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**National Human Rights Commission of Korea**  
**ANNUAL ACTIVITY REPORT**

**I. INTRODUCTION**

The National Human Rights Commission of the Republic of Korea (NHRCK) was established on November 25, 2001 under the National Human Rights Commission Act (NHRCK Act), with a broad mandate of promotion and protection of human rights. In accordance with the Paris Principles, the Commission was launched as an independent governmental body and does not belong to the legislative, judiciary, or executive branches of the Korean government.

Establishment of the Commission itself was a symbolic landmark and brought a new level of interest in the human rights situation in Korea. The Commission has redressed human rights standards in various fields in our society for more than 7 years. As a result of Commission's activities, government bodies have initiated substantial policy reviews of implementation procedures from a human rights-sensitive perspective. Numerous human rights infringements and acts of discriminatory practices have been corrected through the Commission's ongoing delivery of recommendations and opinions.

From 2001 to June 2009, the Commission has received approximately 250,000 requests for assistance. The figure consists of 38,305 complaints, 73,057 requests for counseling, and 135,166 civil services. To enhance the promotion and protection of human rights, the Commission has continuously expanded human rights education in cooperation with schools, public organizations, private companies, and civil society groups. The Commission has also developed and disseminated a variety of human rights cultural content including movies, animations, magazines, and posters to raise the human rights awareness of the public.

The Commission strives to ensure the implementation of domestic policies in that comply with international human rights standards. In this context, the Commission's operation plan for 2009-2011 is framed around five strategic goals: common practice of international human rights standards, implementation of a gender equality perspective, enhancement of independence, orientation towards clients and citizens, and enhancement of partnerships. The Commission also selected promotion of the North Korean human rights as a special project.

## **II. MAJOR CHALLENGES 2008-2009**

The year 2008 marked the 7th anniversary of the NHRCK, 60th anniversary of the Universal Declaration on Human Rights, and the 60th anniversary of the Constitution of Korea. In commemoration of these anniversaries, the Commission held various events to emphasize the noble aspirations enshrined in the UDHR and the Korean Constitution. However, the mood was not all celebratory as rapidly changing political, social and economic developments created new challenges for the Commission.

### **Candlelight Demonstrations and the Commission's Ruling**

The 'candlelight Demonstrations' in Korea began in early May 2008 and lasted for several months. A youth protest against the importation of beef from the United States that was suspected of being tainted with mad cow disease turned into a large-scale demonstration in which civil society organizations participated. The issues raised included the political issue of enhancing Korea's inspection rights on imported beef vis-a-vis U.S. importers and the re-negotiation of the terms of importation of American beef.

From the beginning, the NHRCK appealed to the public to demonstrate peacefully and to police to refrain from excessive use of force. In the same vein, the NHRCK dispatched several human rights monitoring task forces to the areas where demonstrations were occurring. The demonstrations gradually intensified and resulted in confrontations between demonstrators and the police.

As a result, 130 complaints were submitted to the NHRCK and the NHRCK decided to take up a *suo moto* investigation as stipulated in the NHRCK Act. Following a thorough investigation, the NHRCK found that the police force effectively performed its duty to maintain order, but some police officers in the process of dispersing the demonstrators

did not comply with Article 1.2 of the Police Duties Act pertaining to principles for the minimum use of force. The ruling is in line with the NHRCK Act and international human rights instruments. However, some government agencies including the Korea National Policy Agency and the Ministry of Justice criticized the ruling, while some politicians and media voiced their opinions calling the rulings biased.

### **Controversy over Independence of the Commission**

The essence of a national human rights institution lies in its independence. Last year began and ended with controversy over the independence of the NHRCK. The controversy began when the Presidential Transition Committee attempted to place the Commission under the command of the President as a part of its efforts at restructuring governmental organizations. In the response, grass root civil society groups and the international community, including the UNOHCHR and the ICC, raised their concerns over the independence of the Commission.

Despite these difficulties, the Commission strived to solidify its status as an independent body while continuing to dutifully carry out its mission of protecting the human rights of disadvantaged groups and victims of abuses of power. Fortunately, the attempt to put the Commission under the Office of the President failed. The entire process raised awareness, both among the public and within the Commission itself, of the Commission's *raison d'être* and that its independence cannot and should not be abandoned.

### **Downsizing of the NHRCK**

On the heels of the Controversy over the Commission's independence, the Ministry of Public Administration and Security (MOPAS) pressured the NHRCK with a proposal to amend the Presidential Decree on the Organization of the National Human Rights Commission of Korea and Its Affiliates. The NHRCK responded with an announcement on April 6, 2009 expressing its regret on the internal restructuring plan, pledging its continued determination to promote human rights in Korea. Following the entry into force of the restructuring decree, the existing five bureaus of the NHRCK were combined into three Bureaus resulting in a reduction in staff of 21.2%.

Since the announcement of restructuring plan by MOPAS, the NHRCK has sought to resolve the issue by taking appropriate legal steps. On March 30, the NHRCK filed a petition with the Constitutional Court challenging the legal competence of MOPAS to

make the pertinent restructuring plans and seeking to affirm the NHRCK's competence in such matters. The Commission also requested a provisional disposition to suspend the effect of the amendments to the Presidential Decree on the reorganization of the NHRCK until a decision is reached by the Constitutional Court.

### **III. HIGHLIGHTS 2008-2009**

With a vision of "Dignity and Justice for All of Us" and the goal of "Realizing a Human Rights Centered Society to meet the International Human Rights Standard", the NHRCK set its strategic targets last year. These strategic targets include safeguarding civil and political rights, advancing the rights of the child and the elderly, promoting economic, social and cultural rights of economically vulnerable groups, improving migrants' rights in a multi-cultural society, and strengthening anti-discrimination policies and remedies for socially vulnerable groups. The NHRCK also prioritized the promotion of North Korean human rights conditions and international cooperation. These goals and priorities were put in place in order to identify and affirm the matters on which the NHRCK must concentrate its efforts.

#### Safeguarding Civil and Political Rights

##### **Recommendation on Providing Legal Basis for Use of Police Apparatus during Arrest**

NHRCK made recommendations to the Attorney General to establish the legal basis for the usage of apparatus currently used by the public prosecutor's office in the event of arrest, to make guidelines for proper usage, maintenance, education, and operation of such apparatus and to issue a warning to those in the prosecutor's office who have used such apparatus in an excessive manner.

##### **Recommendation to the Seoul Central District Court**

The NHRCK recommended to the Seoul Central District Court that Article 7 of the National Security Law be interpreted adequately, as it deals with freedom of expression and greatly affects the protection and promotion of human rights. The NHRCK submitted its opinion to the Seoul Central District Court, urging the panel in charge to

respond to the continual concern from the international community regarding the National Security Law and its effects on freedom of expression. The NHRCK hopes the verdict in the pending case will be a stepping stone for promoting freedom of expression.

### **The Present Situation and Suggested Direction of Civil and Political Rights**

The NHRCK held an academic conference on the present situation and suggested direction of civil and political rights in collaboration with the Korean Constitutional Law Association on June 19, 2009. The conference centered on several issues involving civil and political rights, a category of rights which has been controversial in Korea. Topics discussed at the conference included freedom of thought and conscience in the context of national security, freedom of assembly in the context of police power, and freedom of expression and regulation on the internet. Meanwhile, in light of recent violations of the right to freedom of assembly and demonstration, the Commission criticized the revision to the Law on Assembly and Demonstration and urged the Korean government to respect the rights of its citizens.

### Advancing the Rights of the Child and the Elderly

#### **Counseling Tour for Labor Human Rights of Youth**

The NHRCK made a counseling tour as a result of its judgment that many youths who work part-time are seriously underpaid, even far below minimum wage, and that those youth earning minimum wages perform extremely arduous work. The counseling tour was conducted in cooperation with the Youth Labor Human Rights Network, which has carried out labor-related human rights training for youths as an NGO. The NHRCK provided counseling on a full range of human rights issues regarding youth labor and students.

#### **Workshop on Youth Human Rights Activities**

The NHRCK held a “Workshop on Youth Human Rights Activities” on August 22, 2008. The workshop focused on promoting youth human rights through the discussion and presentation of youth human rights activities.

#### **International Workshop on the Rights of the Child**

Welcoming the 20th anniversary of the UN Convention on the Rights of the Child, the

NHRCK, in conjunction with Save the Children, hosted an international workshop on the international trend toward abolition of the corporal punishment of children, intending to seek disciplinary alternatives.

### **Establishment of a Human Rights Protector Group for the Aged**

On May 7, 2009, the NHRCK established "Human Rights Protectors for the Aged" which consists of 79 elderly members. The protectors will be in charge of volunteer activities aimed at helping elderly people in Seoul, Busan, Gwangju and Daegu once a week from May to September this year. They will also monitor human rights violations and discrimination against elderly people, and will suggest measures to improve human rights protections of elderly people. The protectors were selected based on their volunteer work experience assisting the elderly. Among the members are retirees of the public, educational and private sectors.

### Promoting Economic, Social and Cultural Rights of Economically Vulnerable Groups

#### **Patients' Right to Life before Patent Rights**

The NHRCK called on the Commissioner of the Korean Intellectual Property Office (KIPO) to limit its enforcement of patent rights for the AIDS drug "Fuzeon." By limiting the enforcement of patent rights, others will be able to use information protected by certain patents to help with medical innovations that will benefit the public interest. This system has been discussed as a way to provide essential drugs that would otherwise violate the patent holder's rights. Fuzeon is an indispensable drug for certain groups of people with AIDS. The drug has been licensed for sale in Korea since May 2004. Price negotiations, which have proceeded with difficulty, have been going on between the Ministry for Health, Welfare and Family Affairs and Roche Korea. The drug has not yet entered the Korean market.

#### **Guidelines on forced Eviction**

The NHRCK announced guidelines on forced eviction arising from state destruction of residences. The guidelines were prepared from a human rights perspective. Forced eviction severely infringes on the freedom of residence and accompanies infringement on the economic, social, and political rights of residents in many cases. In this regard, the NHRCK concluded that forced eviction should not be considered an option when freedom of residence is severely restricted. Where forced eviction plans are unavoidable,

they should be rigorously reviewed to minimize infringement on the human rights of residents. In this context, the NHRCK urged the Government to amend relevant laws and to take appropriate measures to guarantee the human rights of residents and to increase its efforts to monitor the violence which typically occurs in forced evictions.

#### 2009 Economic, Social and Cultural Rights Symposium

The NHRCK held its 2009 Economic, Social and Cultural Rights Symposium on June 26 in collaboration with the Critic Social Society. The symposium centered on economic, social and cultural rights in the current global economic crisis. First held in 2007, the Economic, Social and Cultural Rights Symposium provides an annual forum to examine and improve social rights in Korea. This year, the symposium focused on the economic crisis and its impact on the civil and political rights of the underprivileged.

#### Improving Migrant Rights in a Multi-cultural Society

#### **MOU with Local Governments to Promote Human Rights of Foreign Residents in the Community**

The NHRCK signed and exchanged a memorandum of understanding on "exchanges for the promotion of human rights of foreign residents" with the Gyeonggi-do Provincial Government and Ansan-si Municipal Government last year. The parties decided to step up cooperation to better uphold the human rights of foreigners living in the local community. In addition, the municipal ordinance for the promotion of human rights of foreign residents and the municipal ordinance for the support of foreign residents were followed in Ansan.

#### **Human Rights Consultation for Foreign Inmates**

The NHRCK launched its first human rights consultation for foreign inmates of correctional institutions on October 1, 2008. This first consultation service in correctional institutions was held in the Daejeon Correctional Institution which has the highest number of foreign inmates and it mainly focused on migrant rights and the conditions of the correctional facility. Ten Commission investigators and lawyers consulted foreign inmates, and interpreters of Chinese, Russian, English, etc., were arranged for purpose of carrying out effective consultations.

### **International Conference on Human Rights of Migrants and Multicultural Society: Dignity and Justice for All Migrants**

The International Conference on Human Rights of Migrants and Multicultural Society: Dignity and Justice for All Migrants, was held from November 10 to 12, 2008 in commemoration of the 60th Anniversary of the Universal Declaration of Human Rights (UDHR). The Conference culminated in the adoption of the 'Seoul Guidelines on the Cooperation of National Human Rights Institutions (NHRIs) for the Promotion and Protection of Migrant Rights in Asia.' The Seoul Guidelines include a variety of principles and procedures for ensuring the human rights of migrants through international cooperation among NHRIs in countries of origin and destination. Included in the Guidelines are specific mechanisms and activities aimed at promoting cooperation of NHRIs in Asia on migrant issues. The Commission, in accordance with the Seoul Guidelines, will seek to establish cooperative agendas with countries of origin, such as Mongolia, Indonesia, and Nepal, by signing Memoranda of Understanding (MOUs) with their respective NHRIs.

### Strengthening Anti-Discrimination Policies and Remedies for Socially Vulnerable Groups

#### **Public Relations Campaign to Eliminate Bias Against the Disabled**

With the Disability Discrimination Act taking effect, the Commission reinforced its public relations campaign to eliminate bias against the disabled, and to rectify irrational systems. In particular, it produced a 20-episode documentary series called "A Rainbow of Hope" aimed at helping to eliminate prejudice against people with disabilities. This was done in collaboration with MBC, a leading broadcasting company in Korea, which aired the program in December of 2008. In addition, screen doors in four subway stations in Seoul were used as a promotion channel to help the public understand the rights of the disabled.

#### **Recommendation on a Discrimination Case against the Mentally Disabled**

The NHRCK determined that denying accident insurance coverage for those who have a mental disability or a history of being treated for mental illness violates the Disability Discrimination Act. The NHRCK recommended the President of Korea Post to initiate the application process to review the petitioner's insurance subscription. In order to prevent similar discrimination from occurring in the future, the Commission also

recommended that Korea Post should prepare concrete company standards and review processes. Under Article 15 and 17 of the Disability Discrimination Act, the provider of products and services are prohibited from denying various financial products and services by restricting, excluding, separating, and/or denying persons with a disability without a justifiable cause.

### **The 3rd International Forum on “Human Rights of the Mentally Disabled”**

In November 2008, the NHRCK and the Korean Neuropsychiatric Association co-hosted an international forum on ‘The Mental Health Situation and Social Stigma in Korea from an International Perspective’ on World Mental Health Day. This 3rd international forum relating to country reports on the mentally disabled invited Dr. Norman Sartorius, professor of Geneva University and former Director, Division of Mental Health, World Health Organization(WHO) and focused on mental health services, anti-stigma campaigns for the mentally disabled and international perspectives on the rights of the mentally disabled.

### **Draft Report on Persons with Mental Disabilities**

The NHRCK held a public hearing on its mid-term report concerning the protection and promotion of persons with mental disabilities on April 3, 2009. This public hearing was organized to present the NHRCK report on persons with mental disabilities to relevant actors including the Korean Neuropsychiatric Association, Korean Association of Mental Hospitals, Korea Association of Community Mental Rehabilitation Centers, Korea Association of Persons with Mental Disabilities, and local mental health centers. It also sought best policies for the promotion of human rights of persons with disabilities. The results of the public hearing will be reflected in the final NHRCK report to be completed at the end of 2009.

### **Reasonable Accommodations for Persons with Disabilities**

The NHRCK concluded that wheelchair lifts are not "reasonable accommodations" for persons with disabilities as required under the Disability Discrimination Act. A recommendation was issued calling on the Ministry for Health, Welfare and Family Affairs (MIHWAF), the Ministry of Land, Transportation and Marine Affairs (MLTM), and the Ministry of Public Administration and Security (MOPAS), as well as the heads of local autonomous entities related to subway and train systems, to install elevators instead of wheelchair lifts to secure the right of transfer and accessibility for persons with disabilities, and to take measures for the safe operation of existing wheelchair lifts.

## Improving North Korean Human Rights

### **Policy Consultation on North Korean Human Rights**

The NHRCK held the 4th policy consultation on North Korean Human Rights on August 26, 2008. The consultation focused on sharing information and strengthening systematic policies and analyses among corresponding departments regarding North Korean defectors residing in China. Topics discussed included “Repatriation of 22 North Korean defectors” and “Recommendations to stop forced repatriation of North Korean Defectors in China.”

### **Recommendation to the Government to Make Greater Efforts to Stop Forced Repatriation of Korean Defectors in China**

Issues relating to North Korean defectors have already raised serious concerns in the international human rights community, especially North Korean defectors residing in China. The NHRCK recommended the Minister of Foreign Affairs and trade to initiate various diplomatic measures to stop the Chinese government from forcefully repatriating North Korean defectors, keeping in mind international human rights law, including the UN Refugee Convention, as well as humanitarian concerns, and to take appropriate measures to protect the rights of North Korean defectors.

### **North Korean Human Rights Symposium**

Systematic defections from North Korea have reached a large scale. The number of new settlers who have moved to South Korea after defecting from North Korea has recently reached approximately 15,000. The deteriorating human rights situation in North Korea necessitates the establishment of policies for the promotion and protection of North Korean human rights through both domestic and international understanding. Furthermore, research on the situation of North Korean women and children has great significance for evaluating the current human rights situation of North Korean defectors. Given these circumstances, the NHRCK held a “North Korean Human Rights Symposium” on October 29-30, 2008 to discuss the North Korean human rights situation and draft recommendations for North Korean civil liberties, social rights, and women and children’s rights.

### **Call for Humanitarian Food Aid to North Korea**

The NHRCK recommended to the Minister of Unification to provide humanitarian food

aid to North Korea as a separate matter from political issues and to make possible measures to ease domestic and international concerns on transparency in food distribution. The Commission recommended providing humanitarian food aid to North Korea but it emphasized that it should be separated from political matters given that a continuous food shortage in North Korea will result in a critical situation. Meanwhile, the Commission concluded to establish a 'North Korean Human Rights Special Committee' in the 19th Plenary Committee Meeting held on September 22, 2008.

## International Cooperation and Others

### *International Training Programs*

#### **Technical Cooperation Program for the Establishment of an NHRI in Iraq**

The NHRCK provided a capacity building program entitled "Human Rights Policy Development for the Establishment of an NHRI in Iraq" to 16 Iraqi human rights officials for 24 days from June 4 to 27, 2009. The program provided an opportunity for the Iraqi government to strengthen the capability of its human rights officials and promote the development of the Independent High Commission for Human Rights in Iraq. The program allowed the NHRCK to provide technical cooperation to a newly developing human rights institution, which in turn allowed the NHRCK itself to develop and improve its leadership capacity in that area. Motivated by the success of the Human Rights Policy Development Program, the NHRCK plans to continue and expand its international cooperation efforts with newly established National Human Rights Institutions in the region.

#### **2009 Santa Clara Human Rights Program**

The NHRCK hosted the 2009 Santa Clara Human Rights Program from June 29 to July 3, 2009 to provide human rights training to American law students. The Commission has organized the event in tandem with the Santa Clara Law School since 2007. The program aims to assist aspiring human rights lawyers and human rights defenders to gain practical skills for human rights advocacy, build their capacity for contributing to international and domestic legal norms and applying human rights principles to their current and future endeavors. The program brings together experts from academia and human rights organizations.

## *Activities related to the 60th Anniversary of the UDHR*

### **Campaign for 600,000 Readings of the UDHR**

The Commission developed a web-site for people to easily access and learn about the Universal Declaration of Human Rights through its 'Campaign to Promote 600,000 People to Read the Universal Declaration of Human Rights.' This web-site consists of diverse content, including the history and meaning of the UDHR, related video clips, and a human rights quiz for better understanding the importance and meaning of the Declaration. The campaign is intended to enhance human rights sensitivity in Korean society.

### **Essay Competition in Celebration of the UDHR Anniversary**

The NHRCK held an awards ceremony for an essay competition held in celebration of the UDHR 60th anniversary. The essay competition selected 6 winners out of 348 entrants demonstrating widespread support and interest from citizens.

## *Human Rights Education and Raising of Public Awareness*

### **Human Rights Training for Teachers**

The NHRCK provided an educational training program for elementary and middle school teachers during the school summer vacation in order to promote a learning environment in schools that is in tune with human rights. More than 200 teachers from 6 regions participated in the program enhancing their capacity to run human rights education units and to contribute to increasing the awareness of human rights through promoting a learning environment that is human rights-friendly.

### **Development of Education Materials on Human Rights Protection**

The NHRCK developed educational materials to prevent human rights violations in the public assembly, demonstration and investigation process. The materials are part of an effort to promote and develop human rights educational materials on police activities and criminal investigation. This effort was especially meaningful in that the co-publisher is the National Police Agency, which is a target group for human rights education. The NHRCK will use the same materials in its human rights education program for the police and for trainers who conduct human rights education for the police.

### **Human Rights Film Released to Theatres: "If You Were Me 4"**

Produced by the NHRCK, "If You Were Me 4" was released at theatres in Seoul and Busan on June 11, 2009. The collection of short films about the human rights of teenagers covers issues including difficulties faced by unwed teenage mothers, prejudice faced by multicultural families, and the right to a proper educational environment. The movie is the sixth NHRCK human rights film project. It follows five other movies, the first of which was produced in 2002. "If You Were Me 4" was chosen as the closing film for the 2008 Jeonju International Film Festival in Korea.

### ***Other Activities***

#### **Forum on the Recommendations of the ACJ**

The NHRCK held a forum on the recommendations of the Advisory Council of Jurists (ACJ) of the APF. The purpose of the forum was to share the observations and recommendations made by the ACJ with regards to the right to environment, right to education, issue of torture, and trafficking. The panels reviewed the relevant issues in Korea and discussed ways in which the promotion and protection of those rights can be ensured by implementing the recommendations.

#### **International Conference on Human Rights and Socially Responsible Investment**

For the 60th anniversary of the UDHR, the Commission, the Global Compact Network Korea, and 'Money Today' hosted an 'International Conference on Human Rights and Socially Responsible Investment (SRI)' on December 2, 2008.

#### **Panel Discussion on the Universal Periodic Review (UPR)**

The NHRCK hosted a panel discussion on the UPR in collaboration with the Ministry of Foreign Affairs and Trade (MOFAT). The discussion provided an opportunity to examine and evaluate the UPR mechanism in general and more specifically the conclusions and recommendations of the Korea UPR. The panel discussion was considered a significant step forward in engaging in a constructive dialogue between the NHRCK, the MOFAT and NGOs as to their respective roles in the UPR process.

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