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**Human Rights Council**

**Fifty-third session**

19 June–14 July 2023

Agenda item 6

**Universal periodic review**

 **Report of the Working Group on the Universal Periodic Review**[[1]](#footnote-2)\*

 **Republic of Korea**

 **Addendum**

 **Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review**

1. Joining the constructive spirit and efforts of the Universal Periodic Review (UPR) for the protection and promotion of human rights, the Republic of Korea carefully reviewed the recommendations received during the 4th cycle review on 26 January, 2023.

2. Based on the governance established between relevant ministries, agencies and civil society through the previous three cycles of UPR, the Government of the Republic of Korea held a meeting with the National Human Rights Commission of Korea and members of civil society in April 2023 to exchange various opinions on the UPR recommendations. Following this discussion, the views of the Government of the Republic of Korea as provided in this document were decided upon in close coordination and consultation among relevant ministries and agencies, through the National Human Rights Policy Council.

3. Out of the 263 recommendations received from UN member states, the Republic of Korea supports 159, partially supports 5 and notes 99 recommendations. This document contains the position of the Government on a total of 166 recommendations, including 165 recommendations on which the Government did not provide responses before the adoption of the Working Group Report, and one (138.86) recommendation which was moved to another category (See paragraph 8). This report states that the Government “supports” 63 recommendations, “partially supports” 5 recommendations and “notes” 98 recommendations (including “notes” and does “not accept”). The Government "partially supports” the following recommendations, considering that they contain distinguishable elements: 139.3, 139.6, 139.10, 139.84, 139.136.

4. In the spirit of the UPR, the Government presented its position in consideration of the actions required by each recommendation. Accordingly, recommendations that are already implemented or in the process of implementation are supported. However, the Government was not able to immediately support some recommendations due to the following concerns: (a) not being in line with the purpose of the UPR, (b) requiring immediate actions in a short period of time, (c) being inapplicable considering the domestic legal system and practice, (d) not being in line with the Government’s position.

5. While noting some of the recommendations which could not be immediately supported or are not in line with the legal system and social practices of the Republic of Korea, the Government will continue its efforts to contribute to the promotion of universal human rights pursuant to the spirit of the UPR as a responsible member of the international community.

 Fulfillment of international obligations, cooperation with international human rights mechanisms, and national human rights framework

6. The following recommendations enjoy support: **the former part of 139.6, the latter part of 139.10, 139.31, 139.38, 139.40, 139.109 139.117.**

 (a) **The former part of 139.6,139.31** See paragraph 7 of the Working Group Report.

 (b) **139.109, 139.117** The National Human Rights Commission of Korea is making various efforts to promote and protect gender equality and women’s rights through its Gender Equality Division conducting investigation and providing recommendations to improve laws and policies.

 (c) **The latter part of 139.10** The Protocol to Eliminate Illicit Trade in Tobacco Products was adopted at the 5th Conference of the Parties to the WHO Framework Convention on Tobacco Control in Seoul, Republic of Korea. Through the ratification of the Protocol, the Government plans to establish a domestic system and enhance international cooperation on reducing and preventing illegal tobacco trade.

 (d) **139.40** See paragraph 123 of the Working Group Report.

 The Government notes the following recommendations: **139.1-2, the latter part of 139.3, 139.4-5, the latter part of 139.6, 139.7, the middle part of 139.10, the latter part of 139.18, 139.19-20, the former part of 139.21, the former part of 139.22, 139.23-24, the former part of 139.25, 139.26~30, the former part of 139.64, 139.102, 139.112, 139.115, 139.132, 139.165.**

 (e) **The latter part of 139.6, 139.19-20, the former part of 139.21, the former part of 139.22, 139.23-24, the former part of 139.25, 139.165** The recommendation is under careful review as the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families would require public support. The Government continues its efforts to improve human rights and humanitarian situation of migrant workers in Korea by constantly updating its legal and institutional framework.

 (f) **139.4, the middle part of 139.10** The recommendations are being implemented through policies based on the *Nationality Act*.

 (g) **139.7** The Republic of Korea is making efforts to eliminate discrimination in education, including by providing free education up to the high school level.

 (h) **139.1-2, the latter part of 139.3, 139.5, the latter part of 139.18, 139.26-30, the former part of 139.64, 139.102, 139.112, 139.115, 139.132** The Government is continuously reviewing the recommendations.

 Equality and non-discrimination

7. The following recommendations enjoy support: **139.47, 139.49-51, 139.108, 139.163.**

 (a) **139.108**, Already implemented.

 (b) **139.47, 139.49-51** Refer to the response to the advance questions presented during the review.

 8. The following recommendations are noted: **138.86, 139.32, 139.41, 139.44-46, 139.141-162**.

 (a) **138.86, 139.32, 139.44, the former part of 139.45, 139.46, 139.142, 139.145-147, the former part of 139.148, the former part of 139.150, 139.151, the former part of 139.152, 139.154-157, 139.162** The Government face difficulties in taking immediate actions in a short period of time.

 (b) **139.141, 139.143, 139.149, the latter part of 139.152, 139.153, 139.158, 139.160**, Article 92-6 of the *Military Criminal Act* does not uniformly penalize same-sex sexual relations, and is applied only in cases of direct and specific violation of military discipline and healthy community life.

 (c) **139.41, the latter part of 139.45** Given that the Republic of Korea considers the motive for a crime as a condition for sentencing under the existing *Criminal Act*, a careful approach is necessary in reviewing the need to amend the *Criminal Act* and enact a separate special law.

 (d) **139.144, the latter part of 139.148, 139.159** The Government does not plan to take immediate action since changes in the family institution, such as allowing same-sex marriage or adoption by same-sex couples, hold legal and social significance.

 (e) **The latter of 139.150, 139.161** Gender recognition requires legislative action as it is a matter of determining the legal status of one’s gender. In the absence of such legislation, the decision to grant gender recognition is a matter of the judiciary and the presiding judge, in line with the decision of the Supreme Court, makes a decision on each specific case, taking into account various factors.

 Development, environment and diplomacy

9. The following recommendations enjoy support: **139.39, 139.104-106.**

 **139.39, 139.104-106**, Already implemented

10. The following recommendations are noted: **139.42-43, 139.107.**

 **139.107** The specific context of each country is taken into account when applying the power generation mix policy to achieve carbon neutrality. It is difficult for the Government to eliminate all use of fossil fuels, given the importance of ensuring a stable electricity supply. At the same time, the Government is continuing efforts to reduce coal power generation and greenhouse gas emissions in order to meet the carbon neutrality commitment made to the international community.

 Right to life, liberty and security

11. The following recommendations enjoy support: **139.63, 139.65-67, 139.125.**

12. The following recommendations are noted: **139.8-9, the former part of 139.10, 139.11-17, the former part of 139.18, the latter part of 139.22, the latter part of 139.25, the former part of 139.36, 139.52-62, the latter part of 139.64, 139.71-72, the latter part of 139.73, 139.130.**

 (a) **139.8-9, the former part of 139.10, 139.11-17, the former part of 139.18, the latter part of 139.22, the latter part of 139.25, 139.52-62** Refer to the response to advanced questions presented during the review.

 (b) **The former part of 139.36, 139.72, the latter part of 139.73** The *National Security Act* is necessary to protect the basic order of freedom and democracy in a situation where security risks from North Korea have not been resolved. Regarding **139.71**, to avoid undue violation of human rights, the *National Security Act* of 1948 has been wholly or partially amended several times since its enactment to adjust the subject of punishment and statutory punishment.

 (c) **The latter part of 139.64** The National Human Rights Commission of Korea currently performs a role similar to that of the National Prevention Mechanism, such as investigating human rights violations in detention facilities.

 (d) **139.130** The Government is pursuing the amendment of the *Juvenile Act* and the *Criminal Act* to lower the age of juveniles eligible for criminal punishment from 14 to 13. A number of factors, such as the fact that 70% of juveniles subject to protective disposition are 13 years old, and that students enter middle school at the age of 13 in the Korean education system, have been comprehensively taken into account.

 Fundamental freedoms and the right to participate in public and political life

13. The following recommendations enjoy support: **139.70, 139.74, the latter part of 139.75, 139.81, 139.83, the former part of 139.84.**

 (a) **139.70, 139.81, 139.83, the former part of 139.84**, Already implemented

 (b) **139.74, the latter part of 139.75** The freedom of assembly and association of all citizens is stipulated in the *Constitution* and the applicable laws of the Republic of Korea. By guaranteeing lawful demonstrations while protecting the public from unlawful protests, the Government is working to ensure that both the right to assembly is realized and the public welfare is protected.

14. The following recommendations are noted: **139.34, 139.48, 139.68-69, the former part of 139.73, 139.76-80, 139.82, the latter part of 139.84, 139.85-88.**

 (a) **139.34, 139.48, 139.68, 139.76-79, 139.82, the latter part of 139.84, 139.85-88** In accordance with the applicable law,the Republic of Korea has been operating an alternative service system since 26 October 2020. A careful review is required since the alternative service period and field of service have been decided on the basis of discussions in the National Assembly and social consensus, considering equity with others serving in the military and equality of burdens.

 (b) **139.69, 139.80** See paragraph 124 of the Working Group Report.Article 7 of the *National Security Act* is only applied restrictively when there is a clear risk of causing real damage to the existence and security of the State or the free democratic order, in order to protect freedom of expression and prevent arbitrary application.

 (c) **The former part of 139.73** The amendment of the *Criminal Act*, including the abolition of criminal defamation by publicly alleging facts, is in discussion at the National Assembly. The Government will continue to support the discussion in the legislative body, taking into consideration not only the freedom of expression, but also possible gaps in victim protection and the availability of punitive damages system as a form of strong civil sanction.

 Prohibition of all forms of slavery and human trafficking

15. The following recommendations enjoy support: **139.90-139.97.**

 **139.90-139.97** See paragraph 11 of the Working Group Report. The Government strives to protect the human rights of victims of human trafficking. Regarding the **former part of 139.91,** if a foreigner is in the process of a court trial, an investigation by an investigative agency, or a remedy process in relation to domestic violence, sexual violence, child abuse, human trafficking, or exploitation, the person’s period of stay may be extended until the completion of such proceedings. Even after the extended period expires, a further extension is possible if deemed necessary to recover damage, etc.

 Right to privacy

16. The Government supports **139.89.**

 **139.89** The Government is committed to protecting the human rights of individuals, making every effort to protect the right to self-determination of personal data and freedom of communication under applicable laws. Considering the AI industry is in the beginning stage of its development, the Government will seek to implement a balanced policy.

 Right to social security and labor

17. The following recommendations enjoy support: **The former parts of 139.75, 139.99-100, the latter part of 139.129, 139.135, the latter part of 139.136**, Already implemented

 **The former part of 139.75** The right to assembly and the activities of labor unions are ensured under the *Constitution* and the applicable laws in the Republic of Korea.

18. The following recommendations are noted: **139.33, 139.35, 139.98, the former part of 139.136.**

 (a) **139.33, 139.35, 139.98** Given the different forms of work, there are limits to applying the legislation uniformly to all types of workers. The Government plans to work on the institutional foundations, focusing on what should be universally guaranteed to labor in the course of their work.

 (b) **The former part of 139.136** The Republic of Korea is conducting the 5th Financial Accounting of National Pension Scheme to develop improvement plans and will comprehensively review measures to ensure adequate retirement income and financial stability.

 Right to education

19. The following recommendations enjoy support: **139.101, 139.103, the latter part of 139.122.**

 (a) **139.101, the latter part of 139.122** In accordance with applicable law, education is provided to all students at every level in Korea without discrimination, and the gender equality perspective is incorporated in the gender education programmes.

 (b) **139.103**, Already implemented.

 Rights of women

20. The following recommendations enjoy support: **the former part of 139.3, 139.110-111, 139.113-114, 139.116, 139.118-121, the former part of 139.122, 139.123-124, 139.126.**

 (a) **The former part of 139.3** An amendment bill setting outdetailed procedures on artificial abortion and providing basis for social and psychological counseling in the *Maternal and Child Health Act* has been submitted.

 (b) **139.110-111, 139.113-114, 139.116, 139.118-119, 139.121, the former part of 139.122, 139.123-124, 139.126**, Already implemented.

 (c) **139.120** The Government will continue efforts to promote the corporate responsibility to respect human rights in order to mitigate and prevent adverse human rights impacts of business activities by domestic and foreign companies.

 Rights of children

21. The following recommendations enjoy support: **139.37, 139.127-128, the former part of 139.129, 139.131, 139.133-134, 139.164.**

 (a) **139.37** In June 2022, a bill on the birth registration of foreign children was proposed to the National Assembly and is under deliberation.

 (b) **139.127, the former part of 139.129, 139.131**, Already implemented.

 (c) **139.128, 139.133-134** To introduce the birth notification system, the proposal on an amendment to the *Family Relations Registration Act* has been drafted and is under deliberation in the National Assembly.

 (d) **139.164** Since February 2020, to enable foreign children who were not born in the Republic of Korea to complete their studies and find employment, a residence permit is granted if the child has resided in the Republic of Korea more than six or seven years and is attending elementary, middle or high school or has graduated from high school.

 Rights of persons with disabilities

22. The following recommendations enjoy support: **139.137-138, 139.140.**

 **139.137-138, 139.140**, Already implemented.

23. The following recommendation is noted: **139.139.**

 **139.139** The Republic of Korea agrees with the spirit of the recommendation. However, hospitalization may be necessary for the treatment of mental patients and for the safety of the community, and a complete ban on the system would pose difficulties. Strict procedures have been introduced to prevent human rights violations of patients and the Government is continuing efforts to ensure that patients receive community-based treatment.

 Rights of migrants and refugees

24. The following recommendation is noted: **the latter part of 139.21.**

 **The latter part of 139.21** The Government plans to carefully review the recommendation in light of immigration policies.

 Others

25. The Government does not accept **the latter part of 139.36.** The *North Korean Human Rights Act* is a legislation aiming to protect and promote the human rights of North Koreans in accordance to the international human rights norms.

1. \* The present document is being issued without formal editing. [↑](#footnote-ref-2)