

# REPUBLIC OF KOREA 2020 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Republic of Korea (South Korea) is a constitutional democracy governed by a president and a unicameral legislature. Observers considered the presidential election in 2017 and the April 15 legislative elections free and fair. Moon Jae-in was elected president in an early election following the impeachment of former president Park Geun-hye.

The Korean National Police Agency, under the supervision of the Ministry of the Interior and Safety, is responsible for internal security over land, and the Korea Coast Guard has jurisdiction over the sea. The National Intelligence Service investigates suspected criminal activity related to national security. Civilian authorities maintained effective control over security forces, and the government utilized effective mechanisms to investigate and punish abuse of power.

Significant human rights issues included: restrictions on freedom of expression, including criminalizing the sending of leaflets and other materials into North Korea, and the existence of criminal libel laws; corruption; and laws criminalizing consensual same-sex sexual conduct between adults in the military.

The government took steps to prosecute officials who committed abuses.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings. The Supreme Prosecutor's Office has responsibility for investigating whether killings by civilian security forces are justified and pursuing prosecution when appropriate. Military police investigate killings by military personnel.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices, but there were a few reports that government officials employed them; the Center for Military Human Rights Korea, a local nongovernmental organization (NGO), reported some instances of violence and cruel treatment in the military.

The Ministry of National Defense reported no instances of bullying in the military, although local NGOs believed hazing played a role in suicides in the military. The Center for Military Human Rights noted concern about the increase in suicide among military personnel from 51 deaths in 2017 to 62 in 2019, particularly among lower-ranked field officers, including sergeants and lieutenants.

Reports from NGOs and media of hazing and mistreatment of military personnel by more senior personnel persisted, with credible allegations of sexual and nonsexual harassment and assault. As in previous years, the Center for Military Human Rights' hotline counselors responded to complaints of physical abuse, verbal abuse, and sex crimes. In June the center published a press release regarding an air force sergeant who allegedly sexually harassed enlisted soldiers verbally and physically, including by making obscene comments and by grabbing the soldiers from behind. According to the center, the harassment continued for months as soldiers did not speak out for fear of repercussions. After the soldiers came forth with their complaints and the center engaged with the air force to assist the soldiers, the air force reassigned the sergeant to another unit. The air force did not publicize whether any disciplinary action was taken against the sergeant.

With support from the National Human Rights Commission of Korea (NHRCK), the Defense Ministry trains military human rights instructors. Due to the COVID-19 pandemic, the ministry trained fewer instructors in person than in recent years, but conducted distance education. The ministry also worked with the Defense Media Agency to produce and distribute human rights education television programs to military personnel. Impunity was not a significant problem in the security forces.

### **Prison and Detention Center Conditions**

There were no significant reports regarding prison and detention center conditions that raised human rights concerns.

Physical Conditions: There were no major concerns regarding physical conditions or inmate abuse in prisons and detention centers.

In May a prisoner who reportedly suffered from an anxiety disorder died in the Busan Detention Center the morning after he had been imprisoned. According to detention center personnel, his feet and hands had been bound because, among other reasons, he was incessantly ringing the bell for assistance. Security camera footage showed that the prisoner, who was awake late into the night, showed signs of decreased movement at approximately 4:00 a.m., fell unconscious at approximately 5:45 a.m., and was taken to a hospital around 7:00 a.m. He died at the hospital around 7:30 a.m. A Ministry of Justice investigation determined that his death had resulted from negligence, improper use of restraints, and lack of medical care during the night. In the aftermath of the incident, the ministry implemented corrective measures, including mandating the removal of restraints during sleeping hours and the establishment of an on-call system for doctors to provide telemedicine services at night and on holidays.

In response to concerns raised in 2019 about discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) prisoners, the Ministry of Justice conducted a campaign to ensure all correctional facilities were aware of and fully implementing the prisoner antidiscrimination law. In April the government disseminated updated guidelines for correctional facilities to improve the treatment of transgender prisoners, to include considering the preference of the prisoner and the guidance of experts when assigning prisoner accommodations.

Administration: According to the Ministry of Justice, inmates have several relief procedures available to them for any perceived violations of their rights. Detainees may petition the minister directly, file a complaint with the Human Rights Violation Hotline Center in the ministry or with the NHRCK, or appeal to the Anticorruption and Civil Rights Commission, to the Board of Audit and Inspection of Korea, or to the Administrative Judgment Commission.

Independent Monitoring: There were no reports of problems in accessing prison facilities. The NHRCK and NGOs have access to correctional facilities to investigate reported cases of human rights violations.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government generally observed these requirements.

The National Security Law (NSL), in effect since 1948, grants authorities the power to detain, arrest, and imprison persons believed to have committed acts intended to endanger the “security of the state.” Domestic and international NGOs continued to call for reform or repeal of the law, contending its provisions do not clearly define prohibited activity and that it is used to intimidate and imprison individuals exercising their right to freedom of expression. By law the National Intelligence Service investigates activities that may threaten national security. Civil society groups argued that the agency’s powers and a lack of oversight enabled it to define its mandate overly broadly.

### **Arrest Procedures and Treatment of Detainees**

The law requires warrants in cases of arrest, detention, seizure, or search unless authorities apprehend a person when committing a criminal act, a judge is not available, or if authorities believe a suspect may destroy evidence or flee if not arrested quickly. In such cases a public prosecutor or police officer must prepare an affidavit of emergency arrest immediately upon apprehension of the suspect. Authorities may not interrogate for more than six hours a person who voluntarily submits to questioning at a police station. Authorities must either indict or release an arrested suspect within 20 days. The law allows 10 additional days of detention in exceptional circumstances. The Supreme Prosecutor’s Office issues warrants in 15 foreign languages, including English, Chinese, Vietnamese, Tagalog, Thai, Khmer, Urdu, and Burmese.

There is a bail system. By law bail is authorized except for repeat offenders; those deemed a flight risk, danger to the public, or likely to attempt to destroy evidence; those charged with committing serious offenses; and those who have no fixed address. Even if one of the above justifications applies, a court may still grant bail if there is a “substantial reason” to do so.

The law provides for the right to representation by an attorney, including during police interrogation. There were no reports of denial of access to counsel. There are no restrictions on access to a lawyer, but authorities may limit a lawyer’s participation in an interrogation if the lawyer obstructs the interrogation or impedes an investigation. During the trial stage, and under certain circumstances during the

pretrial stage, an indigent detainee may request that the government provide a lawyer.

Access to family members during detention varied according to the severity of the crime.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

#### **Trial Procedures**

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. By law defendants in criminal trials are presumed innocent, enjoy protection against self-incrimination, and have the right to be informed promptly and in detail of charges, with free interpretation as necessary; communicate with an attorney (at public expense if necessary); have a fair and speedy trial; attend the trial; and appeal. Defendants receive adequate time and resources to prepare a defense. They are protected against retroactive laws and double jeopardy, although prosecutors appealed not-guilty verdicts. By law initial trials must begin within six months of arrest.

Trials are generally open to the public, but judges may restrict attendance if they believe spectators might disrupt the proceedings. There is a jury trial system, but jury verdicts are not legally binding. In serious cases such as murder and rape, the judge may consent to a legally binding jury verdict, provided it is reached in consultation with the judge. The defendant must request a jury trial beforehand.

Judges have considerable scope to cross-examine witnesses for both the prosecution and defense. Defendants may not be compelled to testify or confess guilt.

#### **Political Prisoners and Detainees**

The Ministry of Justice stated there were no persons incarcerated or detained because of their political beliefs. Some NGOs, however, argued that individuals arrested for violations of the NSL, for conscientious objection to military service, or for strike activities qualified as political prisoners.

On January 1, the Alternative Service Act took effect, allowing conscientious objectors to fulfill their military service obligations by working for 36 months at correctional facilities. Previously those who refused military service faced up to three years' imprisonment. The Commission for Examination of Alternative Service began reviewing applications for alternative service on June 30, and as of August had granted 224 applications for alternative service, scheduled to commence in October. Civil society organizations assessed the new law as a clear improvement over the previous system, but still flawed. They noted the new law departs from international norms in several ways, including the length of alternative service, which appears punitive in comparison to the regular military service of less than two years. They also argued that the commission should fall under fully civilian oversight, rather than under the Ministry of National Defense.

Representatives of Jehovah's Witnesses reported that three conscientious objectors from their denomination were sentenced to 18 months' imprisonment during the year because courts determined that they were not sincere in their beliefs. In addition trials continued for 293 conscientious objectors charged with refusing to serve in the military or to participate in reserve forces training before the new law took effect in January. Prosecutors continued to appeal the "not guilty" verdicts in the cases of some conscientious objectors whom they asserted were not sincere in their beliefs. As of August the Commission for Examination of Alternative Service was evaluating the cases.

### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary in civil matters, and there were no problems enforcing domestic court orders. Citizens had court access to file lawsuits seeking damages for, or cessation of, a human rights violation. Individuals and organizations may appeal adverse decisions to domestic human rights bodies, and then to the UN Human Rights Committee. Administrative remedies are also available for alleged wrongs.

#### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such interference, and the government generally respected these prohibitions. The law establishes conditions under which the government may monitor telephone calls, mail, and other forms of communication for up to two months in criminal investigations and four months in national security cases. The Security Surveillance Act requires some persons sentenced to prison for breaching

the NSL to report their whereabouts, travel plans, family relations, occupation, and financial status to a local police office within seven days of leaving prison and every third month thereafter.

While it does not outright prohibit access to North Korean media content, the NSL forbids citizens from listening to Democratic People's Republic of Korea (DPRK) radio programs, viewing DPRK satellite telecasts, or reading books published in the DPRK if the government determines such an action endangers national security or the basic order of democracy. For example, citizens were prohibited from reading the *Rodong Sinmun* (the official newspaper of the Central Committee of the Korean Workers' Party in the DPRK) or listening to broadcasts by the DPRK's Korean Central News Agency. Enforcement of these prohibitions was rare, however.

The disease control law allows the government to access personal information such as mobile phone location and credit card transaction data without a warrant to conduct contact tracing to stop the spread of a pandemic. During the government's COVID-19 response, most citizens accepted these infringements on privacy as necessary to protect public health. The government also published information on the whereabouts of individuals who tested positive for COVID-19 to assist in contact tracing. After a cluster of cases emerged from LGBTI-friendly clubs in Seoul, the government released enough information about persons who had tested positive for COVID-19 that it was possible to identify certain individuals. The government also required some businesses, including nightclubs, to keep a log of persons who had visited the establishments, and some LGBTI individuals were hesitant to provide identifying information. Since many members of the LGBTI community keep their sexual orientation or gender identity secret due to fear of stigmatization, LGBTI rights advocates urged the government to find a balance between respect for individual privacy and the need for disease mitigation for public health and safety. Similarly, some religious groups voiced complaints about government invasion of privacy when clusters of COVID-19 cases arose in their communities.

In December 2019 the general military court sentenced General So Gang-won to one year's imprisonment for illegal surveillance of civilians affected by the 2014 sinking of the *Sewol* ferry.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The law provides for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press. Nonetheless, the government's interpretation and implementation of the NSL and other laws and provisions of the constitution limited freedom of speech and expression, and restricted access to the internet.

On December 14, the National Assembly passed an amendment to the Development of Inter-Korean Relations Act criminalizing the act of disseminating or moving leaflets and other materials across the inter-Korean border to North Korea, including items such as cash and digital storage drives with South Korean news, documentaries, and television dramas, without obtaining prior approval. Under the revised law, which was promulgated on December 29 and takes effect on March 30, 2021, violators will face up to three years in prison or a substantial fine. The Ministry of Unification stated the purpose of the amendment was to protect the lives and ensure the safety of residents near the inter-Korean border. Human rights advocates and opposition political leaders criticized the amendment as an infringement of the freedom of expression. Former UN secretary general Ban Ki-moon also called on the government to “rectify” human rights concerns raised by the amendment. Senior government officials and ruling-party lawmakers defended the amendment, arguing that the right to freedom of expression is not absolute and must be balanced against national security concerns, pointing to a 2016 Supreme Court decision that permits the restriction of leaflet activities when they present an “imminent and serious threat” to the lives and physical security of residents in the border areas, and to a 2014 incident in which North Korea fired into the country following cross-border leafletting activity. On December 22, the ministry announced it would develop implementation guidelines that would clarify the scope of the law, with a 20-day period for public comment. The ministry stated it would review the comments and if needed, adjust the guidelines before the law goes into effect. (See section 5 on the revocation of operating permits of two leafletting NGOs.).

Freedom of Speech: The law provides for freedom of speech, although under defamation law and the NSL, the government may limit the expression of ideas. In its *World Report 2020*, Human Rights Watch contended the government maintained “unreasonable restrictions on freedom of expression,” citing the use of defamation laws, the NSL, and other laws.

The NGO Reporters without Borders, noting that legal systems in which defamation is punishable by imprisonment do not comport with international standards, expressed concerns about the July 17 sentencing of journalist Woo Jong-chang to eight months in jail for defamation of an advisor to the president. In a video posted on YouTube, Woo asserted that former president Park Geun-hye's 2016 corruption trial could have been influenced by a dinner between the advisor and one of the case's judges.

In June the Daejeon district court in Gyeonggi Province fined a man 500,000 won (\$423) for trespassing after he placed posters critical of President Moon in a building at Dankuk University. A university official called to testify against the man stated the poster had caused no physical damage and that he did not want him to be punished, noting that the law guarantees the freedom of expression.

Under the election law, the government may limit the expression of ideas that the National Election Commission deems to be false.

Freedom of Press and Media, Including Online Media: Independent media were active and expressed a wide variety of views, within the constraints cited above.

Libel/Slander Laws: The government and public figures used libel and slander laws, which broadly define and criminalize defamation, to restrict public discussion and harass, intimidate, or censor private and media expression. The law allows punishment of up to three years in prison for statements found to be "slander" or "libel," even if factual, and up to seven years for statements found to be false. The law punishes defamation of deceased persons as well; the maximum punishment if convicted is two years' imprisonment. NGOs and human rights attorneys continued to note cases of politicians, government officials, and celebrities using the libel laws to deter victims of workplace sexual harassment from coming forward or to retaliate against such victims.

In August a Seoul appeals court convicted Ko Young-ju, a critic of President Moon, of defamation and sentenced him to a 10-month suspended sentence and two years' probation. In 2013 Ko asserted that Moon was a "communist" and that, should he become president, "it's a matter of time before our country becomes a communist country." Prosecutors first indicted Ko in 2017 after Moon became president, but the Seoul Central District Court acquitted him in 2018. A conservative NGO criticized the decision reversing Ko's acquittal as politicized and condemned the outcome as contrary to the law, which recognizes that the freedom to criticize top public figures is the foundation of a strong democracy.

National Security: The NSL criminalizes actions interpreted to be in support of North Korea or otherwise against the state. The government used this law to arrest and imprison civilians and to deport foreigners. The Supreme Court has ruled the NSL constitutional seven times since 1992, most recently in 2015. As of September the Supreme Court was considering a new challenge to the constitutionality of the NSL. Critics decried the law's limitations on free expression and continued to call for repeal of the law.

According to the Ministry of Justice, prosecutions under the NSL have decreased significantly since 2015, with 40 cases in 2015, 17 in 2016, 14 in 2017, three each in 2018 and 2019, and three cases from January to June during the year. NGOs reported that prosecutions in recent years have not resulted in imprisonment.

### **Internet Freedom**

There were some government restrictions on internet access, and the government monitored email and internet chat rooms with wide legal authority.

The Korea Communications Standards Commission, a government body, blocked 101,139 websites it deemed harmful from January to June, consistent with its total of 206,759 sites blocked in 2019. The majority of blocked sites involved gambling, illegal food or drugs, or pornography. The commission also blocked North Korean propaganda on YouTube and Twitter. Although viewing websites praising the DPRK regime is lawful, disseminating information about those websites, including posting links to those sites, is illegal under the NSL. Other blocked sites included those promoting illegal trade of internal organs, forgery of documents, violating intellectual property rights, or encouraging suicide.

The communications standards commission determines whether posts made on social networking sites, such as Twitter and Facebook, or in chat rooms, contain unlawful content, defined as harmful or illegal speech. If the government finds prohibited materials, it has the authority to warn the user. If the prohibited content is not removed, the user's account may be blocked.

Although persons may use a false name when making online postings to large websites, the election campaign law requires real names for internet postings about upcoming elections.

Freedom House assessed the country's media as generally free and competitive.

## **Academic Freedom and Cultural Events**

Teachers are subject to the same law on political activities that applies to civil servants. The Ministry of Gender Equality and Family monitors song lyrics and may ban content it considers obscene. The Communication Standards Commission governs and maintains ethical standards in broadcasting and internet communications.

### **b. Freedoms of Peaceful Assembly and Association**

#### **Freedom of Peaceful Assembly**

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights. The law may be used to prohibit or limit assemblies considered likely to undermine public order and requires advance notification for demonstrations of all types, including political rallies. Police must notify organizers if they consider an event impermissible under the law. Police banned some protests by groups that had not properly registered or that were responsible for violent protests in the past. Police decisions to ban protests were subject to both administrative and judicial appeal. As of August the police received 82,433 assembly requests, of which it refused 1,562. All but one of the refusals were because of restrictions on public gatherings instituted as part of the government's COVID-19 response.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel (except to North Korea), emigration, and repatriation; the government generally respected these rights.

Foreign Travel: Citizens traveling to North Korea must obtain prior authorization from the Ministry of Unification. The travelers must demonstrate their trip has no political purpose. Visiting North Korea without prior government authorization is punishable by up to 10 years' imprisonment under the NSL.

### **e. Status and Treatment of Internally Displaced Persons**

Not applicable.

### **f. Protection of Refugees**

The government cooperated to a limited extent with the UN High Commissioner for Refugees and other humanitarian organizations to provide protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Abuse of Migrants, Refugees, and Stateless Persons: Local NGOs reported cases of abuse against migrant workers, including physical abuse, confiscation of passports, inadequate housing, and sexual harassment.

NGOs and advocates continued to criticize conditions in the “departure waiting area” at Incheon Airport. This area, funded and staffed by airlines, was for travelers (including migrants and asylum seekers) denied entry into the country. They described the living conditions in the waiting area as substandard, lacking privacy, bedding, and medical care, especially for those confined to the area for several months.

Occupants of the waiting area depended on their respective airlines for food. Some received fast-food meals three times a day, while others received nothing and relied on other travelers or their lawyers for sustenance. According to the Ministry of Justice, on average 106 persons used the area at Incheon Airport daily in 2018, the last year for which statistics were available, with 98 percent departing within four days.

In October 2019 authorities allowed an Angolan couple and their four children to enter the country after more than eight months in the departure waiting area of Incheon Airport. They had arrived in December 2018 and requested asylum, alleging torture and sexual abuse at the hands of Angolan police. In January 2019 the Incheon Airport Office of Immigration denied the family’s preliminary petition, stating it believed the family’s motivation for immigration was economic. The family filed a lawsuit to appeal the denial. In June 2019 the National Human Rights Commission of Korea and rights activists cited the Angolan family when calling for better treatment of asylum seekers at the airport. In April media reported that the family lived in an apartment, the children attended school and

received psychological and medical treatment, and as of September their asylum applications were pending.

NGOs and advocates for asylum seekers decried the lack of public data on the numbers of refugee applicants turned away after preliminary screening at airports.

Access to Asylum: The law provides for granting asylum or refugee status, and the government has established a system for providing protection to refugees.

The government considers refugees from North Korea under a separate legal framework and does not include them in refugee or asylum statistics. The government continued its longstanding policy of accepting refugees or defectors from North Korea, who by law are entitled to citizenship.

In recent years the Ministry of Justice increased the number of refugee officers at its 10 immigration offices from 39 in 2018 to 93 as of September. NGOs had previously pointed to understaffing as a major obstacle to accommodating the rising number of refugee and asylum applications, but they said restrictions on international travel resulting from the COVID-19 pandemic had greatly reduced both the number of asylum seekers and also the government's case-processing time. The government operated asylum application counters at airports and harbors to allow asylum seekers to file applications upon entering the country. These immigration offices screen applications and determine if a case is eligible to proceed for refugee status review. The Justice Ministry operated an immigration reception center in Incheon to receive refugees, asylum seekers awaiting adjudication, and temporary humanitarian stay permit holders. The center had a maximum capacity of 82 persons.

The law protects asylum seekers' right to an attorney. Asylum seekers may ask for interpretation and legal aid services from the government and for services to adjust to living in the country while their application is pending. Some NGOs and asylum seekers, however, stated applicants faced difficulty finding qualified interpreters. Applicants may receive a work permit six months after submitting an application. The permit is valid for the duration of their lawful stay in the country.

Safe Country of Origin/Transit: The law provides grounds on which an asylum seeker at a port of entry may be denied referral for full asylum procedures. These include arrival "from a safe country of origin or a safe third country, in which little possibility of persecution exists."

Access to Basic Services: Cultural, linguistic, and social differences made adjustment difficult for refugees and asylum seekers. Many migrants from North Korea and other countries alleged societal discrimination and were not always provided access to basic services. These cases were often underreported.

Temporary Protection: The law offers renewable one-year short-term humanitarian status to those who do not qualify as “refugees” (who have well founded fears of persecution on protected grounds) but nonetheless have reasonable grounds to believe their life or personal freedom may be violated by torture or otherwise egregiously endangered. Temporary humanitarian stay permit holders do not have the same access to basic services as refugees and therefore rely heavily on NGOs for housing and support. Due to the government’s restrictions on the type of jobs humanitarian stay permit holders may hold, many of them faced difficulty in securing jobs. Those who did find jobs were largely limited to poorly paid “3-D” (dirty, difficult, and dangerous) jobs.

As of June there were 675 Yemenis in Korea with humanitarian stay status. In September the Ministry of Justice stated it had renewed the temporary humanitarian stay status of all Yemenis who applied for extensions.

### **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: The presidential election in 2017 and legislative elections on April 15 were considered free and fair. The 2017 presidential election was held early because of the impeachment of former president Park Geun-hye. In the April legislative elections, the ruling Democratic Party and its satellite Citizens Party won 180 of 300 seats.

Political Parties and Political Participation: Although persons may generally use an alias when making online postings to websites, the election campaign law requires real names for internet postings about forthcoming elections. Civil society groups continued to call on the National Assembly to repeal that section of the election campaign law, asserting that such laws prohibit the electorate from freely expressing views, imparting information, and supporting campaigns.

In its 2019 annual report, the National Human Rights Commission of Korea recommended the revision of the law that limits the political activities of public officials and teachers. According to the commission, the government rigorously and extensively regulates political expression by public officials and teachers, even in their private lives and regardless of their job duties. Public officials are also prohibited from joining political parties.

Participation of Women and Members of Minority Groups: No laws prevent women or members of minority groups from voting, running for office, serving as electoral monitors, or otherwise participating in political life, and they did participate. Women, including the country's first female deputy speaker (confirmed in June), were elected to 19 percent of seats in the National Assembly in April, an increase from the previous 17 percent.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials. The government, prodded by media and civil society groups, generally implemented the law effectively. Nonetheless, officials sometimes engaged in corrupt practices with impunity, and there were numerous reports of government corruption. Ruling and opposition politicians alike alleged that the judicial system was used as a political weapon.

Corruption: According to the Anti-Corruption and Civil Rights Commission, the government was in year three of a five-year anticorruption plan aimed at fighting corruption in both the public and private sectors. Commission members included the Ministry of Justice, the Board of Audit and Inspection, the Supreme Prosecutor's Office, and the Korean National Police Agency, among others. The plan includes establishing a system for avoiding conflicts of interest among public officials, preventing corruption within the military, and curbing corruption in public procurement. The government also operated an anticorruption policy council chaired by President Moon.

In January the government established the independent Corruption Investigation Office for High Ranking Officials to improve the transparency and credibility of investigations of corruption allegations against senior government officials, lawmakers, judges, and prosecutors. In September the ruling Democratic Party established an ethics committee to monitor and inspect legal and ethical issues involving lawmakers, elected public officials, and party staffers. On September 18, the party expelled first-term lawmaker Kim Hong-gul, son of former president

Kim Dae-jung, over allegations that he had failed to report all of his real estate assets before taking office.

As of October the investigation into alleged corruption by former justice minister Cho Kuk, his wife Chung Kyung-sim, and others connected to his family continued. In December 2019 prosecutors indicted Cho on charges of receiving bribes, graft, abuse of power, violating the ethics code of public servants, and other crimes. In June a Seoul court sentenced the son of Cho's cousin to four years' imprisonment for financial crimes and for concealing and destroying company documents detrimental to Cho's family. The businessman invested former minister Cho's family assets in a manufacturing company that had received massive orders from government offices after Cho's appointment in 2017. The court found that Cho's cousin's son colluded with Cho's wife to destroy evidence after allegations about the family's corruption emerged in August 2019.

In September the Seoul prosecutor's office indicted first-term National Assembly lawmaker Yoon Mi-hyang on charges of fraud, embezzlement, dereliction of duty, and other charges relating to the misuse of funds during her tenure as the former head of the Korean Council for Justice and Remembrance for the Issues of Military Sexual Slavery by Japan, an NGO dedicated to supporting former comfort women. As of September the investigation continued.

Transparency International Korea, an anticorruption advocacy NGO, noted improvement in the country's level of corruption since 2017, particularly in the government's capacity to prevent civil servants from abusing their posts, reduction of corruption in the political sector, and ability to handle corruption issues and cases. It found, however, that the degree of corruption in public-sector economic activities had not improved.

Financial Disclosure: By law public servants above a specified rank, including elected officials, must publicly declare their income and assets, including real estate, and report how they accumulated them. Failure to disclose assets fully is punishable by up to one year in prison and a substantial fine.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

Domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights

cases. Government officials were somewhat cooperative and responsive to their views.

Some human rights organizations said the government restricted activities of certain NGOs focused on the DPRK. In July the Ministry of Unification revoked the operating permits of Fighters for a Free North Korea and Keun Saem, two defector-led South Korea-based NGOs that send leaflets across the border to North Korea. The ministry justified the revocations on a number of grounds, arguing that cross-border leafletting is a violation of the 2018 Panmunjon Agreement between the Republic of Korea and the DPRK, and citing national security concerns. It specifically noted that a 2016 Supreme Court ruling permits restriction of leaflet activities when they present an “imminent and serious threat” to the lives and physical security of residents in the border areas; that residents living in border areas must deal with security concerns caused by the leaflets; and that there are ecological concerns, as the majority of leaflets ended up in South Korea or in the ocean, in violation of environmental law. Following suits by two NGOs, as of August the Seoul administrative court stayed the revocation of their permits pending a court determination on the legality of the ministry’s actions.

Separately, in August the Ministry of Unification launched inspections of 25 ministry-registered NGOs, some of which are involved in activities related to DPRK human rights and defector resettlement assistance. The ministry called the administrative inspections overdue routine procedures that had been delayed due to personnel shortages. Critics viewed both actions as suppressing activists’ and defectors’ freedom of expression and disrupting civil society efforts to highlight human rights abuses in the DPRK and improve the lives of North Korean residents.

Government Human Rights Bodies: The National Human Rights Commission of Korea, established as an independent government body to protect and promote the human rights enumerated in the constitution, does not have enforcement power, and its recommendations and decisions are nonbinding. It investigates complaints, issues policy recommendations, trains local officials, and conducts public-awareness campaigns. Within the Korean National Police Agency, a committee of nine members, six of whom are representatives of human rights organizations, investigates alleged police violations of human rights.

The Ombudsman’s Office reports to the independent Anticorruption and Civil Rights Commission and had adequate resources to fulfill its duties. The Ombudsman’s Office issued annual reports and interacted with various

government institutions, including the Office of the President, the National Assembly, and ministries.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law criminalizes rape of women; rape not involving vaginal sexual intercourse is considered “imitative rape.” The penalty for rape ranges from a minimum of three years’ to life imprisonment depending on the specific circumstances, while “imitative rape” carries a minimum penalty of two years’ imprisonment. Although no specific statute defines spousal rape as illegal, the Supreme Court acknowledged marital rape as illegal. Rape and “imitative rape” are defined in law as involving the use of violence. The law defines domestic violence as a serious crime and authorizes courts to order offenders to stay away from victims for up to six months. This restraining order may be extended up to two years. Offenders may be sentenced to a maximum of five years in prison plus fines for domestic violence offenses. Noncompliance with domestic violence restraining orders may result in a maximum sentence of two years in prison and a substantial fine. Authorities may also place convicted offenders on probation or order them to see court-designated counselors.

When there is a danger of domestic violence recurring and an immediate need for protection, the law allows a provisional order to be issued ex officio or at the victim’s request. This may restrict the subject of the order from living in the same home, approaching within 109 yards of the victim, or contacting the victim through telecommunication devices.

The law allows judges or a Ministry of Justice committee to sentence repeat sex offenders to “chemical castration,” where sex offenders undergo drug treatment designed to diminish sexual urges. No such sentence was carried out between January and September.

Police generally responded promptly and appropriately to reported incidents, and the judicial system effectively enforced the law. Because a rape conviction requires proving that violence was used, and because the country’s defamation laws allow countersuits by alleged perpetrators, rape offenses were underreported and underprosecuted.

The Commission for the Eradication of Sexual Violence and Digital Sex Crimes seeks to coordinate the provision of countermeasures and promote consultation across ministries. It is composed of 24 members, including the minister for gender equality, vice ministers of relevant ministries, and private sector experts. The government also established gender equality positions in eight ministries to place greater emphasis on these issues. The Digital Sex Crime Victim Support Center, launched in 2018 by the Ministry for Gender Equality and Family, assists victims in requesting the deletion of images and videos from websites and supports victims in collecting evidence and filing police reports. It also makes referrals for free legal services and provides financial assistance for medical expenses. (For more on sex crimes facilitated by the internet, see “Sexual Exploitation of Children” below.)

Domestic violence remained a significant and underreported problem. According to official statistics, 240,564 cases of domestic violence were reported in 2019, a 3 percent decrease from 2018.

NGOs and media continued to report on crimes against and mistreatment of foreign brides. Starting in the 1980s, rural local governments began subsidizing private marriage brokers who could connect unmarried men to foreign women, initially ethnic Korean Chinese and in recent years primarily Vietnamese, Cambodian, and Filipina. Civil society advocates argued that the subsidies amounted to “wife buying” and asserted that the brides were particularly vulnerable to human rights abuses because they tended to have a poor grasp of the Korean language, were often significantly younger than their husbands and lacked a support network in the country. According to a 2018 report by the NHRCK, 42 percent of foreign-born brides have experienced domestic violence and 68 percent have experienced unwanted sexual advances. In contrast, 29 percent of women from South Korea surveyed by the Ministry of Gender Equality and Family in 2019 said that they were victims of domestic violence.

In April a court sentenced a Gyeonggi Province man to 15 years’ imprisonment for the November 2019 murder of his wife, whom he wed in Vietnam the day after they first met. Much younger than her husband and with very limited knowledge of the Korean language, the woman was reportedly in constant conflict with her husband over lifestyle and financial issues after moving to South Korea in August 2019.

In response to violence against migrant brides, the Ministry of Gender Equality and Family established five counseling centers for migrant women victims of sexual or

domestic violence in 2019. The centers operated shelters for victims needing emergency protection from violence. The Ministry of Justice instituted a “one strike” policy in 2019 to prevent a person convicted of domestic violence from petitioning for a visa for a foreign bride. Observers noted that the addition of a “right to request investigation” policy might make foreign spouses more vulnerable. The policy would allow the South Korean spouse to petition immigration authorities directly to investigate the foreign spouse in the event of separation.

The Gender Equality Ministry operated the Special Center for Reporting Sexual Harassment and Sexual Assault. In 2019, a total of 276,122 cases of sexual violence were reported to 170 sexual violence counseling centers nationwide, including 104 centers funded by the central and local governments and 39 government-funded “sunflower centers” that provided counseling, medical care and therapy, caseworkers, and legal assistance. The reported cases represented a 12.6 percent increase since 2018. Civil society advocates attributed the increase in reported cases to women’s increased willingness to speak out about sexual violence after the start of Korea’s #MeToo movement, which began in January 2018. According to NGOs, sunflower centers generally provided adequate support to victims of sexual assault.

Sexual Harassment: The law obligates companies and organizations to take preventive measures against sexual harassment. The government generally enforced the law effectively. The national police classify sexual harassment as “indecent acts by compulsion.” The National Human Rights Commission reported that victims of workplace sexual harassment who relied on in-house grievance mechanisms faced stigma and other difficulties, including, in some cases, losing their jobs. Victims who took their cases to court, as well as those who testified on behalf of victims at sexual harassment trials, were also subject to stigma.

Sexual harassment was a significant social problem, and there were numerous allegations of sexual harassment, including high-profile cases involving public officials, reported in media throughout the year.

Seoul mayor Park Won-soon died by suicide July 9, the day after his former secretary filed a complaint to the police alleging that Park had sexually harassed her. According to the complaint, from 2017 onward Park had repeatedly touched the woman without her consent and sent her inappropriate messages and photos, with the harassment continuing even after she transferred offices. In a statement made after Park’s death, the secretary said that Park had sent her photos of him

wearing only underwear and called her into a bedroom attached to his office, asking her to embrace him. By law the case terminated after Park's death. Women's rights advocates and the complainant's lawyer, however, continued to press for a complete investigation. Park was known as a champion for women's rights and was highly regarded for his successful representation in 1993 of the victim in what is seen as the country's first sexual harassment case.

The mayor of Busan, Oh Geo-don, resigned in April after admitting to "unnecessary physical contact" with a female subordinate. The Busan Counseling Center against Sexual Violence provided assistance to the victim and called on the Busan city government to eliminate its male-centric work culture through gender equality training and other measures. In August the former mayor was indicted on charges of indecent assault. As of September the case continued.

In August the Ministry of Foreign Affairs was widely criticized after media reported on its handling of sexual harassment allegations against a senior diplomat formerly posted to New Zealand. The diplomat had allegedly touched a male local employee inappropriately on three occasions in 2017. In response to the allegations, the ministry docked the diplomat one month's salary and transferred him to the Philippines in 2018, then recalled him to Seoul in July. Women's rights advocates asserted that the penalty was not commensurate with the severity of the alleged actions. In an August letter to President Moon, the New Zealand employee asked for an independent investigation into his case, including an opportunity for him to testify. In September the ministry accepted the New Zealand employee's request for mediation, and discussions were underway regarding the arrangements.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: Women enjoy the same legal rights under the constitution as men. Women, however, experienced societal abuses and employment discrimination (see section 7.d.).

## **Children**

Birth Registration: Citizenship requires one parent be a citizen at the time of birth. Authorities also grant citizenship in circumstances where parentage is unclear or if the child would otherwise be stateless. The law requires that all children be registered in family registries and prohibits adoption of children for the first week after birth.

Child Abuse: The law criminalizes serious injury and repeated abuse of children and provides prison terms of between five years and life.

The Ministry of Health and Welfare reported a 13.7 percent increase in reported child abuse cases from 2018 to 2019, attributed in part to increased public awareness and expanded child welfare reporting requirements.

The ministry conducted human rights training for case managers and other employees associated with their Dream Start program, a program that provides educational, health, and developmental services for disadvantaged children and their families.

As in previous years, reports of abuse at daycare centers received national attention. In July a court in Gangwon Province sentenced a daycare instructor to 14 months' imprisonment on charges of physically and emotionally abusing one-year-old children at the daycare center where she worked. The instructor pinched and slapped babies and forced them to stand for long periods, among other abuse. The court also fined the director of the daycare center three million won (\$2,585) for failure to properly supervise the employee and prevent the abuse.

Child, Early, and Forced Marriage: The minimum legal age for men and women to marry is 18. There were no reported cases of forced marriage.

Sexual Exploitation of Children: In May the government raised the age of consent from 13 to 16 and introduced stricter punishments for other child sex crimes. It is illegal to deceive or pressure anyone younger than 19 into having sexual intercourse. The penalty for rape of a minor younger than age 13 ranges from 10 years to life in prison; the penalty for rape of a minor age 13 to 19 is five years' to life imprisonment. Other penalties include electronic monitoring of offenders, public release of their personal information, and reversible hormone treatment.

The law prohibits the commercialization of child pornography. Offenders convicted of producing or possessing child sexual abuse materials for the purpose of selling, leasing, or distributing for profit are subject to a maximum of seven years' imprisonment, and in May the government increased or established minimum penalties for child pornography crimes. Under the revised law, the minimum sentence for distribution of child pornography for profit is five years' imprisonment, distribution not for profit is three years' imprisonment, and possession or purchase of child pornography is one year's imprisonment.

The May amendments to the law were collectively termed the Nth Room Prevention Act. “Nth Room” refers to online chatrooms whose administrators coerced women and minors into producing degrading and sometimes violent pornographic videos. In March authorities arrested Cho Ju-bin, the operator of one of these chatrooms called the “Doctor’s Room,” where users circulated sexual abuse content. By June authorities had arrested 37 others on charges of organizing, joining, or running a criminal organization. According to prosecutors, the “Doctor’s Room” channel operators blackmailed at least 74 victims, including minors, into sending explicit and humiliating photos and videos. Some victims were allegedly forced to drink out of a toilet or carve their blackmailer’s name into their flesh. Cho sold access to this content via Telegram, a social media application. Police alleged that some coconspirators blackmailed victims, including minors, into having sex with them. The Seoul Central District Court found Cho guilty and on November 26 sentenced him to 40 years’ imprisonment.

On July 6, the Seoul High Court made a final ruling against extraditing the operator of a dark-web child pornography website to the United States. Son Jong-woo had served 18 months in prison after his 2018 conviction for producing and circulating child pornography. Son’s website featured more than eight terabytes of child pornography, including more than 250,000 unique videos, which made it the largest sexual exploitation market in the world by volume of content before it was seized by authorities in 2018. Further investigations resulted in the rescue of dozens of child victims around the world who were actively being abused by users of the site. Women’s and children’s rights activists and NGOs criticized Son’s sentence as far too lenient for the crime, especially since his website had resulted in the abuse of children by encouraging the creation and upload of new content. NGOs assessed that judicial officials lacked a sufficient understanding of the seriousness of digital sexual violence and criticized them for denying the extradition request.

Children, especially runaway girls, were vulnerable to sex trafficking, including through online recruitment.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## **Anti-Semitism**

The Jewish community numbered approximately 1,000 individuals, almost all expatriates. There were no reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, or mental disabilities and sets penalties for deliberate discrimination of up to three years in prison and a substantial fine. The law covering rights and support for persons with developmental disabilities created a special task force of prosecutors and police trained to work with persons with disabilities and their families in police investigations.

The government implemented programs to facilitate access to buildings, information, and communications for persons with disabilities. Many establishments, however, continued to disregard the laws, opting to pay fines rather than incurring expenses to make structural adjustments. The Research Institute for Differently Abled Person's Rights Korea reported that individuals with intellectual disabilities did not receive proper education or sufficient support to achieve self-reliance. Employment rates of adults with disabilities remained low and public support for family care was inadequate.

Many local government ordinances and regulations directly discriminate against persons with disabilities, especially those with intellectual and mental disabilities, according to media reports and NGOs.

In 2019 the government amended the law to eliminate the six-degree scale of disability, and instead sort persons with disabilities into two classes: "severely disabled" and "not severely disabled." NGOs reported that while they understood the purpose of the revision of the law to be the expansion of services for persons with disabilities, the revision was insufficient. They noted there was no corresponding increase in the government budget and that they had received reports of decreased access to services, rather than an increase.

The Ministry of Health and Welfare continued to implement a comprehensive set of policies that included increasing access for persons with disabilities to public and private buildings and facilities; part-time employment opportunities for persons with disabilities; and introduction of a long-term care system. In January the ministry established a hotline to receive reports of abuse of persons with disabilities, and a new system for tracking and documenting the resulting investigation and other interventions. In June a new law took effect to provide access for persons with visual impairments and deaf-blind persons to information through government provision of communication aids including braille books, audio books, and other tools.

The government operated rehabilitation hospitals in seven regions and a national rehabilitation research center to increase employment opportunities and access for persons with disabilities.

The government provided a pension system for registered adults and children with disabilities, an allowance for children younger than age 18 with disabilities in households with an income below or near the National Basic Livelihood Security Standard, and a disability allowance for low-income persons age 18 and older with mild disabilities.

Children age three to 17 with disabilities had access to a separate public special education school system. All public and private schools, child-care centers, educational facilities, and training institutions were required to provide equipment and other resources to accommodate students with disabilities.

### **Members of National/Racial/Ethnic Minority Groups**

As of May more than 2.1 million foreigners (including an estimated 400,000 undocumented migrants) lived in the country, whose otherwise ethnically homogeneous population totaled approximately 51.8 million.

The country lacked a comprehensive antidiscrimination law. In March the National Human Rights Commission stated the country has “failed to take seriously the issue of racial discrimination in our society” and underlined calls by the UN Committee on the Elimination of Racial Discrimination for the government to take measures to stop racial discrimination. The 2019 committee report cited by the commission urged the government to enact comprehensive antidiscrimination legislation, noting that existing laws do not go far enough to protect minorities,

including migrant workers, asylum seekers, and foreign spouses, from discrimination.

Societal discrimination against ethnic and racial minorities was common but underreported. According to a 2019 human rights commission survey, migrants reported discrimination by court workers, workplace supervisors, and immigration office personnel. A large majority of immigrants and naturalized citizens were female spouses, and they were reportedly often the victim of domestic violence. (See also section 6, “Women.”)

While conditions improved for Yemenis who in 2019 received refugee status or humanitarian stay permits that allowed them to stay in the country and work, they continued to experience discrimination, both at work and in the community.

Some children of immigrants suffered from discrimination and lack of access to social resources, such as child-care support available only to Korean children. Some children of non-Korean or multiple ethnicities were also bullied because of their physical appearance.

NGOs, international organizations, and the National Human Rights Commission stated that the government’s initial response to the COVID-19 pandemic discriminated against foreigners. At first, millions of international students, migrant workers, and other foreigners who had not purchased health insurance in country were not allowed to purchase facemasks produced by government-designated suppliers.

In the early months of the COVID-19 pandemic, Chinese nationals and Chinese persons of Korean heritage experienced a number of forms of discrimination, including demands that their children withdraw from school, loss of employment, denial of entry to restaurants, and stigmatization in their communities.

The Ministries of Gender Equality and Family and of Employment and Labor implemented programs to promote cultural diversity and assist foreign workers, spouses, and multicultural families to adjust to living in the country.

### **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law that established the National Human Rights Commission prohibits discrimination based on sexual orientation and authorizes the commission to

review cases of such discrimination, although its recommended relief measures are nonbinding. The law does not specifically prohibit discrimination based on gender identity. The Military Criminal Act’s “disgraceful conduct” clause criminalizes consensual sodomy between men in the military with up to two years’ imprisonment.

Despite the National Human Rights Commission’s repeated calls for the National Assembly to adopt a comprehensive antidiscrimination law that would penalize with imprisonment or fines discriminatory practices on the basis of gender, age, race, religion, or sexual orientation, among others, the bill was stalled in the legislature. More than 88.5 percent of those surveyed in June supported passage of an antidiscrimination law, but politically powerful conservative Christian groups that reject LGBTI rights vehemently opposed such a law.

NGOs noted the Military Service Act’s prohibition on sexual activity between men led to abuse of LGBTI soldiers. In its 2019 report, Amnesty International stated the military code institutionalizes discrimination, reinforces systematic disadvantages for LGBTI persons, and risks inciting or justifying violence against them inside the military and in broader society.

In August the navy discharged a gay service member as a result of what the Center for Military Human Rights Korea called a “crackdown” on LGBTI service members. According to the center, in 2019 the navy sought out LGBTI service members under the pretext of counseling and in at least one case interrogated a person within earshot of other service members. Investigators asked for detailed accounts of sexual interactions between soldiers and searched soldiers’ cell phones for evidence of same-sex relationships. The navy stated it regretted the leaking of sensitive personal information but held that it has the authority to conduct investigations of disorderly conduct under the Military Criminal Act and Defense Ministry policy.

### **HIV and AIDS Social Stigma**

The law protects the right to confidentiality of persons with HIV or AIDS and prohibits discrimination against them. According to local NGOs, however, persons with HIV or AIDS continued to suffer from societal discrimination and social stigma.

Correctional facilities staff revealed the HIV-positive status of prisoners by making announcements about the movement of “special patients” before transferring them,

and by preventing prisoners with HIV/AIDS from exercising with the rest of the prisoners.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of most workers to form and join independent unions, conduct strikes within strict limits, and bargain collectively, but certain limitations apply to public officials and teachers.

The law recognizes workers' right to strike; workers in essential services are required to provide "minimum service" during strikes to protect the public interest. Essential services are defined by law to include railroads, air transport, communications, water supply, and hospitals. The trade union law prohibits the use of replacement workers to conduct general business disrupted by strikes, but in essential services employers may hire replacements for up to 50 percent of striking workers.

By law parties involved in a "labor dispute" must first undergo third-party mediation through the National Labor Relations Commission (NLRC) or seek a labor-management settlement before registering to strike. Strikes initiated following this period are legal if they obtain majority support from union membership. The law narrowly defines "labor dispute," which makes strikes on many issues falling under managerial control, such as downsizing and layoffs, illegal. Strikes not specifically pertaining to labor conditions, wages, benefits, or working hours are illegal. Stakeholders noted strike procedures were overly burdensome. Participating in strikes deemed to be illegal may result in imprisonment or a fine for the organizers and participants, depending on the offense.

Laws banning education workers from engaging in certain political activities, such as joining a political party or openly endorsing a political party or candidate, also constrained unions' abilities to advocate for their positions. The law also prohibits dismissed workers from remaining in unions.

The law permits workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. The NLRC may require employers to reinstate workers fired for union activities. The law prohibits retribution against workers who strike legally. Labor

organizations asserted that the inability of full-time labor-union officials to receive wages and the onerous registration requirements for individuals involved in collective bargaining effectively limited legal protections against unfair labor practices. In June a law took effect that allows employers to assist labor unions with operational expenses. Labor-union activists viewed the law as a step forward because previously employers were prohibited from providing such assistance.

The government generally enforced legislation related to freedom of association, collective bargaining, and collective action, including legal strikes, and the penalties were commensurate with those for other laws involving denials of civil rights. In addition an employer may be penalized for noncompliance with a labor relations commission order to reinstate a worker. The law sets penalties in the form of fines or imprisonment against employers who refuse unions' legitimate requests for bargaining. In December 2019, 26 Samsung Electronics executives were found guilty of union busting by planning and executing a scheme to break up the Samsung Electronics Service Union. The Seoul Central District Court sentenced Samsung vice president Kang Kyung-hoon to 18 months in prison, and other senior executives also faced imprisonment. The court determined that the executives had masterminded a plan of intimidation intended to thwart unionization in the company and its subcontractors.

Labor organizations generally operated without government interference.

Undocumented foreign workers faced difficulties participating in union activities due to fear of exposing themselves to arrest and deportation. "Dispatched workers" (those on temporary contracts) faced increased risk of nonrenewal of their work contract if they joined unions or engaged in industrial disputes.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits and criminalizes all forms of forced or compulsory labor. The government generally enforced the law effectively but did not consistently identify cases of forced labor; penalties were not commensurate with those for analogous serious crimes, such as kidnapping.

NGOs continued to report that some migrant workers were subject to forced labor, particularly those who had incurred thousands of dollars in debt for payment of recruitment fees, making them vulnerable to debt bondage. Some migrant workers in the agriculture, livestock, and fishing industries faced conditions indicative of

forced labor, including deceptive recruiting practices, confiscation of passports, and nonpayment of wages.

NGOs reported harsh conditions for migrant seafarers, many of whom worked more than 18 hours per day. Migrant seafarers, primarily from Southeast Asia, were physically or verbally abused by Korean captains and other crew and were forced to work even when sick. According to NGOs, deep-sea fishing vessels depended heavily on migrant seafarers; 73.3 percent of workers on Korean deep-sea vessels in 2018 were migrants.

The government continued investigations of working conditions for foreign sailors. From May to June, the coast guard conducted enforcement operations for human rights violations against migrant workers in the fisheries industry. Similar operations in 2019 resulted in the arrest by maritime police of 94 individuals for suspected human rights or worker rights abuses. Stakeholders reported that such enforcement activities were limited by jurisdictional disputes between the Ministry of Employment and Labor and the Ministry of Oceans and Fisheries.

The government also investigated instances of abuse, including forced labor, against workers with intellectual disabilities in the fisheries industry.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits employing minors younger than age 15 without an authorization certificate from the Ministry of Employment and Labor, and the government generally enforced the law. Authorities issued few such certificates for full-time employment because education is compulsory through the end of middle school. Children ages 15 to 18 may work with the consent of at least one parent or guardian. Employers in industries considered harmful or hazardous to a minor's morals or health may not hire them and face fines or imprisonment for violations. The maximum penalty for child labor, two years' imprisonment, was not commensurate with that for analogous serious crimes, such as kidnapping, which is penalized by up to 10 years' imprisonment. Through September the government reported no violations of child labor laws.

There were some reports of commercial sexual exploitation of children (see section 6, Children.).

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination in employment or occupation on the basis of gender, nationality, social status, religion, or disability. No law explicitly prohibits discrimination on the basis of language or HIV or other communicable disease status. The penalties for employment discrimination were commensurate with laws related to similar violations. The law prohibits companies with more than 30 employees from asking job applicants about family members, place of origin, marital status, age, or property ownership.

The law provides for equal pay for equal work. The government inconsistently enforced the law, and discrimination occurred with respect to gender. The gender pay gap was 32.5 percent in 2019. Workers' rights groups attributed the gap to women's childcare and household responsibilities. A higher percentage of women filled lower-paying, low-skilled, contract jobs, and women often faced difficulties returning to the workforce after childbirth. Legal restrictions against women in employment included limits on working hours, occupations, and tasks. In particular the law restricted women's participation in "hazardous" occupations such as mining.

The government's *Sixth Basic Plan* on Equal Employment and Work-Life Balance for 2018 to 2022 provides a roadmap for a policy on women's employment that consists of three pillars: creating nondiscriminatory working environments, preventing interruptions in women's careers, and providing re-employment for "career-interrupted" women.

The workplace antibullying law requires employers to take action to fight bullying in the workplace. According to the National Human Rights Commission of Korea, 70 percent of persons surveyed in 2018 said they had been bullied at work. By law employers convicted of failing to take action to protect bullied employees face a fine and up to three years in prison.

The law prohibits discrimination against subcontracted (also known as "dispatched") and temporary workers, who comprised approximately one-third of all wage workers and were found especially in the electronics, automotive, and service sectors. Nonetheless, NGOs and local media reported discrimination against informal or irregular workers (those who do not have full-time, permanent employment and who do not receive benefits at the same level as permanent workers). For example, while the law requires the conversion to permanent status

of those employed longer than two years, employers often laid off irregular workers shortly before the two-year mark. To address this problem, the government provides subsidies and tax breaks to encourage businesses to hire temporary workers on a permanent basis, according to the labor ministry. The International Labor Organization noted that the disadvantaged status of irregular workers contributed to discrimination against women given that women were overrepresented among these workers.

Discrimination in the workplace occurred against persons with HIV/AIDS, women, persons with disabilities, and migrant workers.

Many migrant workers faced workplace discrimination. The maximum length of stay permitted under the Employee Permit System is four years and 10 months, just under the five years needed to apply for permanent residency. NGOs and civil society groups asserted this policy is designed to exclude foreign workers from permanent residence or citizenship eligibility. NGOs stated it remained difficult for migrant workers to change employers (see sections 7.b. and 7.e.).

The law allows employers to pay foreign workers on South Korean-flagged ships lower wages than South Korean workers. The minimum wage for Korean workers is set by the government while industry and trade union representatives, who do not represent foreign workers, set the minimum wage for foreign employees. According to NGOs, the rate for domestic crewmembers is five times higher than for foreign workers. Further, unlike citizens, foreign sailors are not entitled to profit sharing. Many foreign seafarers reported to NGOs that they received only 600,000 won (\$517) in monthly wages.

The law prohibits recruiters, agents, employers, or managers from receiving money or other valuables or benefits from job seekers or employees in exchange for securing employment. Nevertheless, NGOs reported South Korean-flagged vessel owners routinely demanded security deposits from foreign crewmembers to discourage them from transferring jobs.

#### **e. Acceptable Conditions of Work**

During the year the minimum wage increased 2.9 percent and was above the official poverty line. NGOs reported that as the minimum wage increased, employers tried to curb expenses by reducing work hours, listing employees as “on-call” at home when they were in fact at work, employing undocumented

foreign workers, and charging migrant workers for their accommodations and board.

The law allows a flexible system under which employees may work more than eight hours during certain days and more than 40 hours per week during certain weeks (up to a maximum of 52 hours in a single week), so long as average weekly work hours for any two-week period do not exceed 40 hours and workers have a mandatory day of rest each week. For employers who adopt a flexible system, hours exceeding 80 in a two-week period constitute overtime. Foreign companies operating in export-processing zones are exempt from labor regulations that mandate one day of rest a week. The law limits overtime of ordinary workers to 12 hours a week.

The government generally effectively enforced laws on wages and acceptable conditions of work in most sectors, but migrants faced discriminatory laws and practices. The Labor Ministry was responsible for enforcement of these laws and the number of labor inspectors was sufficient to deter violations in most sectors. Inspectors had the authority to identify unsafe conditions, conduct unannounced visits, and issue corrective orders. Penalties for violations included imprisonment and fines and were generally commensurate with those for similar crimes, such as fraud.

Regulations outline legal protections for migrant and foreign workers. Inspections covered businesses with foreign workers, particularly in the agriculture, livestock, fisheries, and construction sectors, which generally had poor working conditions. Migrants' rights advocates noted the government inspected only a small percentage of workplaces that hire migrant workers and asserted that employers were not deterred from violating labor standards because most inspections were perfunctory and, even if violations were found, the typical result was a corrective order.

Migrant workers faced multiple restrictions on employment mobility, which left them vulnerable to exploitation. Migrant workers must obtain the consent of their current employers to switch jobs. The Ministry of Labor stated that migrant workers may apply to change workplaces without the employer's consent when an employer violates the law, but NGOs argued that violations were hard to prove and vulnerable workers were unlikely to be aware of this right.

In one instance an employer told a migrant worker owed four months' salary in back wages that he would provide the needed approval only in exchange for a payment that exceeded the back wages. In another case a Cambodian agricultural

migrant who had not been paid in three years could not leave her job because she did not have the employer's approval. The employer told media that paying fines for violating the labor standards law was less expensive than paying the back wages.

In March migrant workers seeking to overturn the restriction on changing workplaces filed a constitutional appeal. As of September the case was pending.

Migrant workers lose their legal status if they lose their job and do not find another employer within three months. Authorities may then cancel the work permit, forcing the worker either to return home or to remain in the country illegally. This caused difficulties for seasonal workers such as those involved in agriculture or construction. Migrant workers did not have access to lists of companies that were hiring when they wanted to change jobs, which made it more difficult for these workers to change jobs freely.

To prevent violations and improve working conditions for migrant and foreign workers, the government provided pre-employment training to newly arrived foreign workers, workplace adaptation training to those who changed workplaces, and training to employers who hired foreign workers. The government funded 44 Foreign Workers Support Centers nationwide to provide foreign workers with counseling services in 16 languages, Korean language and cultural programs, shelter, and free health-care services. It also ran a call center to help foreign workers resolve grievances. The government also funded multicultural family and migrant plus centers to provide foreign workers, international marriage immigrants, and other multicultural families with a one-stop service center providing immigration, welfare, and education services.

The law requires severance payments to migrant workers who have worked in the country for at least one year. Many workers, however, reported difficulty in receiving severance pay prior to their departure and stated they did not receive payments even after returning to their country of origin, due to banking regulations and delinquent employers. NGOs confirmed many departing migrants never received these payments and that the COVID-19 pandemic magnified these difficulties.

Some NGOs reported migrant workers were particularly vulnerable to exploitation because the law excludes regulations on working hours, holidays, and benefits for the agricultural, livestock, and fisheries industries that had large numbers of migrant workers. Foreign laborers sometimes faced physical abuse and

exploitation by employers in the form of longer working hours, fewer days off, and lower wages than their local counterparts. According to NGOs, the government only occasionally investigated reports of poor or abusive working conditions for migrants, and court cases were often dismissed due to insufficient evidence.

NGOs reported that although employers were prohibited from providing makeshift accommodations, some violated this prohibition, providing migrant workers with substandard accommodations made of plastic panels. After heavy rain led to the flooding of the Sanyang Reservoir in Gyeonggi Province in August, an estimated 100 persons were displaced, of whom 80 percent were migrant workers living in “plastic houses” while working on farms near the reservoir. Employers justified the accommodations, noting they lived there together with the workers and that the lodgings were only temporary to respond to busy work schedules. Workers’ rights advocates argued the plastic houses were illegal.

The government sets occupational health and safety standards and is responsible for monitoring industry adherence. Under the law workers in every sector have the right to remove themselves from situations of danger without jeopardizing their employment. As of July the Korea Occupational Safety and Health Agency, responsible for enforcement of these laws, had directly or indirectly inspected 299,081 workplaces. The penalties were commensurate with those for analogous crimes such as gross negligence.

In January broad reforms to the Occupational Safety and Health Act took effect. Some of the revisions included higher fines for workplace fatalities and increased penalties for health and safety violations. The revised regulations also prohibited companies from subcontracting out specific types of dangerous work, such as metal plating, that involve harmful heavy metals such as mercury and lead.

According to the Occupational Safety and Health Agency, there were 109,242 work-related accidents in 2019, an increase of 6.8 percent from 2018, and 2,020 occupational deaths, down from 2,142 in 2018. The agency’s director acknowledged that challenges remained in further reducing the level of fatal accidents to that on par with other advanced countries; ensuring the safety of workers vulnerable to occupational accidents and health risks, including older workers, women, migrants, and those working in small workplaces; and reducing safety gaps between large enterprises and small- and medium-sized enterprises, as well as between parent companies and subcontractors. Workers’ rights advocates said that contract or temporary workers were also vulnerable to workplace injury.

From September 2019 until May, five fatal accidents occurred at Hyundai Heavy Industries Co., one of the world's largest shipbuilders. The Ministry of Employment and Labor determined the company lacked executive support for safety management, failed to abide by basic safety regulations, and did not properly educate employees about risks. After inspections in July, the ministry imposed a nominal fine of 152 million won (\$131,000) for 165 safety violations.