sexual harassment. This is to strengthen the awareness of the necessity to protect the rights of foreign workers and prevent forced labor. When foreign workers enter the Republic of Korea, the government also provides education on labor relations laws, including the relevant acts and occupational safety, guiding how to protect their benefits and rights in advance. Furthermore, the government operates the Counseling Center for Foreign Workers (one office) and the Korea Support Center for Foreign Workers (45 offices) to provide counseling and support on forced labor, etc., for foreign workers. To proactively identify damages sustained by foreign workers, interpreters accompany on-site investigations. Moreover, interpreters accompany legal investigations, and interpretation is provided for guidance and inspections at workplaces hiring foreign workers.

72. The Committee recommended the government to take measures to prevent violence targeting undocumented migrant workers, including trade union members, and guarantee the rights of all workers to participate in trade union activities without fear of deportation. Also, it further recommended the government to take steps to ensure that victims can report

violations without prejudice related to their immigration status and that victims have access to adequate remedies (Para. 16 CERD/ C/KOR/CO/17-19).

73. The Government of the Republic of Korea does not conduct targeted crackdowns on members of lawfully established trade unions based on the grounds of labor union activities. On June 25, 2015, the Supreme Court judged that migrant workers' unions that include foreigners as members are legal on the grounds that even the foreigners without the employment eligibility are considered employers under the Trade Union and Labor Relations Adjustment Act.¹⁴ However, even if labor unions have completed their establishment registration and were issued registration certificate, they are legally protected regarding the activities within the justifiable limit and shall be punished in the cases of violating the Trade Union Act and other relevant laws.

74. Moreover, the Korean government enforces laws that comply with the protection of human rights. It provides regular human rights education to personnel in charge of crackdowns to ensure compliance with lawful procedures and protection of human rights. Institutional systems are in place for cases in which the human rights of an illegal immigrant are violated during crackdowns due to the use of excessive physical force by public officials. They may file a petition through the National Human Rights Commission of Korea (NHRCK) established within detention centers or through the petition box of the MOJ Human Rights Division. They may also apply for rights relief with court litigation and have outside contact using payphones installed at each detention center. In addition, the government newly established the Enforcement Rules on Immigration Act to minimize the damage arising from victimized illegal immigrants not reporting the crime for fear of deportation. The exemption of obligation to notify upon the acknowledgment of illegal immigrants now applies to all public officials. In the past, it applied to public officials in the prosecutor's office, police, and the NHRCK. The government provides statistics on crackdowns on illegal immigrants and accident counts to the National Assembly upon request.

75. Article 9 of the Trade Union and Labor Relations Adjustment Act prohibits discrimination on the grounds of race. The government guarantees illegal immigrants to form and join labor unions in the same manner as legal foreign workers. In August 2015, the government issued a trade union establishment registration certificate to the Seoul, Gyeonggi, and Incheon Migrant Workers' Labor Union consisting of illegal immigrants, typically operating as a legal labor union. As of July 2021, there are more labor unions whose members are migrant workers, including the Seoul, Gyeonggi, and Incheon Migrant Workers' Labor Union, Gwangju and South Jeolla Foreigners' Construction Labor Union, Nationwide Foreigners' Labor Union, Korea Foreigners' Labor Union, etc.

Article 6

Remedies and Compensation for Foreign Victims

A. Support and Relief for Foreign Victims

76. The Committee recommended the government to amend its legislation to make the Crime Victim Protection Act applicable to all foreigners (Para. 34 CERD/C/KOR/CO/17-19).

77. The Government of the Republic of Korea continues to support victims of crimes who are foreigners and is making efforts to expand the provision of Crime Victim's Compensation to marriage immigrants, etc., by amending the Crime Victim Protection Act. The current Crime Victim Protection Act does not exclude foreigners in the entirety of its application scope and operates various support systems for foreigners. The table below shows the types of support systems for foreign crime victims, support statistics for foreign victims who reside in the Republic of Korea, and the provision of relief money for the past three years. The government currently provides Crime Victim's Compensation in accordance with the Cross

¹⁴ Supreme Court ruling 2007Du4995.

Guarantee Agreements but is looking to revise the Crime Victim Protection Act to provide relief money for marriage immigrants regardless of the Cross Guarantee Agreement status. The MOJ has submitted a revision of the Crime Victim Protection Act that compensates immigrants through marriage to the National Assembly on two occasions. The first revision was discarded under the 20th National Assembly due to the expiration of the term in office. The second revision submitted to the 21st National Assembly in November 2020 has been referred to Subcommittee 1 of the Legislation and Judiciary Committee and is pending review.

Table 26

Support Systems for Crime Victims who are Foreigners

Provides Crime Victim's Compensation based on Cross Guarantee Agreements

Provides economic support for legal residents regardless of Cross Guarantee Agreement status, including medical fees, living expenses, school tuition, funeral costs, patient care fees, caretaker fees, and job seeking support fees.

Note: Regardless of the legality of residence type and Cross Guarantee Agreement status, the Crime Victim Support Center (MOJ-funded private support organization for crime victims) also provides economic support.

Provides psychological support via the Smile Center regardless of Cross Guarantee Agreement status.

Note: Operation is consigned by the MOJ and provides psychological treatment for crime trauma as well as a temporary residence.

Provides legal support through victim's public attorneys, intermediaries, and the Korea Legal Aid Corporation, regardless of the legality of residence type and Cross Guarantee Agreement Status.

Table 27

Statistics on Provision of Crime Victim's Compensation for the Past Three Years

(Unit: count, 1,000KRW)

	Total		Relief Fund for Bereaved Family		Relief Fund for Disabilities		Relief Fund for Serious Injuries	
	Count	Amount	Count	Amount	Count	Amount	Count	Amount
2019	305	11 516 297	185	9 278 850	34	1 140 317	86	1 097 129
2020	206	9 567 057	145	8 214 365	27	985 276	34	367 416
2021	202	9 792 147	145	8 894 672	32	639 389	25	258 086

Table 28

Support for Foreign Crime Victims Residing in the Republic of Korea

(Unit: count, 1,000KRW)

	2016	2017	2018	2019	2020	June 2021
Prosecutor's Office (economic support)	7	9	14	25	24	17
	23 595	24 047	63 108	121 434	105 095	57 097
Crime Victim Support Center (economic support)	132	128	210	226	214	135
	98 187	110 656	185 119	187 655	189 718	69 281
Smile Center (psychological support)	483	607	592	340	247	419
Korea Legal Aid Corporation (legal support)	25	40	37	65	47	24
	218 510	354 914	290 677	818 742	384 159	227 509

Note: Nationality of foreign crime victims varies and includes China, Vietnam, Thailand, the Philippines, Cambodia, Mongolia, Germany, Russia, the United States, United Kingdom, Uzbekistan, France, etc.

B. Measures on Period of Detention for Migrants and Refugee Applicants

78. The Committee recommended the government to amend Article 63 of the Immigration Act to ensure that the lawfulness of the detention of immigrants who cannot be immediately deported be regularly reviewed by an independent mechanism. Also, the Committee recommended that the detention of asylum seekers be considered only as a measure of last resort, for the shortest possible period, establishing a time limit for the detention of migrants and prioritizing the use of alternative measures to detention. Furthermore, the Committee recommended that the government avoids the detention of minors and amend the Immigration Act to include provisions related to the child's best interests (Para. 18 CERD/C/KOR/CO/17-19).

79. On amending an Article of the Immigration Act to guarantee the lawfulness of the detention of immigrants who cannot be immediately deported is regularly reviewed by an independent mechanism, it should be noted that protective orders are administrative dispositions with sufficient post legal relief measures, including administrative appeals at the Administrative Appeals Commission, suspension of execution ordered by the court, and administrative litigation. Other countries that do not apply a time limit for the forced deportation of foreigners, like the Republic of Korea, include the United States, France, Canada, and Australia.

80. Furthermore, in establishing a time limit for the detention of migrants and preparing alternative measures for detention, the Korean government requires pre-approval from the MOJ every three months if the detention period is longer than three months, taking a careful approach when it comes to extending periods of detention. Establishing a time limit for the detention of migrants could act as a motive to refuse the execution of lawful deportation and possibly erode the essence of deportation and the detention system in general. The government is reviewing and working on a partial amendment of the Immigration Act to limit the detention of foreign children under the age of 14.

Table 29
Statistics on Foreigner Aged 18 or Less Under Detention

(Unit: person)

	2016	2017	2018	2019	2020
Total	66	55	73	86	28
14–15 yrs	3	0	1	3	1
15–16 yrs	4	4	4	6	2
16–17 yrs	26	18	11	20	6
17–18 yrs	33	33	57	57	19

81. The Korean government does not place children aged 14 or less under detention, considering they are minors (Article 9 of the Criminal Act). It allows children to stay with their parents at detention facilities if the only available caretakers are parents under detention (Article 4 of the Rules on Protection of Foreigners). Minors from the age of 14 to 18 are inevitably placed under detention if they are detected on-site for illegal employment or instances of release. Still, such instances are minimized with measures like a temporary release of detention, etc. The number of minors aged 14 or more placed under detention in 2020 is 28, approximately 33%, compared to the previous year's 86. On October 15, 2012, the government newly added the Article 92-2 (Exemption from Obligation to Notify) to the Enforcement Decree of the Immigration Act to exempt public officials from the obligation to notify when they become aware of personal information of an alien student in relation to their school life from a school defined in Article 2 of the Elementary and Secondary

Education Act. With the revision of the Enforcement Decree of the Immigration Act on September 18, 2018, the scope of the exemption has been expanded to include public officials in crime victim rescue and human rights violation remedies.

82. Article 20 of the Refugee Act stipulates detention identification purposes and states that detention shall be immediately lifted if the identification of a person under detention is confirmed or it cannot be confirmed within ten days. Refugee applicants may be placed under detention in the same manner as regular foreigners under the Immigration Act. Still, the government is minimizing such detention measures with a temporary release of detention, etc., after considering the relevant laws and regulations. Also, the government takes measures to ensure that foreigners who apply for refugee status while in detention go through a swift refugee status screening. Establishing a time limit for detention of migrants could act as a motive to refuse the execution of lawful deportation and possibly erode the essence of deportation and the detention system in general. Furthermore, considering the recurrence of foreigners under detention applying for refugee status, setting a time limit exclusively for refugee applicants could also lead to abuse of the refugee recognition system. The MOJ plans to undergo discussions among relevant departments to minimize the detention period of refugee applicants and prepare an alternative measure.

C. Protection from Gender-based Violence

83. The committee recommended the government take measures to protect migrant women from gender-based violence, provide adequate support, and ensure that migrant women are provided with clear information about the services and remedies available to victims of gender-based violence (Para. 20 CERD/C/KOR/CO/17-19).

84. The Korean government operates support facilities for foreign victims of commercial sex acts to provide support for foreigners victimized by commercial sex acts. The facilities comprehensively provide room and board, medical and legal service, interpretation, and support measures to help them return to their countries.

85. The government currently operates 28 shelters for foreign women victimized by sexual assault, domestic violence, commercial sex acts, etc. Shelters provide medical and legal support, psychological therapy, room and board, protection, counselling, and services required to return to home countries to migrant women victimized by violence. The government also operates four group homes designed to provide residence to people who left the shelters and assist them in establishing grounds for self-reliance and self-sufficiency. It also operates one self-sufficiency support center that provides vocational training for employment or foundation of business. Moreover, the government established five counselling centers for migrant women in 2019 and four in 2022 to provide counselling for migrant women victimized by violence in their native languages.

86. In 2017, the Korean government included undocumented foreigners as beneficiaries of support to relieve any blind spots in providing policy support for migrant women victimized by violence. In 2020, it amended the Act on the Prevention of Domestic Violence and Protection of Victims to provide support for foreigners whose spouses are not Korean nationals.

87. The government expanded the definition of crimes of domestic violence in October 2020 and amended the Act on Special Cases Concerning the Punishment of Crimes of Domestic Violence to enable criminal punishment for those who have violated temporary measures such as a restraining order, which has been in effect since January 2021. In March 2021, the government stipulated the act of continued or repeated stalking as a crime. Furthermore, it enacted the Act on the Punishment of Stalking Crimes which has been in effect since October 2021. The government plans to review and analyze the implementation progress of the Act on Special Cases Concerning the Punishment of Crimes of Domestic Violence and the Act on the Punishment of Stalking Crimes and make necessary efforts to improve the system to ensure proper enforcement of punishment against offenders of gender-based violence.

88. Originally, economic support for foreign crime victims had not been provided if the offender and the victim were both foreigners. However, in April 2019, the Prosecution revised the guidelines on economic support for crime victims to provide support, including medical expenses for victims with lawful residence status (except for short-term visitors within 90 days), even when the offender and the victim are both foreigners. The guidelines do not provide economic support for foreigners staying in the Republic of Korea unlawfully. However, even for foreign victims without lawful residence permits, the Prosecution does not notify the immigration offices, etc., of their personal information as a measure to provide recovery from crime damage if they have been victimized by crimes, such as murder, injury, rape, robbery, or fraud. In addition, foreign victims with an imminent upcoming expiration of stay permit undergoing investigation or trials for sexual assault, domestic violence, and child abuse may apply for an extension of their stay until the processes are duly complete.

89. Since 2013, the government has been issuing the miscellaneous (G-1) visa for foreigners victimized by commercial sex acts and sexual assault to guarantee stable residence until the relevant rights relief procedures such as investigation or litigation are complete. This system allows for a temporary stay to protect the rights of sexual assault victims (G-1-11) undergoing court trials, an investigation by investigative agencies, and other civil and criminal rights relief procedures. Guaranteeing the status of sojourn even after the case is closed solely on the grounds that the crime took place in the Republic of Korea essentially allows residence even when the requirements are unmet, which could potentially undermine the foundation of the residence permit system for foreigners.

Table 30

Permits on Change of Status of Sojourn to Miscellaneous (G-1-11)

As of August 18, 2021

	2016	2017	2018	2019	2020	2021
Number of Status Change (persons)	11	11	17	14	27	4

90. The Government of the Republic of Korea currently utilizes the Identification Index for Human Trafficking to provide information on measures for damage relief from sexual assault. The MOJ requests mandatory submission of the Identification Index for Human Trafficking when granting permits for those engaged in harmful performances (E-6-2) among Culture and Entertainment (E-6) visa holders. Upon identifying victims, the MOJ transfers them to relevant agencies such as the Korea Women Migrants Human Rights, etc. The Identification Index is provided in Korean and English, and the respondents are physically separated from their employers before they fill in the document. The MOJ translated the “Guidelines on Prevention of Human Trafficking” published by the NHRCK into English, Tagalog, and Russian; distributed copies to each regional immigration office; and recommended actively referring to it for affairs relevant to populations vulnerable to sexual assault. From 2014 to 2019 and twice per year, the MOJ has participated in joint inspections among relevant ministries led by the Ministry of Gender Equality and Family on clubs and bars exclusive to foreigners (inspection was not conducted from 2020 to the first half of 2021 due to COVID-19). Moreover, the MOJ conducts status checks on human rights violations and illegal acts, including forced solicitation of commercial sex acts and sexual violence. The Ministry plans to consult the Ministry of Gender Equality and Family, among other relevant ministries, on methods to effectively promote the services and relief measures that women migrants victimized by gender-based violence could leverage.

91. In 2015, the Prosecution published the “Guide to the Rights and Support of Foreigner Victims of Crime” which was translated into English, Chinese, Japanese, and Vietnamese and distributed to the Prosecutor’s Office, various embassies, and organizations in charge of foreigner affairs, including the Victim Support Center, Multicultural Family Support Center, and Korea Support Center for Foreigners. In 2019, the Prosecution translated the Guide into

11 additional languages, including Thai. The Guide is currently available in 17 languages¹⁵ with the addition of Arabic and Russian in 2020.

92. In 2019, the Prosecution published a leaflet on the Prosecution's support system to protect crime victims translated into 16 languages¹⁶ and distributed it to relevant agencies that primarily deal with foreigners, including the Korean embassies of each country. In 2019, the nationwide Victim Support Offices of prosecutor's offices introduced and started operating the "tripartite phone interpretation service" of the MOJ Comprehensive Information Center for Foreigners to provide counseling for foreign crime victims. In 2020, the Prosecution translated and subtitled the video Guide to the Rights and Support of Foreigner Victims of Crime into five languages (English, Chinese, Thai, Vietnamese, and Russian) and promoted it via Migrant Network TV. The video was also promoted via social media channels for victim support, including the Facebook account of Criminal Division IV of the Supreme Prosecutors' Office and YouTube. It is making further efforts to protect the rights of foreign crime victims, including migrant women.

93. The current Korean system does not provide medical and psychological support for foreign victims illegally residing in the Republic of Korea on account of the budget situation of the Crime Victim Protection Fund, etc. The government plans to pursue an expansion of the eligibility scope of foreigner victims by securing a budget to provide legal, medical, and psychological support regardless of residence status if the situation undisputedly shows that a foreigner has been victimized by a crime.

D. Adoption of Law on Human Trafficking and Victim Support

94. The Committee recommended that the government adopts a comprehensive law on human trafficking, facilitate the lodging of complaints by victims, and ensure those responsible are held accountable and victims have access to adequate redress, including rehabilitation (Para. 26 CERD/C/KOR/CO/17-19).

95. The Government of the Republic of Korea specified the definition and crime categories of human trafficking to comply with the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime." It also prepared a support system for domestic and foreign victims of human trafficking regarding the reception of crime reports, rescue, protection, as well as legal, medical, and livelihood support. Also, the Act on Prevention of Trafficking in Persons, etc. and Victim Protection has been enacted on April 20, 2021, and will go into effect on January 1, 2023, after due preparation. The Act comprehensively stipulates the establishment and execution of policies to prevent human trafficking, including cross-ministerial cooperation and awareness-raising.

96. The Prosecution protects victims of crime who suffered physical or psychological harm, including human trafficking, and provides support, including medical costs and living expenses. The Prosecution does not notify the personal information of victims of crimes, such as murder, injury, rape, robbery, fraud, to immigration offices, etc., even if they have unlawful sojourn status. Furthermore, foreign victims with an imminently upcoming expiration of stay permit undergoing investigation or trials of sexual assault, domestic violence, and child abuse may apply for an extension of their stay in the Republic of Korea until the relevant court trials and rights relief proceedings are duly complete. Even after expiration, victims may be granted an extension of stay in the Republic of Korea if the Prosecution recognizes the necessity for an extension for the purpose of damage relief.

¹⁵ 17 languages (Nepali, Mongolian, Burmese, Bangladeshi, Vietnamese, Sinhalese, English, Uzbek, Indonesian, Japanese, Chinese, Cambodian, Thai, Urdu, Tagalog, Russian, and Arabic).

¹⁶ 16 languages (Nepali, Mongolian, Burmese, Bangladeshi, Vietnamese, Sinhalese, English, Uzbek, Indonesian, Japanese, Chinese, Cambodian, Thai, Urdu, Tagalog, and Russian).

Article 7

Education, Culture, and Information Dissemination to Combat Prejudice Leading to Racial Discrimination

A. Response to Hate Speech

97. The Committee recommended the government to take measures to combat hate speech firmly and adopt a strategy to address prejudice, misunderstandings, and misinformation about migrants and refugees, raise the awareness among the population about the rights of refugees, and promote understanding and tolerance between refugees and the local population (Para. 8-a CERD/C/KOR/CO/17-19).

98. In commemoration of the World Refugee Day, the MOJ hosted academic forums on refugees to collect various expert opinions on the current refugee policies and continued to make efforts to raise awareness of refugees and promote understanding. The MOJ also hosted the academic forum in celebration of three years of implementation of the Refugee Act (June 23, 2016), the academic forum on “refugee human rights, national interest and world peace in the global era” (June 19, 2017), the academic forum on “Korea in the world, refugees in Korea” (June 18, 2018), and the academic forum on “new policy approach and social reflection for refugees in the era of immigration” (June 19, 2019). As for the case of Yemeni persons who applied for refugee status upon entering Jeju Island in 2018, the MOJ took measures to prevent the spread of partially misleading information and exaggerated rumors. In particular, it proactively responded through press releases and explanation materials to assuage the expression of excessive hate speech against Muslim asylum seekers. The central government primarily deals with refugee matters, but they also require the attention and cooperation of regional governments and civic organizations. In this light, the MOJ hosted a briefing session on the current refugee policies in November 2020 for public officials of regional governing bodies and staff members working in foreigner welfare centers of cities, counties, and districts to address prejudice and misunderstanding about recognized refugees, humanitarian status holders, and refugee applicants as well as to improve the overall awareness on refugees. The MOJ plans to clear up indiscreet misunderstandings and prejudice about foreigners and proactively respond to misinformation. Moreover, in 2020, the Korean government reviewed any discriminatory expressions against foreigners in 3,194 government publications. It shares guidelines on preventing discriminatory expressions, including procedures to check for them in advance. Since 2021, the MOJ has made it obligatory to go through a pre-review by upper departments and external experts before publishing documents and content on the Internet and social media.

99. The Committee recommended that the government continues to monitor the media, the Internet, and social networks to identify individuals or groups that disseminate ideas based on racial superiority or incite racial hatred against foreigners and ensure the effective implementation of the planned national guidelines for broadcasting language (Para. 8-b, c CERD/C/KOR/CO/17-19).

100. In accordance with Article 33 of the Broadcasting Act on review regulations, the Korean Communication Standards Commission monitors broadcasting media for expressions that incite racial prejudices or ridicule or insult certain races, and determines sanctions or penalty surcharges according to Article 100 of the Broadcasting Act. Broadcasting businesses that violate such regulations are required to notify the cause of sanction, violated law, and outcome of sanction to viewers via broadcasting. To encourage broadcasting businesses to comply with the regulations, such review sanctions are reflected in the broadcasting station evaluation and relicensing and reauthorization procedures.

101. The Korean Communications Standards Commission prepared guidelines on broadcasting language in September 2015 to correct discriminatory expressions, distortion, and provocative expressions in broadcasting programs and monitored the broadcasting language to ensure their effectiveness. In addition to the guidelines, it also published data books on the investigation into broadcasting language every year so that the broadcasting productions and businesses could take reference of them for self-review on their programs. Moreover, the government regularly provides education and promotes the correct

broadcasting language to the persons in charge of broadcasting businesses. Furthermore, it conducts broadcasting language sensitivity training twice per year to strengthen the responsibility of broadcasting businesses and raise awareness among viewers.

102. Moreover, the Korea Communications Standards Commission monitors the internet and social networks to review expressions that incite prejudice or ridicule, or insult certain races in accordance with the Review Regulations on the Information and Communication Network.

III. Other Information Regarding the Recommendations of the Committee

A. Ratification of International Treaties

103. The Committee recommended the government to ratify the Convention for the Protection of All Persons from Enforced Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, etc. (Para. 35 CERD/C/KOR/CO/17-19).

104. As the Convention for the Protection of All Persons from Enforced Disappearance requires criminalization and punishment of enforced disappearance, a review of the directionality of the Korean law system and key content should take first before proceeding with the ratification and acceding procedures. In December 2019, the MOJ hosted an expert seminar to discuss methods to merge the Convention for All Persons from Enforced Disappearance with the NHRCK. It also conducted policy research from April to September 2020 on the comparison between the Korean law system and other key state parties of the Convention for the Protection of All Persons from Enforced Disappearance. The MOJ has incrementally been working on ways to ratify and accede the Convention and conduct a pre-review on the domestic legal system. On June 29, 2021, the Resolution Urging for Motion for Ratification of the Convention for the Protection of All Persons from Enforced Disappearance passed the plenary session of the National Assembly. To meet the expectation of the National Assembly urging for the submission of the motion for ratification and accession, the government plans to submit the motion to the National Assembly swiftly.

105. Article 29 (obligation to ensure a child of a migrant worker has the right to the registration of birth and nationality), Article 44 (obligation to protect and facilitate the reunification of migrant workers with families), Article 52-4 (obligation to establish conditions to allow for migrant workers admitted taking up employment work on their own account), Article 69-1 (obligation to take measures for regular situations of irregular migrant workers and their family) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, etc. partially contradicts with the Republic of Korea's current Immigration Act, Nationality Act, Act on the Employment of Foreign Workers, etc., which requires a careful review within the government for the ratification of the convention. In the Republic of Korea, foreign workers' rights are protected in the same manner as Korean nationals under labor-related laws such as the Labor Standards Act, Minimum Wage Act, and Occupational Safety and Health Act. Ratification of the Convention will be reviewed over a long-term period by comprehensively considering its compatibility with the current laws such as the Immigration Act and the unique characteristics of the Korean labor market.

B. Follow-up to the Durban Declaration and Program of Action

106. The Committee recommended the government to give effect to the Durban Declaration and Program of Action and include specific information thereon (Para. 36 CERD/C/KOR/CO/17-19).

107. The Government of the Republic of Korea did not establish a separate inclusive program of action to give effect to the Durban Declaration and Program of Action domestically. However, the government included several related policy tasks in the National

Action Plans for Human Rights (NAP), a nationwide comprehensive plan to strengthen the legal protection of human rights and promote institutional action. With the implementation of the 2nd NAP (2012–2016), the government expanded social integration programs for immigrants, secured dedicated departments and personnel for refugee affairs, strengthened fairness in refugee screening procedures, conducted regular inspections on and provided guidance to businesses hiring foreign workers, and fortified support for foreign victims of commercial sex acts. Furthermore, the 3rd NAP (2018–2022) announced in August 2018 includes the establishment of the “3rd Master Plan for Immigration Policy.” Per Article 5 of the Framework Act on Treatment of Foreigners Residing in the Republic of Korea, the MOJ shall develop a basic plan for policies on foreigners every five years in consultation with the heads of relevant central administrative agencies. Based on Article 6, the heads of relevant central administrative agencies shall establish and implement annual implementation plans within their respective jurisdictions in accordance with its basic plan. In accordance with Article 8 of the same Act, the government established the Foreigners’ Policy Committee under the Prime Minister to review and coordinate matters on establishing policies on foreigners, progress performance, and evaluation results. The government is also strengthening the cooperation and communication among ministries to avoid the occurrence of any overlapping affairs between the 3rd Master Plan for Immigration Policy and the 3rd Basic Plan on Policies for Multicultural Families. The 3rd NAP specifies the need to polish the legal system on anti-discrimination to ensure people’s rights to equality and strengthen the review on culturally discriminatory content that incites hatred or violates human rights. The government is working on the related sub-tasks, such as scrutinizing the review on broadcasting content that are discriminatory or hateful towards certain races or cultures.

C. International Decade for People of African Descent

108. The Committee requested the government to include precise information on the concrete measures adopted in the framework of the International Decade for People of African Descent in the present report (Para. 37 CERD/C/KOR/CO/17-19).

109. In June 2018, the Korean government officially established the Korea-Africa Foundation under the Ministry of Foreign Affairs and executed various projects to enhance the human and cultural exchange between the Republic of Korea and Africa and raise awareness. Events such as the Korea-Africa Youth Forum, Korea-Africa Adolescent Camp, etc., widened the platform for exchange for the youth and adolescents. Also, it regularly hosted the National Assembly’s Forum for Africa’s New Era for legislative bodies to facilitate interest and understanding in Africa. The government designated “Africa Week” every June to host various cultural exchange events, through which it raised domestic awareness of Africa and people of African descent. Furthermore, the government invited African youth to the Republic of Korea through diverse education projects such as master’s degree programs to provide opportunities in higher education. It also established a fund to support the cultivation of the workforce in science and technology in Africa and currently hosts Knowledge Sharing Programs and training programs designed for public servants, scholars, etc.