

**National Human Rights Commission of Korea's Opinion
Regarding the Preparation of the List of Issues Prior to the
Committee on Economic, Social and Cultural Rights' Review of the
Fourth State Report by the Republic of Korea**

Submitted in February 2017

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INTRODUCTION

1. National Human Rights Commission of Korea (NHRCK) submits this written opinion for the preparation of the List of Issues by the Pre-sessional Working Group of the Committee on Economic, Social and Cultural Rights (CESCR), prior to the CESCR's consideration of the Fourth State Report on the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) submitted by the Government of the Republic of Korea.
2. NHRCK, as an independent national human rights institution, wishes to be of any help to the CESCR's preparation of the List of Issues, by coming up with nineteen issues about which some questions need to be asked to the Government of the Republic of Korea (ROK) with regard to the State Party's implementation of the ICESCR.

LIST OF ISSUES

Issue 1: National Implementation of the ICESCR and the NHRCK

Current status

3. The CESCR, in its previous three Concluding Observations, had repeatedly expressed its concerns that the Covenant rights were not fully guaranteed under the national legislation of ROK and the Government had not made full efforts to improve this situation. Nevertheless, in practice, few direct jurisdictional decisions have been made in regard of a variety of social rights violations, and the NHRCK's investigation is confined to some fundamental rights specified in Articles 10 to 22 of the Constitution, with no remedial procedures in place to address infringements on social rights in the State Party.
4. The NHRCK Act currently in force does not admit that some of the rights guaranteed in the Constitution, including right to education (Article 31), right to work (Articles 32 and 33), right to social security (Article 34), right to environment (Article 35) and maternity protection (Article 36), which are also treated as being important in the ICESCR, also should be subject to the NHRCK's investigation.
5. Considering that the ICESCR Optional Protocol (OP-ICESCR) took effect on 5 May 2013 and several decisions have been made about the individual complaints submitted to the CESCR, it is important to consider, as one of the ways to promote the implementation of the ICESCR, the idea of expanding the coverage of the NHRCK's investigation so that the NHRCK may be able to make recommendations for the guarantee of social rights.

Questions suggested

6. In light of the reality in ROK where few court rulings have been made about the Covenant rights, it seems that the Constitution alone is not sufficient to guarantee the realization of what is provided in the ICESCR and, despite the CESCR's past recommendations, little significant progress has been made until now. It is necessary to think hard about the ways to incorporate the ICESCR into national legislation in order to effectively guarantee the implementation of the ICESCR. Please provide the Government's views and future plan in this regard.
7. Please specify whether the Government has any intention to revise the relevant legislation to ensure that complaints about alleged infringements on the Covenant rights are received and remedied by the NHRCK.

Issue 2: Anti-Discrimination Act

Current status

8. After the NHRCK recommended the Government to adopt the Anti-Discrimination Act on 24 July 2006, the Government had sought to enact the law but the Government-drafted bill was discarded upon the end of the 17th National Assembly's four year term in 2008. President Park Geun-hye's Administration has proceeded with the enactment of the Anti-Discrimination Act, as one of its priorities for national administration, but no government bill has been worked out yet. In response, the NHRCK reiterated its recommendation for the adoption of a comprehensive Anti-Discrimination Act when it submitted the recommendations for the 3rd National Action Plans for the Promotion and Protection of Human Rights (NAP) 2017-2021 in July 2016. Moreover, the Human Rights Committee (CCPR) expressed its concerns and recommendations, as seen below, in its Concluding Observations published in November 2015 after the consideration of the Fourth State Report by the ROK:
- a While noting the existence of a number of individual laws prohibiting specific forms of discrimination, the Committee is concerned that comprehensive anti-discrimination legislation is lacking. It is particularly concerned about the current lack of legislation defining and prohibiting racial discrimination and discrimination on the grounds of sexual orientation or gender identity. (Para. 12)
 - b The State Party should adopt comprehensive anti-discrimination legislation, explicitly addressing all spheres of life and defining and prohibiting discrimination on any ground, including race, sexual orientation and gender identity. The legislation should impose appropriate penalties for direct and indirect discrimination committed by both public and private entities, and should provide for effective remedies. (Para. 13)
9. In the meantime, considering that, in the CESCR's General Comment 20 (Para. 32), sexual orientation and gender identity are both the discrimination grounds which are explicitly forbidden in the ICESCR, sexual orientation and gender identity should be enumerated as two of the prohibited discrimination grounds in the comprehensive Anti-Discrimination Act, to ensure the legislation's compliance with the international standards.

Question suggested

10. Please specify why the Government has not made efforts to adopt the Anti-Discrimination Act since 2008, and its plan in this regard. Please specify the Government's views with regard to the NHRCK's

repeated recommendations for the legislation of the comprehensive Anti-Discrimination Act, including the one included in its recommendations for the 3rd NAP.

Issue 3: OP-ICESCR

Current status

11. In October 2012, the Human Rights Council, upon the completion of the 2nd Universal Periodic Review (UPR) over the ROK, recommended the Government to ratify the OP-ICESCR. The Government, at that time, replied that it “is currently reviewing the need for ratification and the following effects at the national level” (HRC/22/10/Add.1, Para. 7) and, later in the 2nd NAP (2012-2016), revealed its plan to ratify the OP-ICESCR, but has not done it yet.

Question suggested

12. The Government announced, in the 2nd NAP of its own drafting and in its views regarding the 2nd UPR recommendations, that it planned to review the need to ratify the OP-ICESCR. Please provide specific outcomes of the review (fact-finding surveys, experts’ advice and other specific documents of review) and future plan in this regard.

Issue 4: Employment of Women and Young People

Current status

13. The current Government set, as one of its priorities for national administration, ‘the road map for 70% employment rate’, which includes a wide range of measures, such as different supportive programmes to help women continue their work career in different life courses, under the goal of increasing female employment rate by 10%, but it has been pointed out that these measures are not effective enough. Since the current Government was inaugurated in 2013, female employment rate grew by a mere 2.3%p as in 2016 and it still remained much lower than male employment rate (by about 20%p). In terms of female employment rate as in 2015, the ROK ranked only the 29th among the then 34 member states of the Organisation for Economic Co-operation and Development (OECD).

Trends in employment rate by gender (15~64 years of age) since 2011

(Unit: %)

	2011	2012	2013	2014	2015	2016. 11.
Men	74.5	74.9	74.9	75.7	75.7	75.8
Women	53.1	53.5	53.9	54.9	55.7	56.2

(Source: Statistics Korea, Survey of Economically Active Population (SEAP) 2016)

14. According to the analysis on the proportion of non-regular work which is one of the indicators for the assessment of the general job quality in a society, the gap between men and women in the proportion of non-regular work began to decrease since 2011 but rebounded to the level of 2012 in the first half of 2016.

Proportion of non-regular work by gender

(Units: %, %p)

Classification	2011	2012	2013	2014	2015	2016.6.
All	34.2	33.3	32.6	32.4	32.5	32.8
Men	27.8	27.2	26.5	26.6	26.5	26.4
Women	42.8	41.5	40.6	39.9	40.2	41.0
Gender gap	15.0	14.3	14.1	13.3	13.7	14.6

(Source: Statistics Korea, Supplementary Survey by Employment Status of the SEAP, August 2016)

15. Although men and women have almost the same employment rate of around 59% or women have a little higher rate in the age group of 20-29 years, the gender gap in employment rate grows dramatically starting from the age of 30 years, which can be explained by women's career breaks due to their childbirth or child-rearing. Men's employment rate in their 30s records more or less 90%, which is a rapid rise from the rate in their 20s; whereas women's employment rate in their 30s is lower than the rate in their 20s. Although female employment rate in their 40s is higher than the rates in their 20s and 30s, in a typical M-shaped trend, it is worried that most of the jobs among the women in their 40s are in non-regular employment, whose quality is lower than that of the jobs held by men in the same age group or women in their 20s. In particular, the data released by the Statistics Korea¹ show that the bottom point of employment rate among women in their 30s shifted from the early 30s (34 years or younger) to the late 30s (35 years or older), which reflects the reality that the women who succeeded in finding a good job in their 20s tend to give birth to a child at a later age than in the past.

Employment rate by year and by gender

Classification		Employment rate by year (%)						
Gender	Age group	2008	2009	2010	2011	2012	2013	2014
Men	20~29	59.2	58.4	58.2	58.3	57.3	55.7	55.8
	30~39	90.3	89.1	89.5	89.8	90.3	90.2	90.9
	40~49	91.8	90.9	91.2	91.6	91.7	92.0	92.7
Women	20~29	59.1	58.0	58.3	58.7	58.8	57.8	59.0
	30~39	54.7	52.7	53.7	53.7	54.5	55.5	56.3
	40~49	64.7	64.1	64.2	64.9	64.6	64.6	65.1

(Source: Statistics Korea, Survey of Economically Active Population 2016)

16. Since the inauguration of the current Government in 2013, youth employment rate among those aged 15-29 recorded slight increases to 39.7% (in 2013), 40.7% (in 2014) and 41.5% (in 2015), but youth unemployment rate also increased to 8.0% (in 2013), 9.0% (in 2014) and 9.2% (in 2015). As the 9.2% youth unemployment rate of 2015 is the highest in the recent decade and this upward trend in youth unemployment is likely to continue for a while, youth unemployment is emerging as a serious social problem.²

17. *OECD Economic Survey of Korea: Overview* published in May 2016 pointed out the problems involved in Korean women's work and employment and made some recommendations for the improvement of female employment, as quoted below:

¹ Statistics Korea, *Women's Life as Mirrored in the Statistics of 2016*, June 28, 2016.

² Statistics Korea, SEAP 2016.

- a The labour market is segmented into regular and non-regular workers, who earn only 62% as much per hour as regular workers, boosting inequality and relative poverty. Women account for a disproportionate share of non-regular workers, thus discouraging female employment. (p.12)
- b The employment of women is constrained by the limited take-up of maternity and parental leave and the availability of high-quality childcare. Career breaks for women widen the gender wage gap, which is the largest in the OECD. Increase the take-up of maternity and parental leave systems by enforcing compliance and raising the benefit level for parental leave. Enhance childcare quality by making accreditation mandatory and strengthening competition. (p.13)

Questions suggested

18. Although the Government has taken many policy actions to increase employment rates for women and young persons in the past years, it seems that the actions taken after the CESC's last review, particularly in view of a range of statistical indicators for the recent 3 years, were not effective enough. Accordingly, it appears that the existing policy measures concerning female and youth employment need to be thoroughly reviewed for improvement. Please specify the Government's views, assessment and future plan to increase expenditures in this regard.

19. It seems that the issue of work and family balance has not been fully addressed even in the public sector where workers have a relatively better working environment than their counterparts in the private sector. It is necessary that public organizations and institutions should take the lead in reinforcing monitoring and supervision to prevent violations of the legal requirements concerning hours of work and, at the same time, working time should be reduced to create more jobs in the whole society. Please submit specific data on the current conditions of the Government's policy measures concerning childcare services (including the data on the take-up of parental leave by gender and by establishment size in public and private sector) and the Government's future plan to improve the current conditions.

Issue 5: Sexual Harassment, and Discrimination and Hate Speech against Women

Current status

20. According to the NHRCK, the number of the complaints filed about sexual harassment in 2016 totalled 173 and effective remedial actions were taken for 38 of the filed cases.

Sexual harassment complaints filed to the NHRCK and the cases remedied in 2016

Total	Remedies given							No remedies			
	sub-total	recommendation	conciliation	investigation request	criminal charge	consensual settlement	remedies before decision	sub-total	dismissed	transferred	rejected
173	38	19	4	1	1	4	9	135	114	2	19

21. Sexual harassment at workplace refers to sexual harassment which is committed by an employer or

a higher-ranking employee against their employee or subordinate by taking advantage of their power at workplace, and the victims of sexual harassment suffer serious mental and financial damages as they usually need to take psychiatric treatment for the emotional consequences that are caused by sexual harassment or are forced to leave their job. The sexual harassment cases accepted by the NHRCK even include one case in which the perpetrator made some sexually humiliating expressions against women through the commonly-used messenger application installed within his computer at workplace. For this case, the NHRCK determined that sexual harassment had been perpetrated, making overall considerations about where, when and to whom the expressions were communicated and the act's negative impact on the working environment (the victim's resignation in this case).

22. According to the NHRCK's 'Survey on Current Situations of Secondary Damage of Sexual Harassment and the Ways to Enhance Remedies' of 2015, 40.2% (181 persons) of the entire respondents (450 workers) replied that they 'would not raise any objection' if they suffered sexual harassment, and the reasons chosen for this response were 'for fear of bad rumours' (94 respondents or 51%) and 'for fear of victimization in employment' (65 respondents or 36%), which means that the respondents were largely worried that they might suffer secondary damages for having complained about sexual harassment. In response, on 12 May 2016, the NHRCK recommended the Minister of Employment and Labor that the prohibition of victimization of the employees who suffered sexual harassment at workplace should be specified in the relevant legislation; the formulation of the regulations to prevent and remedy workplace sexual harassment should be made mandatory for the businesses with a certain number of employees or more; and specialized education for the officials responsible for dealing with sexual harassment complaints should be strengthened and detailed work manuals for sexual harassment grievance handling should be produced and disseminated.

23. In the meantime, a growing number of digital sex crimes, including sexual harassment or violence through Social Network Services (SNSs) and other online channels, have been reported throughout the world in recent years, and the ROK is not an exception. Since it is difficult for the victim of an online sex crime to confirm that such crime has been committed against him/herself and online sex crimes are, in most cases, done in secrecy, it is not easy to impose criminal penalties on those crimes under the existing legislation. For this reason, it is necessary to take actions to improve this situation. Furthermore, many cases of sexual harassment by students at school have been also reported.

24. The NHRCK, finding that the female quota of 12% for annual new entrants of the Korean National Police University is an excessive restriction, recommended the Commissioner of the Korean National Police Agency to increase the female quota (in September 2014). However, the Korean National Police Agency still limits the proportion of female entrants for the University in 2017 to 12%. According to the *Police Statistical Yearbook 2014*, about 82% of female police officers were concentrated in lower-ranking positions such as Officers, Senior Officers or Sergeants.

25. Since the murder of a woman which happened near the *Gangnam* subway station in Seoul in May 2016, hate issues, including hate speeches against women, have gained a growing attention as a serious social problem. In response, the NHRCK carried out the 'Survey on Current Situations of Hate Speech and the Ways to Improve the Situations' in 2016, while the National Assembly made legislative efforts to address the hate speech issue, including the actions to introduce the Anti-Discrimination Act which, however, has yet to be adopted. At present, the Act on the Prohibition of Discrimination Against Persons With Disabilities, Remedy Against Infringement of Their Rights is the only law in force in Korea that regulates hate speech (Article 32 Prevention of harassment).

26. According to the aforementioned survey conducted by the NHRCK with regard to hate speech, all of the respondents (about 1,000 persons) who are women, sexual minorities, persons with disabilities or migrants were fearful of hate speech and felt threatened by relevant crimes, and some of them even hid their identity in fear of their exposure to hate speech and relevant crimes. More than half of the respondents said that they did not know how to react any hate speech made online or offline against themselves.

Are you fearful of hate speech?

(Unit: %)

Respondent groups	Never	Hardly	To some extent	Very much
Women	16.8	19.2	49.0	14.9
Sexual minorities	4.7	10.5	52.2	32.5
Persons with disabilities	8.0	21.5	45.5	25.0
Migrants	27.0	20.6	33.3	19.0

Do you know how to react online hate speech?

(Unit: %)

Respondent groups	Know well	Don't know much	Don't know
Women	7.2	34.1	58.7
Sexual minorities	7.1	34.6	58.3
Persons with disabilities	14.5	39.0	46.5
Migrants	24.6	29.4	46.0

Do you know how to react offline hate speech?

(Unit: %)

Respondent groups	Know well	Don't know much	Don't know
Women	7.7	33.2	59.1
Sexual minorities	9.8	32.9	57.3
Persons with disabilities	17.5	37.0	45.5
Migrants	31.0	29.4	39.7

Questions suggested

27. Sexual harassment at workplace is a serious violation of human rights, as it does not only infringe upon an individual victim's right of personality but also violate the victim's right to life in an extreme case. Please specify the measures that Government has taken to reduce sexual harassment at workplaces and in schools, and the effects of those measures. Please also specify the current situations on the new forms of online sexual violence problems, including those in SNSs, particularly due to the development of information and communication technologies, secondary damages of sexual harassment and sexual violence among the students at school, and the Government's planned actions to address these problems.

28. It is quite agreeable that the Government has made efforts to expand employment assistance for women on career breaks, including vocational consulting and vocational training or education for them. Despite these efforts, however, the reality is that working women still suffer discrimination in remuneration and job promotion, and the public sector also seems to have room for improvement in this regard. Please

specify the policy actions that the Government has taken to address the gender-based discrimination in employment.

29. It appears that some particular groups, notably including women, persons with disabilities, sexual minorities and migrants, are exposed to a serious hate problem. Please specify the current status of hate problems, as identified by the Government, and the Government's planned actions to address this issue.

Issue 6: Poverty of Older Persons and Pension Schemes

Current status

30. The average effective age of labour market exit in Korea was 72.9 years in 2014, which is the highest among the OECD nations and 7~8 years older than the OECD average (OECD, *Pension at a Glance 2015*, pp.161-162). According to the '2016 Statistics on the Older Persons' by the Statistics Korea, an average person aged 65 or over will remain healthy for 9.1 years out of 20.9 years which is his or her residual life expectancy, which points to poor healthy conditions among the aged people who are expected to suffer illnesses for almost half of their residual life expectancy.

31. The relative poverty rate of people aged 66 or over in Korea recorded 49.6% as in 2013³, which was the highest among the OECD member states (4.4 times of the OECD average of 10.6% and more than double of the rate of 24.1% in Israel which ranked the 2nd), while the relative poverty rate of the entire population in Korea was 14.6%, which was not much different from the OECD average of the same year (11.9%). This indicates that the pace of povertization grows much faster with age in Korea.⁴

32. According to the *Global AgeWatch Index 2015* by the Help Age International, the ROK ranked the 67th among the 96 observed countries in 2013, the 50th in 2014 and the 60th in 2015. As in 2015, Korea had poorer conditions than other Asian countries, including Japan (the 8th place), Israel (the 18th), Vietnam (the 41st), the Philippines (the 50th), Kyrgyzstan (the 51st) and China (the 52nd) and was the lowest among the OECD member states, except for Turkey (the 75th) and Greece (the 79th).

33. The proportion of public pension beneficiaries among the people aged 65 or older is growing but was a mere 42.3% as in 2015. Among the people of 55-79 years of age, the total amount of public and private pension combined per month averaged about KRW 510,000. In particular, the beneficiaries of monthly KRW 1 million or more in pension (e.g. the beneficiaries of the Government Employee Pension) accounted for only 12.5%, whereas the beneficiaries of less than KRW 500,000 took up 75.2% of all pension beneficiaries and even the beneficiaries of less than KRW 250,000 recorded a high proportion of 49.5% (Statistics Korea, 2016 Statistics on the Aged). Accordingly, most of the pension beneficiaries find it difficult to escape from absolute poverty unless they have an additional source of income or financial support, such as earned income, family's financial support or the benefit under the National Basic Livelihood Security (NBLIS) scheme.

34. In the meantime, the Basic Pension scheme which, starting from July 2014, provides a monthly

³ The most recent available data was released in 2014 but, here, the data for 2013 is cited for inter-country comparison, because the former only concerns 8 countries, including the Republic of Korea and Australia, while the latter includes almost all of the member states (31 nations).

⁴ OECD (2017), Poverty rate (indicator). doi: 10.1787/0fe1315d-en (Accessed on 10 February 2017)

benefit of about KRW 200,000 to 70% of the people aged 65 or over is of no significance to the older persons at the lowest poverty level because, in accordance with the subsidiarity principle of the Basic Pension scheme, the pension amount available to these people is offset by the amount of the NBLIS benefit offered to them.

Questions suggested

35. Older persons in Korea suffer a serious level of poverty. It is of particular concern that their poverty problem began to worsen since 2009. It appears that more workable policy measures need to be in place to ensure stable income in old-age life, including reforms in the existing pension scheme. Please specify the policy measures that is being taken now by the Government in this regard and the directions for future improvement.

36. Please provide detailed statistical data on the spending of older persons in poverty (proportions of housing and medical expenses as percentages of income, etc.).

37. The current maximum amount available under the Basic Pension scheme is not sufficient, in light of the economic development level and consumer prices in the ROK. Please specify the Government's plans to improve the Basic Pension scheme, including the plan to raise the Basic Pension benefits.

Issue 7: Refugees

Current status

38. Under the current conditions that the deliberation for refugee status recognition is a rather long process and the applicants for refugee are forbidden to get employed for six months from the date of application, the support for the applicants' cost of living is the minimal measure required for their survival. The Government reveals that the refugee status applicants have been offered the support for the cost of living in accordance with Article 40 (Support for the cost of living, etc.) of the Refugee Act which came into force in July 2013. However, no budget was allocated in 2013 for the support to refugee status applicants and it has yet to be confirmed whether the budget amounts allocated to support refugee status applicants since 2014 are sufficient enough to finance their minimum living.

39. According to the data released by the Ministry of Justice, the total number of refugee status applicants in Korea over the period from 1994 to April 2016 was 17,523 and 592 out of them had their application recognized⁵, and this recognition rate is lower than the world's average recognition rate of 27%⁶ stated in the 2014 Report of the United Nations High Commissioner for Refugees (UNHCR). Consequently, it is feared that a growing number of people might stay in this country without having their refugee status recognized or receiving the minimum support for a life worthy of human beings.⁷

40. On 25 August 2016, the NHRCK recommended the Ministry of Justice to revise the Refugee Act

⁵ Over the period from 1994 to April 2016, 17,523 persons applied for refugee status; 592 of them were recognized as refugees; and 932 were allowed to stay in Korea for a humanitarian reason (*Monthly Report on Immigration Service and Foreigner Policy of April 2016*).

⁶ UNHCR, *Statistical Yearbook 2014*

⁷ 'NHRCK Chairperson's Statement on World Refugee Day' dated 20 June 2016.

and other relevant legislation so that the reasons for the decision not to refer a refugee status application to the deliberation process should be minimized to non-compliance with formal requirements and that all applications should be referred to the deliberation process, except for the cases where it is apparent that the applicant concerned is not a refugee. However, the Ministry of Justice refused to accept the NHRCK's recommendation, saying that if the reasons of not-to-refer decision are minimized to non-compliance with formal requirements, the Ministry is concerned that those who find it difficult to enter this country in a lawful manner might take advantage of refugee status application scheme, and as a result current national border security system could collapse.

Questions suggested

41. Please specify the current situations of the policy measures that the Government has carried out to support refugee status applicants for the living cost, residence and medical services and to guarantee their education since the enactment of the Refugee Act.
42. Please specify the reason why the Government refused to accept the NHRCK's recommendation of 25 August 2016 concerning not-to-refer decision of refugee status applications and the Government's views about the possibility that the recommendation may be accepted in the future.

Issue 8: E-6 Visa (Entertainment) and Trafficking in Persons

Current status

43. According to the 'Survey on Human Rights Situations of Immigrants on E-6 Visas' conducted by the NHRCK in 2014, the foreigners who entered Korea on E-6 visas were exposed to serious human rights infringements: 50% of them experienced violations of labour standards; 46% had their passports seized; and 23% were forced into prostitution.
44. In June 2016, the NHRCK made its 'recommendation on the indicators for identification and protection of the victims of human trafficking' to the Government, suggesting 27 identification indicators which concern the acts done, the means, the purpose, etc. and 15 protection indicators including the measures concerning the police and the immigration service, all of which have been developed by the NHRCK by referring to the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and the human trafficking indicators; and, at the same time, by adapting the indicators to the real situations in Korea.

Questions suggested

45. Please submit detailed explanations and statistical data on how the joint government inspections and crackdowns have been carried out to prevent and detect human rights violations against foreign women who have entered Korea on E-6 visas, including their exposure to prostitution; the outcomes of the inspections and crackdowns; and the follow-up measures.
46. Concerns are raised about the possibility that those who enter Korea on E-6 visas and then are exposed to prostitution against their own will may be punished as perpetrators, instead of being treated as victims of human trafficking. Please provide statistical data on the people who, after arriving in Korea on E-6 visas, were criminally booked for having committed a crime of prostitution, and give a detailed explanation on whether the Government is considering any remedies to ensure that such people are treated as victims of

human trafficking.

Issue 9: Migrant Workers and Marriage Immigrants

Current status

47. Although the Government states that it has made consistent efforts to prevent discrimination against and exploitation of foreign workers by refining the Employment Permit System (EPS), some observe that the latest changes made to the EPS rather have an effect of restricting the rights of migrant workers. For instance, the Ministry of Employment and Labour revised the ‘Guidelines on Foreign Workers’ Workplace Change’ in August 2012: before this revision, a migrant worker who wanted to change his/her workplace could obtain the list of available workplaces from the Job Centre and move to the workplace of his/her own choosing, but after the revision, the list of job-seeking migrant workers is offered to the employers who want to hire migrant workers while the list of available workplaces is not given to job-seeking migrant workers, so that migrant workers’ employment is totally dependent on the employers’ choice, which restricts migrant workers’ right to choose workplace. Furthermore, with the amendment of Article 13 of the Act on the Employment of Foreign Workers, etc. in January 2014, migrant workers may receive the benefit of the insurance policy that their employers have contributed to in preparation for their retirement, no later than 14 days from the date of their *departure* from Korea, whereas, under the previous Act, they could receive the benefit no later than 14 days from the date of their *retirement*. This means that, in practice, migrant workers may not get their retirement insurance benefit while staying in Korea, which is feared to go against Article 36 of the Labour Standards Act which provides that an employer should settle wage, retirement pay and all the other monetary payments for his/her employee no later than 14 days from the date of the employee’s *retirement*.

48. According to the NHRCK’s ‘Survey on Human Rights Conditions of Migrant Workers in Fishing Industry’, it was found that many migrant workers in fishing industry were forced to pay an extremely high cost of recruitment before arriving in Korea and were exposed to human rights violations, such as seizure of their identifications, like passports, by their employers or agencies, overdue wage payment and linguistic and physical violence. However, some point out that migrant workers in fishing industry hardly benefit the remedies from the competent authorities when they suffer unfair treatment at workplace, such as exploitation, discrimination and overdue wage payment, because the Foreign Seafarer Scheme has been delegated to the private sector.

49. The NHRCK’s ‘Survey on Human Rights Conditions of Foreign Workers in Construction Industry’ revealed that 14.3% of foreign workers in construction did not sign a contract of employment before starting to work for their employer and the common practice of concluding an oral agreement or side agreement on the comprehensive (calculation) wage scheme at construction sites often worked against the migrant workers who were not familiar with the Korean language.

50. The Government states that it has arranged a legal foundation to permit marriage immigrants to continue to stay in Korea even after divorce so long as they have an unavoidable reason to stay here, and that it has relieved the marriage immigrants’ dependency on their Korean-national spouse for their sojourn status, by removing the legal requirement that marriage immigrants should submit their Korean-national spouse’s written guarantee when they apply for a permit of extended stay. However, the problem is that, in practice, divorced marriage immigrants may be permitted to stay for an additional period only when they prove that the divorce is due to a reason attributable to their spouse. In particular, in case a female marriage immigrant is divorced simply for a reason of her spouse’s change of mind, she fails to get a permit for extended stay

from the Government, and her sojourn status becomes unstable if her former Korean husband arbitrarily calls back his guarantee for her.

Questions suggested

51. Please provide specific statistical data on the EPS currently in force, particularly focusing on the restrictions on migrant workers' right to choose workplace, and on the tendencies of the changes in the EPS, along with a detailed explanation on the operation of the EPS and the Government's views on migrant workers' establishment of a trade union.

52. Please give a detailed explanation on the Government's policy measures to remedy human rights violations or discrimination against migrant workers, including foreign seafarers, and to improve working conditions of the migrant workers in construction who are exposed to very poor working conditions and are prone to occupational accidents and protect their life and safety, along with the Government's views on possible measures for future improvement in relevant institutions.

53. Please provide statistical data on the number of the cases where female marriage immigrants' applications for extended stay were not approved and the reasons of such disapproval, along with possible measures that the Government may take to protect female marriage immigrants from being disadvantaged in terms of their sojourn status for a reason attributable to their Korean-national spouse.

Issue 10: Non-regular Workers and Equal Pay for Work of Equal Value Principle

Current status

54. In terms of quality of employment, non-regular work is a very indecent type of employment with a low wage level. As non-regular work is highly represented by young persons, older persons, women, persons with disabilities and foreign workers, it is closely associated with the issue of discrimination in employment. Moreover, a rapidly growing proportion of young workers are employed for non-regular jobs, which points to the likelihood that young persons who fail to get a decent job will end up in poverty in their old age.

55. The Government and the labour community (academia) have different standards for statistical estimation of non-regular work: as in August 2016, the Government estimated the total number of non-regular workers at 6.44 million (32.8%) while the Korea Labour & Society Institute, one of the leading private research institutes on labour issues, estimated the total number at 8.74 million (44.5%). The reason of this difference, despite the fact that both parties use, as a statistical source, the Supplementary Survey of the Survey of Economically Active Population which is directly administered by the Statistics Korea, is because the Government classifies about 2.32 million casual or daily workers under indefinite-term contracts as regular workforce whereas the labour community counts them into non-regular workforce.⁸ According to a report by the HERI, a group of about 2.32 million workers, who correspond to the gap in statistical figures by the Government and the labour community, are actually placed in worse working conditions than the ones of the workers who are classified as non-regular workforce by the Government: that is, on average, they are paid KRW 1.59 million per month, work 44 hours per week and record a consecutive service duration of merely 2.3 years, and only 20~30% of them are covered by social insurances. Accordingly, it is important

⁸ *Hankyoreh* Economy & Society Research Institute (HERI), *HERI Highlight*, 'A closer look at the gap in statistical figures of non-regular workers by the Government and the labour community', 12 January 2017.

that actions should be taken to get a right picture about current conditions of those workers.

56. The Government stresses the leading role of the public sector in addressing the issue of non-regular workforce, particularly referring to the ‘Comprehensive Measures to Reduce Non-regular Workers in Public Sector’ which has been in place since 2006 and requires that fixed-term workers who have worked for a permanent and consistent job for 2 years or longer should be transferred to indefinite-term employment. Actually, the number of workers in indefinite-term employment is on the rise in the public sector, largely because about 22,000 fixed-term workers were transferred to indefinite-term jobs in 2012 and about 65,000 fixed-term workers were transferred to indefinite-term employment during 2013~2015. However, the workers in indefinite-term employment, although their employment is secured in formality, are largely concentrated in low-skilled jobs in some particular occupations or sectors and are clearly different from the regular workers in the ordinary sense, in terms of wage level, promotion opportunity, skills development and career building. Nevertheless, these indefinite-term workers remain outside the coverage of the discrimination remedy system which is stipulated in the Act on the Protection of Fixed-Term and Part-Time Workers, just because they are classified as regular workforce.

57. Although the number of the economically dependent workers (EDW) who need to be protected at a similar level as ordinary workers continues to grow and the number of the occupations for which the EDW are used also keeps growing, the legislation to protect EDW has not been introduced yet, leaving these workers outside social protection. On 17 September 2007, the NHRCK expressed, to the National Assembly and the Government, its opinion that the legislation should be enacted and revised at an early time in order to protect the EDW by securing minimum labour standards for these workers, guaranteeing them three basic labour rights and applying four social insurances to them. In addition, on 27 November 2014, the NHRCK recommended that the coverage of the Industrial Accident Compensation Insurance (IACI) should be made more substantial for the EDW of the six occupations which are already governed by the IACI Act; and that the coverage of the IACI should be expanded to cover all of the EDW. In 2008, a special provision on EDW (Article 125) was inserted to the IACI Act, entitling the EDW in the nine occupations (four occupations in July 2008; two additional occupations in May 2012; and three additional occupations in July 2017) where those workers exclusively belong to their current workplaces to the protection of the IACI. However, ten years have passed since this legal revision, with no additional legislative action being taken to promote protection of the EDW.

Questions suggested

58. Please provide detailed statistical data (including acceptance rate) on the discrimination remedy schemes of the Government (Labour Relations Commission, etc.), and give a detailed explanation on the Government’s position towards the argument that the procedure for the remedy of the right should be upgraded so that workers in indefinite-term employment may apply for the correction of the discrimination against themselves.

59. Little consideration has been made on the issue of the protection of the EDW over the last years, and it appears that the Government has not made sufficient policy efforts to protect those workers and promote their job security, as indicated in the fact that the NHRCK’s recommendation on the IACI coverage for these workers has not been accepted. Please give an explanation on the Government’s plan, including planned legislation, to protect the EDW.

Issue 11: Minimum Wage

Current status

60. On 16 July 2016, the Minimum Wage Commission finalized hourly minimum wage for the year 2017 at KRW 6,470 (KRW 1,352,230 per month in the case of 40-hour workweek). According to the press release by the Minimum Wage Commission, this hourly minimum wage is a 7.3% rise from the year 2016, and this increase rate of minimum wage in 2017 is lower than the corresponding rate (8.1%) of 2016 but is similar to the rates in 2014 (7.2%) and 2015 (7.1%). The share of the workers whose wage will increase in step with the rise in minimum wage is 14.4% (2.1 million people), when based on the Survey on Labour Conditions by Employment Type, or 17.4% (3.36 million people), when based on the Supplementary Survey of the SEAP. The underpayment rate (the proportion of workers who are paid less than minimum wage, as percentage of all wage workers) began to decline after it peaked at 12.8% in 2009, but rebounded in 2013, increasing to the level of 2010 at 11.5% in 2015.

Proportion of workers paid less than minimum wage, as percentage of all wage workers

(Unit: %)

Year	2007	2008	2009	2010	2011	2012	2013	2014	2015
Rate	11.9	10.8	12.8	11.5	10.8	9.6	11.4	12.1	11.5

(Source: Minimum Wage Commission, *2017 Analysis on Wage Conditions, etc. for Minimum Wage Deliberation*, June 2016, p.12.)

61. Article 7 of the Minimum Wage Act provides that an employer may exclude his/her employees from application of minimum wage in case it is admitted that the employee has an apparently limited ability to work due to a mental or physical disability or, for another reason, it is not appropriate to apply minimum wage to the employee. The consequence is that the number of employees excluded from application of minimum wage totalled 1,133 persons in 2007, exceeded 2,000 in 2011 and sharply rose to 5,625 in 2014. It is found that approximately 80% of the workers for whom the applications for exclusion from minimum wage were filed are persons with disabilities who are working at vocational rehabilitation workplaces. It could be understandable that workers with disabilities are less able to work due to their disability and vocational rehabilitation workplaces are usually financially unstable. However, if things go on like this, workers with disabilities will never get away from low pay and poor working environment and a larger number of vocational rehabilitation workplaces would lead to broader blind spots of the minimum wage system. Admitting that this practice of permitting exclusion from minimum wage might increase job opportunities, it is still feared to worsen discrimination in employment among some particular groups of workers.

Questions suggested

62. It is worrying that the proportion of workers paid less than minimum wage is still larger than 10%. Please specify the Government's plan to guarantee these underpaid workers minimum wage.

63. It appears that, after all, the workers who may be excluded from minimum wage will be concentrated in the group of workers with disabilities and, if the provision for this exclusion is maintained, the number of workers subject to this exclusion will keep growing. Consequently, workers with disabilities will remain poor and disadvantaged even if they continue to work all their life. Please submit the Government's policy measures and plan to address these situations.

Issue 12: Three Basic Labour Rights

Current status

64. Since the CESCR's third Concluding Observations of 2009, the Constitutional Court and the Supreme Court of the ROK have showed some significant changes in their practices of applying the criminal penalties of obstruction of business for workers' strikes, as described below:

- a. The Constitutional Court (in Decision No. 2009Heonba168 on April 29, 2010), in relation to the petition for unconstitutionality of Article 314 (1) (obstruction of business) of the Criminal Code, stressed that an industrial action, even if it inevitably causes interference with business, is a fundamental right under the Constitution and, therefore, additional evidence is required to establish that the industrial action constitutes a crime of interference with business, although the Court upheld its position that the provision is constitutional.
- b. The Supreme Court (Full-bench Decision No.2007Do482 on March 17, 2011) ruled that a strike may be established as a crime of obstruction of business only when the two additional conditions of 'suddenness of the strike concerned' and 'serious confusion or enormous damage due to the strike' are satisfied and that the burden of proof is on the prosecution.

65. The CCPR made the following recommendation in its 4th Concluding Observations:

- a. The Committee is concerned about the undue restriction on the freedom of association of public officials. It is also concerned about cases of refusals to register trade unions on the ground that their membership includes dismissed employees. (Para. 54)
- b. The State Party should withdraw its reservation to Article 22 of the Covenant, and enable all parts of the labour force, including public officials, as well as employees who have been dismissed, to join trade unions. (Para. 55)

66. As in February 2016, the current status concerning the ROK's ratification of the eight International Labour Organization (ILO) fundamental conventions is as given below:

Principles	Eight Fundamental Conventions	Ratification
Freedom of association	Freedom of Association and Protection of the Right to Organise Convention (No. 87)	No
	Right to Organise and Collective Bargaining Convention (No. 98)	
Prevention of forced labour	Forced Labour Convention (No. 29)	
	Abolition of Forced Labour Convention (No. 105)	
Prevention of child labour	Minimum Age Convention (No. 138)	Yes
	Worst Forms of Child Labour Convention (No. 182)	
Anti-discrimination	Equal Remuneration Convention (No. 100)	
	Discrimination (Employment and Occupation) Convention (No. 111)	

67. As in August 2016, the unionization rates for regular workers and non-regular workers are, respectively 16.5% and 2.6%. The low level of unionization among regular workers is problematic, but this is much more serious among non-regular workers.

Questions suggested

68. Major trade unions in public organizations, including the Korean Government Employees' Union and the Korean Teachers and Education Workers Union, have not been recognized as lawful trade unions and,

in this regard, the international organizations have reiterated their views that the Korean legal systems concerning the establishment and recognition of trade unions are not in compliance with the relevant international standards, calling for improvements in those systems. Please specify the Government's plan to implement the international organizations' recommendations. In addition, please specify the reason why the ratification of ILO Conventions Nos. 87 and 98 is being delayed, the Government's official position on the ratification of the Conventions and its plan to ratify those Conventions.

69. The CESCR welcomes that the Supreme Court and the Constitutional Court in Korea have shown a significant change in their positions about the cases where workers were indicted on charges of obstruction of business due to their participation in strikes (industrial actions). However, this change alone does not regulate the prosecution itself or prevent employers from making complaints on industrial actions, but simply means that it is less likely that strikers may be found guilty. Moreover, it is reported that the situations concerning the civil proceedings initiated by companies over industrial actions remain unchanged. The CESCR expects that the Government will have a full understanding about the values of industrial actions as part of the fundamental rights under the Constitution of the State Party and the international standards. Please provide detailed statistical data on the numbers of employers' complaints and civil lawsuits filed over industrial actions since 2010, the number of criminal prosecutions and the number of the cases where the courts found the workers concerned guilty, and give detailed explanations on the tendencies of court rulings after the aforementioned decision of the Supreme Court and the Government's views in this regard.

70. As in August 2016, there was a large gap between the unionization rates of regular workers (16.5%) and non-regular workers (2.6%). This gap seems to indicate that protection of the three basic labour rights, which are constitutional rights themselves, is weak, particularly among non-regular workers. It appears that the Government needs to take actions to protect these constitutional rights so long as such actions do not undermine the principle of voluntary labour-management relationship. Please give a detailed explanation on the Government's view about the need to work out institutional measures to protect three basic labour rights of non-regular workers.

Issue 13: Inequality in Education and Excessive Academic Competition

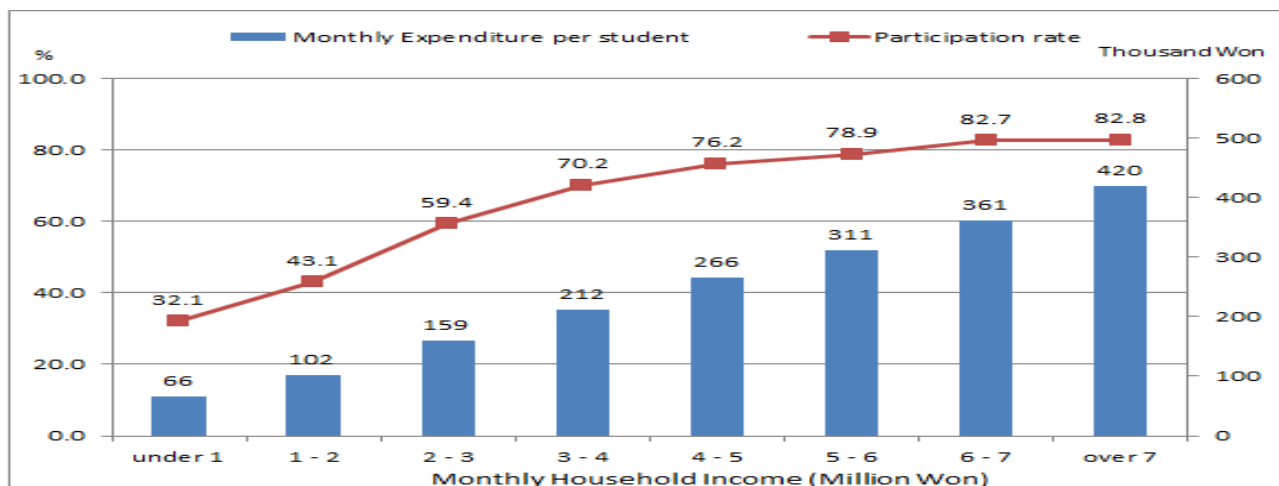
Current status

71. In Korea, since it is customary to discriminate people on the ground of their educational attainments and rank people based on their schools/universities, those who have graduated from better schools/universities have more chances to get better jobs. Amid the fierce academic competition, especially for admissions to better high schools and universities, there exists an enormous market for private education. This private education market is where education inequality is created between the children in high-income families who can afford to receive private education and those in low-income families who cannot afford to. This inequality leads to a vicious circle, in that the children in low-income families are later forced to work in non-regular, low-paying and low-quality jobs in this highly dualized labour market with regular and non-regular workers. Since 2011, private education participation rate decreased (from 71.7% in 2011 to 68.8% in 2015) while monthly expenditure for private education per student increased from KRW 335,000 in 2011 to KRW 355,000 in 2015. This means that a growing number of students cannot afford to receive any private education whereas the students who can afford to receive private education spend more on private education.

72. Furthermore, monthly expenditure on private education per student was KRW 420,000 among the families with average monthly income of KRW 7 million or more, but was KRW 66,000 among the families

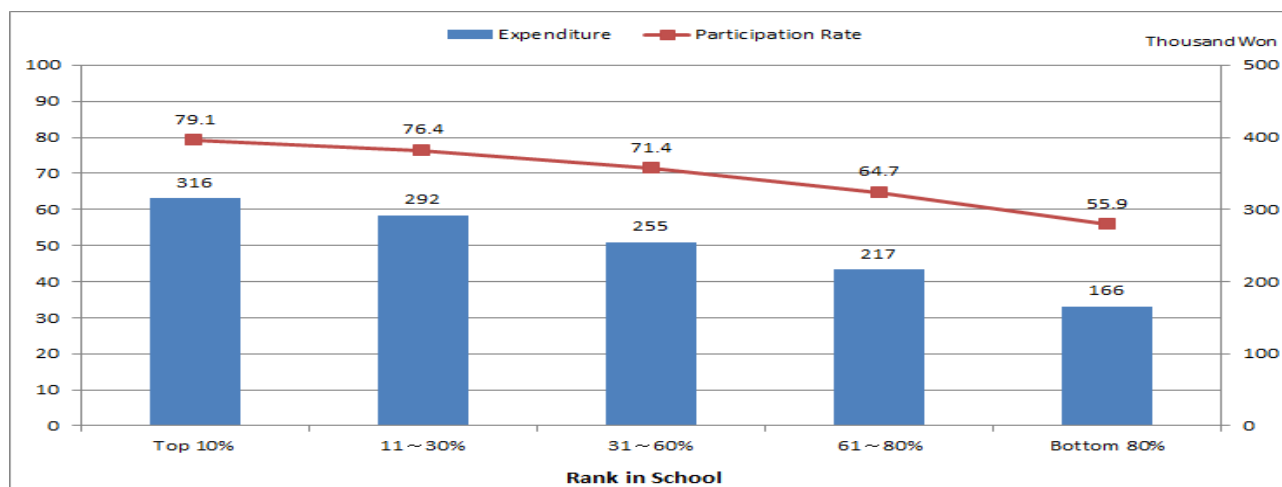
with average monthly income of less than KRW 1 million. Private education participation rate was 82.8% in the former group, but was 32.1% in the latter group. As illustrated in the first graph, participation rate by income level rose in proportion to monthly expenditure, and, as shown in the second graph, participation rate was proportionate to rank in school.

Monthly expenditure on private education per student and participation rate by household income level in 2015



(Source: Statistics Korea, 2015 Survey on Private Education Expenditures in Primary and Secondary School)

Monthly expenditure on private education per student and participation rate by rank in school in 2015



(Source: Statistics Korea, 2015 Survey on Private Education Expenditures in Primary and Secondary School)

73. In the meantime, primary school students aged 12 years or younger still spent long hours on private education, although their participation hours decreased to 6.4 hours per week per student in 2015 from 7.2 hours in 2011. Largely due to this, according to the *Subjective Well-being Level of Korean Children and the Challenges for Policy Actions* published by the Korea Institute for Health and Social Affairs, Korean children recorded academic stress rate of 50.5%, ranking the 1st among the children of the 29 countries observed by the UNICEF (33.3% on average) while they recorded life satisfaction rate of 18.5%, ranking the 26th among the 30 nations observed (Ireland ranked the 1st with 42.5% and the average rate was 26.7%).

74. Child's right to play is important. Longer hours of private education means that children are

sedentary for longer hours while they spend fewer hours on outdoor activities and other sporting activities. Participation in sport is a necessity for children to promote their physical and mental health. In this light, the NHRCK declared the following, in Article 5 of ‘The Charter on Human Rights in Sports’ of 2010:

Schools should guarantee children’s and young people’s participation in sports.

- a. A school is a place where children and young people develop physical and mental balance. Thus, schools should take responsibility to motivate children and young people to participate in sport and help them acquire relevant skills.
- b. Schools should ensure that a minimum of hours of sport is included in the curriculum in light of the maturity and development stage of children or young people.
- c. Schools should be equipped with sports facilities so that children and young people can enjoy various sports. Also, proper rules for using these facilities should be set in order to facilitate equal access.

Questions suggested

75. The problem of education inequality, which is marked by the huge private education market, is serious. Education inequality which begins at the stage of primary schools may have a tremendous effect on the students’ entrance to colleges or universities at a later age. In addition, education inequality may work as a decisive factor in dividing people into regular and non-regular workforce in the labour market, aggravating income inequality among young people and ultimately leading to poverty in old age. There is an urgent need to normalize the public education system. Please specify the policy measures that the Government has taken and will take to normalize public education, and the expenditures spent or allocated for public education normalization.

76. Please provide detailed data which demonstrate the Government’s understanding about the seriousness of the children’s academic stress in the state party; provide the policy measures that the Government has taken to solve this problem and how successful or effective the measures are; and describe the Government’s plan for future relevant actions, along with the statements on the budgets spent or allocated.

77. Please give the Government’s view, with regard to any particular plan to formulate and implement active policy measures to guarantee child’s right to play.

Issue 14: Child Abuse

Current status

78. According to the key statistical data on ‘the Current Status of Child Abuse in 2015’ released by the National Child Protection Agency, a total of 19,209 cases of child abuse were reported in 2015 and the rate of child abuse reports increased every year. According to the Supreme Prosecutor’s Office (the announcement dated 12 April 2016), the number of people who were reported to have violated (the provision on child abuse of) the Criminal Act, the Child Welfare Act or the Special Act on the Punishment of Child Abuse Crime increased from 183 in 2011 to 2,691 in 2016. The number of 2,691 persons in 2015 is almost six times as large as the corresponding number (459 persons) in 2013, the time when the Special Act was not in place yet. The number of people indicted for crimes of child abuse also recorded a sharp rise: it was 49 in 2011 but increased almost by tenfold in 2015.

79. In Korea, either the rate of child abuse recognition (the number of children who are recognized as having suffered abuse in every 1,000 children) or the reporting rate of the people with the obligation to report child abuse is not high. According to the Ministry of Health and Welfare, the rate of child abuse recognition is 1 (person), which is higher than in the previous years but still remains low, particularly compared with the rate of 9 in the United States. In this relation, some experts analyze that this low rate is not because there are fewer cases of child abuse in the ROK than in the United States but because child abuse cases are not properly detected and recognized, which is closely related to the low reporting rate.

80. The number of child abuse reports made by those with the reporting obligation increased by almost fourfold in ten years, that is, from 1,346 in 2004 to 4,358 in 2014. However, the reporting rate (of 29%) in 2014 is very low, when compared with the rates for the same year in Australia (73%), Japan (68%) and the United States (58%). Moreover, about 10% of child abuse cases recurred every year, which points to the lack of initial actions to conduct early intervention in child abuse and prevent recurrence of child abuse.

Questions suggested

81. In Korea, the reporting rate of the people with the obligation to report child abuse is lower than the rates in other countries, and about 10% of child cases reported recurred every year. Please provide detailed data on the measures that the Government has taken to address these problems, what effects have been brought by those measures, and the Government's plan to improve the conditions.

Issue 15: Child Poverty

Current status

82. The ROK enacted the Act on Prevention of Child Poverty, Support of Children in July 2012, with a view to undertaking effective child welfare policy measures to address the child poverty issue. However, the Act simply consists of the 12 clauses, including the ones concerning the obligation to set up the five-year basic plan and annual implementation plans on child poverty and the establishment of the Child Poverty Prevention Committee, but does not provide for specific actions to prevent child poverty. The regulation on the implementation of the surveys on child poverty is expected to come into force in June 2017.

83. It is pointed out that the First Joint Basic Plan for Child Policy by relevant ministries (2015-2019) and the 2016 implementation plan released by the Ministry of Health and Welfare just declare the Government's commitment to set up basic plans to conduct surveys on the basic needs of children in poor families and support those children, but fail to include any specific actions. According to the Comprehensive Survey on Children's Situations (2013), which is conducted by the Ministry of Health and Welfare every five years pursuant to the Child Welfare Act, child poverty rate was estimated at 10.62% or 9.45%: the first one is the share of the households whose disposable income is less than 50% of median income and the second one is the absolute poverty rate which is based on the minimum living cost (the poverty line released by the Government in 2012), as child poverty rate refers to the proportion of children below 18 years of age who belong to poor families. Considering that the proportion of the households with children which receive the benefits under NBLs scheme is approximately 4%, it is estimated that about 538,000~651,000 children, which accounts for about 5.6~6.7% of total child population, remain outside social protection.

84. According to the Comprehensive Survey mentioned above, the poverty rate of households with children differs among different income groups of households, and varies widely, depending on the family type and the main childcare giver's employment status. Child poverty rate among the households which

receive the Government's welfare benefits is as high as 79.75%, and child poverty rate among single-parent families and grandparent-grandchild families is 63.54%, which compares to the rate of 3.22% among two-parent families. These figures suggest that the Government needs to take a multi-dimensional approach to reduce poverty among the households with children.

85. Child poverty rate in the ROK is lower than the average rate among the 29 OECD member states, but this rate has decreased at a very slow pace in the past decade. The ROK has not introduced a separate social allowance for children, and has made policy efforts to address child poverty within the framework of the public assistance scheme called the NBLS. However, it is pointed out that the NBLS scheme does not take into account the peculiar nature of households with children, except that it has abolished the family responsibility criterion only in education benefits.

Question suggested

86. Please specify whether the Government has set up strategic actions and objectives for different phases to reduce child poverty and whether it has a plan to improve the NBLS scheme by considering the features of households with children in this scheme.

Issue 16: Right to Housing (Homelessness and Forced Evictions)

Current status

87. The Government stated, in its current State Report, that it was committed to promoting the rent assistance programme and the multi-household residence rental programme to ensure housing security for vulnerable groups. However, the rent assistance programme is limited only to the group just above the poverty line in some local governments, providing no benefit to the socially vulnerable groups who live in dosshouse (*jjokbang*) or in vinyl houses.

88. In addition, the number of households which do not meet the minimum housing standards, although on the decline now, is likely to increase, because it is expected that the numbers of old people in poverty and single senior households will surge in the near future. Considering that more than 1 million households fail to meet the minimum housing standards, even though the number is decreasing, it is necessary to take particular actions about these households.

Trends in the number of households below minimum housing standards

(%: of total households)

Year	2005	2010	2012	2014
Number of households below the standards	2.68 million (16.5%)	1.84 million (10.6%)	1.28 million (7.2%)	1 million (5.4%)

(Source: Ministry of Land, Infrastructure and Transport, Korea Housing Survey (2010, 2012 and 2014))

89. With regard to forced eviction, the Government stated, in its current State Report that tenants are offered the moving cost and those who are evicted from the houses to be demolished for redevelopment purpose are provided with temporary residences. However, this is simply what is described in the law and regulations and, in practice, these schemes are not properly working to provide substantial housing security to vulnerable groups. For instance, the Korea Workers' Compensational & Welfare Service has built apartment houses exclusively for working women in order to promote their self-support, but some low-

income working women have been evicted as the residence period in these apartment houses is limited to four years. Similarly, in the case of the public rental houses built and administered by the SH (Seoul Housing and Communities) Corporation, more than 260 households were evicted from the rental houses over the past five years, just as they could not afford to pay rents and administration expenses.

90. As forced eviction took the form of administrative vicarious execution, it often resulted in human rights violations, including violence. Considering that the law revision bill on how to conduct administrative vicarious execution in a human rights friendly manner⁹ has been brought before the incumbent (20th) National Assembly, more attention should be paid to this issue at the Government level.

Questions suggested

91. Please provide more specific data on the policy measures and programmes that the Government has taken to stabilize housing of vulnerable groups (older persons, persons with disabilities, young people, etc.) and the Government's plan in this regard. It appears that, in light of the provision of Article 2 (1) of the ICESCR and the State Party's economic size, the households below the minimum housing standards are the group about which the Government needs to take immediate actions. Please specify the Government's views about this vulnerable group. In particular, please provide additional housing data on those who live in non-residential structures (like vinyl houses), older persons, young people and persons with disabilities.

92. The Government needs to take immediate actions to address human rights violations that take place in the course of forced eviction, administrative vicarious execution or the use of force. No detailed explanation on this issue has been submitted, despite the recommendation in the last Concluding Observations. Please specify the Government's plan to ensure that eviction is implemented in a human rights friendly manner.

Issue 17: Right to Health

Current status

93. The Government is now implementing the '2014-2018 Mid-term Plan to Increase Coverage of the National Health Insurance (NHI)'. The NHI fund recorded a surplus of KRW 3 trillion 196 billion over the period from January to August 2016, and recorded a running total of surplus of KRW 20 trillion 716.6 billion as in August 2016, surpassing the KRW 20 trillion mark for the first time. Nevertheless, 'the programme to increase NHI coverage for four major serious illnesses' and 'the programme to provide temporary support for catastrophic medical costs of serious illnesses' are not sufficient enough, in that the proportion of non-covered items and services and out-of-pocket payments is still high (77%) and these programmes are available only to some limited groups of people. Although the Government has recently converted some non-covered items and services to covered ones, some analyse that balloon effect¹⁰ is taking place. In particular, despite the surpluses of the NHI fund, the NHI coverage rate continued to decline from 65% in 2009 to 63.6% in 2011, 62.5% in 2012 and 62.0% in 2013, before it rose slightly to 63.2% in 2014. As in 2013, the share of medical expenditures financed by the public fund in total medical expenditures is 55.9%, which is about

⁹ Bill for partial revision of the Administrative Vicarious Execution Act (proposed by Hyun-hee Jeon, a member of the National Assembly, on 21 November 2016)

¹⁰ National Assembly Budget Office, Hospitals' introduction of new non-covered items and services (*Policy Assessment to Increase Coverage of the Health Insurance*, June 2016)

18%p lower than the OECD average of 72.7%.

94. Although the proportion of people in absolute poverty in Korea is above 7%, the share of medical benefit recipients is merely 3% of total population as in 2013, according to the National Health Insurance Service's statistical data on medical benefits. According to the National Health Insurance Service's '2012 Survey on Medical Costs of Insured Patients', the share of out-of-pocket payments in total medical costs was still high even in the case of medical benefit recipients: it was rated at 5.9% for the medical benefit recipients of Class 1 and 7.6% for the recipients of Class 2. In reality, this is more than they can afford to pay. Considering that medical security is the largest and the most-wanted welfare needs of poor people, it is urgent that the Government should take actions, in the on-going process of reforming the NBSL scheme, to increase the coverage of medical benefits and the scope of beneficiaries.

95. It is observed that, when the ROK faced a serious and far-reaching threat to public health, for instance, due to the outbreak of MERS in 2015, the Government failed to take proper and timely reactions. It is important to establish drastic policy measures to ensure right reactions in the event of public health emergency at national level.

96. It is reported that there is a wide gap between urban and rural areas, in terms of the guarantee of the right to health. Some of the general hospitals run by local governments have been closed or privatized, due to the problem of budget shortage. Some criticize that the Government is not providing sufficient support to these local hospitals.

Questions suggested

97. Please explain why the NHI coverage rate has decreased or remained unchanged even though the '2014~2018 Mid-term Plan to Increase Coverage of the NHI' is in progress now, and specify how to make use of the surpluses of the NHI fund. In particular, please specify the current situations on the programmes to subsidize medical costs of the people in absolute poverty, along with the Government's plans in this regard.

98. Please specify the policy measures that the Government has taken in relation to catastrophic medical costs, the effects and limitations of these policy measures, and the Government's plan to further improve the situation.

99. If the State Party has established a specific reaction manual which is designed to address any public health crisis at national level, please submit the manual.

100. Please specify the policy measures that the Government has taken at national level to address the gap in the enjoyment of right to health between urban and rural areas and between the Seoul metropolitan area and other regional areas, along with its plan for future years.

Issue 18: Right to Enjoy Culture

Current status

101. According to the '2015 Digital Divide Survey' conducted by the National Information Society Agency, the digital divide, as was measured by the PC-based information access level, between vulnerable groups (persons with disabilities, low-income households, farmers and fishermen, and late middle-aged and older persons) and non-vulnerable groups, has been narrowed. More precisely, in 2004 when the Survey was conducted for the first time, the composite digital divide index of vulnerable groups stood only at 45% of the

corresponding index of non-vulnerable groups, but grew to 71% in 2010 and further to 74.6% in 2014. However, the smart information access level of vulnerable groups still remains low at 57.4%. Within the vulnerable groups, farmers and fishermen (51.4%) and late middle-aged and older persons (54.3%) show a lower level than persons with disabilities (60.2%) and low-income households (72.5%). Accordingly, it is feared that the information access gap is likely to grow, since more information is being distributed at a faster speed through smart technologies than through PCs now.

102. Article 15 (b) of the ICESCR provides for ‘the right to enjoy the benefits of scientific progress and its applications’. However, the Government, in its current State Report, only mentioned its policy actions to improve information access of persons with disabilities and the legal system concerning life ethics, without providing any data in relation to a range of issues which are raised not only from the CESCR but also by the Special Rapporteur in the field of cultural rights and the Special Rapporteur on the right to privacy, including discrimination in enjoyment of science and technology, possible human rights violations due to the developments in science and technology and, particularly, new types of privacy problems caused by rapidly developing information technologies.

Question suggested

103. Please specify the policy measures that the Government has taken or plans to take, in order to resolve discrimination in enjoyment of science, technology and culture, and also specify the policy approaches that the Government has taken to address the privacy problems due to the emergence of new information and communication technologies, and its plan in this regards

Issue 19: Business and Human Rights

Current status

104. In 2016, the NHRCK recommended the Government to set up the National Action Plans on Business and Human Rights, and it is reported that the Government has been taking the steps towards the establishment of the National Actions Plans, including drawing up a draft version, holding public hearings and collecting opinions from relevant ministries.

105. The Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, in their report following the official visit to the ROK published on 1 June 2016, emphasized that the Government should made more efforts in relation to the issue of human rights and business. Specifically, the Working Group stressed that the Government should ensure that human rights due diligence in the UN Guiding Principles on Business and Human Rights (UNGPs) is reflected in the investment activities by the National Pension and the execution of the Economic Development Cooperation Fund by the Export-Import Bank of Korea. In addition, it called on the Government and business enterprises of the ROK to prevent human rights violations in the course of their business activities overseas and, if any violation has occurred, take remedial actions in compliance with the relevant international standards and the established good practices. The Working Group also proposed that an advisory group bringing together various stakeholders should be formed within the OECD National Contact Point (NCP) in the ROK.

106. The international organizations, particularly including the UN and the OECD, have expressed their concerns about possible human rights violations which are related to Korean companies’ business activities overseas, referring to the Korea Minting and Security Printing Corporation’s import of cotton from Uzbekistan, the working conditions at the apparel factories in Myanmar run by Korean companies, POSCO’s

steel plant project in India and Daewoo International's compensation for the natural gas project in Myanmar.

107. The Special Rapporteur on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes, in the report of his visit to the ROK in 2016, recommended the Government to pay more attention to the victims of Oxy's humidifier sterilizer products, the workers exposed to harmful substances in Samsung Electronics, and the residents in the neighbourhoods exposed to harmful substances and work out solutions for these victims. In a related move, the NHRCK, through the NHRCK Chairman's Statement of 23 May 2016, called on the Government and business enterprises to make efforts to ensure that the products threatening people's life and health are not in circulation, while stressing that the Government should expand its supports to the victims of Oxy's humidifier sterilizer products and review and improve the existing system for controlling chemical products for household use. Moreover, the NHRCK, in its recommendation for the National Action Plans on Business and Human Rights, called on the Government to set up effective remedial arrangements for the victims, including class action.

Questions suggested

108. Please specify the progress of the Government's activities done in response to the NHRCK's recommendation for the establishment of the National Action Plans on Business and Human Rights, along with its planned timetable for further activities.

109. Please give the Government's views about the NHRCK's recommendation that, in case a public organization provides a business enterprise with credit policy financing for import or invests a certain amount of money or more into a business enterprise, it should take into consideration human rights conditions of the enterprise and ensure that the enterprise respects human rights.

110. If the Government has made any improvement in its policy approaches to prevent Korean enterprises from committing human rights violations in relation to their business activities overseas and, if any human right violation has occurred, take remedial actions, please specify it.

111. Please specify the remedial actions and other measures that the Government has taken for the victims of Oxy's humidifier sterilizer products, the workers exposed to harmful substances in Samsung Electronics and the residents in the neighbourhoods exposed to harmful substances.