Human Rights Committee

List of issues prior to submission of the fifth periodic report of the Republic of Korea

A. General information on the human rights situation in the country, including new measures and developments relating to the implementation of the Covenant

1. Please provide information on the steps taken to implement the recommendations contained in the Committee’s previous concluding observations (CCPR/C/KOR/CO/4). Please also indicate which procedures are in place for the implementation of the Committee’s Views under the Optional Protocol and provide information on measures taken to ensure full compliance with each of the Views adopted in respect of the State party, in particular, in the numerous cases concerning conscientious objection.

2. Please report on any other significant developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the previous concluding observations, including examples of cases in which the provisions of the Covenant have been referred to by national courts, and the most recent follow-up information received from the State party.

B. Specific information on the implementation of articles 1 to 27 of the Covenant, including follow-up on the Committee’s previous recommendations

Constitutional and judicial framework for the implementation of the Covenant (art. 2)

3. In reference to the previous concluding observations (para. 9), please provide information on the steps taken to adopt the legislation necessary to ensure a fully transparent and participatory process for the selection and appointment of members to the National Human Rights Commission of Korea and to ensure its independence.

4. In relation to the previous concluding observations (para. 11), please inform on the measures taken to ensure that all companies domiciled in its territory and/or subject to its jurisdiction respect the human rights standards enshrined in the Covenant throughout their operations and that victims of the activities of such companies operating abroad obtain appropriate remedies. Please also report on any plans to establish a National Action Plan on Business and Human Rights.

Non-discrimination (arts. 2 and 26).

5. With reference to the previous concluding observations (para. 13), please report on the steps taken to combat discrimination, especially against ethnic minorities and North Koreans, and to adopt comprehensive anti-discrimination legislation explicitly addressing all

* Adopted by the Committee at its 126th session (1-26 July 2019).
spheres of life and defining and prohibiting discrimination on any ground, including race, sexual orientation and gender identity. In this respect, please inform on the sanctions imposed for direct and indirect discrimination committed by both public and private entities, and the remedies provided for the victims.

**Sexual orientation and gender identity (arts. 2, 7, 17 and 26)**

6. Please report on any measures taken to combat discrimination and violence against lesbian, gay, bisexual, transgender and intersex persons (LGBTI), including in the military. In connection with the previous concluding observations (para. 15) and the Report on follow-up to the concluding observations (CCPR/C/124/2, p. 10 to 12), and while taking note of the information provided by the State in the first addendum on the State party’s follow-up to the concluding observations (CCPR/C/KOR/CO/4/Add.1, paras. 3 to 9), please indicate the measures taken to:

(a) Address discrimination, hate speech, violence against lesbian, gay, bisexual, transgender and intersex persons, including in connection with public events, or propagation of “conversion therapies”;

(b) Strengthen the legal framework to protect lesbian, gay, bisexual, transgender and intersex persons;

(c) Repeal article 92-6 of the Military Criminal Act. In this respect, please inform on the number of convictions under this article;

(d) Facilitate access to the legal recognition of gender reassignment;

(e) Develop sex education programmes that provide comprehensive, accurate and age-appropriate information regarding sexuality and diverse forms of sexual orientation and gender identity at all stages of the education system.

**Equality between men and women (arts. 2, 3, 25 and 26)**

7. In relation to the previous concluding observations (para. 17), please report on the measures taken to increase the participation of women in public life and their presence in leadership and decision-making positions in both the public and private sectors.

**Violence against women (arts. 2, 3, 6, 7, 14, 17 and 26)**

8. With reference to the previous concluding observations (para. 19), please report on the concrete measures adopted to ensure that all acts of violence against women, including domestic violence, are investigated, that the perpetrators of those acts are prosecuted and punished appropriately, and that the victims receive full redress. In this regard, please provide statistics on the number of complaints filed, investigations carried out, prosecutions conducted, judgments handed down and measures of redress granted for victims of violence against women. Please report on the steps taken to adopt a comprehensive strategy to prevent and address gender-based violence in all its forms and manifestations and on the measures taken to raise awareness among the police, the judiciary, prosecutors, community representatives, women and men about the gravity of domestic violence and its detrimental impact on victims’ lives. Please report on any measures taken to ensure that victims are not channelled into alternative dispute resolution mechanisms. Please provide information on the measures taken to combat sexual harassment in the workplace and the use of spycams in public bathrooms in a manner infringing on women’s privacy. Please report on the steps taken to comply with the Constitutional Court ruling to decriminalise abortion.

**Counter-terrorism measures (arts. 9, 14, 15 and 17)**

9. In connection with the previous concluding observations (para. 21), please report on the current definitions of terrorism and cyberterrorism, and on the measures taken to ensure that counterterrorism legislation and practices are in full conformity with the Covenant and are applicable to terrorism alone.
Right to life (arts. 2 and 6)

10. In relation to the previous concluding observations (para. 23), please indicate whether the State party plans to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights, to legally abolish the death penalty, and to commute all death sentences to terms of imprisonment.

11. With reference to the previous concluding observations (para. 25), please provide updated disaggregated statistics on the number of suicides in the State party, including in the military. Please inform on the efforts made to prevent suicides, in particular in addressing its root causes and in improving suicide prevention policies.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 7, 9, 10, 14 and 17)

12. In connection with the previous concluding observations (para. 27), kindly indicate the legislative measures adopted to classify all acts of torture as criminal offences, including mental torture, and to codify torture as an independent crime. Please provide information on the limits on the use of long-night interrogations. Please also provide statistics on the number of complaints filed, investigations carried out, prosecutions and convictions handed down concerning cases of torture or ill-treatment, as well as the remedies provided for victims and their families, including rehabilitation and compensation. Please inform on any steps taken to establish an independent mechanism to investigate allegations of torture and ill-treatment. Please comment on reports of torture and ill-treatment at the Centre for Protection of DPRK Defectors.

13. With reference to the previous concluding observations (para. 31), please inform on any measures taken to address and prevent human rights abuses in the military, and provide updated statistics on the number of complaints received, investigations carried out and sentences imposed to perpetrators of abuses in the military. Please report on the measures taken to ensure that the confidentiality of complaints and the protection of victims and witnesses against reprisals. Please provide statistics on the number of soldiers submitted to detention in a “guardhouse” and on any plans to abolish this practice.

Elimination of human trafficking, slavery and servitude (arts. 3, 7, 8 and 14)

14. In relation to the previous concluding observations (para. 41), please inform on any measures taken to prevent and eradicate trafficking in persons, in particular to combat the demand for trafficked persons, to ensure that all reports of human trafficking are investigated, and that perpetrators are prosecuted and punished appropriately. Please report on any steps made towards adopting a comprehensive law on human trafficking and indicate whether the definition of trafficking has been brought into compliance with international standards. Please inform on any mechanisms that have been established to ensure that victims of trafficking are correctly identified and treated as such and have access to all the necessary support. Please, also inform on the measures taken to regulate the use of E-6 (Culture and Entertainment) visas to ensure that they are not used to cover up trafficking for the purpose of prostitution and on the steps taken to allow all migrant workers under the Employment Permit System to freely change their employer.

Persons deprived of their liberty and conditions of detention (arts. 6, 7, 9, 10, 13 and 14 and 24)

15. With reference to the previous concluding observations (para. 29), please report on the measures taken to ensure that procedures for involuntary hospitalization respect the views of the individual, and that any representative genuinely represents and defends the wishes and interests of the individual concerned. Please inform on the steps taken to ensure that psychiatric confinement is supported by adequate procedural and substantive safeguards established by law and that such confinement is strictly necessary and proportionate, is for the purpose of protecting the individual from serious harm or from preventing injury to others, and is applied only as a measure of last resort and for the shortest appropriate period of time.

16. With reference to the previous concluding observations (para. 35), please inform on the steps taken to reduce overcrowding and to improve detention conditions, including in
police cells. In this regard, please provide statistics on the number of persons deprived of their liberty, including those in preventive detention, the number of persons who have died in places of detention, the causes of death, the investigations conducted into those deaths and their outcomes. Please provide information on the use of solitary confinement as a disciplinary punishment of inmates and on the maximum amount of days that it has been applied. Please, explain how the implementation of article 99 (2) of the Administration and Treatment of Correctional Institution Inmates Act is monitored and inform on the steps taken to ensure that the use of protective devices is subject to legally determined limits.

17. In connection to the previous concluding observations (paras. 33 and 37), please report on any legal amendments to guarantee detainee’s’ access to counsel during interrogations. Please indicate whether access to counsel is guaranteed from the outset of the deprivation of liberty. Please report on the measures taken to ensure that “defectors” from the Democratic People’s Republic of Korea are afforded the fundamental legal safeguards, including limits on the deprivation of liberty, access to counsel during the entire length of their detention, the right to appeal a decision of deportation, and communication with their families. In this regard, please indicate their average detention time and report on the steps taken to ensure that the review of deportation has suspensive effect before individuals are deported to third countries.

18. With reference to the previous concluding observations (para. 39), please report on the measures taken to improve detention conditions in immigration detention facilities, including at points of entry, and ensure that these facilities are subject to regular independent monitoring. Please inform on the measures taken to limit the period of immigration detention and on the conditions under which children can be deprived of liberty and for how long. Please, comment on reports of detention in airports or other ports of entry of asylum seekers, including children.

Corruption and judicial independence (arts. 2 and 14)

19. Please provide information on the measures taken to address corruption in the judiciary and guarantee its independence as well as the right to a fair trial and due process. Please report on the impact of the Improper Solicitation and Graft Act and other anti-corruption measures on the relationship between business interests and government officials.

Monitoring, surveillance and interception of private communication (arts. 17 and 21)

20. In connection to the previous concluding observations (para. 43), please, inform on any legal measures taken to ensure that any surveillance, including for the purposes of State security, is compatible with the Covenant. Please indicate the steps taken to ensure that subscriber information is only issued with a warrant, to introduce an independent mechanism to monitor the communication investigations of the National Intelligence Service, and to increase the safeguards to prevent the arbitrary operation of base station investigations.

Conscientious objection (arts. 17 and 18)

21. With reference to the previous concluding observations (para. 45) and the Report on follow-up to the concluding observations (CCPR/C/124/2, p. 12 to 13), and while taking note of the information provided by the State in the first addendum on the State party’s follow-up to the concluding observations (CCPR/C/KOR/CO/4/Add.1, paras. 10 to 12), please report on the steps taken to:

(a) Release all conscientious objectors condemned to a prison sentence for exercising their right to be exempted from military service. In this respect, please provide updated information on the number of conscientious objectors who remain in prison;

(b) Expunge conscientious objectors’ criminal records, provide compensation to them and ensure that their personal information is not publicly disclosed;

(c) Ensure the legal recognition of conscientious objection to military service, and provide an alternative service of civilian nature. In this respect, please report on the progress or outcome of the pending constitutional appeal regarding the introduction of alternative
service and provide information on the contents of this appeal, including the proposed length of alternative service and the screening process

**Freedom of expression (arts. 9 and 19)**

22. With reference to the previous concluding observations (paras. 47 and 49), please report on the steps taken to decriminalize defamation and to ensure that harsh penalties for such cases are not applied, including imprisonment. Please, inform on any legislative measures undertaken to derogate article 7 of the National Security Act and comment on reports of arbitrary arrest and detention under the Act.

**Freedom of association and right to participate in public life (arts. 19, 22, 25 and 26)**

23. In relation to the previous concluding observations (para. 55), please report on the steps taken to withdraw its reservation to article 22 of the Covenant and enable all sectors of the labour force, including public officials, teachers, and employees who have been dismissed, to join trade unions. Please indicate the measures taken to remove any restrictions on the registration of trade unions.

24. With reference to the previous concluding observations (para. 51), please report on the measures taken to ensure that the decision of dissolving a political party is applied with utmost restraint and as a last resort only, and that it reflects the principle of proportionality. Please, also explain how the prohibition of teachers’ unions from engaging in political activity is compatible with article 25 of the Covenant. Please report on measures taken to bring article 18 (1) 2 of the Public Official Election Act, denying the right to vote to persons sentenced to imprisonment for one year or more, and article 47 (2) of the Act on Medical Treatment and Custody, suspending the right to vote of persons subject to medical treatment and custody, in line with article 25 of the Covenant.

**Peaceful assembly (arts. 6, 7, 9 and 21)**

25. In connection to the previous concluding observations (para. 53) and the Report on follow-up to the concluding observations (CCPR/C/124/2, p. 13 to 14), and while taking note of the information provided by the State in the first addendum on the State party’s follow-up to the concluding observations (CCPR/C/KOR/CO/4/Add.1, paras. 13 to 18), please report on: (a) The training provided to police officers on crowd control; (b) The steps taken to amend the Assembly and Demonstration Act to ensure strict compliance with article 21 of the Covenant. In this regard, please comment on reports of restrictions on the right to peaceful assembly of LGBTI persons; (c) The measures taken to review the State party’s regulations on the use of force to ensure that they are in compliance with the Covenant; (d) The investigation into the death of the 69-year-old farmer Baek Nam-gi, prosecution of those responsible and reparation provided to his family. Please, also provide information on the measures taken to ensure that organisers of or participants in demonstrations, in particular journalists and human rights defenders, are not criminalised for exercising their right to freedom of assembly.

**Migrants, Refugees and Asylum Seekers (arts. 2, 3, 7, 14, 16, 23, 25 and 26)**

26. Please provide updated statistics on the number of asylum seekers, refugees, humanitarian status holders and stateless persons in the State party and inform on the measures taken to combat discrimination and hate speech against migrants, asylum seekers, refugees, humanitarian status holders and stateless persons and ensure that they have access to documentation and basic services, including health care, housing, education and employment. In this regard, please provide information on the Covenant rights afforded to non-citizens in the amendment bill of the Constitution. Please provide information on the draft amendment proposal of the Refugee Act and indicate the measures taken to ensure that the refugee status determination procedure and asylum-granting decisions, including appeal processes, are made according to international standards.
27. With reference to the previous concluding observations (para. 51), please report on the measures taken to ensure that all births can be registered, irrespective of the legal status and origin of the parents, as well as deaths, marriages or divorces.