Human Rights Committee
115th session
Summary record of the 3211th meeting
Held at the Palais Wilson, Geneva, on Friday, 23 October 2015, at 10 a.m.
Chairperson: Mr. Salvioli

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Fourth periodic report of the Republic of Korea (continued)
The meeting was called to order at 10:05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

Fourth periodic report of the Republic of Korea (continued) (CCPR/C/KOR/4, CCPR/C/KOR/Q/4 and Add.1)

1. At the invitation of the Chairperson, the delegation of the Republic of Korea took places at the Committee table.

2. Mr. Kim Joo-Hyun (Republic of Korea), replying to a question about the definitions of terrorism and cyberterrorism used in his country, said that a number of counter-terrorism bills were pending before the National Assembly. Discussions of the definition of terrorism and potential infringements of fundamental rights had given rise to a range of opinions. Generally speaking, terrorism was defined as homicide perpetrated for the purpose of threatening the general public, including by shooting down planes, blowing up ships and vehicles and destroying nuclear reactors. Cyberterrorism consisted of hacking incidents, the planting of computer viruses and the use of electronic means to disable telecommunication and information facilities or to damage information. Care would be taken to ensure that fundamental rights were not unduly infringed by counter-terrorism policies and that restrictions on liberty and rights were kept to a minimum.

3. Bills concerning the abolition of capital punishment were pending before the National Assembly. Diverse opinions had been expressed and strenuous efforts were being made to secure a national consensus on the issue.

4. Replying to a question concerning the low rate of prosecution of complaints against police officers, he said that most complaints concerned the use of insulting language and lack of respect. The low rate of prosecution was due to a lack of objective evidence that would warrant criminal proceedings.

5. Nam Hoohee (Republic of Korea) said that the 2014 Mental Health Promotion Bill reduced the involuntary hospitalization period from six to three months and imposed stricter requirements for hospitalization. Under the existing legislation, hospitalization was permitted if just one of two requirements relating to self-harm and need for treatment was met. Under the proposed new legislation, both requirements would have to be met. The National Assembly was discussing the possibility of establishing an evaluation committee to assess the appropriateness of involuntary hospitalization. Priority was also being given to the proposed amendment to the Habeas Corpus Act.

6. Forced sterilization constituted an illegal act that entailed both civil and criminal charges.

7. Under the Mental Health Act, the State and local authorities were assigned responsibility for the management and supervision of mental health facilities. Strict regulations ensured that solitary confinement and physical constraints were kept to a minimum. The applicable principles and criteria were set forth in Government guidelines. Human rights training courses were provided for the staff at mental health facilities.

8. Rapid social changes and repeated economic crises resulting in stress and maladjustment were deemed to constitute the root cause of the high suicide rate. Older persons also suffered from loneliness when faced with the dissolution of their families. Community-based preventive measures were being taken on behalf of groups at risk of suicide, such as older or vulnerable persons, persons living alone and persons who had attempted suicide.
9. **Mr. Park** Jin-young (Republic of Korea) said that the Ministry of National Defence had introduced a bill providing for the prosecution of assault and ill-treatment in the military. It was currently being discussed in the National Assembly. The Ministry had been implementing comprehensive measures since March 2015 to eliminate sexual violence; it had established a Gender Equality Centre to prevent sexual violence in barracks. A human rights officer from the military had been mandated to review the legality of the detention of personnel in the military prison system. Commanders were required to respect the officer’s conclusions.

10. **Ms. Oh** Yoojin (Republic of Korea) said that efforts were being made to reflect suggestions by the National Human Rights Commission of Korea in the existing legislation. For example, a bill concerning functional immunity for members of the Commission was being handled expeditiously by the National Assembly. There had been no significant changes in the statistics concerning the Commission’s handling of complaints such as allegations of torture by the police. A document containing the statistics would be translated into English and submitted to the Committee.

11. **Mr. Shany** said that the fight against terrorism could best be conducted within the context of criminal law, based on the principles of legality and legal certainty. Concerns arose when counter-terrorism measures were based on open-ended legal definitions or were pursued outside existing legislation. The State party must therefore be mindful of human rights when incorporating such definitions into its legislation and when selecting the provisions on which it would rely in implementing counter-terrorism measures. It was unclear whether the proposed definitions, especially of cyberterrorism, would meet international standards.

12. Turning to paragraph 14 of the list of issues, he welcomed the 2007 amendment to the Criminal Procedure Act that shortened the time period for requesting a detention warrant under the urgent arrest procedure. However, the period of detention without judicial review still appeared to be slightly longer than the normal standard, namely 72 hours. He understood that, in the case of non-urgent detention procedures, a person could file a habeas corpus request to appear before a judge within 48 hours. According to the Committee’s general comment No. 35, the requirement of a detainee’s prompt appearance before a judge was applicable in all cases without exception and did not depend on the detainee’s choice or ability to assert such a right.

13. Were there any time limits applicable to the length of detention in immigration proceedings? The Committee had been informed that a juvenile’s pretrial period was not deducted from the court’s sentence. He asked whether that information was accurate.

14. Defectors from the Democratic People’s Republic of Korea could be held in a detention centre for up to 6 months. He wished to know whether they had access to legal counsel, could invoke article 214-2 of the Criminal Procedure Act to request a review of the legality of their detention and were able to exercise their right to remain silent. The Committee had been informed that some defectors had been denied such legal safeguards and deported without due process of any kind.

15. Referring to paragraph 22 of the list of issues, he said that surveys had indicated that students who attended religiously affiliated schools were not always provided with alternative options to religious classes or ceremonies, as required by a Supreme Court decision.

16. Turning to paragraph 23 of the list of issues, he enquired about the impact of the Constitutional Court ruling that article 47, paragraph 1, of the Framework Act on Telecommunications was unconstitutional. The article had criminalized the communication of false information for the purpose of harming the public interest. It had been declared unconstitutional on the grounds that the concept of “public interest”
was unduly ambiguous. The same criticism could, in his view, be levelled against other provisions of the Act, such as article 47, paragraph 2, which criminalized false statements for the purpose of benefiting oneself or harming a third party, and article 314, paragraph 1, of the Criminal Act, which criminalized interference in business by disseminating incorrect information.

17. It was regrettable that the State party did not intend to review its legislation on defamation. According to the Committee’s general comment No. 34, States parties should consider the decriminalization of defamation, for which imprisonment was never an appropriate penalty. The reputation and privacy of others could be adequately protected under civil law — such an approach was more consistent with the principle of freedom of expression. He requested the State party to explain why criminal charges had been invoked against those who had allegedly spread false information criticizing the Government following the tragic ferry disaster in 2014. The charge that such information could damage the reputation of public officials was liable to stifle free discussion, and it was hard to imagine what social interest could be invoked to justify the harsh penalty of 7 years’ imprisonment with hard labour.

18. Referring to articles 307 and 310 of the Criminal Act, he asked under what circumstances a person who made a true statement could be criminally charged for defamation. The requirement in article 310 that true facts should be “solely for the public interest” was too narrow: a business person who exposed corruption in a public tender, thereby harming public officials, would accordingly be unable to invoke the defence of truth because the facts did not serve the public interest.

19. He asked what safeguards were in place to ensure that article 44 of the Act on Information and Communications Network was not used to stifle online expression of views. The Committee had been informed that the Communication Standards Commission had advised service providers to remove hundreds of thousands of messages during the past five years.

20. He requested an explanation of the rationale underlying article 27 of the Public Officials Service Regulations, which prohibited public officials from criticizing government policies that were not related to their official duties. Public officials had apparently been prohibited from participating in a protest against cuts to their pensions.

21. Turning to paragraph 24 of the list of issues, he said that the Constitutional Court’s ruling that the National Security Act did not violate the principle of clarity seemed to contradict its position with respect to freedom of speech. The Committee had been informed that article 7 of the Act had been invoked to prosecute a person for disseminating material from the Twitter account of the Government of the Democratic People’s Republic of Korea.

22. The Constitutional Court had ordered the dissolution of the Unified Progressive Party on 19 December 2014. According to the Committee’s general comment No. 25, restrictions on the right to stand for election must be justified on the basis of objective and reasonable criteria. The Government had argued that the party was operating contrary to the democratic order. He asked whether the Court had established that the party constituted a threat to democracy or that it had endorsed violence as part of its official platform. As the party had previously held only about five seats in the National Assembly, it was clearly not in a position to take over control of the State. Moreover, criminal proceedings had been instituted against some members of the party; they had been convicted of some charges and acquitted of others.

23. Ms. Waterval thanked the State party for the information concerning the Immigration Control Act provided in the replies to the list of issues, paragraph 40 of which stated that the average detention period for migrants and asylum seekers in
2014 was 12.2 days. She sought comments on statistics brought to her attention which showed that, as of September 2015, a total of 17 asylum seekers were in detention, with some nationals of Nigeria and Myanmar having been detained since 2012. It appeared that deportation of asylum seekers was not possible while a review of the asylum claim was pending, a process that could lead to indefinite detention.

24. Turning to question 18 of the list of issues, on trafficking of persons, and to the information given in paragraph 51 of the replies to the list of issues, she commended the State party for having investigated accusations of assault against foreign seafarers and for its cooperation with the Indonesian authorities. Referring to the statistical data on trafficking given in paragraph 53, she sought an explanation for the sharp increase in the number of registered cases in 2014 and requested data on the number of cases expected by the end of 2015. The Republic of Korea was a signatory to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, but the offence of trafficking as defined in domestic legislation was not consistent with international legislation: only the buying and selling of persons, but not the recruitment and exploitation of migrant labour, was criminalized. The case of a Philippine woman who had entered the Republic of Korea on an entertainment visa and who, after having been sexually exploited, had been treated as a criminal by the authorities, instead of as a victim, demonstrated the need to amend the definition of trafficking in persons.

25. With respect to the registration of births, she wished to know the status of infants born in the Republic of Korea to non-Korean parents, particularly to undocumented asylum seekers or refugees. In that regard she sought an update on the amendment to strengthen guardianship on the part of the Government, which would allow the authorities to file a birth report when the person responsible had neglected that duty. She asked the delegation to comment on the recent case of a Vietnamese woman who had abandoned her child so that it could obtain Korean citizenship and who, while continuing to visit the child in an orphanage, had refused to acknowledge that it was her child, for fear that the child’s citizenship would be removed due to her own undocumented status.

26. Sir Nigel Rodley asked the State party to confirm whether the definition of torture as set out in article 125 of the Criminal Code, entitled “Violence and Cruel Acts”, covered mental torture. What was the statute of limitations which applied to that article? He had been surprised to learn that different penal institutions had their own rules governing the use of solitary confinement, and he wished to know whether the State party intended to introduce nationwide rules on that subject. The potential imposition of solitary confinement for up to 30 days seemed excessively long in view of articles 7 and 10 of the Covenant. Furthermore, the genuine independence of the body imposing punishment by solitary confinement was called into question if its outside members were appointed by the prison wardens. While protective devices could only be used to prevent escape or suicide and not for punishment, he sought reassurance that there was independent control and monitoring of their use. It would be useful to receive information on any complaints to the National Human Rights Commission of Korea concerning misuse of the devices, since he understood that it was difficult for people in detention to make complaints.

27. Although access to counsel had been established as a constitutional right by the Constitutional Court in 2003, paragraph 41 of the replies to the list of issues detailed circumstances under which the participation of counsel might be restricted during an interrogation. The Ministry of Justice had requested that disciplinary action should be taken against human rights lawyers who had advised their clients on such matters as their right to remain silent — a punishment that had been opposed by the Korean Bar Association. He asked the State party to comment on allegations of torture in
connection with the oppressive questioning without the benefit of counsel of certain police officers, a number of whom had subsequently committed suicide. According to the results of a 2015 Korean Bar Association survey, over 48 per cent of respondents had experienced unfair treatment from investigators, including: restraints on expressing views; unfair interrogation manners; coercive actions or abuse of power; prohibition from making notes on an interrogation; and being banned from participating in an interrogation. It was encouraging that counsel now had access to the detention room at Incheon International Airport, although it appeared that detainees were not given the means to access food or shelter elsewhere.

28. The Government had not changed its position on introducing alternative forms of service for conscientious objectors, citing a public opinion survey supporting that view. Representatives of civil society, however, had indicated that a different result might have been achieved if the survey question had been phrased differently. Freedom of conscience, like the abolition of the death penalty and other sensitive human rights issues, should not be a matter of national consensus — human rights should not be governed by national opinion polls. It was not clear what specific national situation prevented the Republic of Korea from recognizing alternative forms of service, but the result was the detention of up to 600 conscientious objectors at any one time. In paragraph 68 of the replies to the list of issues, he had read with disbelief of the intention of the authorities to publish the personal details of conscientious objectors, something which could be an incitement to harassment, public persecution, or worse. The National Human Rights Commission of Korea had advised that a system of alternative service should be set up in line with the recommendations of the Committee.

29. With respect to freedom of assembly, it was confusing that, although there was no need for permission to be granted before a demonstration could be held, the requirement of notifying the police had led to the banning of some demonstrations. What would be the result of failure to register a demonstration with the police, and what limits were there to the use of force in the event that a peaceful demonstration was dispersed by the police? The Committee had received information that on 18 April 2015, following a memorial service for victims of the MV Sewol ferry disaster, a demonstration had been broken up by the police with the use of a security cordon. It appeared that even registered assemblies were confronted with obstacles, including excessive policing measures, that undermined the right to assemble.

30. Ms. Seibert-Fohr referring to overcrowding in correctional facilities, asked whether the Government intended to regulate the minimum cell space allocated per inmate in the new facilities to be built. The conditions in immigration detention appeared to be particularly deplorable and she wished to know whether any systematic measures had been taken to improve them. She asked for a response to allegations that solitary confinement had been used arbitrarily and in a punitive manner in immigration detention and that communication of detainees with the outside world had been restricted.

31. The Committee had received information that the medical treatment of prisoners was inadequate. She asked whether it was true that in more than one third of the cases of inmates who had died in correctional facilities between 2004 and 2013, their applications for suspension of their detention had been denied or prolonged. Referring to article 14 of the Covenant, she asked how the right to access to justice for prison inmates could be reconciled with 2010 guidelines by the Ministry of Justice according to which inmates must pay fuel and toll costs if they needed to appear in court for civil, administrative or similar litigation.

32. In its replies to question 25 of the list of issues, the State party had denied that journalists and human rights defenders were subjected to harassment and intimidation.
However, the 2013 report of the Special Rapporteur on the situation of human rights defenders had detailed incidents of harassment, intimidation and even illegal surveillance of journalists who were working on human rights issues. She queried how the criminal charges brought by the Government against human rights defenders, including for obstruction of business, obstruction of the performance of official duties and general obstruction of traffic, could be reconciled with articles 19 and 21 of the Covenant. She asked whether the organizers of a peaceful demonstration could be held criminally accountable for the violent actions or unlawful behaviour of other participants in an assembly. Furthermore, she asked how the prohibition of a banner in a neighbourhood of Seoul because it contained words such as “lesbian”; “gay” and “transgender” could be reconciled with freedom of expression.

33. Concerning the right to form and join trade unions, she inquired about implementation of article 22 of the Covenant and why the Korean Government Employee’s Union (KGEU) was not recognized as a trade union under the law.

34. **Mr. Iwasawa** recalled that his question regarding the criminalization of sexual activity by persons of the same sex in the military had not been answered. He wished to know whether the HIV test administered to persons on their admission to prison was compulsory. He asked why foreigners who worked as foreign language instructors and remained in the country for more than 90 days had to submit an HIV test certificate, whereas Korean nationals and ethnic Koreans from abroad were exempt from that requirement.

35. Referring to paragraph 20 of the list of issues, he requested clarification of whether the State party conducted base station investigations of mobile telephone signals picked up near the site of demonstrations in order to identify participants. Furthermore, he wished to know why the Government had not adopted the recommendation of the National Human Rights Commission of Korea that any request for permission to use wiretapping to obtain a person’s metadata should be granted only after a court had given its consent and only when there were reasonable grounds for believing that the person concerned had committed a crime. He also wondered why the Commission’s recommendation against the virtually unrestricted provision of subscriber identification information to the Government under the Telecommunications Business Act had not been followed. Had the State party considered toughening the requirements for government access to personal data?

36. **Mr. Politi** requested updated statistics on the exact number of defectors from the Democratic People’s Republic of Korea who had been admitted to protection centres over the previous 10 years. Was it true that the initial inquiries conducted by the National Intelligence Service into those persons’ identity, background and reasons for defecting were deemed to be administrative in nature, obviating the need to respect the principles of due process in carrying out such an investigation? He requested the delegation to specify exactly what guarantees were given during the inquiries to the defectors in respect of the right of defence and the maximum length of the procedure. The Committee had heard that defectors from the People’s Democratic Republic of Korea were subject to discrimination and unfair treatment at school and in the workplace — had the Government taken or planned any new initiatives to counteract such discrimination?

37. **Ms. Cleveland** said that the point made by Sir Nigel Rodley, that national consensus should not govern human rights protection, also applied to the State party’s failure to enact comprehensive legislation to ban discrimination based on sexual orientation and gender identity. She requested a response to reports that Government buildings had been used to host conversion therapy seminars in November 2014 and March 2015, at which homosexuality had been described as a “sinful disposition to be suppressed” and as a “disease to be cured”. It had been reported that the practice of
suspending the indictment of persons accused of domestic violence if the offender underwent counselling, and of addressing domestic violence through disproportionately light home protection measures, allowed perpetrators to avoid indictment or appropriate punishment. She would welcome information as to whether migrant workers were provided with legal aid in order to assist them in exercising their legal rights and whether any inspection, reporting or monitoring mechanisms existed to ensure that such workers received on-the-job protection.

38. **Mr. Kim** Joo-hyun (Republic of Korea) said that the Government was trying hard to implement the Committee’s recommendations: much legislation had been passed and was still being passed to that end. In accordance with the Constitution, fundamental rights could be restricted only by statute, and any plans to adopt legislation had to be disclosed to the public in order to canvass the opinion of all citizens. The relevant legislative committees also discussed the different aspects of draft laws at length. An independent body, the Constitutional Court, made an in-depth examination of the constitutionality of new legislation. That court likewise conducted a review of the proportionality of legal provisions by comparing them with legislative examples from abroad. After the Constitutional Court had banned the Unified Progressive Party (UPP), for example, it had disclosed the detailed reasons for that decision. During the trial, case law from all over the world had been examined and the Court had arrived at that independent decision only after lengthy deliberations.

39. Many newspaper articles had discussed the pros and cons of abolishing capital punishment, a move which would require a legislative process. That meant that not only public opinion, but also the majority of the members of the National Assembly, would have to be in favour. Of course, every effort would be made to bring legislation into line with the Covenant, but certain areas required more detailed examination. It was not that the Government disregarded the Committee’s recommendations; under the Korean Constitution, laws and regulations had to be amended and enacted after in-depth discussion and debate. Those deliberations were already under way.

40. **Mr. Kim** Jun-yeon (Republic of Korea), replying to the question regarding habeas corpus, said that if, within 48 hours, no grounds for detaining a person could be found, he or she was released immediately. Even if the suspect did not ask to appear before a court, a judge would examine the case in order to ascertain whether he or she should be detained. Such hearings were held even on Saturdays or Sundays.

41. There was no limit to the length of time that an immigrant could be held in a detention centre. The time that juvenile offenders spent in pretrial detention was deducted from the punishment which they received only if they were given a prison sentence, but not from the duration of any correctional educational measures.

42. **Mr. Jin** Hyun-ill (Republic of Korea) said that before any investigation into the case of a refugee from the Democratic People’s Republic of Korea was initiated, he or she was informed of the basis and length of the inquiry and of relief measures and was accorded a one-to-one interview with a human rights protection officer.

43. **Mr. Kang** Byeonggu (Republic of Korea) said that in 2015 there were 478 religiously affiliated elementary and middle schools, 209 of which offered religious instruction. Of those 209 schools, 74.6 per cent offered alternative classes. The remainder were religious schools which pupils chose to attend.

44. **Ms. Lee** Na-eun (Republic of Korea) drew attention to the information provided in paragraph 70 of the replies to the list of issues. Freedom of expression was regarded as very important, but it was a right that did not take precedence over the right to privacy. Why? For example, if the facts of a crime involving sexual violence against a minor were divulged, such disclosure would be regarded as a violation of the right of the child to an unsullied reputation and would entail severe punishment.
45. **Mr. Lee** Won-doo (Republic of Korea) said that public officials were obliged to remain politically neutral, and that was why they could not engage in political activities. The relevant legislative provisions did not generally limit their freedom of expression. Turning to trade union matters, he said that the Government had requested the employee’s union (KGEU) to refrain from collective action over pension reform. The section of the Trade Union and Labour Relations Adjustment Act relating to public officials made provision for such a step.

46. **Mr. Jin** Hyun-ill (Republic of Korea) said that article 7 of the National Security Act, which dealt with confrontation between the Democratic People’s Republic of Korea and the Republic of Korea, restricted fundamental rights to some extent in order to protect the existence of the nation. If an action was likely to undermine the free democratic order by propagating the ideology of the Democratic People’s Republic, action to curb it would be taken. The Constitutional Court had decided that the Unified Progressive Party (UPP) pursued that ideology and wished to propagate it through violence, to destroy essential infrastructure and to incite an insurrection. That was why the Court had decided to ban the party.

47. **Ms. Song** So-young (Republic of Korea) said that in accordance with the Immigration Control Act, immigrants could not be detained for an unlimited period. The maximum period of detention permitted for investigating a potential violation of the Act was 20 days. The 20-day period could be extended in order to arrange travel documents, or if litigation was pending. The Act had been revised in May 2010 such that the Minister of Justice had to approve detention lasting for longer than three months. Appeals could be entered against such detention and its legality was subject to judicial review. Legal safeguards were therefore in place.

48. It was true that applicants for refugee status were kept in detention; some had asked to be placed in protection centres. The Nigerians and nationals of Myanmar mentioned by Ms. Waterval had all lost their case at the appeal stage, but had not left the country. The Government was trying to minimize detention periods and to ensure that a decision on an application for refugee status was reached within three months.

49. **Ms. Hong** Jonghee (Republic of Korea) said that although data on trafficking were collected, statistics for 2015 were not yet available. The Philippine woman mentioned earlier had claimed to be a victim of trafficking in persons only after a deportation order had been issued against her; she had been provisionally released from detention in May 2015. Procurement for sexual labour or exploitation was prohibited by law.

50. **Mr. Park** Yangho (Republic of Korea) said that children born to foreign parents in Korea could not be registered by the State: instead, they were registered by the relevant diplomatic mission. However, all children born to foreign parents, including those with refugee status, were granted the right to remain in the country. A bill to improve the birth registration system was currently before the National Assembly.

51. **Ms. Song** So-young (Republic of Korea) added that, under the Nationality Act, foreign children born in the territory of the Republic of Korea were only entitled to Korean nationality if their parents were unknown or dead. The child born to the Vietnamese mother referred to earlier had therefore not been entitled to Korean nationality. An amendment to the Civil Act gave visitation rights to parents who did not have custody of their children. Parents in an irregular situation, however, were not entitled to exercise that right.

52. **Mr. Song** Kyooyoung (Republic of Korea) said that the definition of torture contained in the Criminal Act covered assault and ill-treatment. The statutory limitation on prosecution of that crime was seven years.
53. Mr. Shin Kyoung-Woo (Republic of Korea), referring to the issue of disciplinary punishment of prisoners, said that the head of the disciplinary punishment committee was appointed by the senior officer of the correctional facility on the basis of the relevant expertise. Decisions regarding solitary confinement were made by the committee based on the opinion of an investigative team. The management of correctional facilities was regulated by law and was subject to an annual audit by the Ministry of Justice. In addition, a system had been established for the submission of complaints to the National Human Rights Commission of Korea by detainees in solitary confinement. Medical attention was given to prisoners who had received the death penalty. Prisoners who had been granted a hearing to challenge a decision on their detention were required to pay the transport fees to their hearing but were provided with access to legal counsel. New correctional facilities were being constructed in accordance with the relevant regulations.

54. Ms. Song So-young (Republic of Korea) said that undocumented migrants who were refused entry into the country were placed in the deportation room at Incheon International Airport. The room did not constitute a detention facility: migrants were free to leave or remain in the room.

55. Mr. Park Jin-young (Republic of Korea) said that military service was considered a citizen’s duty, and conscientious objectors were sanctioned in accordance with the law. The names of those who refused to serve in the military were publicized on the Internet. While alternative civilian service was not currently under consideration, the situation might be reviewed in the future, providing that polls revealed that a public consensus and the national security situation had stabilized.

56. Mr. Kim Gyeong-gyu (Republic of Korea) said that, under the Act concerning Assembly and Demonstration, assemblies were prohibited where public order was threatened, but no specific group of persons had been banned from organizing assemblies. Unregistered assemblies were disbanded with the least degree of physical force possible and were tolerated by the authorities if they remained brief and peaceful. As demonstrations following the memorial service for the MV Sewol ferry disaster had not unfolded as expected, bus blockades had been used to maintain the peace.

57. Mr. Yoon Sang-yong (Republic of Korea) said that fire protection systems had been installed in all immigration detention centres and drills were performed on a regular basis. Migrants held in the centres had the right to leisure activities and exercise, as well as access to outdoor spaces. They also received medical care and there were plans to employ mental health professionals in the centres. Their accommodations measured 6.6 square metres in accordance with the relevant regulations.

58. Mr. Kim Gyeong-gyu (Republic of Korea) said that freedom of assembly was enshrined in the Constitution.

59. Mr. Lee Won-doo (Republic of Korea) said that the Korean Government Employee’s Union (KGEU) was not recognized as an official trade union because its by-laws provided for membership of persons who were not public officials, thus contravening national law, which stipulated that only in-service public officials had the right to join such a union.

60. Mr. Park Jin-young (Republic of Korea) said that consensual same-sex sexual relations in the military were prohibited with a view to maintaining discipline in communal barracks. A bill to amend the Military Criminal Act was nevertheless before the National Assembly and relevant discussion was under way.
61. **Mr. Jin** Hyun-il (Republic of Korea) said that defectors from the Democratic People’s Republic of Korea were held in a specialized protection centre while administrative investigations were conducted. They were informed of their rights, provided with legal counsel and given employment guidance where appropriate.

62. **Ms. Hong** Jonghee (Republic of Korea) said that the legal provisions concerning domestic violence provided for the suspension of prosecution against perpetrators of domestic violence on the condition that the individual agreed to counselling and expressed remorse. Those provisions had been established in order to deal more expeditiously with cases of gender-based violence.

63. **Mr. Yang** Seung-Jun (Republic of Korea) said that under the Employment Permit System, changes of workplace for migrant workers were restricted. Those restrictions had been relaxed in 2012, however, with a view to strengthening protection for migrants. Consequently, over 53,000 migrants had changed their workplace in 2013 — over double the number in 2006. In 2014, around 70 per cent of all labour inspections had been carried out in the agriculture, fisheries and livestock industries, where the highest proportion of foreign workers were employed. Incentives were offered for employers to provide dormitory facilities for foreign workers.

64. **Mr. Shany** asked for statistics on the number of requests submitted under the Act on Promotion of Information for the withdrawal of information from the Internet or other public domains. He also wished to know whether the State party might consider widening the restrictive requirement in article 310 of the Criminal Act that only statements “in the public interest” were exempt from criminal charges as defamation.

65. **Sir Nigel Rodley** asked for any examples of cases of mental torture that had been brought before the courts. Were there any grounds whatsoever on which conscientious objection was permitted in the State party?

66. **Ms. Waterval** asked for further clarification on the case of the Vietnamese mother whose child was not entitled to Korean nationality, in the light of the fact that she was an undocumented migrant and had therefore not informed the authorities of her nationality.

67. **Mr. Kim** Joo Hyun (Republic of Korea), concluding his delegation’s dialogue with the Committee, said that its comments would form the basis for the implementation of new policies and practices for the protection and promotion of human rights. The Government would seek public opinion on all issues prior to designing new policies, while at the same time endeavouring to strengthen cooperation with the international community and to work in close cooperation with the Committee.

68. **The Chairperson** said that he hoped that the Republic of Korea would withdraw its reservation to article 22 and that an effective mechanism would be established to ensure the practical application of the Committee’s Views and recommendations. He found it regrettable that conscientious objectors were treated as criminals and not as individuals with rights, and urged the State party to act upon the recommendations in that regard. He drew attention to the need to bring the National Human Rights Commission of Korea into line with the Paris Principles, supervise the operations of national enterprises located abroad, ensure respect for all human rights in practice, guarantee equal rights and non-discrimination for all vulnerable groups, particularly the LGBTI population, and ensure that the new counter-terrorism laws complied with the Covenant. Torture and ill-treatment were issues of concern, and the use of certain protective measures as a means of punishment ran counter to the provisions enshrined in the Covenant. In that connection, he recalled that the right to integrity of the person was non-derogable under international law. The State party should consult general comment No. 32 for guidance on procedural guarantees and access to legal counsel for
detainees. He also expressed the hope that the State party would initiate legislative amendments in order to ensure the exercise of freedom of peaceful assembly and freedom of expression, which were fundamental within a democratic State. Persons living with HIV/AIDS and the migrant population were particularly vulnerable groups that required specific guarantees of protection, and discrimination against them should be eliminated. He thanked the delegation for engaging in a fruitful dialogue with the Committee.

*The meeting rose at 1.10 p.m.*