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National Human Rights
Commission

Annual Report



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Human
Rights
Commission
of Korea

Foreword

Three years have passed since the creation of the National Human Rights Commission, a glorious event for all the civic human rights organizations that had pressed for the creation of such an entity for so many years. That the National Human Rights Commission was established in Korea itself shows that Korean society had finally come to understand the importance of human rights and began to look at government policies and social issues with human rights in mind. The National Human Rights Commission was established as an independent organ that does not belong to the administration, legislation, or judiciary branches of the government. Since then, it has walked a previously untrodden path in a noble effort to bring relief to the weak and minorities, who had suffered in a society that had little awareness about human rights, ultimately to create a new society where peace and hope reign for everyone.

Throughout 2003, the National Human Rights Commission continued to press the cause of human rights in Korea, hardly an easy task in an environment where society considered victims themselves to be responsible for their plight. It raised social issues for debate in society at large, established standards for 'human rights,' and presented solutions to the issues.

The Annual Report reviews and evaluates the performance of the National Human Rights Commission in 2003. It explains the Commission's handling of complaints about human rights violations and discrimination; the recommendations and opinions made by the Commission on human rights statutes and policies; and the training, PR, and domestic and international cooperation activities of the Commission to improve the awareness of human rights in Korean society.

Although the National Human Rights Commission has made substantial progress, a great deal remains to be accomplished. Numerous human rights issues still need to be addressed without delay, and many others need to be tackled over the long-term. Thankfully, the National Human Rights Commission was able to make meaningful progress in 2003 because it increasingly had the support of the Korean people. The National Human Rights Commission will continue to strive to build the foundation and framework for human rights protection as an independent human rights monitoring institution, giving hope to the people, and it will overcome its limitations as a new organ and open itself more widely to the public.

President

Kim Chang-guk
National Human Rights Commission

April 2004

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Introduction

The National Human Rights Commission has now been in service for two years. It continues to work hard towards its ultimate objective of eliminating anti-democratic and anti-human rights sentiment in every corner of Korean society. The Commission is pressing its case on every possible front and offers guidance for 'living with dignity.' Its journey has truly been full of hope.

If 2002 was the year when seed of the National Human Rights Commission was planted in Korea, 2003 could be seen as the year when a small bud came forth. In 2004, the Commission seeks to bear substantial fruit. Towards that end, the Commission will prepare a blueprint for the second phase of its development.

2003 can also be seen as a year when the Commission made itself a household word. Much of the public that had been disappointed and frustrated with existing practices and systems now comes to the Commission to make inquiries and complaints. When a social issue erupts, citizens eagerly wait for the Commission to present its opinion. The value of 'human rights,' once a remote idea, is fast becoming a part of everyday life in the minds of the Korean people.

The fact that the Commission is now well known to the public is evident in the number of counseling sessions given to inquirers and complaints the Commission received in 2003 compared with the year before. The figure shows that the public is increasingly interested in human rights and has rising expectations of the Commission. In particular, with the 'face-to-face' complaint system, under which staff members of the Commission visit inmates of detention facilities, having been completely institutionalized, the number of complaints received from inmates of detention facilities rose rapidly. A letter from a complainant to the Commission reads, "I thought the government was of, by, and for the powerful. But the Commission seems to on be the side of people without power." As this letter clearly shows, the Commission has become an avenue of relief and redress for those who had been completely neglected in society and had nowhere to turn for help.

The Commission is working to incorporate human rights into the formulation of statutes and policies by demonstrating the importance of human rights to policymakers. In 2003, the Commission presented opinions on NEIS (National Education Information System), the war in Iraq, migrant workers, Hoju (Family Registry) System, bill on the amendment to the Terror Prevention Act, among others, to ensure that human rights were duly respected in these statutes and policies. The Commission also devoted a great deal of energy in the legislation of laws for the protection and promotion of human rights by making recommendations on legislation of special acts, including the Secret Agent in North Korea Act.

The Commission has been preparing for the formulation of a Master Plan for National Human Rights

Policy, the purpose of which is to comprehensively review state policies with respect to human rights considerations and present a comprehensive plan for administrative policy. In this way, the Commission is moving from a passive mode to a more proactive mode in addressing human rights issues. The Commission is facilitating the legislation of the Anti-Discrimination Act to prevent various forms of discrimination from ever occurring.

To address important pending issues such as the National Security Act, Social Protection Act, and the issue of irregular workers, the Commission organized Task Force Teams responsible for preparing appropriate countermeasures and encouraged wider public debate of the issues in society. The Commission strongly encouraged the public to help the Commission find viable solutions to the issues. On pending issues, small and large, the Commission held discussion meetings and debates to collect a wide range of opinions from experts and NGOs and citizens at all levels of society. The live and active discussions at these meetings served as a practical foundation for the activities of the Commission.

The Commission collected as many basic materials as possible for the formulation of human rights policies. In 2003, the Commission completed ten commissioned surveys on human rights, including a survey on mixed-blood residents of a military base town. It held 15 public hearings and debates on major human rights issues, including one on 'Human Rights in the Information Society.' By dint of such efforts, the Commission has laid the foundation for preparation of measures to fundamentally reform human rights policies and receive complaints in a systematic and effective manner.

The Commission traveled to the four cities of Busan, Gwangju, Jeonju, and Daejeon from May 13 through May 28 to provide counseling on human rights violations and discrimination for people outside the Seoul area and to take remedial action for them. The Commission also held meetings with civic human rights groups and heads of government institutions in each city to discuss regional issues. At each meeting, the Commission pressed for mutual cooperation in order to increase interest and participation in its activities.

By the end of 2003, the Commission had received a total of 5,874 complaints about human rights infringements since its launching. Of these, 4,502 cases were concluded. A total of 547 cases during the same period were discrimination complaints, of which 398 were concluded. Thanks to the all-out efforts of the Commission to remedy human rights infringements and discriminatory conduct by such means as improving the complaint handling system and increasing the capacities of investigators, a much higher percentage of complaints were brought to conclusion in 2003 than in 2002. Nonetheless, due to a shortage of manpower for investigation and the lack of enthusiastic cooperation among relevant organs, the handling of many complaints is still being delayed.

Most of the human rights violation complaints received by the Commission in 2003 involved

investigative and correctional organs such as police stations and detention facilities. The Commission aggressively pursued investigations and remedial actions. It recommended that disciplinary punishment be imposed for not notifying detainees of their Miranda rights, acts of police brutality, and gross violations of the basic rights of one-man demonstrations. It requested legal assistance for investigation into the deaths of inmates due to successive punishments at a detention facility and investigation into the case of a suspicious death of a soldier in the army.

The Commission examined standard practices in wider areas and in greater depth. In particular, the Commission examined employment application forms of one hundred major private sector companies and government-run corporations to eradicate discriminatory practices in recruitment. Based on the results of such examination, the Commission recommended that the questions on such issues as family relationship and physical conditions, which had little relevance or bearing on the competency of the applicant, be deleted from the application forms. This was a major contribution toward correcting and preventing discriminatory acts that had been routine in the corporate recruiting process.

In 2003, the Commission began to build the infrastructure for human rights training in formal institutions. Under its 'Five-Year Master Plan for the Development of Human Rights Education,' the Commission seeks to create a human rights-friendly social and cultural environment through human rights education. It initiated various programs needed for the formulation of the plan, which should serve as a road-map for human rights education. The Commission began to develop human rights curricula (tentative) for elementary, middle, and high schools with a view to full integration into their standard curricula. It also conducted a survey and analysis on the situation of human rights education in government organs, schools, and NGOs in order to lay a foundation for development of human rights education programs and education materials for the future. The human rights lecturers' pool was established in 2003, and the development of human rights education materials, which had begun in 2002, continued into 2003 to expand human rights education.

The Commission staged a major PR campaign to raise the public's awareness of the importance of human rights. It sponsored the omnibus movie project on human rights titled 'If You Were Me.' It also held a human rights photo exhibition and hosted an event to celebrate the Universal Declaration of Human Rights. Through joint cooperation projects with human rights and non-governmental organizations, including the program for citizens' action plans, the Commission spared no efforts to support human rights activities of non-governmental organizations.

The issues of security and human rights came to the fore in 2003 throughout the world due to the outbreak of war in Iraq. Many issues surfaced as international concerns, including the establishment of the International Criminal Court, adoption of the 'International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families: MWC,' adoption of

a resolution on North Korea at the UN Human Rights Commission, human rights in the Information Society, and development of a proposal for an international convention on the rights of people with disability. At the 32nd session of the Committee on the Rights of the Child and the 63rd session of the Committee on the Elimination of Racial Discrimination of the UN, reports submitted by the Republic of Korea were considered. At the Committee of Social Rights, a report on the progress in improving social rights in North Korea was considered.

The Commission actively participated in international meetings sponsored by international organizations and NGOs, including UN the Human Rights Commission and APF, joining in the efforts of the international community to solve human rights problems on a global scale. It successfully lobbied to have the Seventh International Conference for National Human Rights Institutions and the Ninth Annual Meeting of Asia Pacific Forum of National Human Rights Institutions held in Korea. Holding these important international meetings will do much to raise the profile and international standing of both the Commission and the Republic of Korea.

The Commission achieved substantial progress in 2003, but it will work even harder to produce greater results in the years to come. The Commission will strive to increase the capacities of its staff by increasing their expertise and human rights awareness, and it will strengthen cooperation with human rights organizations both at home and abroad. It will proactively identify human rights problems and bring them before the public: not only the most blatant violations and discriminatory acts, but also those problems that are not so visible but widespread in Korean society.

The legislative and institutional limitations on the Commission are an important issue that also must be addressed. In order for the Commission to become a true independent state institution worthy of its name, it must be granted independence in budgeting and personnel management. Another urgent task is the establishment of regional branch offices of the Commission. These offices are necessary to allow for prompt handling human rights violations and discrimination complaints in other regions throughout the country and to permit residents outside Seoul easy access to the Commission for counseling and training on human rights. When these legal and institutional measures are completed and the independency of the Commission is secured, the Commission will be able to give hope to more citizens as a state institution for human rights under the Constitution.

Chapter 1

Recommendations and Presentation of Opinions for Improvement of Statutes Relating to Human Rights

In accordance with Article 19 of the National Human Rights Commission Act, the Commission presented its opinions and recommendations regarding 16 statutes, including the bill draft on the amendment to the Enforcement Decree of the Act on the Lapse of Criminal Sentences, to the relevant ministry and the National Assembly. Table 1-1-1 shows the recommendations and opinions presented by the Commission.

<Table 1-1-1> Recommendations and Presentation of Opinions on Human Rights Statutes

Title	Contents	Date	Entities concerned	Results
1 Presentation of opinions on ‘bill draft on amendment to the Enforcement Decree of the Act on the Lapse of Criminal Sentences’	Recommended that separate provisions on inquires and responses to inquiries into <u>the probation of juvenile offenders</u> be established	2003.3.10	Ministry of Justice	Accepted
2 Recommendation on legislation of the Special Act on Compensation for Samcheong Education Camp	Recommended that legislation of a special law concerning victims of the Samcheong Education Corps be established to allow for investigation of the truth of the entire process of the Educational Corps and remedial measures for the victims.	2003.3.10	National Assembly, Ministry of Justice	Accepted
3 Recommendation on legislation of the Special Act on Secret Agents Dispatched to the North	Recommended that a special law concerning the recognition of the existence of secret agents to the North, restoration of their dignity, and compensation be legislated.	2003.3.12	National Assembly, Military, Ministry of National Defense	Accepted by Nat’l Assembly (‘04.1.9)
4 Expression of opinions on laws concerning exemption of those in	Advised deletion or revision of provisions	2003.3.24	Ministry of National	Under review

	extreme poverty from military service	concerning exemption of those in extreme poverty from military service in order to prevent the Commission of the Military Manpower Administration from making decisions on such exemptions at its discretion.		Defense, Military Manpower Administration	
5	Expression of opinions on bill draft on amendment to Road Transport Act	Advised revision of provisions that restrict citizens with medical records and beginning drivers	2003.4.15	National Police Agency	Accepted
6	Presentation of opinions on the 'bill draft on amendment to the Enforcement Decree of the Industrial Safety and Health Act'	Delivered its opinion that workers' rights to safety be guaranteed widely by strengthening the duties of the government and the management.	2003.4.15	Ministry of Labor	Not accepted
7	Presentation of opinions on the 'bill draft on amendment to the Enforcement Decree of the Act on Obtaining a Degree by Self-education	Recommended that the provision disqualifying those who have cheated on a degree test for the self-educated from applying for such test be lifted	2003.4.30	Ministry of Education and Human Resources Development	Accepted
8	Presentation of opinions on the 'bill draft on amendment to the Immigration Act	Recommended that foreigners subject to finger prints be clearly indicated as 'those who have received orders of deportation and those who are being investigated on charges of violations by other laws'	2003.7.14	Ministry of Justice	Not accepted

9	Presentation of opinions on legislation of a special law on civilian victims of the Korean War	Recommended legislation of an integrated special law on fact-finding about the unknown large number of civilian victims during the Korean War and	2003.7.14	National Assembly, Prime Minister	Legislation under consideration
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		restoration of the reputations of those victims			
10	Presentation of opinions regarding the bill draft on Amendment to the 'National Pension Act'	Requested that inmates of prisons, protective restriction facilities, or rehabilitation facilities, and the missing be classified as regional subscribers exempted from pension payments as stipulated in the existing law, and that the scope of inmates of prisons be expanded to cover inmates of prisons, etc., pursuant to Article 2 of the Criminal Administration Act	2003.8.14	Ministry of Health and Welfare	Accepted
11	Presentation of opinions regarding the bill draft on Amendment to the Public Hygiene Control Act	As the provision (Article 9-2) is in violation of the principle of clarity of statutes, basic matters should be stipulated in detail so that offenders can fully understand the legal consequences.	2003.8.25	Ministry of Health and Welfare	Accepted in part
12	Presentation of opinions regarding the bill draft on Punishment of Crimes within the Jurisdiction of the International Criminal Court	Recommended that the relevant provision be made clear, a provision on punishment be added in order to prevent abuse of indictment and political power under the bill, and war crimes included in the Rome Statute but not included in the bill be included in the bill.	2003.9.22	Ministry of Justice	Accepted
13	Presentation of opinions against the bill draft on Amendment to the 'Terror Prevention Act'	Presented the National Assembly its opinion against the legislation of the amended bill because: 1) measures for the prevention of terror could be taken under the current laws and systems, precluding the	2003.10.22	National Assembly	Accepted

		need for legislation of another separate act; and 2) there were possibilities of violations against the Constitution, such as requests for mobilization of special units, which might result in violations of basic rights.			
14	Presentation of opinions on bill draft on Amendment to Regulations on the Personnel Records of Teaching Staff of State Schools and Personal Management Administration	Advised deletion of five questions on the personnel record file; blood type (of questions about physical conditions) and name, relationship, birthday, and occupation (of family members), which are contained in the Attached Form 1 of the bill draft.	2003.10.22	Ministry of Education and Human Resources Development	Not accepted
15	Presentation of opinions on bill draft on Amendment to Act on the Protection of Private Information at Public Organs	Recommended that the bill state that the collection and use of personal information be done in such a way that the rights of individuals under Articles 10 and 17 of the Constitution are guaranteed.	2003.11.10	Ministry of Government Administration and Home Affairs	Under review
16	Presentation of opinions regarding the bill draft on the Amendment to the 'Assembly and Demonstration Act'	Advised that the bill draft on Amendment to the 'Assembly and Demonstration Act,' deliberated by the sub-committee of Government Administration and Local Autonomy of the National Assembly, be reconsidered.	2003.11.28	National Assembly	Accepted in part

Acceptances are as of the end of May 2004.

(1) Presentation of opinions on 'bill draft on amendment to the Enforcement Decree of the Act on the Lapse of Criminal Sentences'

On December 5, 2002, the 'Act on the Lapse of Criminal Sentences' was revised and was to go into effect on March 6, 2003. In follow-up, the Ministry of Justice drafted a bill on the amendment to the 'Enforcement Decree of the Act on the Lapse of Criminal Sentences (hereinafter referred to as

Bill Draft on Amendment) and made advance notification of its legislation on February 6, 2003.

The Commission found that there might be potential for human rights violations given that those provisions, such as those concerning criminal records for lapse sentences, of the Act and Bill Draft on Amendment, did not give any consideration to juvenile offenders. The Commission started examining the Bill Draft on Amendment.

The provisions on the scope of 'crime record material' of the 'Act on the Lapse of Criminal Sentences' revised in December of 2002 do not stipulate rules on juveniles. The Bill Draft on Amendment needed to consider the 'Juvenile Act,' the intent of which is to prevent any undue social hindrance to juveniles in their adult lives. In particular, paragraph 5, Article 32 of the Juvenile Act stipulates that 'protective reformatory punishment shall not exert any influence on the future personal affairs of the juvenile,' and paragraph 1, Article 70 of the same law stipulates that 'Organs related to protection of juvenile offenders shall not respond to any inquiries regarding the juvenile incident, except when needed for trial, investigation, and military purposes.' The Commission decided that the intent of the provisions of the Juvenile Act should be incorporated in the Bill Draft on Amendment. In Germany, the Federal Central Register, an organ which records judgments of conviction and other statistics, sets the required period for keeping crime records of juveniles much shorter than for adults. Given the cases of other countries, inquiries into juvenile offenses should be strictly restricted.

On March 10, 2003, the Commission recommended the Ministry of Justice that separate provisions on inquiries and responses to inquiries into the probation of juvenile offenders be established, given the intent of provisions of paragraph 5, Article 32 and paragraph 1, Article 70 of the Juvenile Act, which stipulates protection of juveniles, and because juvenile crime should not be treated as severely as adult crimes. The Ministry of Justice accepted the opinion of the Commission and notified the Commission that it would include provisions concerning restrictions on inquiry and answers about the probation of juvenile offenders in Article 7 of the Bill Draft on Amendment.

(2) Recommendation on legislation of the Special Act concerning Compensation for Samcheong Education Camp

On **August** 4, 1980, the National Security Committee arrested hundreds of citizens without warrants under a special measure to eradicate social ills and committed them to the Samcheong Education Corps established in the Army for compulsory correctional training. A number of human rights violations were committed in detention. It was found that some of the victims who had been taken to the Educational Corps by force died from intestinal ruptures, concussions, and suffocation while in training due to cruel acts by the Army, and others have been suffering various kinds of medical problems in the years since the training.

The victims of the Samcheong Education Corps demanded that the government pay compensation

and restore their damaged reputations, as well as legislate a special act and criminally prosecute those responsible for abuse in the training. The government responded repeatedly that it would decide how to handle the requests after collection opinions from relevant ministries, declaring that that it could not take immediate action due to the financial burden that would be incurred. The government promised that the President of Korea would deliver a statement to the people concerning the damage and injury caused by the Samcheong Education Corps. However, this promise has not been fulfilled. Victims of the Educational Corp filed complaints with the Ministry of National Defense, but the government did not follow up.

The victims of the Samcheong Educational Corp filed petitions with the Commission a number of times for compensation for damages and restoration of damaged reputations. These complaints were ‘rejected’ under Article 32 of the National Human Rights Commission Act, which stipulates ‘the Commission shall reject a petition if it is filed after one or more years have elapsed since the facts causing the petition happened.’ However, considering the seriousness of the violations of the human rights of the victims at the Training Corps, the Commission examined the state of damages at the time of training, the action the government had taken to compensate for such damages, the demands of the victims, and the opinions of the government, judicial court, and the Presidential Truth Commission on Suspicious Deaths.

The Commission concluded that, given various special laws legislated including the ‘Special Act Relating to Compensation for Victims of the May 18 Gwangju Democratization Movement, etc.’ and ‘Special Act of Truth and Restoration for April Third, the 1948 Incident in Jeju,’ legislation of a special law concerning victims of the Samcheong Education Corps was needed so that investigation of the truth for the entire process of the Educational Corps and remedial measures for the victims and bereaved families, who had been refused any legal recourse, should be taken promptly.

On March 10, 2003, the Commission made a recommendation to the Speaker of the National Assembly and the Minister of National Defense that a special law be legislated. The recommendation was accepted, and on December 29, 2003, the ‘Bill of Restoration and Compensation for Victims of the Samcheong Educational Corps’ was passed by the National Assembly. The Ministry of National Defense will establish a ‘Committee for the Restoration and Compensation for Victims of the Samcheong Education Corps’ under the Office of the Prime Minister, and receive applications for compensation from the victims and bereaved families starting in August 2004.

(3) Presentation of opinions on the ‘bill draft on amendment to the Enforcement Decree of the Act on Industrial Safety and Health’

The objectives of the ‘Industrial Safety and Health Act’ are to establish standards of industrial safety and health, clearly indicating who shall be responsible for industrial safety and health, so

that the safety and health of workers may be maintained and improved by preventing industrial disasters and creating a pleasant work environment. The Enforcement Decree of the Act should be drafted for such that labor standards directly related to the health and well being of workers should be prepared and the enforcement of such standards should be guaranteed. With this in mind, the Commission examined those provisions contained in the 'bill draft on amendment to the Enforcement Decree of the Act on Industrial Safety and Health' (hereinafter referred to as bill draft on amendment) that might lead to human rights violations.

First, the bill draft on amendment restricts the scope of 'workplaces subject to public announcement,' for which the number of industrial disasters, the ratio of disasters, and the severity of disasters are released to the public, to those workplaces covered by the Presidential Decree. However, as the Labor Minister has authority to decide whether the announcement will be made or not under the law, it is difficult to guarantee the effectiveness of the law. Delegation of such broad discretionary power to the Ministry of Labor is against the intents of Article 34 of the Constitution, which stipulates that 'The state endeavors to prevent disasters and to protect citizens from harm therefrom;' Article 35 of the Constitution, which guarantees the right to a healthy and pleasant environment of all citizens; Article 7, concerning the guarantee of safe and healthy working conditions; and Article 12, concerning duties of states to take safety measures, of the International Covenant on Economic, Social, and Cultural Rights.

Second, Article 12 of the Enforcement Decree provides standards for safety manager selection pursuant to Article 15 of the Industrial Safety and Health Act. However the easing of duties of selection in the Bill Draft on Amendment is a measure that did not take the safety and health of workers into consideration. As such, the measure may ultimately result in violations of human rights of workers, which are protected under Article 34 of the Constitution, duties of states provided by 'Convention on Labor Inspection in Industrial and Commercial Sector' of ILO, and workers human rights to be protected under the Articles 10 and 35 of the Constitution of the Republic of Korea, and the Article 7 of ICESCR (International Covenant on Economic, social and Cultural Rights).

Third, the scope of works subject to prohibition of sub-contract, and the scope of those sub-contract works subject to safety and health measures are too narrow: the scope of works for which safety and health measures are compulsory should be expanded to cover manufacturing, use, dismantling, removal, moving, transportation, and storage of harmful substances so that workers can be protected from harmful substances.

Fourth, Article 31 of the Bill Draft on Amendment deletes the provision on indication of harmful substances including the names of such substances. Under the Bill Draft on Amendment, the obligation of indication, which should have been made more stringent, was replaced with duties of inspection of the Minister of Labor, which may infringe on the rights to know about harmful

substances including the ones potentially crucial to the well-being of workers. This does not serve the intents of Article 34 of the Constitution, which reads “The state endeavors to prevent disasters and to protect citizens from harm therefrom,” and Article 35 stating, “All citizens have the right to a healthy life.” and Article 7 and Article 12 of the International Covenant on Economic, Social, and Cultural Rights, which provide for safe working conditions and the right to health. Given all, the duties and responsibilities of the state and the management should be strengthened such that workers’ rights to know and rights to safety can be guaranteed more widely.

On April 14, 2003, the Commission delivered its opinion to the Ministry of Labor requesting that provisions of the Bill Draft on Amendment concerning selection of workplaces subject to public announcement, appointment of safety managers, and compulsory indication of harmful substances be in compliance with the objectives of the Industrial Safety and Health Act, and protection of workers and duties of states required by the Constitution, and international conventions, and that workers’ rights to safety be guaranteed widely by strengthening the duties of the government and the management. The Ministry of Labor has not yet accepted the opinion submitted by the Commission.

(4) Presentation of opinions on legislation of a special law on civilian victims of the Korean War

Fifty years have passed since the cause of the petitions concerning civilian victims due to the Korean War occurred. These complaints were subject to rejection under paragraph 4, Article 1 of the National Human Rights Commission Act, which stipulates ‘the Commission shall reject a petition in cases it is filed after one or more years have elapsed since the facts causing the petition happened.’ The period of criminal and civil prescription has long expired. Nonetheless, considering its objectives of upholding protection and promotion of human rights, the Commission recognized this case where civilians became victims by the abuse of public power authorities (the national army, police, and the United Nations forces) during the Korean War was an important human rights issue, and examined the case as a major policy agenda.

On May 27, 1960, the National Assembly established the Special Committee to Investigate the Incident of Massacre of Civilians and presented a bill for legislation of a special act. Since then, special laws on two individual cases were enacted; the Special Law of the Geochang Incident and the Special Law of Truth and Restoration for the April Third, 1948 Incident in Jeju, in 1996 and 2000, respectively. However, decisive proof of the civilian victims’ claims during the Korean War was hardly available, and even if there was such proof, it was highly likely destroyed, and materials about the Korean National Army and UN forces were hardly accessible. Because much of the specifics of the situation could not be ascertained, the Commission decided to handle all such cases as one single case by integrating all the incidents throughout the nation during the Korean War rather than individual cases that occurred in specific places.

Although the civilian cases that occurred during sweeps for communist guerrillas under the military operations of the national army at the time of the Korean War constitute 'slaughter and annihilation of civilian residents,' it fails to fully constitute a crime against humanity. It is, therefore, difficult to apply international law directly to civilian victims. However, regarding the unlawful execution of public authority during the Korean War, which was also included in the petition, it is duties and responsibilities of the government to investigate the truth, clear suspicions, and prepare measures to restore the reputations of the victims. Given the objectives of Article 10 and 12 of the Constitution, Article 1 and 3 of **the** Universal Declaration of Human Rights, and other international conventions for promotion and protection of human rights, and in view of human dignity and right to seek truth of families stipulated in these provisions, the truth needs to be investigated. Furthermore, considering that the victims and bereaved families who are still suffering to this day, measures to restore the reputations of those victimized without cause should be taken.

The Commission presented its opinion to the Speaker of the National Assembly and the Prime Minister, asking them to take full steps for the legislation of an integrated special law on fact-finding about the unknown large number of civilian victims at the time of the Korean War, including investigation into the number and actual conditions of civilian victims nationwide and actual conditions during the war and restoration of the reputations of victims, as the state has duties to guarantee the well being of its people. At the same time, the Commission emphasized that the fact-finding process should be conducted in such a way that it does not violate basic law and order for free and democratic society under the Constitution, and that clear standards, procedures, and methods should apply so that the problem of equality might not be raised. Forty-seven assemblymen including Kim Won-wung proposed a bill on the 'Draft on Fact-finding of Civilian Victims during the Korean War and Restoration of the Victims,' but it was rejected at the plenary session of the National Assembly.

(5) Presentation of opinions regarding the bill draft on Amendment to the 'National Pension Act'

The Ministry of Health and Welfare drew up a bill draft on the Amendment to the National Pension Act (hereinafter referred to as Bill Draft on Amendment) in order to secure long-term financial stability for an aging society, to increase the scope of funding, and to fully cope with the rapidly changing financial market environment. On August 7, 2003, the Ministry made a request to the Commission to present an opinion.

The Commission found that some provisions of the Bill Draft on Amendment 'excessively violate the basic rights of social minorities.' The Commission presented its opinion, requesting that inmates of prisons, protective restriction facilities, or rehabilitation facilities under the 'Social Protection Act,' and the missing are classified as regional subscribers exempted from pension payments as stipulated in the existing law, and that the scope of inmates of prisons be expanded to cover inmates of prisons, etc., under Article 2 of the Criminal Administration Act.

The Ministry of Health and Welfare accepted the opinion submitted by the Commission on November 3, 2003. Inmates of prisons and restriction facilities will continue to be exempted from pension payments as prescribed under the current law. As for the missing, those who have been missing for longer than one year shall be subject to bounden exemption from payment, and those who have been missing less than one year shall be subject to exemption from payment. The Ministry notified the Commission that the provision of the Bill Draft to Amendment that read 'inmates in a prison' was corrected to 'inmates in a prison, etc.' pursuant to Article 2 of the Criminal Administration Act and was submitted to the National Assembly on October 31, 2003.

(6) Presentation of opinions regarding the bill draft on Punishment of Crimes within the Jurisdiction of the International Criminal Court

The government of the Republic of Korea signed the Rome Statute of the International Criminal Court, which had been adopted in July 1998, in 2000 and ratified it in November 2002. It became effective in the Republic of Korea on February 1, 2003. Accordingly, there arose a need for legislation of a law for the implementation of the Rome Statute within Korea. The Ministry of Justice prepared the Bill Draft on Punishment of Crimes within the Jurisdiction of the International Criminal Court (hereinafter referred to as the Bill), and asked the Commission to submit an opinion on the bill on July 16, 2003.

The major content of the bill was about providing for genocide, crimes against humanity, and war crimes that fall under the jurisdiction of the International Criminal Court, and cooperation with the International Criminal Court and procedures of such cooperation.

The bill faithfully covered relevant crimes provided by the Rome Statute. However the bill fails to specifically clarify acts to be prohibited, and what core acts in observance of humanitarian principles are.

The Commission submitted its opinion to the Ministry of Justice that the term 'other non-humanitarian acts' of the paragraph regarding 'crimes against humanity' is too general and unclear. Thus, this sentence should be deleted and the relevant provision should be made clear; provision on punishment should be added in order to prevent abuse of indictment and political power under the bill; and concerning war crimes included in **the** Rome Statute but not included in the bill, in particular, provisions to protect civilians, peace keeping forces and humanitarian assistance under the Geneva Conventions should be included in the bill. The Ministry of Justice is considering the opinion submitted by the Commission.

(7) Presentation of opinions against the bill draft on Amendment to the 'Terror Prevention Act'

The government presented the 'Terror Prevention Bill,' first proposed by the National Intelligence Service to the National Assembly on November 28, 2001. On November 30, 2001, the Commission

requested the Speaker and Chairman of the Information and Telecommunication Committee of the National Assembly that the National Assembly take action for collection of public opinions through public hearings and the like and deliberate the bill after referring to the opinions submitted by the Commission, because the Terror Prevention Bill seriously impinges on the basic rights of the people as guaranteed under the Constitution.

The Commission held a public hearing on the bill on December 7, 2001, collected diverse opinions from citizens at all levels of society including experts, and conducted research and analysis. On February 20, 2002, the Commission expressed its opinion against the legislation of the bill, pointing out that it was highly possible that the bill might violate human rights guaranteed by international human rights laws and the Constitution of the Republic of Korea, and that it was difficult to prevent acts of terror and forecast the effects of repression.

In August 2003, the National Intelligence Service re-proposed the 'amended bill on Terror Prevention' for the establishment of an integrated national system for anti-terror affairs, which had been the responsibility of a number of agencies, and for the establishment of an organization exclusively for anti-terror affairs, arguing that Islamic terrorists were moving into Southeast Asia and posing a threat to the national security of Korea and there were worries over possible retaliatory strikes against nations supporting the Iraq War effort. With deliberations by the Information and Telecommunication Committee of the National Assembly on the amended bill to be held soon, the Commission made another thorough examination on the amended bill, and submitted its opinion to the National Assembly against the 'legislation of Terror Prevention Bill' on October 22, 2003.

The amended bill was reduced in form from the original bill: some provisions of the original bill were deleted. However, the contents of the amended bill still contain those provisions that could lead to violations of the basic rights.

First, the amended bill contains a number of provisions that may infringe on basic rights. It includes one that does not comply with the Constitution, which reads, "No person may be arrested, detained, searched, seized, or interrogated except as provided by law."

Second, there are no instruments to check the power of the anti-terror organization as prescribed in the amended bill, which would naturally lead to limitations of basic rights.

Third, the amended bill provides wider grounds for discrimination against foreigners. It still does not include provisions on legal procedures, which are essential to prevent restrictions on basic rights.

The Commission decided that there was little logical ground for the necessity of legislation of the

amended bill because a number of provisions of the amended bill violate the Constitution and international human rights laws, as follows: 1) as measures for the prevention of terror could be taken under the current laws and systems, there is no need for legislation of another separate law; 2) there were possibilities of violations against the Constitution, such as requests for mobilization of special forces, which might result in the violations of basic rights.

On October 22, 2003, the Commission presented the National Assembly its opinion against the legislation of the amended bill. The amended bill is pending at the National Assembly. If it is not passed during the current session, it will automatically be abrogated.

(8) Presentation of opinions regarding the bill draft on the Amendment to the ‘Assembly and Demonstration Act’

The Committee of Government Administration and Local Autonomy of the National Assembly accepted the bill draft on **the** Amendment to the ‘Assembly and Demonstration Act,’ which integrated and supplemented four bills on the Amendment to the Assembly and Demonstration Act introduced separately to the Committee. The sub-committee of Government Administration and Local Autonomy deliberated four legislative bills submitted and integrated into one bill, which was sent to the plenary session for deliberation on November 19, 2003. The Commission examined provisions of the bill on amendment that might infringe on human rights as follows.

The Commission studied the bill on Amendment regarding the restrictions on the freedom of assembly – the principles of clarity, the principles of excessive prohibition, theory of the benefit and protection of the law, and the principle of clear and existing danger – pursuant to paragraph 1, Article 21 of the Constitution which reads, “All citizens enjoy the freedom of speech and the press, and of assembly and association,” paragraph 2, Article 21 of the Constitution which reads, “Licensing or censorship of speech and the press, and licensing of assembly and association may not be recognized,” the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, and paragraph 1, Article 11 of the European Covenant on the Protection of Human Rights and Fundamental Freedom.

The Commission opposed certain provisions and expressed its opinion that they should be reconsidered. The Commission decided that certain provisions of the bill on the Amendment violated the general principles regarding restriction on basic rights and the principle of clear and existing danger, and excessively restricted the freedom of assembly guaranteed by the Constitution and international human rights laws. The Commission delivered its opinion requesting that: 1) paragraph 1, Article 6 of the bill on amendment be maintained as under the present law, and new measures to prevent assembly for long-term periods and camouflaged assembly be sought. 2) ‘cases where there are possibilities of occurrence of serious damage...’ stated in the paragraph 3-1 of Article 8 of the bill on Amendment be changed to ‘cases where occurrence of serious damages are clear and existing’ 3) ‘the diplomatic machinery’ in the proviso of Article 11-4 and ‘the diplomatic machinery’ in (a) of the proviso be corrected to ‘place of abode of diplomatic machinery or diplomatic mission’ 4) proviso of Article 12-2 be deleted. In order to secure fairness and objectivity under

Article 18-2, the Commission suggested that the 'Advisory Committee on Assembly and Demonstration' be organized and operated, and that the practical authority of the Committee to restrain be provided by law.

2. Recommendations on Government Policies on Human Rights

Under Article 19 of the National Human Rights Commission Act, the Commission made recommendations on seven government policies including the ‘Recommendation on Improvements for Alien Workers Residing in Korea,’ so that the government will uphold human rights as important standards when formulating policies.

<Table 1-1-2>Recommendations on Government Policies on Human Rights

	Title	Contents	Date	Entities concerned	Results
1	Presentation of opinions for improvement of human rights of alien workers residing in Korea	Industrial Trainee System should be abolished; human rights violations against illegal alien workers should be prevented ; the agency receiving and deporting alien workers should be integrated into a government agency	2003. 2.10	Speaker of National Assembly, Prime Minister	Accepted
2	Presentation of Opinions on Hoju System	Expressed opinions on human rights violations of Hoju System	2003. 3.10	Constitutional Court	Under review
3	Presentation of Opinions on the War on Iraq	Expressed opinions against the war and for peace and human rights	2003.3.26	National Assembly	Not accepted
4	Recommendation on NEIS of the Ministry of Education and Human Resources Development	School affairs, educational affairs, admittance and transfer of school, health, personnel records of teaching staff should be excluded from the NEIS	2003.5.12	Ministry of Education and Human Resources Development	Accepted in part
5	Recommendation on Policy to Guarantee Rights to Write of Inmates	Article 33-3 of Criminal Administration Act, and Enforcement Decree of Criminal Administration Act should be revised to guarantee inmate’s rights to write	2003.8.25	Ministry of Justice	Accepted
6	Recommendation on ‘Gun-mi-chu,’ an association of candidate teachers suffering disadvantages due to military service.	Recommended that remedial measures for members of ‘Gun-mi-chu’ be formulated and implemented	2003.9.25	Ministry of Education and Human Resources Development	Not accepted
7	Presentation of opinions on elimination of discrimination against hepatitis B virus (HBV) carriers	Provisions of Article 3-1 of the Regulation concerning Physical Examination for State Public Officials Employment, which may violate the right to equality and freedom to choose occupation of the HBV carriers, should be deleted	2003.10.22	Ministry of Government Administration and Home Affairs	Accepted

(1) Presentation of opinions for improvement of human rights of alien workers residing in Korea

The Commission expressed its opinion on the ‘measures to improve the alien manpower system’ on August 12, 2002. In November 2002, the government announced the ‘measures to supplement the alien manpower system,’ but these measures hardly satisfied the recommendations of the Commission. The ‘survey on conditions for alien workers residing in Korea’ revealed that alien workers still suffer long working hours, low wages, poor working environments, delays in payments, and industrial disasters.

To address the problem, the Commission recommended to the Speaker of **the** National Assembly that the pending ‘Bill on Work Permits and Human Rights Protection of Alien Workers’ be supplemented and legislated at the earliest possible date in order to introduce work permits, under which wages and working conditions of alien workers could be raised to match those of Korean workers. To this end, the Commission made recommendations as follows:

In order to protect human rights during crackdowns on illegal alien workers, the law should be applied equally as for Korean nationals. In cases where the workers are detained and taken to police stations, the authorities must disclose the locations to which they are being taken and grant them the opportunity to make phone calls to inform their families and friends of their situation.

Clause 1, Article 84 of the Immigration Control Act should be amended to allow for relief applications by alien workers and the education of their children.

As industrial trainees who entered Korea under the Industrial Training System are actually employed, they are not recognized as workers. As a result, both industrial trainees and unregistered illegal alien workers are pressed to work long hours; their wages are withheld; and their passports are seized. Thus, the Industrial Trainee System should be abolished.

The reason for the vast number of illegal alien workers is the extremely high cost of the immigration process. To reduce immigration costs, the agency for receiving and deporting alien workers should be integrated into a government agency so that irregularities in handling alien workers on their arrival and departure can be eradicated at the source, thereby removing the major cause of illegal alien status.

Since an increasing number of women are entering Korea with “art and entertainment” (E-6) visas, and many of those women have not only become involved in the nation’s sex industry but also have become victims of sexual assault, the E-6 visa system must be re-examined and the Immigration Office must take steps to ensure that these visas are issued according to their original intent. The basic guidebooks on the immigration process and immigrant workers’ rights are translated in more than 10 different languages and should be published and made readily available.

After the recommendation of the Commission was issued, the ‘Foreign Workers Employment Act’ was

legislated and the Work Permit System was introduced. Most of the recommendations, except that on the Industrial Trainee System, were accepted.

(2) Presentation of Opinions on Hoju System

Under Article 28-1 of the National Human Rights Commission Act, which reads ‘..... the Commission may present its opinions on *de jure* matters to the competent division of the court of the Constitutional Court,’ the Commission decided to submit its opinion regarding the Korean Hoju [Family Registry] System to the Constitutional Court, which is currently reviewing two cases challenging the constitutionality of the system and applicable laws. While these cases are pending at the Court, the Commission reviewed the family registry system and concluded that the system is unconstitutional and a human rights violation. Clause 1, Article 36 of the Korean Constitution stipulates that ‘Marriage and family life are entered into and sustained on the basis of individual dignity and equality of the sexes, and the State must do everything in its power to achieve that goal.’ However, the current provisions related to the family registry system under Article 778 and 781(1) of the Civil Act are problematic as follows:

The current provisions related to the family registry system under Article 778 and 781(1) of the Civil Act, which includes the domestic relations law (i.e., family law), prescribe that “A person who has succeeded to the family lineage shall become the head of a family. ... A child shall succeed his or her father's surname and origin of surname and shall have the name entered into his or her father's family register...”

The Commission found that such provisions either make a whole family subordinate to the head of the family or make women subordinate to men. In addition, such a legal system prevents the formation of equal relationships within a family by creating rank and hierarchy. Thus, it violates the individual freedom to marry, in some cases, because the marriage certificate is not recognized as legal if the head of family is either unlisted or both the man and woman are listed as head of family. In addition, the provisions of the family law violate the freedom of family formation because in case of divorce such provisions prevent the children of the divorced couple from registering under their mother’s family registry. As a result, the rights of women (as mothers, daughters, and wives) are violated because of traditional, outdated practices emphasizing paternal lineage, which require children to take the father’s name and reserves the position of head of family for men.

Therefore, the Commission determined that the Hoju System imposes hierarchical family relationships and prioritization of paternal lineage without logical reason and thus violates the provisions of the Korean Constitution, which assures human worth and dignity and guarantees the right to pursue happiness and the right to equality of individuals as well as between genders in the marriage relationship. The Commission submitted its opinion to the Constitutional Court on March 10, 2003. The Constitutional Court is reviewing the opinion.

(3) Presentation of Opinions on the War on Iraq

The Commission has been entrusted by the people of Korea with the duty to protect **and** advance the cause of human rights, according to the Universal Declaration of Human Rights. As a national institution, the Commission has the responsibility and duty to protect the right to life and safety of the citizens of Korea, and to promote the principles and values of the Constitution of the Republic of Korea, which promotes world peace and renounces wars of aggression. The Commission delivered its opinion on the war on Iraq to the government and the National Assembly as mandated by Clause 1, Article 19 and Clause 1, Article 25 of the National Human Rights Commission Act as follows.

1. The UN Security Council Resolution passed in November 2002 does not expressly stipulate military invasion if Iraq fails to comply with disarmament of weapons of mass destruction, nor does it approve of US military action or interference related to regime change.
2. The United States maintains that civilian casualties will be minimized. However, after indiscriminate US bombardment of Iraq, the number of civilian casualties has increased greatly. As full-scale ground combat begins in the near future, these numbers can only multiply.
3. Anti-war rallies are currently gathering momentum all around the world. In South Korea, 700 civic organizations have formed a coalition groups called “Joint Committee for Peace not War” to formally express their anti-war position, and with each passing day, the peace movement is gaining wider support.
4. The preamble of the Constitution of the Republic of Korea pledges to contribute to world peace and the mutual prosperity of humankind, and Clause 1, Article 5 states, “The Republic of Korea shall endeavor to maintain international peace and shall renounce all aggressive wars.”
5. As the history of humankind shows, peace without human rights and human rights without peace is a groundless illusion. The Commission hopes the Iraqi people will be able to solve their own problems in a peaceful and humanitarian way following the conventions of international law and international human rights institutions.
6. Since the 1991 Gulf War, hundreds of thousands of Iraqi people have died of disease and hunger. Even with technological advances, modern warfare cannot avoid large-scale loss of human life.
7. The South Korean government and the National Assembly must take future national interests and humanitarian issues into consideration on the war on Iraq. The situation in Iraq can be directly linked to the issue of North Korea in the future, and action that is currently being decided can be an important yardstick for decisions when tensions are high on the Korean peninsula. The Commission highly recommends that the government and the National Assembly approach the issue using the principles of anti-war, peace, and human rights.

(4) Recommendation on NEIS of the Ministry of Education and Human Resources Development

The Ministry of Education and Human Resources Development has been preparing the National Education Information System (NEIS). Under the new system, information on students and parents needed for providing guidance to students, which has been collected and maintained by principals of schools, will be collected into an integrated database of sixteen metropolitan and provincial educational agencies and maintained as one integrated system through a high-speed communication network. The Commission examined the NEIS to determine if it violates privacy and freedom; to ascertain the legal ground for the NEIS and backdrop of the establishment of the NEIS; and to determine if there could be human rights violations in personnel management of educational government officials with regard to the 27 areas included in the NEIS, such as school affairs, educational affairs, admittance and transfer of schools, and problems related to health problems. The examination revealed problems as follows:

1. There is little legal ground to integrate personal information collected and prepared at a school into NEIS, nor any legal ground to provide such information to other organizations. Even if there is legal ground, NEIS does not satisfy the requirements for 1) the balance of the benefit and protection of the law, 2) minimum damage 3) appropriateness of means 4) and appropriateness of the methodology, despite the fact that the NEIS could threaten the right to privacy.
2. The damage due to leakage of information in NEIS would be much more serious than the leakage of information from the existing CS system.
3. The Personnel Management Card for educational government officials indicates the name of the head of a family, whether military service is completed or not, blood type, and assets owned. This kind of information is meant to rationalize the personnel management system, but its inclusion is also against the general principle of the protection of private information, which requires limitations on collection and use of information.
4. The NEIS, a standardized quantified information system, may compromise the independence, professionalism, and the autonomy of educational institutions as guaranteed by Article 31 of the Constitution, ultimately reducing the quality of education system-wide. As a result, it may also infringe on the rights of citizens to receive quality education.

On May 12, 2003, the Commission presented its opinions to the Ministry of Education and Human Resources Development requiring that four of the 27 areas under the NEIS (school affairs, educational affairs, admittance and transfer of school, and health) where the possibility of human rights violations are very high be excluded from the NEIS. The 'Regulations on the Recording of Personnel Management of Educational Government Officials and Personal Management Administration' should be revised so that 26 questions on the Personnel Management Card that could be violations of privacy are excluded from the NEIS. It also recommended that measures be taken to improve the security system of CS so that human rights violations such as violations of privacy due to leakage of personal information cannot occur.

(5) Recommendation on Policy to Guarantee Rights to Write of Inmates

Since the Commission was established, a total of 162 complaints regarding the right to write of inmates in detention facilities had been filed with the Commission by July 2003, showing that the violation of the right to write occur frequently. The Commission studied and analyzed such complaints and found problems as follows:

1. It is impossible for inmates to write complaints/petitions, letters if prison officers do not permit inmates to write a report on writing first, a preliminary process of writing.
2. Writing to state problems of a prison, what should be improved or complaints about prison officers, or writings for the relief of inmate's own rights are bound to the staff of the prison, in most cases. This right to write of inmates is compromised by means of conciliation and threats by prison officers.
3. As tools needed for writing are excessively restricted, it is difficult to write freely.
4. As writing is not permitted during periods of punishment and investigation on punishment, the right to write is violated. Under the current law, writing by inmates is subject to permit (Article 33-3 of Criminal Administration Act, Articles 2 and 3 of the Guidelines for the Operation of Writing of Inmates, Articles 3-33 of Regulation on Disciplines and Punishment of Inmates, Article 17 of the Rules governing Use of Restraining Devices). These laws stipulate that dispatch of documents written by inmates while the author is detained or carrying the documents when the author is released should be permitted. (Article 67 of the Criminal Administration Act). Under such circumstances, the right to write of inmates is restricted, and it is difficult for inmates to prepare a petition.

After examining the applicable laws, guidelines, and regulations regarding writing by inmates and given the reality of life in detention, the Commission concluded that the right to write of inmates should be guaranteed because it was the first step for inmates to communicate with outside and because it is a right by which other rights, such as the right to petition, are guaranteed. In order for an inmate to object to treatment in detention facilities and to take remedial actions to ensure rights guaranteed by law, such as the right to an interview with the prison warden, petition, and make complaints, then the inmate's rights of accusation, administrative decision, administrative litigation, civil suits, and filing civil petitions, and to write should be guaranteed. Taking all factors into consideration, the Writing Permit System stipulated in Article 33-3 of the current Criminal Administration Act may not comply with the Constitution. Clause 2, Article 21 of the Constitution states, "Licensing or censorship of speech and the press, and licensing of assembly and association may not be recognized."

The Commission made a recommendation to the Minister of Justice that Article 33-3 of Criminal Administration Act, which states, "an inmate can write documents or do painting with permission from the prison warden," be revised so that the Writing Permit System shall be abolished; and

provisions concerning writing by inmates contained in Regulations on Discipline and Punishment of Inmates, Guidelines for the Operation of Writing of Inmates, and Rules of Roll Call of the Enforcement Decree of Criminal Administration Act should be revised to fit the purpose of the Constitution.

The Ministry of Justice fully accepted the recommendation issued by the Commission. The Ministry ordered all the heads of detention facilities to not prohibit inmates from writing for relief of their rights such as making accusations and petitions, and when documents are to be sent to outside, permits should be made in accordance with applicable laws. The types of writing tools to be permitted was widened to include all ball pens, mechanical pencils, transparent pens, marker, and white out that do not pose threats to security.

3. Recommendation on Implementation of International Human Rights Standards in Korea

The purpose of examining the State reports to international human rights treaties by the Commission is to seek ways to improve domestic laws and current systems related to the international treaties and covenants and to check whether the government is practically fulfilling its duties under the treaties beyond superficial application of the law and establishment of institutions.

As Table 1-1-3 shows, by Article 19 of the National Human Rights Commission Act, the Commission expressed its opinions on two government reports, including the Fifth State Report on the Implementation of the Convention on the Elimination of All Forms of Discrimination against Women (**CEDAW**), to the Ministry of Foreign Affairs and Trade and other relevant ministries. It recommended that Korea accede to international human rights conventions including the ‘Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.’

<Table 1-1-3> Recommendation on Implementation of International Human Rights Standards in Korea

	Title	Contents	Date	Entities concerned	Results
1	Presentation of opinions on the Fifth State Implementation Report on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	Presented specific opinions on prohibitions against marriage between couples with <u>the same surname and the same family origin</u> , adoption of family name, definition of discrimination and participation of women	2003.1.22	Ministry of Foreign Affairs, Ministry of Gender Equality	Under review
2	Recommendation on Accession to International Conventions	Recommended accession to ‘Optional Protocol to the Convention on the Elimination of Discrimination against Women,’ ‘Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict,’ and ‘Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography.’	2003.12.8	Prime Minister, Ministry of Foreign Affairs, Ministry of Justice	Under review
3	Presentation of	- Materials and statistics on measures or	2003.12.8	Ministry of	Under review

	opinions on the 2nd State implementation Report on the Convention Against Torture	action plans for implementation of the Convention should be obtained, consideration on unlawful practices of investigation should be given, and ground data and an accurate period for statistics should be presented. – National Security Act and Hanchongryeon, trade union, treatment of inmates under detention, domestic laws on investigation under duress, and presentation of lawyers at questioning should be supplemented or corrected		Foreign Affairs,	
4	Recommendation on the implementation of ICCPR, Elimination of Racial Discrimination Convention, and the Convention Against Torture	Recommended that measures to implement the decisions of UN Human Rights Commission on communications submitted by individuals be taken and that an explicit acceptance statement be made on the communication by the State Party under the Convention Against Torture and communication by individuals	2003.12.8	Prime Minister, Ministry of Foreign Affairs, Ministry of Justice	Under review

Acceptance of decision status is as of the end of May 2004

(1) Recommendation on Accession to International Conventions

On December 8, 2003, The Commission issued an recommendation to the government to accede to ‘Optional Protocol to the Convention on the Elimination of Discrimination against Women,’ ‘Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict’ and ‘Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.’

The ‘Optional Protocol to the Convention on the Elimination of Discrimination against Women’ stipulates that individual communications procedure for victims of a violation of any of the rights in order for women to fully and equally enjoy human rights and basic freedom. It promotes remedy of rights of women throughout the world.

The ‘Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict’ under the ‘Convention on the Rights of the Child’ prohibits enlistment of children under 18 years old, except for voluntary enlistment. However, Korean Military Service Law does not stipulate requirements for voluntary enlistment of children, though it satisfies the standard for age under the Protocol. Thus, the law should include provisions on requirements. The ‘Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography’ stipulates that crimes

relating to sexual exploitation of children and child pornography constitute crimes stipulated by the Extradition Treaty. When Korea accedes to these international conventions and the protocols to these conventions, protective measures for women and children, who need special protection, will be strengthened, and those rights recognized in these conventions will be realized in Korea. Accession to these optional protocols will also let the international community know that the Korean government is making full efforts to observe international standards.

(2) Recommendation on Legislation of the Special Act on Remedial Procedures in Compliance with the Individual Communications of the UN Human Rights Treaties and Recommendation on Articles 21 and 22 of the UN Convention against Torture

On December 15, 2003, the Commission recommended the Prime Minister, Minister of Foreign Affairs and Trade, and Minister of Justice that the decisions of UN human rights treaty bodies from individual communications procedure be announced in the Official Gazette; that a special law to implement such decisions be legislated; and that an explicit acceptance statement on the State reporting procedure under Article 21 of the Convention Against Torture and individual communications procedure under Article 22 of the same treaty.

Although international human rights covenants to which the Republic of Korea has acceded and promulgated have the same effect as the domestic laws of the Republic of Korea, when rights guaranteed by international human rights covenants are violated, there is no way to practically remedy such violations in Korea. When the UN Human Rights Committee determines that the government of Republic of Korea has violated human rights, there is no way to compel required compensation in Korea. Thus, a special law should be legislated so that victims can be compensated by the government based on the law. This is the way for Korea to faithfully fulfill its duties as a State Party to the Covenant.

As the Korean government has not made an explicit acceptance declaration on what is prescribed in Articles 21 and 22 of the Convention against Torture, the State reporting procedure (Article 21) and the individual communications procedure (Article 22) do not have effect in Korea. The government should declare acceptance of these two articles so that citizens of Korea can employ the remedies for rights guaranteed by the Convention.

In order to systematize the individual communications for remedy of rights of individuals, the decisions on the individual communications by the UN human rights treaty bodies should be implemented in Korea. The Korean government should take appropriate measures to properly compensate those victims of human rights violations who have not yet received proper remedial treatment because there has been no legal ground. At the same time, the government should let the people know about the availability of valid remedial means for rights infringements by announcing the decisions on individual communications by the UN human rights treaty bodies in the Official Gazette, and declare that the government will implement such decisions.

Chapter 2

Consultation and Advice on Human Rights and Handling of Complaints

Section 1. Receiving Complaints and Providing Counseling

1. Overview

The Commission received a total of 35,666 civil complaints from November 26, 2001, when the Commission was launched, to December 31, 2003. Of these complaints, 7,408 were complaints, 8,508 were requests for counseling, and 19,759 were requests for guidance. The number of civil complaints filed in 2003 alone totaled 19,416, of which 3,815 were complaints, 5,261 were requests for counseling, and 10,340 were requests for guidance, representing increases of 36.7%, 83.4% and 36.8%, respectively, from the year before. The number of requests for counseling increased the most sharply in 2003.

<Table 2-1-1> Annual Statistics on Complaints Filed Unit: case (%)

	Complaints						Counseling					Guidance					Total
	Visitation		By phone	By mail/Fax	By Internet	Sub-total	Visitation		By phone	By mail/Fax	Sub-total	Visitation	By phone	By mail/Fax	By Internet	Sub-total	
	Inter-view	Face-to face					Inter-view	Face-to face									
'01	247	5	203	310	38	803	128	3	247	-	378	129	1,713	10	-	1,852	3,033
'02	445	553	177	1,442	173	2,790	639	302	1,928	-	2,869	686	6,357	299	216	7,558	13,217
'03	555	1,129	76	1,760	295	3,815	890	878	3,487	6	5,261	592	7,930	621	1,197	10,340	19,416
Total	1,247	1,687	456	3,512	506	7,408	1,657	1,183	5,662	6	8,508	1,407	16,000	930	1,413	19,750	35,666

Because the statistics for 2001 and 2002 were consolidated under the new Human Rights Integrated Information System established in 2003, the 2001 and 2002 figures on this table may differ from those in the 2003 Annual Report.

In 2002 report, e-mail, regular mail, and fax filings were totaled into one item, but in 2003 (this report) civil complaints filed over the Internet are categorized as a separate item under 'Internet.'

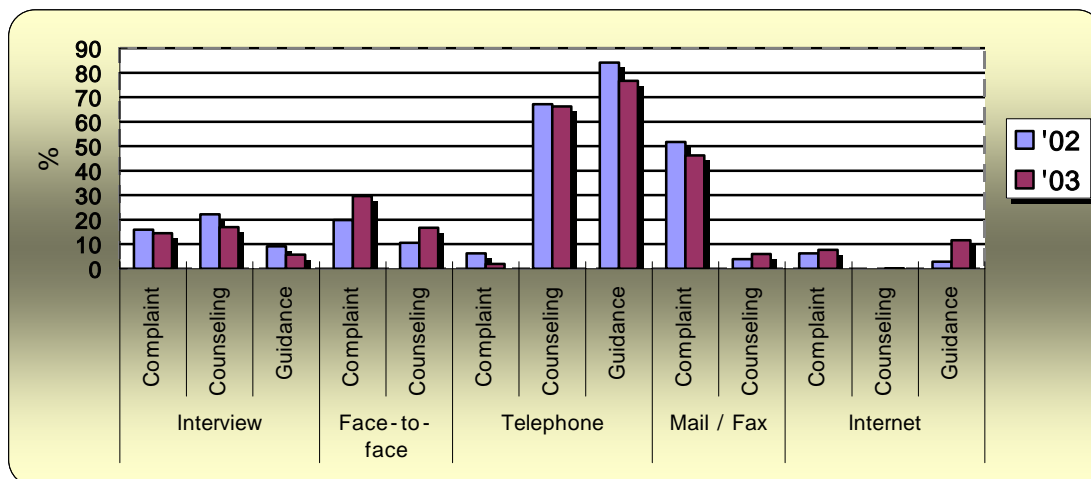
(1) Complaints Received by Channel

Complaints are categorized under visitation, phone, regular mail/fax, and Internet according to means of filing. Complaints filed through visitation are further divided into 'interview' and 'face-to-face.' 'Interview' means that the complaints were filed by complainants in person before the Commission, while 'face-to-face' refers to the complaints received by a commissioner or staff of the Commission visiting detention facilities to receive complaints face-to-face at the request of detainees.

As Table 2-1-1 shows, out of total 3,815 complaints filed in 2003, those filed through regular mail/fax totaled 1,760, accounting for 46.2%, followed by face-to-face complaints at 1,129 cases, or 29.6%. Complaints filed through interviews totaled 555, or 14.5%, and those filed over the Internet through e-mail and the homepage totaled 295, accounting for 7.7% of total complaints filed. Complaints filed over the

telephone totaled 76 cases, or 2.0%. Compared with 2002, face-to-face complaints increased sharply to 1,129 in 2003 from 553, with the percentage against the total complaints rising to account for 29.6% in 2003 from 19.8% in 2002, while the ratio of telephone complaints dropped from 6.3% to 2.0% for the same period.

<Figure 2-1-1> Ratio of Complaints Filed by Channel



As Table 2-1-1 shows, 66.3% of the 3,487 cases counseled were counseled by telephone. Face-to-face counseling sessions totaled 878, accounting for 16.7% of all counseled sessions. Cases in which counseling was offered include those that could be solved at the scene immediately upon the visits by members or staff of the Committee to the facilities to have interviews and those cases closed because the complainants wanted only counseling rather than to file complaints.

In 2003, the number of cases in which guidance was provided and replies were made to various inquiries and questions to the Commission through the Internet and by regular mail/fax increased sharply. Guidance and replies through regular mail and fax increased 107.7% to 621 cases in 2003 from 299 cases in 2002. Guidance service through the Internet became particularly active in 2003. Provision of guidance and replies through the Internet jumped to 1,197 cases, an astonishing increase of 454.2% from 2002.

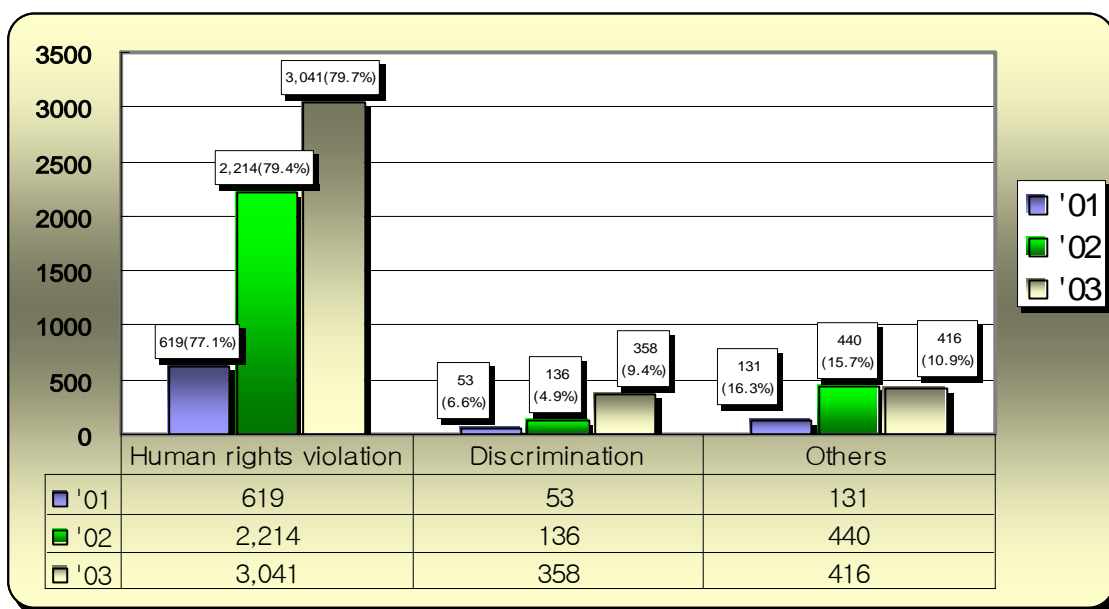
2. Categorization of Complaints Received by Type

(1) Complaints Received

Of the total 3,815 complaints received in 2003, 3,014 were complaints about human rights violations, which accounted for 79.7% of the total, while complaints about discrimination accounted for 9.4% at 358 cases. Other complaints (excluding human rights violations and discrimination) totaled 416 cases to account for 10.9% of the total. It is noteworthy that discrimination-related complaints increased more than 2.5 times in 2003 from 2002, with its ratio against total complaints rising to account for 9.4% from 4.9%. In contrast, the ratio of cases other than these two decreased to 10.9% in 2003 from 15.7% in 2003.

<Figure 2-1-2> Categorization of Complaints

Units: Case, %



Human rights violation complaints refer to those concerning violations of human rights (guaranteed under Articles 10 through 22 of the Constitution) committed by government agencies, local governments, or detention/protective facilities while executing their duties. These complaints are further divided into human rights violations by prosecutors, police, the National Intelligence Service, special law enforcement officers, local governments, judicial agencies, legislative agencies, other state agencies, detention facilities, protective facilities, military prosecutors, military police, the Defense Security Command (DSC), military detention facilities including military prison/military detention centers, and other military institutions/agencies.

In accordance with Paragraph 2, Article 30 of the National Human Rights Commission Act, the complaints of discriminatory conducts are categorized into violations of equal rights by government agencies, local governments, and detention or protective facilities, and discriminatory acts by corporations, organizations, or private individuals in (1) employment, (2) supply or use of goods, services, transportation, commercial

facilities, land, or residential facilities, and (3) use of educational facilities or vocational training facilities on the grounds of disability, history of disease, social status, regional, national or ethnic origin, race, skin color, marital status, pregnancy or maternity, familial status, sexual orientation, age, physical conditions such as countenance, beliefs, or political opinion, or past criminal record for which time has been served.

<Table 2-1-2> Classification of Complaints by Type

Units: Case, %

Human Rights Violation			Discriminatory Acts			Others		
	2002	2003		2002	2003		2002	2003
Total	2,214 (100.0)	3,041 (100.0)	Total	136 (100.0)	358 (100.0)	Total	440 (100.0)	416 (100.0)
Prosecutors	195 (8.8)	173 (5.7)	Disability	19 (14.0)	14 (3.9)	Violation by private individuals	85 (19.3)	43 (10.4)
Police	705 (31.9)	702 (23.1)	Disease history	8 (5.9)	15 (4.2)	Corporations	22 (5.0)	11 (2.6)
NIS	15 (0.7)	5 (0.2)	Social status	23 (16.9)	36 (10.0)	Other organizations	7 (1.6)	3 (0.7)
Special law enforcement officers	31 (1.4)	26 (0.9)	Regional origin	2 (1.5)	2 (0.6)	Infringements of property right	23 (5.2)	12 (2.9)
Local governments	26 (1.2)	81 (2.7)	National origin	11 (8.1)	9 (2.5)	Statutes or systems	134 (30.5)	166 (39.9)
Judicial agencies	16 (0.7)	35 (1.2)	Ethnic origin	-	1 (0.3)	Legislation or litigation	31 (7.0)	22 (5.3)
Legislative organs	-	2 (0.1)	Race	1 (0.7)	-	Others	138 (31.4)	159 (38.2)
Other state agencies	124 (5.6)	201 (6.6)	Skin color	-	-			
Detention facilities	1,025 (46.3)	1,686 (55.4)	Gender	7 (5.1)	34 (9.5)			
Protective facilities	25 (1.1)	57 (1.8)	Marital status	2 (1.5)	4 (1.1)			
Military prosecutors	1 (0.0)	1 (0.0)	Pregnancy/ Maternity	-	15 (4.2)			
Military police	6 (0.3)	4 (0.1)	Familial status	-	2 (0.6)			
DSC	3 (0.1)	3 (0.1)	Sexual persuasion	3 (2.2)	2 (0.6)			
Military detention	3 (0.1)	6 (0.2)	Age	4 (2.9)	21 (5.9)			

facilities								
Other military facilities	39 (1.8)	59 (1.9)	Countenance, etc.	2 (1.5)	4 (1.1)			
			Religion	4 (2.9)	5 (1.4)			
			Political opinion	3 (2.2)	7 (2.0)			
			Criminal record	6 (4.4)	1 (0.3)			
			Equal rights violation	38 (28.0)	127 (35.4)			
			Academic background/ cliques	-	27 (7.5)			
			Others	3 (2.2)	32 (8.9)			

As is shown in Table 2-1-2 above, 1,686 complaints out of 3,041 human rights violation complaints were filed against detention facilities including prisons, accounting for 55.4% of the total. This 2003 figure is an increase of 46.3% from the year before, which shows that human rights violations at detention facilities remain the most serious problem. Next came complaints against police and prosecutors at 173 and 702 cases, respectively, showing slight decreases from 195 and 705 cases filed in 2002, with their shares of the total human rights violation complaints dropping to 5.7% and 23.1% in 2003 from 8.8% and 31.9%, respectively, in 2002. The share of human rights violations by local governments increased to 2.7% of the total in 2003 from 1.2% in 2002.

A total of 358 complaints were filed concerning discriminatory acts. Of these, 127 cases, or 35.4% of the total, were against equal rights violations by government agencies, local governments, and detention/protective facilities.

In 2003, complaints about discrimination on the grounds of gender and age increased to account for 9.5% and 5.9% of the total, from 5.1% and 2.9% the year before, respectively, while the percentage of cases of discrimination due to disability decreased to 3.9% from 14.0% from the year before. Until 2002, cases of discrimination based on academic background and academic cliques were included in the discrimination against 'social status' category, but in 2003, given that discrimination based on academic background and academic cliques accounted for the bulk discrimination complaints against social status and emerged as an important social issue, such discrimination was categorized as a separate item, in addition to the 18 discriminatory acts prescribed by the Commission Act. As the result, complaints concerning discrimination against academic background and academic cliques totaled 27 cases, accounting for 7.5% of total discriminatory act complaints filed for 2003.

Of 416 cases grouped into the 'Others' category, most fell outside the jurisdiction of the Commission as they were mostly complaints regarding property disputes and infringements by private individuals.

(2) Face-to-face Complaints Received

As Table 2-1-3 shows below, of the total 2,615 complaints received, 1,129 were filed after interviews with staff of the Commission, accounting for 43.2% of total face-to-face complaints. 878 cases, or 33.6% of the total were closed through counseling after interviews. A total of 593 applications for face-to-face complaints, or 22.7% of the total complaints, had been withdrawn, where either the applicants withdrew their requests for interviews before staff of the Commission could pay visits to the facilities or even after staff visited the facilities.

The number of pending face-to-face complaints accumulated in 2003 increased to 154 from 139 in 2002. However, given the fact that the number of applications increased more than doubled to 2,615 in 2003, the ratio of pending complaints dropped to 5.9% from 11.2%. This is attributable to the increase in staff recruitment of the Commission, efforts of the Commission to improve expertise in related work, and increased efficiency in the face-to-face complaints filing process.

<Table 2-1-3> Face-to-face Complaints by Facility

Units: Case, %

	2002					2003				Accumulated pending cases
	Application	Withdrawal	Filed	Closed	Pending	Application	Withdrawal	Filed	Closed	
Total	1,243 (100.0)	241 (19.4)	556 (44.7)	307 (24.7)	139 (11.2)	2,615 (100.0)	593 (22.7)	1,129 (43.2)	878 (33.6)	154 (5.9)
Correction facilities	1,234	241	548	306	138	2,595	590	1,122	870	152
Military detention facilities	-	-	-	-	-	1	-	1	-	-
Police	5		5	-	-	7	3	2	-	1
Protective facilities	4	-	3	1	1	12	-	4	8	1

The number of applications is the sum of those withdrawn plus filed plus closed. However, the sum does not match in some cases because the detainees were transferred to other facilities after having requested face-to-face interviews. Such cases are recorded to the facilities to which the detainees were transferred rather than the facilities from which they originally filed complaints.

Nearly all face-to-face complaints were filed by detainees of correction facilities. Requests for face-to-face complaints by internees at protective facilities numbered 12, those by detainees at police jails numbered seven, and there was only one such request from military detention facilities, accounting for a very small percentage of total face-to-face complaints.

3. Analysis of Cases Counseled

(1) Classification of Cases Counseled by Purpose

<Table 2-1-4> Counseling Cases by Type

Units: Case, %

Type	Total (%)	Interview (%)	Telephone (%)	Internet (%)
Total	4,383 (100.0)	890 (100.0)	3,487 (100.0)	6 (100.0)
Human rights violation	1,766 (40.3)	294 (33.0)	1,471 (42.2)	1 (16.7)
Discriminatory act	395 (9.0)	63 (7.1)	332 (9.5)	-
Others	2,222 (50.7)	533 (59.9)	1,684 (48.3)	5 (83.3)

Of 4,383 total cases closed after counseling without filing of complaints, 1,766 concerned human rights violations, which accounted for 40.3% of the total cases counseled. Cases counseled relating to discriminatory acts numbered 395, accounting for 9.0%, while cases counseled categorized as ‘Others’ totaled 2,222 cases, accounting for 50.7%. More cases of human rights violations were counseled in both interviews and over the telephone than those of discriminatory acts. More of the cases in the ‘Others’ category were handled by interviews than by telephone.

a. Human Rights Violations

As shown on Table 2-1-2, detention facilities accounted for the highest portion of human rights violation complaints, 55.4%. Police were the subject of the highest number of cases counseled, 676 cases or 38.3% of the all cases counseled 2003. Government agencies including central government administrative agencies and special administrative agencies accounted for 313 cases counseled, or 17.7%, prosecutors accounted for 269 cases, or 15.2%, and local governments accounted for 129 cases, or 7.3%.

In 2002, cases of counseling on human rights violations against police totaled 442, or 47.9% of the total cases counseled. Though the absolute number of such cases in 2003 was higher at 676, the percentage was lower at 38.3%. Counseling against prosecutors dropped to 15.2% in 2003 from 16.1% in 2002. In contrast, cases against government agencies increased to 17.7% in 2003 from 10.1% in 2002.

Many of the cases counseled against prosecutors, police officers, the National Intelligence Service, military prosecutors, military police, Defense Security Command, and special law enforcement officers concerned (1) partiality and unfair investigation, (2) violence, cruel conduct, excessive use of guns or other such devices, (3) violation of the right to personal dignity such as excessive searches of body and abusive language.

Many cases counseled against other government organs and local government offices concerned (1) violations of law, inappropriate acts, (2) violations of the right to personal dignity due to abusive language, insults, reproaches, unkindness, and the like, and (3) needed improvements to the administrative procedures and system.

In connection with detention/protective facilities, the majority of the cases counseled concerned (1) inappropriate/inadequate medical treatment, (2) violence and cruel conduct, and (3) unfair treatment. At protective facilities with large numbers of detainees, counseling was requested usually with regard to (1) forced confessions (2) violence and cruel conduct, (3) violations of the right to personal dignity due to abusive language, insults, reproaches, and unkindness.

Most of the cases counseled in connection with military organs concerned (1) violence and cruel conduct, (2) violations of the right to life, and (3) irrational administrative systems.

<Table 2-1-5> Human Rights Violation Counseling by Cause

Units: Case, %

		2002	2003
Total		922 (100.0)	1,766 (100.0)
Prosecutors, police officers, NIS, special law enforcement officers, military prosecutors, military police, DSC	Sub-total	608 (65.9)	985 (55.8)
	Questioning by patrolling policemen, unfair confiscation, search, inspection, wiretapping, excessive force	32	55
	Violence, cruel conduct, excessive use of guns or other such devices	117	197
	Violation of the right to personal dignity such as excessive searches of body	72	98
	Partiality and unfair investigation	252	369
	Illegal arrest, forced companion, inappropriate holding	44	59
	Entrapment, securing evidence by illegal means and coercion	24	29
	Failure to notify victim of rights, failure to notify victim's family	2	11
	Restrictions on interview and transport	2	3
	Infringements on right to know	5	16
	Abuse of the right of arraignment	14	32
	Failure to delete criminal record after elapsed time	2	9
	Classification of case into unfair category	4	15
	Leaking of information on the suspect	2	7
	Refusal to give or limitation on right to medical care	2	12

	Insufficient protective measures for the weak and victims of the society	9	11
	Others	25	62
	Sub-total	145 (15.7)	481 (27.2)
Other government agencies, local governments	Violation of law, inappropriate acts	33	106
	Negative action, such as omission	17	54
	Violence and cruel conduct	6	34
	Violation of the right to personal dignity	17	78
	Violation of privacy	13	45
	Violation of right to be informed	9	13
	Unfair treatment of government officials	4	14
	Inadequacy of administrative works and system	23	68
	Limitation on entry into, and departure from the country	11	33
	Others	12	36
		Sub-total	85 (9.2)
Detention/protective facilities (including military detention facilities)	Inappropriate medical treatment	29	37
	Limitation on remedy of right	8	6
	Limitation on writing of letters	3	6
	Wrongful/unfair investigation, punishment	10	7
	violence and cruel conduct	19	19
	Unfair treatment	11	19
	Others	5	14
		Sub-total	42 (4.6)
Protective facilities	Forced confessions	16	58
	Violence and cruel conduct	14	29
	Limitation on transportation to outside	1	6
	Inappropriate/inadequate medical treatment	3	5
	Forced labor	4	2
	Violation of the right to personal dignity	1	7
	Facility and environmental problems	2	2
	Others	1	8
Military organs (Military investigation organs, military detention facilities excluded)	Sub-total	42 (4.6)	75 (4.2)
	Violation of right to life	16	14
	Violence and cruel conduct	3	26

	Violation of the right to personal dignity	0	1
	Inappropriate/inadequate medical treatment	5	7
	Irrational administrative system.	10	10
	Others	8	17

b. Discriminatory Acts

Of all counseling relating to discriminatory acts, cases of counseling on discrimination concerning equal rights violations by government agencies amounted for 46.8% of total cases, a higher than that of discrimination cases by corporations, groups, and private individuals which collectively accounted for 41.8% of the total. Counseling on discrimination by educational institutions such as national, public, and private kindergartens, elementary schools, middle schools, high schools, and colleges accounted for 11.4% of all cases. Compared with 2002, the share of counseling cases on discrimination by the government dropped to 46.8% in 2003 from 65.6%, while the share of discrimination counseling by corporations, groups, and private individuals rose to 41.8% from 29.4% of the total. The percentage of cases of discrimination by educational institutions rose to 11.4% from 5.0%.

<Table 2-1-6> Types of Discrimination Cases Counseled Units: Case, %

	Government agency (%)		Corporation/Group/Private individual (%)		Educational institute (%)	
	2002	2003	2002	2003	2002	2003
		118 (100.0)	185 (100.0)	53 (100.0)	165 (100.0)	9 (100.0)
Disability	6 (5.1)	16 (8.6)	10 (19.0)	28 (17.0)	2 (22.2)	4 (8.9)
Social status	9 (7.6)	28 (15.1)	9 (17.0)	36 (21.8)	1 (11.2)	9 (20.0)
Nationality	6 (5.1)	11 (5.9)	6 (11.3)	12 (7.4)	-	-
Disease history	4 (3.3)	3 (1.6)	3 (5.7)	9 (5.5)	-	1 (2.2)
Gender	-	4 (2.2)	6 (11.3)	17 (10.3)	-	4 (8.9)
Age	3 (2.5)	13 (7.0)	2 (3.7)	16 (9.7)	-	4 (8.9)
Birth place	-	6 (3.2)	2 (3.7)	1 (0.6)	-	-
Past criminal record on which time has been served	4 (3.3)	4 (2.2)	3 (5.7)	3 (1.8)	-	-
Physical conditions such as countenance	1 (0.8)	-	1 (1.9)	6 (3.6)	-	-
Marital status	-	1 (0.5)	2 (3.7)	3 (1.8)	-	-
Beliefs or political opinions	1 (0.8)	1 (0.5)	1 (1.9)	4 (2.4)	-	1 (2.2)
Religion	1 (0.8)	1 (0.5)	-	-	2 (22.2)	3 (6.7)
Familial status	-	-	1 (1.9)	1 (0.6)	-	-
Sexual persuasion	1 (0.8)	-	-	1 (0.6)	-	-
Ethnic origin	-	2 (1.1)	-	-	-	-
Pregnancy or maternity	-	2 (1.1)	-	1 (0.6)	-	1 (2.2)
Race	-	-	-	-	-	1 (2.2)
Skin color	-	-	-	-	-	-
Academic background/cliques	1 (0.8)	3 (1.6)	-	6 (3.6)	-	4 (8.9)
Violation of equal rights	75 (64.0)	81 (44.0)	-	1 (0.6)	-	4 (8.9)

Others	6 (5.1)	9 (4.9)	7 (13.2)	20 (12.1)	4 (44.4)	9 (20.0)
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Although Article 30 of the National Human Rights Commission Act does not delineate the grounds or scope of discriminatory conduct by government organs (unlike discriminatory conduct by corporations, groups, and private individuals), such acts of discriminatory conduct are classified for convenience by the same standard as that for discriminatory conduct by corporations, groups, and private individuals.

Of a total 185 cases of discrimination by government organs including police, prosecutors, detention/protective facilities, local governments, and military organs, 81 cases, or 44.0%, concerned equal rights violations such as unfair non-prosecution decisions and unfair treatment within detention/protective facilities by prosecutors. Twenty-eight cases, or 15.1%, concerned discrimination due to social status, followed by discrimination due to disability and age accounting for 8.6% and 7.0% of cases, respectively. Noteworthy in the 2003 statistics is that the percentage of discrimination cases due to social status by government agencies increased sharply to account for 15.1% from 7.6% in 2002.

Cases of discrimination by corporations, groups, and private individuals concerning social status numbered 36 to account for 21.8% of the total, followed by those on disability at 28 cases, or 17.0%, and those against gender at 17 cases, or 10.3%. As was the case with government agencies, counseling for discrimination against social statuses increased sharply. Those grouped into ‘Others’ numbered 20 cases, accounting for 12.1%. In these cases, the interviewees claim that they were fired without particular reason, and the scope of discrimination in such cases cannot be specifically categorized.

The number of cases of discrimination by educational institutes increased in 2003, and the types of such cases occurred for a wider range of reasons. Discrimination against social status accounted for the largest portion with nine cases counseled (20%), followed by gender, age, and educational background/cliques at four cases each, or 8.9% each.

c. Others

<Table 2-1-7> **Other Cases Counseled by Type**

Units: Case, %

	2002	2003
Total	1,258 (100.0)	2,222 (100.0)
Human rights violations	471 (37.4)	737 (33.2)
Property rights disputes	100 (7.9)	203 (9.1)
Discontent with government agencies	49 (3.9)	116 (5.2)
Inquiries for law	102 (8.1)	158 (7.1)

Discontent with judicial agencies	99 (7.9)	127 (5.7)
Demand for revision of laws and systems	65 (5.2)	124 (5.6)
Discontent with duties of the Commission	48 (3.8)	103 (4.7)
Inquiries about duties of the Commission	45 (3.6)	51 (2.3)
Suggestions on matters related to the Commission	34 (2.7)	96 (4.3)
Others	245 (19.5)	507 (22.8)

Of the 2,222 cases not categorized as human rights violations or discriminatory acts, counseling about disputes and violence among private individuals accounted for the largest number as in 2002, or 737 cases (33.2%), followed by counseling concerning violation of property rights at 203 cases (9.1%), inquires about law at 158 cases (7.1%), discontent with judicial agencies for such reasons as delays of trial and unfair judgments at 127 cases (5.7%), demand for revision of laws and systems at 124 cases (5.6%), and discontent with government organs at 116 cases (5.2%).

d. Categorization of Counseling Cases concerning Face-to-face Complaints

A total of 878 cases were closed without filing of complaints after members of staff of the Commission visited detention facilities to hear face-to-face complaints and provide counseling. The reasons for the termination of those 878 cases (without filing) are shown the Table 2-1-8 below.

<Table 2-1-8> **Reasons for Closure of Cases after Face-to-Face Counseling**

Units: Case, %

		2002	2003
		No. of cases (%)	No. of cases (%)
Total		307 (100.0)	878 (100.0)
Complaint is related to previous complaint	Complaint identical with one already filed, related facts were added, etc.	75 (24.5)	148 (16.9)
Urging investigation for complaint	Demanding prompt investigation, punishment of respondent	49 (16.0)	87 (9.9)
Wanted the Commission to make a proposal for rectification to the facility	Requesting medical treatment, transfer, move to other cell or room, or commitment to a hospital, etc.	45 (14.7)	93 (10.6)
Contents of a petition subject to rejection of the petition under	Do not fall under the scope of matters subject to investigation by the Commission	3 (1.0)	65 (7.4)

Article 32 of the Commission Act	Lapsed time limit for investigation	1 (0.3)	1 (0.1)
	A trial pending, or the case under investigation, or closed	19 (6.1)	26 (3.0)
	Contradictory to the final judgment of a court or decision of the Constitutional Court	6 (2.0)	6 (0.7)
Suggestion for improvement of a statute or system	Demanding improvement of system, etc.	15 (4.9)	26 (3.0)
Wanted to file a complaint later	Filing a complaint to be decided after waiting for change in circumstances	9 (2.9)	49 (5.6)
Wanted to receive assistance from the Commission	Referring to an attorney, contacting family, arranging sisterhood relationship, etc.	8 (2.6)	23 (2.6)
Original problem was solved	The original request such as commitment to a hospital, application for solitude, outside medical treatment, application for writing, and request for interview with the head of facility was satisfied	8 (2.6)	102 (11.6)
Only counseling was wanted	Detainee wanted to make confidential statement, remove the feelings of guilt, or have an interview with someone from outside	7 (2.3)	82 (9.3)
Redundant application for face-to-face complaints	Redundant application had been made before staff of the Commission visited	-	67 (7.6)
Legal counseling	Inquiry on procedures of litigation	4 (1.3)	18 (2.1)
Concerned about possible retribution for filing complaint	Concerned about retribution through targeted inspection of cell or room	1 (0.3)	11 (1.3)
Others	Expiration of term of imprisonment, doubt about effectiveness of complaint, or concern about retaliatory act by inmates	57 (18.5)	74 (8.4)

What is noteworthy is that with the recruitment of the Secretariat of the Commission being delayed, the handling of pending complaints has also been delayed. Under such circumstances, internees who already had made complaints through writing tended to make face-to-face complaints in order to (1) reiterate their original complaint, or to (2) demand prompt investigation. Of all the counseled cases that were closed, these two types of cases accounted for 16.9% and 9.9%, respectively, in 2003, representing declines from 2002, when the corresponding figures were 24.5% and 16.0%, respectively. This can be explained by the fact the backlog of pending complaints has been resolved as a result of (1) the complete establishment of the face-to-face complaint handling system of the Commission and (2) more prompt visits to facilities after receiving requests for face-to-face interviews.

Section 2. Investigation of Human Rights Violations and Remedies

1. Overview

(1) Handling of Human Rights Violation Cases

The Commission strived to actively investigate human rights violations by state organs, local governments, prisons/jails/detention facilities, and protective facilities under the Constitution and statutes. More specifically, it investigated infringements of human rights due to irrational practices by investigation organs such as prosecutors and police, and infringements of basic rights due to poor accommodation conditions at detention facilities. It also sought to improve the system for remedying rights violations. These are the core and basic duties of the National Human Rights Commission.

The Commission fully investigated cases of infringements of the right of personal liberty, one of the most basic rights, and made every effort to thoroughly investigate and settle cases for which complaints had been filed to remedy rights violations. The Commission also carried out campaigns to prevent human rights violations.

As Table 2-2-1 shows, from November 26, 2001, when the Commission was inaugurated, to December 31, 2003, a total of 5,874 human rights violation cases were filed with the Commission. Of these, 4,502 cases were settled, bringing the total ratio of cases settled to 76.6%. In 2003 alone, 3,137 cases were settled, more than twice as many as in 2002, when 1,365 cases were settled.

Looking at human rights violation complaints settled by the Commission by the actions taken, there were 12 accusations and requests for investigation, accounting for 0.3% of the total; recommendations for disciplinary action were made in 19 cases, or 0.4%; recommendations were made in 65 cases, or 1.4%; amicable settlements were made in 23 cases, or 0.5%; cases dismissed numbered 853, or 18.9%; cases rejected numbered 3,384, or 75.1%; and cases transferred numbered 142, or 3.1%.

Table 2-2-1 Settlement of Human Rights Violation Complaints by Actions Taken

Period: Nov. 26, 2001 ~ Dec. 31, 2003. Unit: Case, %

	Filed (transferred)	Actions taken									Pending
		Sub-total	Accusation/Request for investigation	Recommendation		Settlement recommended	Dismissed	Rejected	Transferred	Immediate relief	
				Recommendation of disciplinary actions	Recommendation						
No. of cases (%)	5,874	4,502 (100)	12 (0.3)	19 (0.4)	65 (1.4)	23 (0.5)	853 (18.9)	3,384 (75.1)	142 (3.1)	4<5> (0.1)	1,372
2002	2,833	1,365	3	16	8	-	136	1,174	26	2<3>	
2003	3,041 (1,468)	3,137	9	3	57	23	717	2,210	116	2	1,372

The 2002 statistics include cases settled from November 26 through December 31, 2001.

Figures in < > refers to complaints by identical complainants, which are counted as one case filing within the recommendation category, because immediate relief measures and recommendations were made for the complaints.

(2) Violations Subject to Investigation by Type of Organization

As shown in Table 2-2-2 below, the vast bulk of human rights complaints against organizations that were filed with the Commission were indeed investigated. The corresponding percentages for different organizations were 82.9% for prosecutors, followed by police at 78.8%, other state organs at 78.3%, detention facilities at 74.8%, protective facilities at 69.2%, and military organs at 67.2%.

Table 2-2-2 Settlement of Complaints by Organization

Period: Nov. 26, 2001 ~ Dec. 31, 2003. Unit: Case, %

	Total	Prosecutor	Police	Detention facilities	Military organs	Protective facilities	Other organs
Complaints filed (A)	5,874	474	1,541	2,799	183	91	786
Complaints closed (B)	4,502	395	1,214	2,094	123	63	613
Settlement ratio (B/A, %)	76.6	83.3	78.8	74.8	67.2	69.2	78.0
Cases upheld by the Commission (C)*	123	5	58	42	2	3	13
Ratio of cases upheld (%)	12.6	8.1	18.2	8.8	22.2	21.4	13.5

* Cases upheld: Cases in which accusations, requests for investigation, recommendations, amicable recommendations, immediate relief measures, and amicable settlements were made.

* Ratio of cases upheld: Number of cases upheld ÷ (Cases dismissed, rejected, and transferred + cases settled amicably)

* Other organs include the National Intelligence Service, judicial agencies, and local governments.

(3) Major Actions Taken for Complaints of Human Rights Violations

The major actions taken in response to human rights violation complaints upheld by the Commission for which accusations, requests for criminal investigation, immediate relief measures, and recommendations were made are shown in Table 2-2-3 below, which lists major violation cases by type of organization.

Table 2-2-3 Major Actions Taken for Human Rights Violation Complaints

• Violations by Prosecutors (three cases)

Action taken	Case description	Details of action	Date of decision	Implementation of decision
Immediate relief measures	Violations due to abuse of investigative authority	Issued recommendation to Dongbu branch of Seoul District Prosecutor's Office	2003. 2.15	Accepted
Accusation	Violations such as torture, resulting in death at Seoul District Prosecutor's Office	Filed an accusation with the Prosecutor General, and demanded criminal investigation. Made recommendation to Minister of Justice on improving priority arrest system and statute structure	2003. 2.24	Case dropped (No suspicion on the charge)
Settlement recommended	Violation due to illegal investigation	Settlement after apology concerning human rights violation	2003. 9. 1	Immediately implemented

• Violations by Police (36 cases)

Action taken	Case description	Details of action	Date of decision	Implementation of decision
Investigation requested	Cruel acts by police, etc.	Requested criminal investigation on cruel treatment during the interrogation process at Ulsan Jungbu Police	2003. 3.21	Prosecution postponed
Investigation requested	Cruel treatment and other acts by investigation headquarter of Ulsan Jungbu Police	Made request to prosecutor to investigate cruel conduct during investigation on the death of a policeman	2003. 9.15	Investigation underway
Investigation requested	Cruel acts including torture during the investigation process by the police	Made request to prosecutor to investigate violence and cruel conduct during investigation	2003.10.27	Investigation underway
Investigation requested	Infringement of human rights due to violation of due process	Recommended respondents receive training on human rights, as confiscation without due process is infringement of human rights	2003.12.29	Freed from suspicion
Disciplinary actions recommended	Cruel acts by police, etc.	Recommended the Chief of Incheon Seobu Police Station take disciplinary actions against	2003. 6.16	Rejected

		respondents for violence and not upholding Miranda Principles		
Disciplinary actions recommended	Infringement of right to privacy and freedom	Recommended disciplinary actions for infringement of right to privacy, such as leakage of criminal record	2003. 7. 7	Accepted
Recommendation issued	Infringement of personal liberty of jail inmate	Measures to allow inmate to wear glasses were formulated and implemented. Recommended human rights training for those in charge of jail of Seongdong Police Station	2003. 2.10	Accepted
Recommendation issued	Infringement of personal right of jail inmate at Gyeongju Police Station	Recommended human rights training for those in charge of jail of Gyeongju Police Station	2003. 3. 3	Accepted
Recommendation issued	Cruel acts by police, etc.	Recommend human rights training for those in charge of jail of Seongdong Police Station to stop all-night interrogations, use of abusive language, and cruel acts.	2003. 3.21	Accepted
Recommendation issued	Infringement of rights to freedom of expression in one-man demonstration	Recommended human rights training to prevent future infringements of rights to freedom of expression in one-man demonstrations	2003. 3.24	Accepted
Recommendation issued	Partial investigation on the victim of sexual violence	Recommended respondent to undergo human rights training	2003. 3.31	Accepted
Recommendation issued	Infringement of human rights due to excessive search of body	Recommended respondent undergo human rights training	2003. 4. 7	Accepted
Recommendation issued	Infringement of rights to freedom of assembly	Recommended that assemblies at locations more than 100 meters away from foreign embassy buildings be permitted	2003. 7. 7	Accepted
Recommendation issued	Infringement of right to personal liberty	Recommended admonishment of respondent and measures taken to prevent reoccurrence	2003. 7.21	Accepted
Recommendation issued	Infringement of human rights through such means as use of abusive language	Recommended respondent who used abusive language while escorting suspect undergo human rights training conducted by the Commission	2003.11.10	Accepted
Recommendation issued	Infringement of human rights by such means as abuse of investigative authority	Recommended respondent to undergo human rights training as urgent arrest of the complainant with handcuffing is infringement of human rights	2003.11.17	Under consideration
Recommendation issued	Infringement of human rights through such means as abuse of investigative authority	Recommended respondent to undergo human rights training as urgent arrest which does not satisfy requirements for urgent arrest is infringement of human rights	2003.12.29	Under consideration
Settlement recommended	Infringement of human rights due to	Parties concerned reached agreement smoothly on the	2003. 4. 7	Agreement implemented

	illegal investigation	issue of excessive use of gun		immediately
Settlement recommended	Infringement of human rights due to dereliction of duty	Agreement after apology for insufficient police presence at demonstration on defamation of character	2003. 7.14	Agreement implemented immediately
Settlement recommended	Abuse of investigative authority by Muju Police Station	Agreement after apology for detention due to wrongful procedure for search for an identified criminal	2003. 7.21	Agreement implemented immediately
Settlement recommended	Dereliction of duty by Busan Geumjeong Police Station	Agreement after apology for injury during police escort and compensation for doctor's bill	2003. 7.28	Agreement implemented immediately
Settlement recommended	Infringement of human rights due to partiality in investigation	Agreement on additional investigation into the management of safety facilities at the site of accidental death, etc.	2003. 7.28	Agreement implemented immediately
Settlement recommended	Infringement of human rights due to abuse of investigative authority	Agreement after apology for infringement of privacy	2003. 7.28	Agreement implemented immediately
Settlement recommended	Infringement of human rights due to abuse of investigative authority	Agreement after apology for infringement of personal right	2003. 9. 1	Agreement implemented immediately
Settlement recommended	Infringement of personal right	Agreement after apology for Infringement of personal right	2003. 9. 8	Agreement implemented immediately
Settlement recommended	Infringement of human rights due to abuse of investigative authority	Agreement after apology for forced escort and infringement of privacy	2003. 9. 8	Agreement implemented immediately
Settlement recommended	Infringement of personal right	Agreement after apology for arrest of the complainant being mistaken as demonstrator and for not be allowed to use toilet	2003. 9.24	Agreement implemented immediately
Settlement recommended	Infringement of personal right due to cruel act	Agreement after apology for cruel act during investigation process	2003.10. 6	Agreement implemented immediately
Settlement recommended	Infringement of personal right	Agreement after apology for abusive language and crude language in response to request for traffic control	2003.10.27	Agreement implemented immediately
Settlement recommended	Violence against reporters covering demonstration	Agreement after reimbursement for doctor's bill and apology	2003.11. 3	Agreement implemented immediately
Settlement recommended	Infringement of personal right	Agreement after apology	2003.11.28	Agreement implemented immediately

Settlement recommended	Infringement of personal right	Agreement after apology for infringement of personal right	2003.11.28	Agreement implemented immediately
Settlement recommended	Dereliction of duty	Agreement after explanation on the contents of report, and apology for inappropriate measures taken to control the spot	2003.11.28	Agreement implemented immediately
Settlement recommended	Infringement of privacy	Agreement after apology for leakage of criminal record due to negligence	2003.11.28	Agreement implemented immediately
Settlement recommended	Cruel acts by police, etc.	Agreement after apology for abusive language and felonious assault during arrest	2003.12.29	Agreement implemented immediately
Settlement recommended	Cruel acts by police, etc.	Agreement after apology for forcing confession and felonious assault during investigation	2003.12.29	Agreement implemented immediately

• **Violation by Detention Facilities (21 cases)**

Action taken	Case description	Details of action	Date of decision	Implementation of decision
Recommendation for disciplinary actions	Infringement of right to life	Provisions revised to allow psychiatric treatment in case of execution of successive punishment; recommended disciplinary actions against respondents; requested legal assistance to obtain compensation for damage	2003. 2.10	Accepted (Referred the petition to the Disciplinary Committee, Revision of law underway)
Recommendation	Infringement of basic rights concerning facilities (2 cases combined)	Recommended deletion or easing of provisions that prohibit group interviews for one year for punishment purpose	2003. 2.10	Accepted (Revision of law underway)
Recommendation	Infringement of basic rights concerning facilities (4 cases combined)	Recommended installation of partition in restroom in disciplinary cell of detention facility	2003. 2.10	Accepted
Recommendation	Partiality in investigation	Recommended human rights training education and assignment of duties	2003. 3. 3	Accepted
Recommendation	Infringement of personal right during medical treatment	Recommended to human rights training to prevent recurrence of offensive language to insult inmates	2003. 3. 4	Accepted
Recommendation	Excessive punishment	Recommended restoration of the right of the complainant through ad hoc re-examination	2003. 3.10	Rejected
Recommendation	Cruel acts in prison	Recommended transfer to prison exclusive for foreign inmates	2003. 3.21	Accepted
Recommendation	Infringement of personal liberty	Recommended forwarding of copy of complaint of the complainant to his/her family	2003. 4. 7	Accepted
Recommendation	Reclassification of unconvicted inmates	Recommended revision of time to reclassify unconvicted inmates under Guidelines for Inmates Charged with Organized Crime	2003. 4. 7	Accepted (Revision of law underway)
Recommendation	Delay in delivery of letter to inmate	Recommended respondent of Incheon Prison who violated right to correspond with the outside to undergo human rights training provided by the Commission	2003. 4.21	Accepted
Recommendation	Requested correction of rules for use of	Recommended revision of related rules such that prosecutor has authority to	2003. 5. 7	Accepted in part

	handcuffs or rope during investigation	order handcuffs, rope, or the like removed from suspect in custody when prosecutor is present		
Recommendation	Inappropriate denial of correspondence (3 cases combined)	Recommended that the Justice Minister revise current correspondence system which infringes on the freedom of correspondence of inmates by requiring discarding of letters for which forwarding or delivery is prohibited	2003. 5. 7	Accepted (To be reflected when law is revised)
Recommendation	Assault by a prison officer	Recommended respondent undergo human rights training provided by the Commission	2003. 5. 7	Accepted
Recommendation	Unfair delay in handling letters	Recommended that Chief of Uijeongbu Prison provide human rights training	2003. 5.21	Accepted
Recommendation	Abuse of disciplinary power by detention facility (3 cases combined)	Recommended revision of disciplinary regulations which limit right comprehensively and excessively, ease standards for determining disciplinary measures, and preparation of appeal procedures	2003. 6.16	Accepted (Revision of law under way))
Recommendation	Use of inappropriate devices (5 cases combined)	Recommended that conditions necessary for the use of devices be clearly delineated, and that use of chains and leather handcuffs be abolished	2003. 7.14	Accepted (Revision of law under way))

Action taken	Case description	Details of action	Date of decision	Implementation of decision
Recommendation	Infringement of inmates' right to write (2 cases combined)	Recommended revision of provisions relating to writing letters, revision of provisions of Article 33-3 of Criminal Administration Act to abolish permission system on writing (Aug. 25). Recommended measures to prevent reoccurrence such as provision of training to prison officers	2003.10.27 (2003. 8.25)	Accepted (Revision of law underway)
Recommendation	Infringement of inmate's right to know (5 cases combined)	Recommended revision of provisions which limit inmate's subscription to newspapers at detention facilities	2003. 9.15	Accepted
Recommendation	Infringement of human rights due to excessive	Recommended that respondents be supervised to ensure observance of provisions on the management of	2003.11.28	Accepted

	punishment	personal belongings kept in custody, such as confirmation of the person in question when money in custody is used		
Recommendation	Infringement of human rights relating to facilities and treatment	Recommended that respondent ease standards for carrying goods kept in custody	2003.11.28	Accepted
Settlement recommended	Infringement of inmates' rights to medical attention	In response to complainant urging staff of medical administration office, the respondent expressed apology and promised no recurrence before reaching agreement between the parties	2003. 2.24	Agreement implemented immediately

• **Violation by Protective Facilities (2 cases)**

Action taken	Case description	Details of action	Date of decision	Implementation of decision
Criminal complaint filed	Petition filed against Mandeok Evangelical Hospital	Filed a complaint against the hospital staff for infringement of personal liberty and freedom of correspondence of patient with relatives; recommended correction to organization responsible for supervision	2003. 1.13	(Dropped 'no suspect' and witness) Recommendation on correction accepted
Settlement recommended	Infringement of personal liberty	Compromise made after apology for corporal punishment at children's welfare facility	2003.12.29	Compromise made immediately

• **Violation by Army Organs (Two cases)**

Action taken	Case description	Details of action	Date of decision	Implementation of decision
Investigation requested	Doubtful cause of death in army	Filed complaint against respondent; recommended a new examination for the victim as distinguished service in war; recommended in-house human rights training for soldiers and formulation of measures to improve system	2003. 4.21	Parties guilty of duress indicted
Compromise recommended	Infringement of inmate's right in army prison	Recommended revision of provisions that limit various rights of a new inmate jailed in solitary confinement under 'Air Force Prison Management Act' and provide human rights education	2003. 1. 9	Accepted

• Violation by Other State Organs (11 cases)

Action taken	Case description	Details of action	Date of decision	Implementation of decision
Urgent relief measures	Suspension of forced evacuation execution and dissolution of protective measures	Suspended the execution of forced evacuation of victims and recommended dissolution of protective measures	2003. 8.21	Accepted
Recommendation on compromise	Search at Incheon International Airport at beginning of work shirt	Recommended compromise on conducting searches at beginning of shift jointly with customs officer after first conducting preliminary searches by X-ray, the principle means of search	2003. 1. 9	Accepted
Recommendation	Mandatory deportation of Korean-Chinese	Recommended that prohibition against entry by victim be lifted	2003. 1.13	Accepted
Recommendation	Facility for the handicapped not available in school	Recommended installation of convenience facilities such as elevators for the handicapped, and improvement of system such that priority is granted to the handicapped in transfers of school before convenience facilities are completed.	2003. 5.21	Accepted (Elevators are to be installed under long-term plan)
Recommendation	Rejection of issuance of an agreement on the transfer of a weight lifter to new team	Recommended that the Mayor of Gongju issue an agreement on transfer so that the complainant can join the team he wants	2003. 6.16	Accepted
Recommendation	Infringement of right to portrait, etc.	Recommended that respondents receive human rights training provided by the Commission	2003. 7.14	Accepted
Recommendation	Transfer of local government official to other post without consent of	Recommended formulation of measures to prevent recurrence of transfer or exchange of personnel of local government	2003. 9. 8	Accepted (Revisions of applicable regulations being

	the complainant	officials without consent of the official in question		urged by campaign)
Recommendation	Recommended lifting of ban on entry to Korea by Korean-Chinese	Recommended lifting of five-year ban on entry that had been instated due to illegal sojourns in the past	2003. 9. 8	Accepted
Recommendation	Infringement of privacy	Recommended complementing of applicable provisions of the Enforcement Regulations of Civil Law as it is human rights violation to release information on a private individual in the provisional disposition execution process	2003. 9.22	Accepted
Recommendation	Sexual harassment	Recommended formulation and implementation plan for sexual harassment prevention training, and preparation of measures to prevent recurrence of the same or similar accidents	2003.10.27	Accepted
Settlement recommended	Infringement of right to pursue happiness	Amicable compromise reached among the parties concerned regarding the Vice County Chief of Jangseong, Cheollanam-do being placed on waiting list. (Post assigned)	2003. 4.21	Compromise made immediately

Acceptance of decision status is as of the end of May 2004

2. Investigation and Remedial Measures for Human Rights Violation by Prosecutors and Police

(1) Requested to Investigate Cruel Acts during Police Investigation

The hypodermal bleeding on the laryngeal region of the complainant was caused due to cruel acts by police during the all-night interrogation in the interrogation room of ○○ Police Station. The complainant, who had been arrested on charges of robbery and rape, was beaten 25-30 times on the back of his head by the palm of a policeman's hand or fist or with books whenever he denied the charges against him. The blows caused his head to repeatedly fall to the table. Due to the sequela of hypodermal bleeding, he showed symptoms of emesis, nausea, and general paralysis. The complainant confessed to the charge of rape but not to the charges of robbery, and he filed a complaint with the Commission, retracting the confession and claiming that it had been made under extreme duress during the investigation.

Concluding that there was very good reason to believe cruel acts such as beating had been done to the

complainant during investigation and that these constituted criminal acts of violence and cruel acts under Article 125 of the Criminal Act, the Commission requested the Attorney General to open an investigation on charges of police brutality.

(2) Recommended Lifting of Prohibition on Assembly within 100 Meters from a Foreign Embassy to Korea

‘○○,’ an organization for which the complainant is a permanent representative, submitted an application for permit of assembly stating ‘it will hold an assembly at locations more than 100 meters away from ○○ Embassy, ○○ Embassy, and the Consulate of ○○ Embassy, at Gwanghwamun Public Park.’ The respondent notified the complainant of the prohibition on assembly stipulated in Article 11 of the Assembly and Demonstration Act. The complainant filed a complaint with the Commission that the notification was an infringement of freedom of assembly.

After examination, the Commission concluded that the prohibition of assembly reportedly to be held at specific locations more than 100 meters away from foreign embassies on the ground that it falls under Article 11 of the Assembly and Demonstration Act would constitute a violation of the freedom of assembly guaranteed by Article 21 of the Constitution. On this ground, the Commission recommended that the assembly not be prohibited.

(3) Recommended Disciplinary Measures against Violation of Privacy due to Leakage of Criminal Record of Private Individual

A petition that the respondent violated the right to privacy of the complainant by leaking the criminal record of the complainant to his roommate in an actual marriage relation was filed with the Commission. The results of examination by the Commission concluded that the acquisition by the police of the criminal record of the complainant and their wrongfully leaking of the information to the third party was in violation of Article 6 of Punishment Act and a violation of the right to privacy of the complainant guaranteed by Article 17 of the Constitution. On this ground, the Commission recommended that disciplinary measures be taken against the policeman in question.

3. Investigation and Remedial Measures for Human Rights Violations at Detention Facilities

(1) Recommended Revision of Applicable Guidelines on Excessive Restrictions on Group Interviews of Inmates under Disciplinary Measures for Violation of Order

The complainant filed a complaint with the Commission, claiming that the provisions of Paragraph 3 of Article 6 of the Enforcement Guidelines for Group Interviews of Inmates, which stipulates that ‘those inmates who were punished for violation of an order shall not be selected for group interviews within one year from the date of termination of punishment,’ excessively restricts the rights of inmates and, therefore, violates the right to pursue happiness and basic human rights guaranteed by the Article 10 of the Constitution.

The results of examination by the Commission concluded that the provisions of Paragraph 3 of Article 6 of the Enforcement Guidelines for Group Interviews of Inmates,’ which stipulates that ‘those inmates who were punished for violation of an order shall not be selected for group interviews within one year from the date of termination of punishment,’ does indeed prohibit group interviews of inmates who have been punished to such an excessive degree that those provisions are in violation of right to pursue happiness and basic human rights guaranteed by the Article 10 of the Constitution.

On this ground, the Commission recommended that said passage of the provisions of Paragraph 3 of Article 6 of the Enforcement Guidelines for Group Interviews of Inmates be deleted or that the period of restriction be shortened.

(2) Requested Legal Aid Concerning Suicide of a Inmate due to Successive Punishment and Negligence in Supervision

The complainant filed a complaint with the Commission stating that (1) the harsh conditions of imprisonment, including the refusal of any interviews with victim, who committed suicide due to successive punishments since he was transferred to ○○ Prison, caused the mental condition of the already mentally ill inmate to deteriorate further, leading him to commit suicide, and (2) that the respondents did not prevent the suicide due to negligence in supervision.

After examination, the Commission concluded that the successive punishments over a ten-month period for reasons of use abusive language and disturbance by the victim, excessive use of handcuffs and ropes, and negligence in providing a medical examination before and after punishments constituted cruel acts to the victim with a record of mental illness, and under such circumstances, the victim attempted suicide, for which reason he was designated as a problem inmate, after which he attempted suicide at a time when not under proper supervision by prison officers. The Commission concluded that if such circumstances led to actual death of the victim, they constitute an infringement of right to life under Article 10 of the Constitution, as stated in the subparagraph 1 of Article 30 of National Human Rights Commission Act relating to performance of duties of detention facilities.

Under Paragraph 2, Article 45 of the National Human Rights Commission Act, the Commission recommended disciplinary action against prison officers to the Ministry of Justice, the agency responsible for supervision of prison officers; under Subparagraph 2 of Paragraph 1, Article 1 of the Commission Act, the Commission recommended revision of applicable laws to require psychiatric examination before executing successive punishments; and under Article 47 of the Commission Act, the Commission requested the Korean Bar Association for legal aid so that the survivors of the victim could receive appropriate compensation from the government.

(3) Recommended Revision of Regulations on Forwarding and Receiving Letters concerning Handling of Letters for which Forwarding is Denied

A complaint was filed claiming that (1) the destruction of a letter, which had been submitted by the complainant and denied forwarding and for which the complainant was notified of said destruction on the ground that the letter was 'inappropriate for educational purposes,' was excessively arbitrary and discriminatory, and (2) even if forwarding of the letter was denied, it should have been returned to the complainant after confirming the fact of denial of forwarding with the complainant, and (3) that it was unjust to destroy the letter.

After investigation, the Commission made a recommendation to the Minister of Justice on the revision of Paragraph 3, Article 62 of the Enforcement Decree of the Criminal Administration Act, which contradicts with the superceding Criminal Administration Act, stating that a letter denied forwarding should be delivered to the writer at the time of release from prison after keeping it for a specific period of time, and the Commission found it desirable to clarify related provisions to prevent the possibility of arbitrary interpretation or judgment on the reasons for denying forwarding of letters in the future.

The Commission recommended that all provisions on forwarding and receiving letters be revised such that the communication rights of inmates can be fully protected.

(4) Recommended Revision to Security Duty Regulations Relating to Use of Retaining Devices in the Interrogation Room of the Prosecutor

A complaint stating that, twice in March 2002, a security officer of ○○ Prison restrained an inmate with **restraining** devices such as handcuffs and chain when that inmate was being interrogated in the interrogation room of the prosecutor at ○○ Branch of ○○ District Prosecutor's Office, on the ground of Paragraph 1, Article 298 of Security Duty Regulation, which reads, "Security in the interrogation room shall be secured by use of handcuffs, rope, and the like on the person being questioned" and Paragraph 2 of the same article, which reads, "When a prosecutor instructs a security duty officer to leave the investigation room or release handcuffs, rope, and the like, when necessary for the purpose of investigation, the officer should reject the request, except when the officer is ordered to do so by his/her superior." The complainant stated that because the use of handcuffs and rope under such circumstances is a violation of human rights, the said provisions should be revised.

After investigation, the Commission found that the provisions of Paragraph 1 and 2, Article 298 of the said regulation, which require use of retaining devices on the suspect in duress or the accused in the interrogation room of the prosecutor without exception, and which deprives an investigating prosecutor of discretionary authority are in violation of personal liberty, far beyond the minimum extent necessary for investigation and security.

The Commission recommended that the provisions of paragraph 1 and 2, Article 298 of the regulation be revised such that (1) use of **restraining** devices on the suspect in duress or the accused in the interrogation room of the prosecutor shall be prohibited, except when it is recognized that the suspect in duress or the accused may resort to violence or escape, and such that (2) the security officer shall remove the retaining devices whenever the prosecutor makes a request thereto.

(5) Recommended Revision of Regulations on Punishment for Abuse of Authority to Punish in Detention Facilities

A petition was filed with the Commission that states it is an infringement of basic rights and abuse of a prison officer's authority to punish an inmate because he/she did not observe morning roll call and instead was using the toilet and washing up.

After investigation, the Commission found that provisions concerning the scope of acts subject to punishment were overly comprehensive and restrictive to the everyday life of inmates to an excessive degree. Accordingly, a recommendation was made to the Justice Minister, the head of the supervising organ of respondents, that (1) punishment be administered only for those acts clearly in violation of safety and maintenance of law and order in the prison, that (2) basic rights of inmates such as interviews, forwarding and receiving letters, writing letters be observed, that (3) physical exercise as the punishment for the said complainant be considered violations of basic rights of inmates, and that (4) standards for disciplinary measures on violations of rules be eased. Organization of a disciplinary committee is also recommended so that objectivity and fairness of punishment is ensured.

4. Investigation and Remedial Measures for Human Rights Violations by Other State Organs

(1) Recommended to Compromise on the Infringement of Personal Rights of Permanent Employees of an Airport during Search

A complaint that excessive searches of permanent employees of ○○Airport Passenger Terminal are in violation of personal rights was filed with the Commission.

After investigation, the Commission found that the special security guards have no authority to search the personal belongings and others effects of permanent employees of ○○Airport Passenger Terminal at the end of every work shift. Such acts are, therefore, arbitrary and constitute infringements of Article 10 (Right of Personal Liberty) and Article 11 (Equal Rights) of the Constitution.

Accordingly, the Commission recommended that the complainant and respondents make a compromise under Article 40 of the National Human Rights Commission Act.

(2) Recommended Removal of Life Ban on Entry by Korean-Chinese Spouse Imposed due to History of Illegal Sojourns

The complainant and the victim completed marriage registration in China and the Republic of Korea, but the respondent prohibited the Korean-Chinese Spouse from entering Korea for five years on the ground of past record of illegal sojourns in Korea.

After investigation, the Commission found that because the complainant and the victim had departed Korea after paying a penalty upon voluntary report of marriage, and because the complainant has been to China many times to maintain marriage relations, the five-year ban on entry of the victim by the respondent is in violation of duties of the state to protect families stipulated by the Constitution of Korea and international conventions, as well as in violation of the Guidelines for Restrictions on Entry by the Ministry of Justice.

Accordingly, the Commission recommended that the Justice Minister lift the ban on entry by the victim so that the complainant and the victim can have a normal marriage relationship.

(3) Recommended Improvement of Facilities in Violation of Right to Mobility due to Absence of Facilities for Handicapped

The complainant is a teacher of Middle School. Due to a traffic accident, his left leg is slightly shorter than his right. For the past 26 years as a teacher, he had to walk up and down the stairs countless times because the school has never had facilities for the handicapped. As a result, he eventually came to suffer degenerative arthritis. The complainant filed a petition with the Commission to request the installation of facilities for the handicapped including an elevator, in addition to compensation for degenerative arthritis.

After investigation, the Commission found that that absence of convenience facilities for ‘the handicapped and the like’ is in violation of Dignity and Pursuit of Happiness as stipulated in Article 10 of the Constitution.

Accordingly, the Commission recommended that (1) an elevator and convenience facilities for ‘the disabled person and the other persons requiring assistance,’ in accordance with types of convenience facilities and installation standards for each facility under Paragraph 1, Article 8 of the Disabled, Elderly, and the Pregnant Convenience Act’ and Article 4 the Enforcement Decree of the same Act be installed promptly, and that (2) until appropriate facilities are completely installed, ‘the disabled and other persons requiring assistance’ will be given priority in selecting schools fully equipped with convenience facilities at times of appointments, transfers, or admissions to schools.

(4) Recommendation on Refusal of Issuance of an Agreement on Transfer of an Athlete

The complainant was a member of weightlifting team of the City of ○○ for one year. After resigning from the city team, he began military service and was a member of the weight-lifting team of the Sangmu Unit. In 2003, he was discharged from military service and signed a provisional contract with the ○○ weightlifting team. However, the respondent did not issue the agreement needed for the transfer, so the complainant cannot participate in events as an athlete. For this reason, he filed a complaint with the Commission.

After investigation, the Commission found that the refusal to issue an agreement on transfer for reasons that it is a non-secret athletic practice and that there was no consultation in advance is in violation of the human rights of the complainant under Article 10 and Article 15 of the Constitution, which guarantee the rights of athletes to their own determinism, pursuit of happiness, and freedom of occupation. Accordingly, the Commission recommended that the respondent issue an agreement on transfer.

5. Investigation and Remedial Measures for Human Rights Violations by Army-related Agencies

The complainant filed a complaint with the Commission stating that, other than maltreatment by the army, the son of the complainant had no reason to commit suicide on the first day of vacation from the army after the first 100 days of military service. The complainant wrote that his son was beaten and treated cruelly by his superiors incessantly during his military service, and that despite the fact that his son showed symptoms of having difficulty adapting to army life, such as hypochondria, the army did not provide proper medical treatment and neglected to review his history. Because the army investigation agency is covering up the motivation for **the** death of his son, the complainant requested a search of the parties guilty of assault who had subjected the complainant’s son to beatings and other cruel acts, to determine the true cause of his son’s death and punish those responsible.

After investigation, the Commission found that the victim was enlisted in the army and assigned to ○○ Infantry Division. He was on his first vacation from the army and he said he was going out to buy a book, but instead committed suicide by jumping from the rooftop of an apartment building. The Commission asked the Minister of National Defense to initiate an investigation of Major Yun, the respondent, on charges of violating Article 62 of the Military Criminal Law, and recommended that human rights training be provided to members of ○○ Squadron, ○○ Infantry Regiment of ○○ Division, to which the respondents, Lieutenant Colonel Kim and Captain Jeong, and the victim belonged. The Commission recommended that the Committee for Deliberation on Distinguished War Services for Those Killed and Injured of Army Headquarters review its original decision that the cause of death was suicide. It also recommended that practical support and other measures be taken to help those soldiers who fail to quickly adjust to military service, and that measures be taken to improve reliability of the investigation system through fair and transparent investigation when the death of a soldier occurs.

6. Recommendation on Urgent Relief Measures

(1) Urgent Relief Measures for Unrestrained Investigation of Seriously Disabled Suspect, Physically Handicapped Class 1

The victim was a person with severe disability (Class 1). As such, the investigation of the victim could be done in an unrestrained condition. As the victim could hardly even urinate or **defecate** by him/herself, it is wrongful to house the victim in detention facilities without convenience facilities for the seriously disabled. Accordingly, a complaint asking for unrestrained investigation was filed with the Commission.

After investigation, the Commission found that (1) despite the fact that the investigation of the victim could be done in unrestrained condition, restraints were used on the victim's body during investigation, (2) because the victim can hardly urinate or **defecate** by him/herself, it is wrongful to house the victim in detention facilities without convenience facilities for the seriously disabled, that (3) if the victim continues to be detained in the detention center, he/she will hardly be able to maintain basic dignity as a human being, and that (4) such environment will cause his/her health to be deteriorate irrevocably. All told, the rights of the victim to dignity and to pursue happiness are guaranteed by Article 10 of the Constitution, as stated in Paragraph 1, Article 30 of National Human Rights Commission Act.

The Commission recommended urgent relief measures to investigate the victim with disability in an unrestrained condition under Article 48 of the National Human Rights Commission Act.

(2) Urgent Relief to Suspend Execution of the Mandatory Deportation Order and Lift Protective Measures

A complaint about the incident below was filed with the Commission.

In investigating a taxi robbery by two unknown foreigners at the crosswalk in ○○- dong, (20,000 was robbed from the taxi driver, Mr. Im), the respondent booked the two victims on charges of quasi-robbery on the ground of statements made by the victims who were nearly in drunk stupors at the time of their statements to the police, and the statement by the taxi driver. When finding that the victims had not been illegally staying in Korea when handing them over to the ○○ Immigration Office according to the order from the prosecutor to 'Investigate the victims without physical restraint, and take measures for forced deportation as illegal sojourners,' the respondent erased the phrase 'illegal sojourners' on the prosecutor's order and instead replaced it with 'suspects of quasi-robbery' and delivered the order to the head of the Immigration Office, thereby putting the victims on the wait-list for forced deportation.

After investigation, the Commission found that the handling of the incident – the prosecutor ordering measures for compulsory deportation as 'illegal sojourners,' a police officer altering 'illegal sojourners' on the prosecutor's order to 'offenders against the law' and forwarding the document to the Immigration Office, the reasoning of the Immigration Office decision to deport the victims – was in violation of due process. The foreign suspects presented alibis, denying the charges against them. The question of whether they are 'offenders against the law' is not clearly determined; forced deportation is not proper; and the malfeasance that led to the decision to deport the foreigners should be corrected. Until the suspects are proven guilty of the crime beyond reasonable doubt, the mandatory deportation order should be suspended and the measures for protection should be lifted.

The Commission recommended the respondent organ take immediate action to suspend the mandatory deportation order and to lift the protective measures.

Section 3. Investigation and Remedies for Discriminatory Acts

1. Overview

(1) Handling of Complaints about Discriminatory Acts

Complaints against discriminatory acts in violation of human rights that can be filed with the Commission include any act of preferential treatment, discrimination or unfavorable treatment of a particular person in (1) employment (including recruitment, appointments, training, assignment of tasks, and promotions, etc.), (2) in the supply or use of goods, services, transportation, commercial facilities, land, and residential facilities, and (3) in the use of educational facilities or vocational training institutions on the grounds of 18 reasons mentioned earlier, such as gender, religion, disability, age, and social status. If the preferential treatment of particular persons (including groups of particular persons) is excluded from the scope of discriminatory acts by any other Act, such preferential treatment shall not be deemed a discriminatory act.

As of the end of 2003, 547 complaints concerning discriminatory acts were filed with the Commission, of which 398 cases (72.8%) were settled and closed, and the remaining 149 cases are under investigation or review.

Recommendation on changes to systems or for human rights training were made in response to 38 of the 398 complaints settled and closed as these cases were found to constitute discriminatory acts in violation of equal rights. Five cases, or 1.3%, concluded in amicable compromises among the parties concerned during the investigation. Sixty-six cases were dismissed because of falsifications in complaints or because the complaints by their nature did not fall under the purview of matters subject to investigation by the Commission. The vast bulk of complaints, 228 or 72.4%, were rejected because (1) the complaints were not subject to investigation by the Commission or (2) they were filed after more than one year since the incidents in question had occurred, or because they were withdrawn after having been filed.

Table 2-3-1 Complaints of Discriminatory Acts Handled

(Period: Nov. 26, 2001 ~Dec. 31, 2003. Units: Case, %)

	Filed (cases transferred)	Sub- total	Type of Settlement					Under investigation (Transferred)
			Recommendation	Amicable compromise	Dismissed	Rejected	Transferred	
No. of cases (%)	547	398 (100)	38 (9.5)	5 (1.3)	66 (16.6)	288 (72.4)	1 (0.2)	149
2002	189	102	8	2	18	73	1	87
2003	358 (87)	212 (84)	14 (16)	2 (1)	23 (25)	173 (42)	-	146 (3)

2002 statistics include complaints filed from Nov. 26, 2001 to Dec. 31, 2002

Figures in () of the 2003 statistics are cases filed by the end of 2002 and transferred to 2003 and settled in 2003

Recommendation: Refers to recommendations to prevent recurrence, training on human rights, and correction or improvement of institutions, policies and customs.

(2) Classification of Discrimination Complaints by Type

1) Discrimination classified by field

A total of 547 complaints of discriminatory acts were filed with the Commission. Of these, 228 related to discrimination in employment (of which 198 were closed); 71 complaints concerned the supply or use of goods, etc. (of which 64 were closed), and 27 complaints concerned use of educational facilities, etc. (of which 16 were closed).

Seventy-two complaints (13.2%) concerned employment and discrimination in appointments, 71 complaints (13.0%) pertained to dismissals, 43 complaints (7.9%) were on wages, and 27 complaints (4.9%) were about recruitment. Of all the complaints concerning supply or use of goods and services, etc., 59 (10.8%) pertained to discrimination in the use of goods, five complaints (0.9%) concerned to services, and three complaints (0.5%) concerned commercial facilities. Twenty-one complaints (3.8%) were about use of educational facilities, etc., and six complaints (1.1%) were on vocational facilities. A total of 166 of the complaints filed (30.3%) that did not fall under any above the previous categories were grouped under 'Others.'

Table 2-3-2 Complaints about Discriminatory Acts Filed by Field

		Discrimination in employment (283 cases)											Discrimination in the supply or use of goods, etc.(71 cases)						Discrimination in use of educational facilities, etc. (27cases)		Others
		Recruitment	Appointment	Training	Assignment of tasks	Promotion	Wages	Commodities other than wages	Age limit	Retirement	Dismissal	Others	Goods	Services	Transportation	Commercial facilities	Land	Residential facilities	Educational	Vocational	
Total	547	27	72	1	15	20	43	10	3	7	71	14	59	5	2	3	1	1	21	6	166
2002	189	6	18	1	1	9	17	6	0	1	10	5	30	3	2	2	0	1	7	3	67
2003	358	21	54	0	14	11	26	4	3	6	61	9	29	2	0	1	1	0	14	3	99
(%)	100	4.9	13.2	0.2	2.7	3.7	7.9	1.8	0.5	1.3	13.0	2.6	10.8	0.9	0.4	0.5	0.2	0.2	3.8	1.1	30.3
Closed	398	17	37	1	10	18	25	7	2	6	62	13	52	5	2	3	1	1	12	4	120
Pending	149	10	35	0	5	2	18	3	1	1	9	1	7	0	0	0	0	0	9	2	46

2) Settlement of Complaints by Grounds

Table 2-3-3 Causes of Complaints of Discriminatory Acts

Unit: Case

	Improvement of systems and human rights education recommended	Settlement recommended
Subtotal (33)	30 (including 11 cases combined)	3
Rights of equality violation (10)	Markup to holders of certificates issued by state-authorized private organizations (3), Equal employment for both sexes quota system not applied, Qualification of application for government technical certificate, Health insurance not granted to those in active military service (2), Forced retirement of non-standard employees, Refusal of maternity leave, Employment of teaching staff	-
Gender (6)	Insurance payment for sequela disability, sexual harassment, use of leave of absence for health reasons (4)	-
Disability (6)	Discrimination against the disabled in issuance of driver's licenses (5)	Connecting sponsorship rejected
Age (2)	-	Discrimination against irregular teachers in employment, Forced retirement and appointment to remote place
Social status (3)	Discrimination against substitute teachers, non-student youths, and holders of certificates earned by self-teaching	-
Country of birth (2)	Discrimination in selecting of candidates for vocational rehabilitation training (2)	-
Sexual preference(2)	Discrimination against homosexuals (2)	-
Family status (1)	Restriction on the scope of guardians	-
Criminal record (1)	Discrimination in recommending appointment to teaching staff	-

Looking at complaints for which the Commission recommended improvement in systems or polices and measures, and training on human rights, 10 cases concerned violations of rights of equality by government organs, six concerned gender discrimination, five cases were about disability discrimination, three pertained to social status including non-standard teaching staff, two cases each were about country of birth and sexual orientation, and one case each concerned discrimination based on family status and criminal record for which time had been served.

That high ratio of recommendations issued for cases of equal rights violations by government organs is evidence showing that institutional and structural discrimination by government organs is still serious in Korea, which also suggests that the National Human Rights Commission needs to proactively identify customary practices by organizations that are discriminatory and correct them. Of the 30 cases for which recommendations on correction were at issue, 20 cases (66.7%) were accepted, and the remainder are under review or pending at the organizations to which the recommendations were issued.

There were two cases where complainants and respondents reached amicable settlements: one concerning age discrimination and the other concerning disability discrimination. Amicable settlements are the desirable method to solve problems, and they best serve the founding spirit of the National Human Rights Commission as problems are solved peacefully through negotiation of opinions of the parties concerned and arbitration and compromise efforts by the investigating staff of the Commission.

(3) Actions Taken for Complaints of Discriminatory Acts

Major actions taken for the complaints upheld by the Commission by cause for discrimination are as follows:

Table 2-3-4 Major Actions Taken for the Complaints of Discriminatory Acts

Violation of rights of equality by government organs to which recommendations were issued

	Case description	Actions taken (summary)	Date decided	Results of action
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Violation of equal rights of a holder of a certificate issued by government-authorized private organization (3 cases)	Recommended revision of applicable laws such that markup will be given to a holder of a certificate issued by government-authorized private organization in promotions	2003.6.5	Pending
Violation of equal rights due to denial of equal recruitment opportunity for both sexes for employment to clerical post of prosecutor's office	Recommended revision of applicable laws such that clerical position of prosecutor's office shall not be excluded from the relevant examination	2003.9.1	Accepted
Violation of equal rights in qualification of application for government technical certificate	Recommend revision of applicable law, which restricts major area of examination applicants are qualified to take according to educational background, so that equal rights will not be infringed.	2003.9.1	Accepted
Recommendation on revision of National Health Insurance Act (2 cases combined)	Recommended revision of the National Health Act so that those in active military service can be covered by National Health Insurance when he/she gets medical treatment by private doctors when on leave from military service	2003.9.8.	Accepted
Forced retirement and exclusion from assignment of duties to non-standard government officials	Recommended to stop forcing retirement as it is in violation of human rights	2003.9.22.	Accepted
Recommended Revision of Public Officials Act Concerning Prohibition of Suspension from Office for Taking Maternity Leave	Recommended revision of Public Officials Act to allow government officials in special career positions to take maternity leave	2003.9.22.	Accepted

	Discrimination in the Qualification of Applicants for Recruitment as Full-time Teaching Staff	Recommended correction of the provision stating 'must resign one month prior to the date when the application process begins.'	2003.10.15.	Accepted
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□ **Cases of Discriminatory Acts on the Basis of Gender for Which Recommendations Were Issued**

	Case description	Actions taken (summary)	Date decided	Results of action
	Gender Discrimination in Supply of Goods	Recommended that rules be revised such that the discriminatory provisions regarding classification of sequela handicap and limit of compensation should be eliminated	2003.6.30	Accepted
	Discrimination against Employees Based on Sex (Sexual harassment)	Recommended that the professor in question receive special human rights training, provision of training to prevent future sexual harassment, and formulation of measures against sexual harassment	2003.9.1	Accepted
	Violation of equal rights based on sex (4 cases combined)	Recommended to prevent recurrence of restriction on health leave by female teachers. Recommended Commissioner of Seoul Metropolitan Educational Agency to prepare measures for smooth scheduling of health-related leaves	2003.11.17.	Accepted

□ **Disability Discrimination Cases**

Action taken	Case description	Actions taken (summary)	Date decided	Results of action
Recommended (5 cases)	Discrimination against the Persons with Disability in the Issuance of Driver's Licenses (5 cases combined)	Recommend revision of applicable laws such that individual characteristics are considered and use of auxiliary devices at the time of driver's license tests for the disabled are permitted	2003.6.30	Accepted
Settlement recommended (1case)	Discrimination in the use of goods due to other reasons	Agreement reached between parties concerned by connecting sponsor, which	2003.1.9.	Settlement recommended

	(Disability)	had been rejected for the reason that the complainant was seriously disabled		
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□ **Age Discrimination Cases for Which Amicable Settlements Were Reached**

	Case description	Actions taken (summary)	Date decided	Results of action
	Employment Discrimination by Age	Agreed to appoint the complainant, who had been made ineligible due to age limit on reemployment for 2003, as substitute teacher	2003.8.29.	Settlement recommended
	Employment Discrimination due to Age	Agreed to restore the complainant, who was transferred to remote location based on the criteria for age, and to pay wages according to the rank before reassignment	2003.12.19.	Settlement recommended

□ **Cases of Discrimination based on Social Status for Which Recommendations Were Issued**

	Case description	Actions taken (summary)	Date decided	Results of action
	Discrimination against Substitute Teachers	Recommended to stop discriminatory acts against substitute teachers and to revise rules and regulations	2003.3.24	Accepted
	Discrimination in Providing Services based on Social Status (non-student youth)	Recommended improvement of rules and regulations which differentiate between student youths and non-student youths in giving discounts for the use of public facilities, etc.	2003.9.15	Accepted
	Discrimination against self-educated persons acquiring teacher certificates	Recommended revising of relevant laws which prevent self-educated persons from acquiring teacher certificates	2003.12.29	Accepted

□ **Cases of Discrimination based on Country of Birth for Which Recommendations Were Issued**

	Case description	Actions taken (summary)	Date decided	Results of action
	Discrimination against foreign laborers (2 cases combined)	Recommended revision of selection system so that foreign laborers can be selected for vocational training education	2003.3.10	Accepted

□ **Discrimination based on Sexual Orientation for Which Recommendations Were Issued**

Case description	Actions taken (summary)	Date decided	Results of action
Infringement of right to pursue happiness based on sexual orientation	Recommended deletion of 'homosexuality' from applicable provisions of the 'Enforcement Decree' of the 'Youth Protection Act.'	2003.3.31	Accepted

□ **Cases of Discrimination Based on Family Status for Which Recommendations Were Issued**

Case description	Actions taken (summary)	Date decided	Results of action
Violation of equal right based on family status	Recommended revision of customary practice of defining 'guardian' as only a person in parental authority or a sponsor	2003.5.7	Accepted

□ **Cases of Discrimination based on Criminal Record for Which Recommendations Were Issued**

Case description	Actions taken (summary)	Date decided	Results of action
Discrimination based on criminal record for which sentence had been served	Recommended to request for appointment of the complainant to teaching staff discontinuation of the customary practice of obtaining criminal record during background check	2003.1.27	Accepted

□ **Other Complaints for Which Recommendations Were Issued**

Case description	Actions taken (summary)	Date decided	Results of action
Discrimination in giving letter of appreciation due to criminal record	Recommended not to exclude from giving a letter of appreciation due to criminal record	2003.3.17.	Accepted
Violation of equal rights in qualification for applying for government technical certificate	Recommend revision of applicable laws so that equal rights will not be infringed in granting qualifications for applicants	2003.9.1	Accepted

The results of action are as of end of May.

2. Investigation and Remedies of Discriminatory Acts in Violation of Equal Rights

Violations of the right to equality constitute violations of such human rights, as guaranteed in Article 11 of the Constitution, by the performance of duties (excluding legislation of the National Assembly and trials/hearings in the Constitutional Court) of state organs, local governments, or detention or protective facilities. These are acts of preferential treatment, exclusion, discrimination, or unfavorable treatment of a particular person generally by administrative organs without any reasonable grounds.

1) Violation of the Right of Equality of a Receiver of a Certificate of Qualification by Government-Authorized Private Organs

The Association of Korea filed a complaint against the Superintendent of Educational Affairs of Province. The Association complained that according to the provisions of Article 27 of the Basic Act on Certificates of Qualification, which reads, "Those who acquire certificates of qualification issued by private organizations authorized by the government shall be treated in the same manner as those who acquired certificates of qualification issued by the government," the refusal to grant the optional additional score to the holder of 'a certificate of word processor qualification' constituted a discriminatory act.

After investigation, the Commission found that (1) a Certificate of Word Processor issued by a government-authorized private organization is the same as Certificate of Word Processor, a government technical certificate, in terms of standards for examination, curriculum for examination, and level of examination, (2) under Article 27 of the Basic Act on Certificates of Qualification, the Ministry of Education and Human Resources Development distributed an official letter to the offices of educational affairs of all metropolitan cities and provinces, instructing them to take proper measures to ensure that those who hold certificates of qualification issued by private organizations authorized by the government are equally treated as those who acquired government certificates, if there are provisions to give preference to those with government certificates, and (3) because the Educational Affairs Office of Province grants optional additional scores to holders of the government word processor certificates, that it excluded holders of certificates by government-authorized private organizations from receiving optional additional scores, thus constituting a discriminatory act of violation of the right of equality under Article 11 of the Constitution.

On June 5, 2003, the Commission recommended that the respondent organization grant holders of word processor certificates by government-authorized private organizations the same optional additional scores that are granted to holders of the government word processor certificates. The respondent organization is reviewing the proposal of the recommendation issued by the Commission.

2) Violation of Equal Employment Opportunity in Recruitment for Clerical Post at Prosecutor's Office

The complainant (victim) was preparing for the recruitment examination for Class 9 government officials for 2003 when she saw a public announcement stating that the '30% Quota for Recruitment of Women' would be abolished that there would instead be 'Equal Opportunity for Both Sexes.' The complainant expected without any doubt that 'Equal Employment Opportunity for Both Sexes' should apply to clerical posts at the prosecutor's office. However, the new 'Equal Employment Opportunity for Both Sexes' system does not apply to posts at the prosecutors' office, detention centers, and juvenile reformatory centers for boys. The complainant filed a complaint against the Ministry of Government Administration and Home Affairs, declaring that this constitutes a discriminatory act.

In response to the petition, the Commission concluded that even though there may be some occasions at the prosecutor's when physical strength is needed to a certain extent, such as during the act of arresting or confining suspects, there is no ground that such duties would not require execution of physical strength all the time. Further, there is no material that shows that a female clerical worker could not handle such duties, and duties such as arresting or confining suspects are not sole duties of a clerical worker for a prosecutor's office, and what is more, in some prosecutor's offices, female workers are on duty overnight. Given all facts together, the nature of duties at the prosecutor's office can hardly serve as grounds for not upholding 'Equal Employment Opportunity for Both Sexes.' Accordingly, on September 1, 2003, the Commission recommended that the respondent agency revise the 'Guidelines for Implementation of Equal Employment Opportunity for Both Sexes' such that the clerical position of the prosecutor's office shall not be excluded from the types of examinations subject to 'Equal Employment Opportunity for Both Sexes.' The respondent institution accommodated the recommendation issued by the Commission.

3) Recommended Revision of Article of the Public Officials Act on Prohibition of Maternity Leave

The complainant filed a complaint against the Ministry of Government Administration and Home Affairs, declaring Article 71 of the Public Officials Act prohibiting 'government officials of special career positions (high-ranking post such as prime minister, minister, etc., extraordinary posts, posts under contract for specific period, and lower clerical post)' from taking maternity leave is in violation of the right of equality under Article 11 of the Constitution.

Allowing maternity leave is an important aspect of public policy. It is intended not only to help female but also male workers properly provide for their families and function effectively in the workplace. With regard to personnel management of female government officials, the 'Guidelines for Personnel

Management of Female Government Officials' stipulate that 'a family-friendly working environment be created,' and this should be applied to all government officials. Nonetheless, 'government officials of special career positions' have been excluded from the system for maternity leave, which is an important part of the welfare system that helps maintain good office and family environments. The Commission decided that given all applicable laws and international conventions, it was reasonable to allow 'government officials of special career positions' to take maternity leave, and that not allowing such government officials to take maternity leave was a discriminatory act in violation of the right of equality. On September 22, 2003, the Commission recommended that the respondent organ revise the Public Officials Act to allow 'government officials of special career positions' to take maternity leave, and the respondent organ accommodated the recommendation.

The case was closed as rejected because it pertained to legislation. However, the Commission found that the contents of the complaint should be handled by means of policy, and accordingly, after in-depth investigation and collection of materials, the Commission issued recommendations on policy.

4) Discrimination in the Recruitment of Full-time Teaching Staff

The complainant filed a complaint against the president of University, declaring that the provisions of the 'Guidelines for the Recruitment of Full-time Teaching Staff of University' stating that, 'staff of the university should resign one month prior to the date when the applications process begins' are in violation of right to equality of staff of the school in question and against the freedom to choose vocation.

Article 33 of the 'Public Officials in Education Act' grants the university president the authority and responsibility of appointment of professors from among those with qualifications prescribed by the above said Act and applicable laws as long as impartiality and objectivity are guaranteed. The guidelines of this university are beyond the authority of the president of the university, and the Commission found that to treat those in active service of university unfavorably in the recruitment of full time professors was a discriminatory act in violation of the freedom to choose vocation and the right of equality. On October 15, 2003, the Commission recommended the respondent revise the applicable regulations, and the respondent accepted the recommendation.

3. Investigation and Remedies of Discriminatory Acts on the Ground of Gender

Discriminatory acts on the grounds of gender refer to 'exclusion, imposition of limitations, and violence due to gender in every sector of society' based on the principle of equality of both sexes. 'Matters subject to prohibition of discrimination on the ground of gender' include not only unequal treatment against one sex that is direct and visible but also standards and regulations that seem to apply equally to all citizens but which in practice have greater effect on one sex than the other. Further, violence against a member of a specific sex is deemed to be discrimination.

1) Gender Discrimination against in Supply of Goods

The complainant filed a petition with the Ministry of Construction and Transportation. The respondent argues that the provisions of the 'Enforcement Decree on Liability for Damages due to Automobile Accidents,' which states 'when damages such as facial scars due to automobile accidents occur, payment of three million won to male victim and 12 million won to a female victim shall be made' constitutes gender discrimination.

The Commission found that even after consideration of the intent of legislation, under which different amounts of compensation are paid to males and females based on the socially accepted idea that the degree of mental pain and restrictions on type of occupation caused by unpleasant facial appearance are greater with women than men "in cases where clearly visible facial scars remain," the provisions of the above said decree violate the right of equality without reasonable grounds. Given that the provisions are not medically feasible, facial sequela handicap causes pain and damage to both males and females, and similar laws such as the 'Enforcement Decree of State Liability' and 'Enforcement Decree of Liability Insurance in Industrial Accidents' do not discriminate against men and women, the provision of the 'the Enforcement Decree of 'Liability for Damages due to Automobile Accidents' is found to violate the right of equality without reasonable grounds. Thus, the Commission recognized that the classification of sequela handicap and different levels of compensation for men and women prescribed in 'Attachment 2' relating to Article 3 of the Enforcement Decree of 'Liability for Damages Due to Automobile Accidents' is in violation of right of equality under Article 11 of the Constitution.

Accordingly, on June 30, 2003, the Commission recommended that the respondent organ revise the rules such that the discriminatory provisions regarding classification of sequela handicaps and limits on compensation should be eliminated. The respondent organ accepted the recommendation.

2) Discrimination against Employees Based on Sex (Sexual Harassment)

The complainant (chairperson of the trade union of University Hospital)

filed a petition against a respondent serving as professor of the Urology Department, Medical School of University, and the chairman of the Urology Department of University Hospital, arguing that he sexually harassed nurses (victims) and offended the dignity of the victims and should, therefore, be fired.

Given the right and wrong, the nature of alleged acts of sexual harassment, violence, violation of dignity, and insulting language and behavior by the respondent, who serves a public organization, and relating to the use of his position at the workplace and the nature of his duties, the Commission found that the acts of the respondent (1) constituted sexual harassment that was sexually humiliating or emotionally harmful to the victims and other involved persons and (2) were violations of the personal rights of nurses. Thus, the Commission recognized that the sexual harassment, and violence, violation of dignity, and insulting language and behavior by the respondent to the nurses constitute discriminatory acts (sexual harassment) and violations of personal rights.

Accordingly, the Commission recommended (1) that the respondent undergo special human rights training by the National Human Rights Commission, and (2) that the president of University and director of University Hospital provide thorough training on the prevention of sexual harassment, formulate measures to prevent sexual harassment and violations of human rights, and prepare measures to investigate and settle incidents of sexual harassment and sexual violence when such incidents occur in the future. The university to which the respondent belongs accepted the recommendation.

4. Investigation and Remedies for Discrimination against Disability

Discrimination against disability means “any act of exclusion, discrimination, or unfavorable treatment of a particular person in employment or education on the grounds of disability.” The scope of prohibitions against discrimination on grounds of disability includes (1) employment (including recruitment, appointments, training, assignment of tasks, promotions, payment of wages, and payment of commodities other than wages, age, retirement, and dismissals, etc.), (2) supply or use of goods, services, transportation, commercial facilities, land, and residential facilities, and (3) use of educational facilities or vocational training institutions. All acts which bring disadvantages to the disabled or acts of exclusion, discrimination, and unfavorable treatment of the disabled without reasonable grounds, such as refusing the same treatment to the disabled as to non-disabled in the above mentioned three categories can be considered discriminatory acts.

(1) Recommendation on Discriminatory Accident against the Persons with Disability in the Issuance of Driver’s License

The complainants, who were physically handicapped, disabled due to brain

disease, and spastic disabled, filed a petition with the National Police Agency, requesting that the current law relating to measurement of the capacity for locomotion for the disabled at the driver's license test facility. The petition states that the law is overly stringent and prevents persons with disabilities from acquiring driver's licenses as such provisions do not adequately consider the characteristics of individual physical handicaps. The complainants (five persons with different disabilities), filed five complaints with the same contents.

After investigating all five complaints collectively, the Commission found that the current law is discriminatory, violating the rights of equality guaranteed by Article 11 of the Constitution, because the current law stipulates the scope and standards for qualification for driver's licenses according to the physical condition of persons with disability is too stringent. The current law requires uniform standards for capacity for locomotion without considering the possibility of assistance with supplementary driving devices.

The Commission found that Attached Table 13-3 on 'Scope, requirements, and standards for physical condition' of the 'Enforcement Regulations of Road Transportation' and Attached Table 13-5 of the same law on 'Standards for Eligibility for Manipulation of a Wheel' included in the 'Standards for Measurement Devices for the Judgment of the Capacity for Locomotion' were discriminatory, in violation of the right of equality of the complainants. Accordingly, on June 30, 2003, the Commission recommended revision of the above said law, and the respondent accepted the recommendation issued by the Commission.

5. Investigation and Remedies for Discrimination based on Age

'Age discrimination' refers to "any act of depriving persons of opportunities or unfavorable treatment on the grounds of age." That is, acts of favorable treatment, excluding, discriminating against, or unfavorably treating a particular person without reasonable grounds in employment, supply or use of goods, services, transportation, and residential facilities, etc., and use of educational facilities or vocational training institutions. The Commission investigated the case, which eventually closed through amicable settlement, for such discriminatory acts as follows:

The complainant filed a petition against the principal of High School, arguing that when the complainant demanded investigation of the incident of leakage of the mid-term math test in advance and the leakage of the answer sheet for a trial examination that occurred while the complainant was serving as a substitute teacher for the 2002 academic year. The respondent fired the complainant to cover up the incident and excluded the complainant in the reappointment of substitute teachers for the 2003 academic year by setting the age limit of the applicants to under 35 years of age.

During the investigation of the case, the Commission found that the act of the respondent of setting an age limit for appointments was in violation of rights of equality, and on August 26, 2003, closed the case by helping the parties concerned reach an amicable settlement by reappointing the complainant as a substitute teacher.

Another complainant, who had worked as vice branch manager of _____ Branch of _____ Security Fund (Grade 2), was forced into honorary retirement due to 'age,' but the complainant rejected the request. Age limits varied depending classification and rank. Then, the respondent classified the complainant under 'those subject to quasi-age limit retirement' and assigned the complainant to a post of _____ research (on the wait-list) of _____ regional headquarters, a distant location where the complainant has no connections, ostensibly for staffing purposes, with the wages of the complainant reduced by 54%. The complainant filed a complaint arguing that assignment to the wait-list due for refusal against honorary retirement on the grounds of age is unjust and demanded to be reinstated to the original post. During the course of investigation, the Commission closed the case after amicable settlement between the parties concerned. It was agreed that, "the complainant will be reinstated as a research officer, and the complainant will assume an extraordinary post when he reaches the age of 55. The average wages to be applied to the calculation for the interim settlement of retirement pay for the complainant will be the average wage level of a research officer, the post to which the complainant was reinstated,"

6. Investigation and Remedies for Discrimination Based on Social Status

'Social status' refers to a distinct group of people who have been recognized for a considerable period of time in society (students, government officials, lawyers, substitute teachers, etc.). 'Discrimination respective of social status' refers to acts of discrimination without reasonable grounds in employment, use of goods and services, etc., and use of educational facilities or vocational training institutions on the grounds of such social status.

(1) Discrimination against Substitute Teachers

The complainant, a substitute teacher with a certificate of a regular teacher, filed a petition, arguing that despite the fact that he/she was doing the same work as a regular teacher, he/she received less compensation for vacations, the annual vacation, and retirement allowance, and was held at a lower pay grade.

After investigation, the Commission found that if a substitute teacher used vacations as opportunities to refresh and prepare for the next semester by such means as researching teaching materials and preparing to teach students as

regular teachers do, that the substitute teacher effectively worked continually through the vacations. Given that (1) the respondent did not take the annual vacation prescribed in the regulation of duties of public officers for non-standard teachers during the complainant's at the school, and that (2) the respondent lowered the ceiling on pay grades for substitute teachers to grade 10 despite the fact that the complainant had a career record of a regular teacher, the Commission recognized that the fact that respondent's paying the complainant less for vacations, retirement allowance, and annual leave, and imposing a ceiling on the complainant's pay grade constituted discriminatory acts without reasonable grounds.

On March 24, the Commission recommended that the principal of Middle School desist from all discriminatory acts against substitute teachers and treatment of them less favorably than regular teachers in payment of compensation during vacations, annual vacations, and retirement allowances, and in setting pay grades. The Commission also recommended that the Minister of Education & Human Resources Development and Commissioner of Seoul Metropolitan Office of Education revise the applicable administrative rules and regulations such as the Guidelines for Management of Substitute Teachers to prevent future such discriminatory acts against substitute teachers. The respondents accepted the recommendation by the Commission.

(2) Discrimination in Providing Goods based on Social Status (non-student youth)

The complainant filed a complaint arguing that since it is possible for non-students youths to obtain student discounts for use of public facilities and transportation by showing only student IDs, additional measures should be taken, such as issuance of a 'Youth ID.'

After investigation, the Commission found that, given the provisions of Article 11 regarding the guarantee of rights to equality and provisions relating to rights of youths of the Charter of Youth, which states that youths shall not face discrimination on the grounds of family socio-economic status, gender, religion, educational background, or age, that not giving non-student youths the same discounts for use of public facilities that student youths receive constitutes discrimination without reasonable grounds. Furthermore, given the fact that the number of economically and socially disadvantaged non-student youths is

increasing, the government and society should render this age group special assistance. The Commission decided that it is necessary to facilitate revision of laws, institutional practices, and policies that are discriminatory against non-student youths.

The Commission recommended that the respondent, the Ministry of Culture and Tourism, revise or improve applicable laws, institutional practices, and policies that discriminate between student youths and non-student youths in the offering of discounts for use of public facilities or transportation. The respondent organs accepted the recommendation, revised the applicable laws, and are taking necessary actions, including issuance of a 'Youth ID' to non-student youths.

7. Investigation and Remedies for Discrimination based on Country of Birth

'Discrimination based on Country of Birth' refers acts of discrimination on the grounds that the victim of discrimination came from another country or was raised in another country than Korea. This refers to cases where those such as foreign laborers and foreign professors face discrimination for reasons of their being foreigners. In particular, there are some cases of illegal sojourns by foreign laborers who enter Korea as industrial trainees and continue to stay even after the expiration of their training. It has been found that Korean employers have exploited the fact that they are illegally immigrants by paying much lower wages than to Korean workers, failing to maintain adequate working conditions, and unfairly restricting access to educational and vocational training facilities. All of these acts constitute discrimination against foreigners.

The complainants are workers with foreign nationalities. They suffered industrial accidents while working in Korea, and they applied to the respondent for admission to the Vocational Rehabilitation Training Center and for financial aid to help cover the expenses for vocational training. The complainants were refused vocational rehabilitation on the grounds that they were foreign workers. They filed two complaints arguing that it was in violation of the right of equality based on country of birth.

The Commission investigated the two complaints collectively. The results of

the investigation found that under the provisions of Article 5 of the 'Labor Standards Act,' foreign laborers are subject to receiving industrial accident insurance compensation as they are laborers regardless of legal status. Thus, they can be included in the category of laborers eligible for vocational rehabilitation training, which is provided under the 'Industrial Accident Compensation Insurance Act.' Despite the fact that foreign laborers are not included in the category of laborers to be excluded as candidates as provided in the 'Guidelines for Projects to Support Vocational Training of Those Handicapped due to Industrial Accidents,' in the first place, financial aid applications for vocational training by foreign laborers who suffered industrial accidents is presently impossible. This is against the principle of equal opportunity and does not serve the objective of vocational rehabilitation training.

The Commission decided that exclusion of the complainants from applying for vocational rehabilitation training on the grounds that they were foreigners was a discriminatory act in violation of right of equality based on country of birth. The Commission recommended that the respondent, the Korea Labor Welfare Corporation, revise the system for the selection of candidates for vocational rehabilitation training so that foreign laborers including the complainants will not be ineligible for vocational rehabilitation training. The respondent accepted the recommendation.

8. Investigation and Remedies for Discrimination based on Sexual Preference (Orientation?)

'Sexual orientation,' unlike sexual identity, is an already existing inclination of individual regardless of consciousness or perception of the individual him/herself. It pertains to what sex a person is attracted to sexually and emotionally. That is, sexual orientation means that a person is sexually and emotionally interested in a person of a specific sex. The concept of sexual orientation includes all emotional sexual behaviors. Those whom we generally refer to as homosexuals are those whose sexual orientation is such that they are attracted to others of the same sex, emotionally, sexually, and physically. In the past, homosexuality was regarded as a mental disease. However, in 1972, the American Psychological Association deleted homosexuality from the category of pathological diseases, and now homosexuality is seen as one of several natural sexual orientations.

The complainants (two including one from the Human Rights Association) filed complaints against the chairman of the Youth Protection Commission, one on October 15, 2002, and the other on December 23, 2002, stating that (1) under the provisions of [Attached Table 1] relating to Article 7 of the 'Enforcement Decree of the Youth Protection Act,' 'homosexuality' is stipulated as a standard for case deliberation of medium detrimental to youths, and that (2) this is in violation of human rights based on sexual orientation. The complainants demanded that the word 'homosexuality' be deleted from the provisions of the above said Decree.

After investigation, the Commission concluded that the right of sexual determination is a right to decide sexual acts and choose counterparts. As such sexual acts include homosexuality, the provisions which describe homosexuality as abnormal and prohibit youths from access to media which depicts homosexuality as a 'medium detrimental to youths' is in violation of rights of sexual determination of homosexuals, that is, the right to pursue happiness. This is recognized as an act in violation of the right of equality under Article 11 of Constitution against homosexuals based on sexual preference without reasonable grounds. In addition, Article 21 of the Constitution guarantees freedom of expression. As freedom of expression should be guaranteed to the maximum possible degree as long it does not

infringe on the honor or rights of other people, public morality, or social ethics. As long as there are no grounds for classifying homosexuality under the above listed conditions to restrict rights, the freedom of expression on homosexuality should be guaranteed.

On March 31, 2003, the Commission recommended that the Youth Protection Commission delete 'homosexuality' from the standards for case deliberation of medium detrimental to youths in [Attached Table 1] relating to Article 7 of 'Enforcement Decree of the Youth Protection Act.' The Youth Protection Commission accepted the recommendation, and revisions to the applicable provisions are being made.

9. Investigation and Remedies for Discrimination based on family Status

'Family status' discrimination refers to those discriminatory acts based on form of a family such as with regard to marital status (single-parent families, remarriage, etc.) and guardianship. A major case of family status-related discrimination filed with the Commission is as follows:

The complainant (mother of victim, a student of Elementary School) filed a petition arguing that Paragraph 3, Article 21 of the 'Enforcement Decree' of the 'Elementary/Middle School Education Act' defines a 'guardian' too narrowly as only a person with parental authority or a sponsor, and for that reason, the application of the complainant, who was raising and protecting the child in question, to transfer the child to another school while remaining at the same residence, was rejected.

After investigation, the Commission found that the intent of the provision, which requires consent of one guardian when recommending a school transfer for an elementary school student without change of residence, was to guarantee the right of the student to education, rather than to protect the right of a person in parental authority or a sponsor. Further, given that the recommendation on school transfer can be made when the educational environment of a student needs to be changed due to family matters, etc., the scope of guardianship includes not only a person in parental authority or a sponsor, but also a person who actually raises and protects the child. As such, the rejection of the application to transfer the child on the grounds that there is no consent from a

person in parental authority or a sponsor is in violation of the rights of the elementary school student, who is under protection of a person who is not in parental authority or a sponsor, to pursue happiness under Article 10 of the Constitution, and in violation of the right of equality of the elementary school student under Article 11 of the Constitution.

On May 7, 2003, the Commission recommended that the Minister of Education & Human Resources Development revise the definition of 'guardian' in the Paragraph 3, Article 21 of the 'Enforcement Decree of the Elementary/Middle School Educational Act' to include a person in parental authority or a sponsor. The Minister accepted the recommendation issued by the Commission.

10. Investigation and Remedies for Discrimination based on Criminal Record

Discrimination based on past criminal record refers to unreasonable discrimination against those who have served all required time for past crimes or have been pardoned in employment, the use of goods and services, use of educational facilities, and use of vocational training facilities. A major case filed with the Commission regarding discrimination based on criminal record is as follows.

The complainant applied for and passed the examination for employment of teaching staff at High School in 2002, but was informed that he was excluded from employment because the school was notified of his past criminal record, for which he had been granted a pardon and his civic rights were restored, as a result of a background check. The complainant asserted in the complaint that notification of the potential employer of his criminal record, for which the complainant had been pardoned restored of civic rights, was a violation of human rights. The complainant filed a complaint with High School, the National Intelligence Service, and the National Police Agency as respondents, arguing that said act constituted a violation of the rights of the complainant to pursue happiness and to equality.

The Commission found that the complainant was not recommended for employment as a member of the teaching staff on the basis of past crime, for which he had been pardoned and restored of civic rights. Given the objective

of the 'Act Concerning Sentences Served,' which stipulates that those pardoned and restored of civic rights under the 'Amnesty Law' be removed from the 'List of Convicts' and that the applicable section of the 'List of Convict' be deleted, the conduct of the principal of High School of not recommending the complainant for employment as a member of the teaching staff on the basis of past crime, pardoned and for which civic rights were restored, amounted to "conduct violating the right to pursue happiness of the complainant under Article 10 of the Constitution. The act of principal of High School of not recommending the complainant for appointment to the post of teaching staff based on a criminal record obtained by a background check of the candidate, without objective standards for verification for the complainant, such as an interview test, which can be conducted to evaluate personality, characteristics, and teaching qualifications, is considered to be without reasonable ground, which is in violation of the rights of equality of the complainant as guaranteed under Article 11 of the Constitution.

The Commission recommended that the National Intelligence Service, a respondent, improve and discontinue the customary practice of obtaining criminal records, pardoned and for which civic rights were restored, when conducting background checks. It also recommended that the principal of High School request the appointment of the complainant at the earliest possible date. In response, the respondents accepted recommendation issued by the Commissioner, revised the candidate background check procedure, and requested the appointment of the complainant.

11. Other Complaints Filed and Handled

Other complaints include cases that do not fall under the category of human rights violations and discriminatory acts at the time of filing with the Human Rights Counseling Center. These other complaints fall under seven classifications: infringements of private individuals, revisions of laws and systems, legislative judgments, property rights, corporations, other organizations, and others.

As Table 2-3-5 shows, 987 complaints were filed, of which 753 cases were closed. Of these 753 cases closed, five cases (0.5%) were closed with recommendations, and 26 cases (2.6%) were dismissed. A total of 722 cases out of the 753 closed cases were rejected, accounting for 95.9% of the total.

Table 2-3-5 Treatment of Complaints Classified as Others

	Complaints filed (transferred from 2002)	Type of settlement				Investigation underway
		Sub- total	Recommended	Dismissed	Rejected (Settled after investigation)	
No. of cases filed in 2002	571	389	2	6	381	182
No. of cases filed in 2002	416 (182)	293 (71)	2(1)	10 (10)	281 (60)	123 (111)
Sub-total	987	753	5	26	722	234
Ratio (%)	100.0	76.3	0.5	2.6	73.2	23.7

As shown in the table above, 722 cases out of 987 cases filed with the Commission were rejected. Looking at reasons for rejection, 480 complaints (66.5%) were rejected because they were by their nature outside the jurisdiction of the Commission. These included complaints about such matters as legislation at the National Assembly, and they accounting for major portion of 66.5% of the total complaints rejected. Eighty-one (11.2%) of cases were voluntarily withdrawn by complainants or were cases where the victims did not want investigations; 71 (5.4%) were cases for which trials at court or the Constitutional court,

investigation by an investigation agency, or other remedial procedures under laws were ongoing or being closed at the time complaints were made; and 28 (2.9%) were cases rejected because they were fraudulent or grounds for complaint did not exist.

Table 2—3-6 Grounds for Cases Rejected

	Sub-total	Not subject to investigation	Fraud/ No ground	Withdrawn/ Investigation not wanted	Petition made after lapse of one year	Remedial procedures already underway	Ruling of court/ Decision of Constitutional Court	Others
No. of cases filed in 2002	381	280	9	33	15	39	3	2
No. of cases filed in 2002	341	200	19	48	24	32	12	6
Sub-total	722	480	28	81	39	71	15	8
Ratio (%)	100	66.5	3.9	11.2	5.4	9.8	2.1	1.1

The major reason that explains why a large number of cases were rejected in the category of complaints classified as ‘Others’ is that they were not subject to investigation by the Commission because they were mostly about human rights infringements (conflicts) among private individuals, infringements of property rights, or about legislation, not falling within the jurisdiction of the Commission.

However, the Commission will collect and keep record on matters relating to major policies and those which may indicate the need to revise laws, even though they are not within the scope of matters subject to investigation by the Commission, and will fully consider them in human rights policy formulation in the future.

Chapter 3 Raising Awareness of Human Rights through Training and Public Relations

1. Five-year Human Rights Training Plan

In its resolution of 2004, the General Assembly of the United Nations proclaimed the ‘United Nations Decade for Human Rights Training’ from 1995 through 2004, and recommended that countries around the world formulate and implement specific plan of actions. Human rights civic groups in Korea have persistently pressed the government to implement human rights training at the national level. Since the inauguration of the National Human Rights Commission in Korea, public interest in and demand for human rights training have increased greatly. In order to satisfy the demand for the long-term and for comprehensive human rights training from both home and abroad, the Commission is formulating a five-year master plan for human rights training. In order to protect and strengthen human rights, the public perception and customary practices within institutions and in society in general need to be changed, and systematic and comprehensive human rights training needs to be carried out actively. What is needed most for the success of the five-year master plan for human rights training, now being formulated, is a national consensus including governmental and non-governmental organizations and establishment of an effective implementation system that can be practiced in everyday lives in every sector of society.

The guiding principles and plan of action presented by the United **Nations** in 1997 are intended to promote formulation and implementation of policy for comprehensive human rights training. They first recommend the establishment of a national organization in each country for human rights training, such as the ‘National Committee for Human Rights Training,’ and then that policy tasks be established, implemented, evaluated, and corrected where necessary, based on a broad range preliminary surveys on the current state and demand for human rights training. In accordance with the UN guiding principles, the Commission commissioned research projects to the Human Rights Peace Center of Sung-Kong-Hoe University, seeing this as an excellent opportunity to collect diverse opinions on detailed policy tasks. On November 5, 2003, a symposium on the ‘Current Situation and Direction of Human Rights Training’ was held with the participation of government officials engaged in human rights training, teachers of elementary, middle, and high schools, staff of human rights NGOs engaged in human rights training, experts from academia, the Korean National Commission for UNESCO, the Seoul Office of the United Nations High Commissioner for Refugees (UNHCR), and staff of other international organizations to discuss pending issues and policy tasks for human rights training. After the symposium, discussion meetings were held on human rights issues and tasks pertaining to government agencies, schools, and civic groups, through which the Commission

collected information on the current state at different types of organizations and on policy tasks.

2. Development of Education Materials for Human Rights Training in Elementary, Middle, and High Schools

The United Nations recommends that human rights training in formal educational systems be included among the major tasks to be implemented for the decade for human rights training. Paragraph 2, Article 26 of the National Human Rights Commission Act states, “The Commission may consult with the Minister of Education and Human Resources Development to include contents concerning human rights in the curricula of schools.” In 2003, the Commission conducted a ‘survey on demand for human rights curriculum in elementary, middle, and high schools’ from teachers of the schools, in order to develop a model for human rights curricula for elementary, middle, and high schools as a preparatory process for the full integration of human rights training in formal educational systems. In developing a tentative plan for human rights curricula for kindergarten, elementary, middle, and high schools, the Commission held a workshop on October 21, 2003, and a public hearing on October 21, 2003 with the participation of teachers as well as staff of metropolitan and provincial educational agencies responsible for human rights training.

The Commission will develop human rights curricula for kindergarteners and first graders through tenth graders, taking full consideration of the educational level and capacity to learn of each grade level and integration of human rights training into other curricula. The Commission plans to establish the ‘Advisory Committee for Human Rights Curricula’ within the Commission to develop a ‘tentative plan for human rights curricula’ that can serve as a model in preparing human rights sections in textbooks at the time of revising curricula for the next phase.

3. Operation of a Pool of Lecturers for Human Rights Training

Since its inauguration, the Commission has organized a pool of lecturers for human rights training in order to improve human rights awareness among **law enforcement officers**. The group staged very active campaigns throughout 2003, and it presented equally heavy challenges to the Commission in that it soon became evident that the training techniques of the lecturers needed to be improved, and the lecturers needed to better understand what was recommended by the Commission. These tasks were duly addressed in the 2003 workshop on lectures.

In 2003, the Commission held two workshops; one in the first half and the other in the latter half. They were intended to maximize the effectiveness of the general training program by increasing

the level of professionalism and training capabilities of lecturers. The first workshop held on May 30 through 31 focused on the lecture techniques and skills for the lecturers of the Commission. In the second workshop held on August 29, the police human rights lecturers pool (organized as part of a comprehensive plan for the establishment of human rights protection system within the National Police Agency), professors of law enforcement agencies such as the Legal Research & Training Institute, and university professors of human rights participated along with lecturers of the Commission. The second workshop was an opportunity to provide information on human rights and the Commission as well as standard teaching materials and the basic orientation of the Commission's human rights training to the in-house pool of lecturers of the National Police Agency and professors of law enforcement agencies. It also provided an opportunity to share opinions on human rights.

The Commission provided human rights training in various field by utilizing the pool of lecturers of the Commission. As in 2002, the Commission continued to provide human rights training to law enforcement government officials such as police, prosecutors, and prison officials in order to eliminate and prevent human rights violations by the public sector. In 2003, the human rights training program was expanded to include the Immigration Office, armed forces, etc., and more lectures were given. The quality of lectures was improved by utilizing training techniques and skills discussed at the workshop for lecturers on human rights training. The Commission provided 9,040 man-days of human rights training (a total of 91 lectures) for police, prosecutors, etc.

<Table 3-1-1> Human Rights Lectures Given in 2003

	Police	Prosecutors	Immigration office	Detention center	Military	Total
No. of lectures	80	1	3	5	2	91
Size of audience	8,223	124	210	330	153	9,040

4. Development of Education Materials for Human Rights Training

Since its inauguration, the Commission has developed education materials for human rights training to raise the awareness of government officials on the importance of human rights and to prevent human rights violations. In 2002, the Commission published the 'Human Rights Handbook,' an education material for government officials working for the police, prosecutors, detention centers, etc. In 2003, the Commission developed human rights education material

for central and local government officials in response to rising demand from them for training. The human rights education materials address human rights in general such as international human rights and the National Human Rights Commission, and the full range of human rights issues. These materials will be used to support training of public administration officials and human rights lectures at training institutes.

There was great need to develop an effective teaching method to ensure that human rights training translate into real change in understanding and attitudes, and therefore, action and behavior patterns. It is especially incumbent on the Commission to develop effective learner-oriented human rights training methodology because it conducts a program to develop human resources for human rights lecturers.

The Commission developed effective pedagogical techniques specifically for the training of police, for whom human rights training was most actively conducted. The police had especially great need for improved pedagogical techniques because the National Police Agency manages its own in-house pool of human rights lecturers and classes. To address such need, the Commission developed 'a manual for lecturers on human rights for police' in 2003. While developing the manual, the Commission held a workshop (Oct.31 ~ Nov. 1) on the development of a manual for human rights training for incumbent police officers. Included in the manual are approaches to human rights training by educators of human rights to police officers, a curriculum, and pedagogical techniques. The manual comes with a CD-ROM showing the progress of each program discussed in the manual.

The manual will serve as a valuable reference for workshops for police for years to come, for consultation on establishing a new human rights curriculum, and implementation of human rights plans of action. It will be used for in-house human rights classes of the police and other human rights workshops, as well as by Commission lecturers for human rights training at various police training centers.

For the future of our children and our society, human rights education in schools is very important. However, the education materials and programs for human rights training that can be used in schools are presently inadequate. In 2002, the Commission developed two fairy tale books and a manual, which were about an abandoned child and ill-treated elderly people, aiming to increase the public perception towards human rights through various, easily accessible human rights training media.

In 2003, reflecting the movement led by the Commission at the national level to correct laws and systems that were discriminatory to specific groups, the Commission pressed for the enactment of a law to prevent discrimination. Out of the various forms of discrimination, that against persons with disabilities was selected as the theme of the fairy tale and manual that the Commission developed for human rights training for children in elementary and middle schools to raise their awareness of biases against the many persons with **disabilities** around us. The fairy tale, titled ‘Heu-Wan, My Good Friend,’ was authored by Yun Gi-hyeon and illustrated by Yang Sang-yong; the manual, titled ‘the World in Which We Live Together’ was authored by Professor Pak Seung-heu.

The fairy tale and manual will be used as support materials for human rights training in extra curricula and homeroom instruction in elementary schools to teach children that persons with disabilities are also valuable members of society and are all around us so that the foundation for a new society without discrimination will be established.

<Table 3 - 1 - 2> Development of Education Materials for Human Rights Training

	Title	Contents	Purpose
Education materials for government officials	Human Rights Handbook	Human rights in general, and specific policy for each area of administration, labor, and women	To be used to support training of public administration officials and in human rights lectures at training institutes
Education materials for human rights educators	Manual for Lecturers on Human Rights for Police	Approach to human rights training by educators of human rights to police officers, curriculum, and pedagogical techniques	To be used for human rights classes for police
Fairy tales and manual	Heu-Wan, My Good Friend (fairy tale)	Teaches children that persons with disabilities are also valuable members of society and are all around us	To be used as support materials for human rights training in special curricula and homeroom instruction in elementary schools
	The World in Which We Live Together (manual)	Teaches children how to respect people with disabilities	

5. Provision of Human Rights Training & Education

In order to expand human rights training to cover the broader sectors of society, the Commission consulted the Training Institute of the Ministry of Justice, Ministry of National Defense, the Judicial Training Institute, and training centers for teachers. In order to establish a special lecture on human rights at training centers for teachers, the Commission held a meeting with those responsible for training centers for teachers on October 21, 2003. The Commission also had a consultation with the Korea Press Foundation to support human rights training for those in the mass media and to promote human rights training through the media. It, furthermore, had interviews with appropriate persons at corporations to provide human rights training to employees.

The Commission provided two sessions of human rights training to the criminal investigation sections of the Army and Navy in 2003, as well as to law enforcement officials of the police, prosecutors, and prison officials. It also delivered special human rights lectures to the press, judicial officers of Judicial Training Institute, and teachers. The Commission arranged invitational lectures by Human Rights Commission members to the undergraduate and graduate schools of Hanyang University, Jeonbuk University, etc., six times. The Commission held a workshop on the development of human rights curricula in elementary, middle, and high schools with the participation of staff responsible for education curricula of the National Education Agency, those at training centers for teachers, and incumbent teachers. A total of one hundred people participated in this workshop held on October 21, 2003. A workshop on human rights training for elementary school teachers utilizing the fairytale story and a manual developed by the Commission was held on December 18.

Through consultation with the Judicial Research & Training Center, the Commission drew up an agreement on opening a human rights course in the form of special lectures in the curricula for training of newly-appointed judiciary officials and trainees of the Judicial Training Institute. In consultation with the Judicial Training Institute, discussions were held on revision of current classes on human rights to emphasize prevention of human rights violations. The Institute agreed that it would consider revising the contents of future human rights classes. The Commission asked the training center for teachers to offer a human rights class, and the center responded affirmatively that it would begin offering a special lecture class, to begin with, after consultation. Cooperation was strengthened through individual consultations. In order to yield more tangible results, the Commission needs to devise measures for more systematic consultation. With this in mind, the Commission will strengthen consultation with institutes, encouraging them to offer regular classes rather than special lecture classes. To this end, the

Commission will provide training and hold discussion meetings with staff in charge of education and training at appropriate institutes.

The Commission recommended that the respondents subject to the complaints filed with the Commission receive special human rights training provided by the Commission, and it provided nine sessions of human rights training for sixteen respondents. Unlike recommendations on ordinary human rights training, special human rights training recommended by the Commission is conducted by the Commission's own instructors. This special training differs from other human rights training carried in-house along with other recommendations such as revisions to systems. The results of a questionnaire survey answered by those who had completed the special human rights training of the Commission revealed that the respondents gave both positive and negative responses to the question as to whether they would likely commit human rights violation again in the future in similar situations as those for which the petitions had been filed. These responses show that one session of four-hour training for adults can only have but limited effect. For this reason, the Commission is preparing to make more comprehensive and effective recommendations.

6. Development and Distribution of Human Rights Cultural Contents

(1) Production and Screening of Human Rights Film, 'If You Were Me'

In 2003, the Commission produced a human rights film titled '*If You Were Me*' by integrating six short films it had produced in 2002. '*If You Were Me*,' in the form of an omnibus film consisting of six short 10- to 20-minutes films was directed by six directors (Park Gwang-su, Park Chang-uk, Jeong Jae-eun, Park Jin-pyo, Yeo Gyun-dong, and Im Sun-rye) on the theme of human rights. Each of the films dealt with issues of discrimination widespread in Korean society against people with disability, foreign laborers, those with unattractive countenances, different educational backgrounds, and certain social statuses; six types of discrimination out of eighteen delineated by the National Human Rights Commission Act. (Producers: Lee Hyeon-seung, Lee Jin-suk)

Cheongoram, a movie company, was in charge of investment and distribution of *If You Were Me* within Korea. Indistory is responsible for distribution overseas. The film was supported by the Dongsung Art Center and the Korean Film Council. The film was selected as the opening film of the Jeonju International Film Festival on April 25, and it has since been requested at many international film festivals. It was also the opening film of the Fourth Persons with Disabilities Film Festival on September 24. It was requested at the Sixth Go Ding Video and Film Festival on September 24, Yeosu Human Rights Film Festival on October

24. On November 14, it began showing in 53 theaters nationwide. It is for audiences 12 years of age or older. The Commission staged various promotions for the film before its first showing in theaters. On November 7, the Commission held a special preview at Myeongbo Theater for an audience of some 250 including Vice Prime Minister Yun Deok-hong, Minister of Justice Gang Geum-sil, Minister of Labor Gwon Gi-hong, and movie stars Choe Min-sik and Yu ji-tae. Before the preview, some thirty movie stars including An Seong-gi, Jeong Wu-seong, Song Gang-ho, and Mun So-ri hosted a charity auction for human rights films. *If You Were Me* was awarded a Special Mention by NETPAC and the Thirteenth Korean Catholic Mass Communication Prize on December 11. The six directors donated all of the prize money to the foreign laborers' association.

(2) Publication of Human Rights Comic Book 'Sip-si-il Pan'

Sip-si-il Pan, a human rights comic book planned and produced by the Commission in 2002, was published by Changjbi Publishers in August 2003. The comic book entered its second printing only two weeks after the first printing and was in its fifth printing as of December 2003. A total of 15,000 copies were printed. *Sip-si-il Pan* was selected by the Korea Publication Ethics Commission as a book recommended for youths for 2003. It was also recommended by the 'Association of Teachers who Are Making the World Warm with Books'. It is intended for readers of an eight grade level or higher, and it was recommended in the area of 'torments over the world after knowing history.' The comic book was selected as a final candidate for the 44th Korean Baeksang Publication and Culture Award in the field of children and youths.

The theme of *Sip-si-il Pan* is the eighteen different types of discrimination prescribed by the National Human Rights Commission Act. Ten cartoonists (Park Jae-dong, Son Mun-sang, Yu Seung-ha, Lee U-il, Lee Heu-jae, Jang Gyeong-seop, Jo Nam-jun, Choe Ho-cheol, Hong Seung-u, and Hong Yun-pyo) participated in producing this comic book in various forms including a dramatic version, literary gossip, and a conte.

(3) Human Rights, a Monthly Magazine, Founded

The first issue of 'Human Rights,' a monthly magazine, was published on August 1, 2003. This monthly was founded to enhance the public perception toward human rights by strongly promoting the activities of the Commission.

Regular columns include 'Current Affairs,' which reports on current human rights issues of our society, 'Special Feature,' which introduces the activities of the National Human Rights Commission, 'Meet the Commission,' a series of interviews with persons who are striving to

uphold human rights, and 'Human Feel,' a human rights essay series. Issue No. 5 was published in December 2003 and distributed to civil petitions offices, banks, and individual subscribers throughout the country.

7. Promotion of Human Rights to Improve Public Perception Towards Human Rights

On the occasion of the 55th Universal Declaration of Human Rights, the Commission produced and aired a TV commercial under the theme of 'Foreign Laborers, We Should Live All Together' to improve the public perception of the Korean people towards foreign workers and to publicize the right to petition. The commercial selected priority issues including 'foreign laborers,' 'multi-cultural second-generation family members,' and 'inadequately protected children' and expressed them collectively in order to increase message delivery and the understanding of viewers. The appeal and effectiveness of the commercial was increased by presenting a child as a key character. **The family of a Pakistani laborer with his Korean wife and their second son, Joseph, appeared in the commercial as key characters, which was produced by Director Park Myeong-cheon.** This human rights commercial was aired from December 9 through December 31, 2003 on MBD, SBS, and KBS 241 times, and appeared 78 times as an electric board commercial throughout Korea. This commercial was selected as the 'commercial of the topic' on www.tvcf.co.kr, a TV commercial portal site. It was also introduced in a textbook on commercials and PR, titled 'TV Commercial Presentations, Notes on Production – 50 Masterpieces.'

The Commission produced and distributed a poster and leaflet titled 'We are Different, but We are All the Same,' aimed at guaranteeing the right to petition and increasing public awareness of human rights. (Illustrated by Kang U-geun, copy written by Yun Su-jeong, designed by Choe Jun-seok). For the first time on October 1, 2003, 30,000 posters and 131,000 leaflets were distributed at 11,654 locations, including eup, myeon, and dong offices, high schools, universities, police stations, protective facilities, and NGOs. In December, an additional 4,028 posters and 47,450 leaflets were distributed to train stations, hospitals, health clinics, post offices, and banks.

In December 2003, the Commission conducted a questionnaire survey on people's familiarity with the Commission and public awareness about discrimination to monitor the direction of public opinion. During the ceremony to commemorate the 55th anniversary of the Universal Declaration of Human Rights on December 10, 2003, the Commission appointed Yun Do-hyeon and his band as good will ambassadors for human rights promotion, a move meant to step up promotion of human rights through popular culture.

Chapter 4

Cooperation with Human Rights Organizations

1. Promotion of Joint Cooperation Projects with Human Rights NGOs to Facilitate Civic Human Rights Campaigns

(1) Support for NGO Projects

In 2003, the Commission launched two joint cooperation programs with human rights civil groups. One is the 'Support for NGO Projects' program, and the other is 'Commissioned Projects for the Development of Implementation Programs for Citizens.' Both programs are designed to protect and promote human rights. Advice from experts from human rights organizations and their first-hand on-site experience were incorporated into individual projects of the Commission, paving the way to lay a firm foundation for more effective human rights campaigns.

Under the program to 'Support NGO Projects,' the Commission selected 23 civil organizations to receive 200 million won in grants for projects that could not readily be carried out due to insufficient funding. The projects supported in 2003 included those that needed to be further developed or revitalized for the promotion of human rights, projects intended to strengthen solidarity with international organizations and associations, projects related to international conventions and that have great impact on the Korean people of Korea, and projects that are expected to create substantial networking effects, such as projects with local networks. In order to ensure transparency of this program, the legal and institutional framework was established with the enactment of the 'Regulations on Grants to the Private Sector.' Under the regulations, a separate Project Screening Committee of academics and other experts from the private sector was established to select projects, determine the amounts of grants to be provided, and evaluate the projects. The projects and organizations for which grants were provided are shown in Table 4-1-1.

The most successful project supported by the program was the 'Publication of **the** White Paper on the Current State of Human Rights at Korean Corporations Overseas,' conducted by the 'Korean House for International Solidarity.' Labor conflicts and cases of labor rights infringements that occurred over the past ten

years at Korean corporations overseas were collected and then analyzed by type to be published in a white paper. The white paper was highly evaluated for suggesting the appropriate role of the Korean government in mediating labor conflicts at Korean corporations invested overseas and indicating that corporations could and should shoulder greater responsibilities to society.

The project for 'Publication and Distribution of Human Rights Booklets and CDs for Migrant Laborers' conducted by the 'Association for Foreign Workers' Human Rights' was also highly evaluated. The booklet and CD were produced to raise the awareness of migrant laborers who lacked knowledge of Korean laws and systems on human rights so that they could take action into their own hands to protect their own human rights and effectively use the institutions available to them. In so doing, the project contributed to the human rights protection of migrant laborers in a practical manner.

<Table 4-1-1> Projects by Human Rights NGOs Supported by the Commission

(Unit: 1,000)

	Title of Project	NGO	Grant
1	Preliminary survey to improve human rights and treatment of army privates	Human Rights and Peace Center, Song-gong-hoe University	12,650
2	Publication of the White Paper on the Current State of Human Rights of Korean Corporations Overseas	Korean House for International Solidarity	7,950
3	Telephone use rights for military personnel	Family Council for Examination of mysterious deaths of soldiers and eradication of violence in the Army	8,400
4	Citizens' Watchdog Group for Women's Rights	Korea Sexual Violence Relief Center	4,500
5	Submission of the Report on the Position of Korean Civil Society to World Summit on Information Society	Korean Progressive Network Jinbonet	11,620
6	Publication and Distribution of Human	Foreign Workers' Human	13,650

	Rights Booklet and CD for Migrant Laborers	Rights Association	
7	'Publication of 'Report on Big Brother	Citizens' Action Network	8,325
8	Construction of Network to Expand Patients' Right	Health Solidarity	8,575
9	International Workshop on Increasing the Role of International Criminal Court and Human Rights NGOs in Northeast Asia	Minbyun-Lawyers for Democratic Society	9,600
10	Production of the documentary to help the public understand the right to reject military service and perform substitute service	Korea Solidarity for Conscientious Objection	13,000
11	'Let's Change Rules for Teaching, Let's Protect Human Rights for Youth' campaign	Young Korean Academy	5,350
12	Organizing Solidarity to Eradicate Sex Trade of Women with Disability and Implementation Program	Hansori-hoe to Eradicate Sex Trade	10,100
13	Peace Human Rights Society Activities in Middle and High Schools and Development of Material	Women Making Peace	9,270
14	Symposium and Human Rights of Local Youths	Iksan YMCA	4,610
15	Translation of 'I and Owl,' a Documentary of a Military Campsite Town, in English and Japanese	Durebang	11,613
16	PR for Comprehensive International Conventions for Protection and Promotion of Rights and Dignity of Persons with Disabilities	DPI Korea	9,066
17	Raising Human Rights Awareness through Human Rights Training for Working-level Staff of Local Children's Centers and Fostering Human Rights Activists	Corporation Leftovers Love Sharing Community	6,370

18	1st Nogeul - ri Human Rights Essay Contest and One's Impressions of a Book	Commission on Nogeul - ri Accident	6,797
19	'Ulsan Human Rights School,' Human Rights Training Program for Citizens in 2003	Ulsan Human Rights Solidarity	8,780
20	Participation in JPW International Meeting	Catholic Human Rights Commission	3,000
21	Training of Civic Group Social Workers to Strengthen Capacities of Korean NGOs in the International Arena	Korean Federation for Environmental Movement	10,000
22	Survey to formulate joint plan of action of women in East Asia to address Worsening Female Poverty	Korean Women Workers Associations United	9,030
23	Training on Social Welfare System to Guarantee Rights of Rare Diseases Patients	Korean Association of Leukemia Patients	7,744
Total			200,000

'Training of Civic Group Social Workers to Strengthen Capabilities of Korean NGOs in International Arena' by the Korean Federation for Environmental Movement is also recognized as an exemplary case. It was pursued to develop measures for greater international solidarity among organizations from both home and abroad, jointly with the Minbyun-Lawyers for a Democratic Society, People's Solidarity for Participatory Democracy, and Korean Women Workers Associations United, to share views on important global issues in the areas of the environment, women, human rights, labor, and peace in Northeast Asia.

(2) Commissioned Projects for Development of Implementation Programs for Citizens

The 'Commissioned Projects for Development of Implementation Programs for Citizens' are intended to raise the public perception awareness of the

importance of human rights and make human rights an integral part of the culture in Korea. The citizenry will be encouraged to uphold human rights in their everyday lives in every respect. Various forms of support were provided in the five areas of sexual minorities, children/youths, women, migrant workers, and persons with disabilities. After evaluation, the Project Screening Committee selected fifteen projects, for which 125 million won in grants was provided in total. The NGOs and amounts of grants provided for each project are shown in Table 4-1-2 below.

<Table 4-1-2> Commissioned Projects for Development of Implementation Program for Citizens

Area	Project Name	NGO	Project grant
Sexual minorities	Monitoring and Improving of Broadcasting Program for Improving Minority Human Rights	Citizens' Coalition for Democratic Media	9,200
"	Human Rights Camp and College Human Rights Class for Sexual Minorities in Summer, 2003	LGBT Human Rights Solidarity in Korea	6,434
"	Women's Pride Program	Kirikiri	5,675
Children/youths	Children's Human Rights Protection and Restoration of the Family	Ansan YMCA	10,750
"	Development of On-line Human Rights Program for Children	Korea Council of Children's Organizations	10,600
"	'Let's Make a Good Friend' Campaign	Korea Young Corporation	7,540
"	1318! What Is Your Name?	Ulsan YMCA	6,250
Women	Human Rights Training for Counselors	Korean Woman Link	1,610
"	Eradication of Sexual	Christian Center for	8,025

	Violence from Church	Violence Against Women in KAWT	
Foreign workers	Protection of Human Rights and Motherhood of Female Migrant Workers	Women Migrants Human Rights Center	11,530
"	AACLA Human Rights School	Friends of Asia	9,500
"	Migrant Workers Human Rights Campaign	Migrant Workers' House	13,875
People with disabilities	Differently Abled Rights	Research Institute of the Differently Abled Rights in Korea	12,697
"	'Becoming One with Persons with Disability' Campaign	Mokpo CCEJ	3,464
"	Night School for Youth, the Disabled, and Citizens	Participatory Autonomy Forum for 21C	7,850
Total			125,000

The 'Let's Make a Good Friend' campaign conducted by the Korea Young Corporation is a rehabilitation program for youths who were under probation for juvenile offences. Meetings were arranged between the juvenile offenders and ordinary citizens trained to help the young adapt to society by listening to their problems and anguishes, and these meetings were widely seen as having helped raise awareness of the need for human rights protection for youths on probation.

Mokpo CCEJ staged the 'Becoming One with Persons with Disability Campaign' together with local residents. Public organizations and public convenience facilities were surveyed to determine what kinds of devices and facilities need to be installed for persons with disability. Such facilities benefit persons with disability enormously, helping them adapt to and integrate into society. Mokpo CCEJ also simultaneously staged a campaign for legislation of relevant laws. Important progress was achieved during the course of this project, and it is seen as a model case for other such projects in the future, especially as it was so effective in raising general awareness of human rights. It offers a new methodology for civic movements: It concluded with a request for legislation of

ordinances after providing an opportunity for local residents to join in the effort to protect the human rights of minorities.

2. Visits to Sites with Poor Human Rights Records and Human Rights NGOs

The objective of this program is to make human rights policy more effective by ensuring that policymakers of the National Human Rights Commission, including the President, Secretary-general, and Bureau Directors, properly understand the current status of human rights in society. They visit locations where the socially disadvantaged and neglected live and frequent to witness their situations first-hand. Places visited in 2003 included the 'Jjokbang-chon' (Seoul Station area), where numerous elderly live alone, the 'Village of Wild Blossoms and School (Deulkkot pineun maeul)' (Ansan, Gyeonggi-do province), alternative homes and a school for run-away youths, 'Bethlehem Nursery' (Bomun-dong, Seoul), a nursery for children of migrant workers, 'Saemteo Maeul Village' (Goyang, Gyeonggi-do Province), a sanitarium for the elderly with schizophrenia, and the 'House of Jubora' (Paju, Gyeonggi-do Province), a sanitarium for seriously disabled people.

Representatives of the Commission attended various events in order to maintain on-going exchange of views and opinions with human rights NGOs. Some of these events were the inauguration ceremony of the Human Rights Commission of Wonbuddhism, Tenth Anniversary of the Sarangbang Group for Human Rights, and other events hosted by the Korea Differently Abled Federation, Korea Women's Hot Line, and People's Solidarity for Participatory Democracy. The Commission also supported NGOs by allowing them to use the name of the Commission, granting them financial assistance, presentation of the Commission President's Award, and delivery of congratulatory remarks.

3. Participation in International Human Rights Meetings

In 2003, the Commission actively participated in meetings of the United Nations Commission on Human Rights, including those of the Committee on the Rights of

the Child, the Committee on the Elimination of Racial Discrimination, and Committee on Economic, Social and Cultural Rights. Compared with 2002, the Commission participated in more international conferences hosted by the UN, and in wider range of areas in 2003.

<Table 4-1-3> International Conferences Attended by the Commission

	Conference	Purpose of trip	Period	Venue
UN	Committee on the Rights of the Child	To monitor compliance with the State Report	1.11~18	Geneva
	Workshop to develop racial discrimination training materials	To improve for human rights training of the Commission	2.18~21	Paris
	11th UN Asia Pacific Human Rights Workshop	To represent the Korean government, NIs, and NGOs in this inter-governmental meeting of the Asia Pacific region	2.22~3.1	Islamabad
	United Nations Commission on Human Rights	To monitor activities of the UN Commission on Human Rights	3.15~4.19	Geneva
	Ad hoc Meeting for international convention on the rights of persons with disabilities (2nd)	To participate in the ad hoc committee meeting to draft the text of the "international convention on the rights of persons with disabilities"	6.21~28	New York
	Committee on the Elimination of Racial Discrimination	To monitor the compliance of the Committee with the reports submitted by the Republic of Korea on the elimination of racial discrimination	8.7~16	Geneva
	Committee on Economic, Social, and Cultural Rights	To participate with the committee in reviewing the report submitted by North Korea	11.17~22	Geneva
	Asia-Pacific meetings, including	Workshop organized by the UN and APF	To participate in the Workshop on the Convention on Persons	5.24~6.1

		with Disabilities		
APF	Human Rights and Judicial Administration	To participate international conference on human rights and judicial administration organized by Malaysia	9.8~1	Kuala Lumpur
	International meeting for working-level staff of human rights training	To participate in the meeting for working-level staff of human rights training in the Asia-Pacific region	11.9~14	Bangkok
NGO Meetings	ESCR-Net	To participate in the meeting for international solidarity for economic, social and cultural rights	6.6~13	Bangkok
	Vienna + 10	To participate in Vienna + 10	12.13~17	Bangkok
	Gaguin University Symposium, Japan	To participate in the symposium	12.14~16	Japan

The United Nations Commission on Human Rights represents 53 countries and meets each year in Geneva in a regular session in March/April for six weeks. The National Human Rights Commission of the Republic of Korea participated for the first time in 2003 in the fifty-ninth meeting, which was attended by some 3,000 representatives from the governments of the 53 member states, international organizations, international human rights organizations, and NGOs to discuss 21 areas of human rights including civil and political rights. Eighty-six resolutions and 18 chairperson's statements were adopted. It is noteworthy that for the first time, a resolution on human rights in the Democratic People's Republic of Korea was also adopted, at the request of the EU, to urge the Democratic People's Republic of Korea to stop infringement of civic and political rights and to refrain from sanctioning citizens of the Democratic People's Republic of Korea who have moved to other countries. The issue of human rights violations due to the Iraq War was also a subject of hot discussion. Relating to Korea, issues of the comfort women, who were

forced into sexual labor for Japanese soldiers in World War II, and conscientious objection to military service were discussed. At the request of the Korean government, a resolution on the role of good governance in the promotion of human rights was adopted.

The Committee on the Rights of the Child indicated that the National Human Rights Commission of the Republic of Korea lacked expertise in rights of the child and suggested that the Commission (1) appoint at least one expert in rights of the child to the membership of the Commission, (2) develop child-friendly complaint filing procedures and investigation system, and (3) make recommendations to discourage corporal punishment of children at schools. The Committee on the Elimination of Racial Discrimination favorably viewed the efforts of the Korean government to eliminate racial discrimination through such measures as the establishment of an independent national human rights commission, creation of a work permit for illegal foreign workers, and improvement of the refugee inspection system. However, the Committee noted a lack of information on complaints received and cases tried concerning matters of racial discrimination, and also noted the lack of will of the Korean government to solve this and other such problems.

In order to understand the situation of human rights in North Korea, the Korean delegation (the Commission) also attended the Committee on Economic, Social, and Cultural Rights meeting to review the Committee's observations on the report submitted by the Democratic People's Republic of Korea. The Committee noted the impact of food shortages on the living, educational, and cultural situation in North Korea, the issue of North Korean people leaving North Korea, the social status of women, lack of independence of the judiciary, and other restrictions on social rights in North Korea. The inter-Korea summit meeting to improve relations between South and North Korea, the Mt. Geumgangsan sightseeing tour arrangement, and reunion of separated families were, however, considered positive steps.

The Commission attended human rights international conferences organized by NGOs in order to strengthen links with international NGOs and national human rights organizations. The international solidarity conference for economic, social, and cultural rights was held for the first time to discuss measures to

establish solidarity among international NGOs and exchange information to better protect and promote economic, social, and cultural rights. The Commission attended the international meeting hosted by the Asia-Pacific Center of Education for International Understanding on evaluation and strategies for human rights training in the Asia-Pacific region to discuss strategies to further develop human rights training programs in light of the objectives of the 10-year plan of the United Nations. At the Asian Consultation on Vienna + 10, the Commission delivered a speech representing human rights organizations in Asia, in which it evaluated the progress that had been made over the ten years since the World Conference on Human Rights (WCHR) in Vienna in 1993 and discussed the role and development of international human rights organizations.

4. International Cooperation with Human Rights Organizations in Other Countries

In 2003, the Commission was very active in exchange programs with international human rights organizations and national human rights commissions of other countries. Cooperation and exchange was expanded to human rights organizations in Asia, Europe, and Africa. There was a great deal of inter-governmental exchange of human rights information and personnel.

The president of the Commission joined the team to visit the national human rights commissions of Mongolia, Morocco, and Spain. The visit to Mongolia was in return to the visit by a delegation of the Mongolia National Human Rights Commission to Korea in 2002. The visits to Morocco and Spain were for exchange of information and mutual consultation about the seventh International Conference for National Human Rights Institutions, to be held in Seoul in 2004.

Representatives of the Commission also paid visits to the Council of Europe, European Court of Human Rights, Swedish Parliamentary Ombudsmen, and human rights research institutes and ombudsmen in Denmark, Norway, and Austria. These visits were excellent opportunities for the Korean delegation to share information on working-level preparations necessary for the preparations for the International Conference for National Human Rights Institutions slated for 2004 in Seoul, and human rights projects in advanced countries.

The Commission has continually strived to expand and improve exchange and cooperation with national human rights commission in countries in the Asia-Pacific region since it acceded to the APF, the human rights forum in the Asia-Pacific, in 2002. The Commission provided information on its major activities through the website homepage of the APF. It has joined the international solidarity movement for promotion of independence of national human rights organizations, as seen in the forwarding of a letter to the government of Thailand to protest the intervention and threats of the Thai government against the Thai National Human Rights Commission. For the first time, the Korean National Human Rights Commission dispatched eleven staff to the APF Secretariat and five national human rights commissions in other countries to increase international cooperation through exchange of personnel and to enhance the capabilities of the staff of the Commission.

Seventy human rights activists, government officials, and assemblymen visited the Commission in 2002. In 2003, 170 foreigners (representing human rights organizations in Europe, the Americas, and other regions, as well as the Asia-Pacific region), who are engaged in various fields to protect and improve human rights, visited the Commission to exchange views and discuss measures for cooperation and learn about the activities of the Commission.

<Table 4-1-4> Visits to Human Rights Organizations in Other Countries

Organization	Size of delegation	Purpose of the trip	Period
National Human Rights Commission of Mongolia	Three, led by the President of KNHRC	To discuss exchange of human rights information and personnel	'03.8.26~11.29
Council of Europe, European Court of Human Rights, Swedish Parliamentary Ombudsmen, etc.	Three, led by Director of Policy Bureau	To discuss exchange of human rights information and personnel	'03.10.4~10.12
Research institutes and ombudsmen in Denmark, Norway, and Austria	Three, including Commissioner Yu Hyeon	To discuss exchange of human rights information and personnel	'03.12.11~2.21
Spanish ombudsmen and National Human Rights Commission of Morocco	Five, led by the President of KNHRC	To discuss exchange of human rights information and personnel & share information on working-level preparations	'03.11.22~12.5

		necessary for the International Conference for National Human Rights Institutions slated for 2004 in Seoul	
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5. Participation in International Solidarity Movement for Protection of Human Rights

In cooperation with the Asian Human Rights Commission, the National Human Rights Commission of Korea continued to send letters to the governments of Asian nations where human rights infringements occurred, in solidarity action in 2003, as it did in 2002. In 2003, the Commission forwarded a total of 14 letters, including letters urging measures taken to properly address incidents of illegal detention and torture by Indian and Sri Lankan police, suppression of Myanmar migrant workers in Thailand, and the seizure of lands in Mongolia.

Table 4-1-5 Letters Forwarded in International Solidarity

Incident	Contents of letter	Receiving person
1 Shootings of citizens of Aceh, Indonesia by army	Investigation into the truth of the incident, reconsideration about government delegation, and needed measures to be against those responsible for shootings	President of Indonesia
2 Disappearance of a young man who had been held in detention illegally by the Sri Lankan police	Urged emergency measures be taken to guarantee the safety of the victim and his immediate release, to bring charges against the person responsible according to law and principle, pursuant to the UN Convention against Torture.	Sri Lanka – Prime Minister, Minister of Justice, Police, Inspector General of Police
3 Granting of immunity to the Bangladeshi army for serious oppression of human rights	Urged measures taken to prevent passage of 'Immunity Decree,' which directly went against the UN Convention against Torture.	Bangladesh – Prime Minister, Nationalist Party's Chairman, Minister of Justice, Interior Minister

4	Murder by Sri Lankan police	Urged the investigation into the incident and punishment of those involved in the murder	Sri Lanka - Prime Minister, Minister of Justice, Chairman of National Police Commission, Inspector General of Police
5	Shooting of Adibasi tribesmen by army and police in India	Urged legal handling of the incident, and fulfillment of the promise for land allocation made in 2001	India - Kerala Governor, Prime Minister, Minister of Environment & Forest
6	Torture and unlawful arrest by Sri Lankan police	Urged investigation into the truth of the incident and legal actions taken against the police pursuant to Convention against Torture. (Sri Lankan Act no. 22)	Sri Lanka - Prime Minister, President, Attorney General, Police Chief
7	Torture and death inside the detention cell of the Malaysian police	Urged opening of an investigation and punishment of those responsible	Malaysian Human Rights Commission
8	Torture by Nepalese police	Urged fair investigation into the incident and proper measures taken for the victim, and formal recognition of torture as crime	Nepal - Prime Minister, Minister of Law and Justice, Nepal UN Ambassador, Police Chief
9	Deportation of migrant workers in Thailand	Urged legal measures taken to protect 420 migrant workers who worked legally in Thailand and were detained for later deportation	Thailand - Prime Minister, National Human Rights Commission, ILO Regional Office

10	Seizure of land by the Mayor of Ulaanbaatar	Urged legal measures taken for households whose lands were seized as they were not protected by the new Land Privatization Law, which recently took effect	Mongolia - Prime Minister, Mayor of Ulaanbaatar city
11	Torture by Indian police	Urged punishment of those policemen who were involved in beating, torture, and sexual cruelty to relatives and neighborhood residents in the murder incident, provision of proper medical treatment, and guarantee of basic human rights and freedom	India - President, Prime Minister, Chief Minister of Tamilnadu, Home Minister of Tamilnadu
12	Death of minority tribesman by torture by Indian police	Urged the investigation of the incident of the death of an Adivasi tribesman arrested on charge of theft, who was tortured and left to die without medical treatment; measures taken for the victim; and cooperation with the investigation by the Human Rights Commission of India	Chief Minister of Madhya Pradesh
13	Illegal arrest and torture by Sri Lankan police	Urged the investigation into the incident of the illegal arrest , detention, and torture of three Sri Lankans by officers of the Watara Police, punishment of persons involved, and measures taken to prevent torture and to respect opinions of Sri Lankan National Human Rights Commission	Sri Lanka - Prime Minister, Minister of Justice
14	Threatens against Turkish human rights activists	The police have been sued in a number of cases. A suit alleging physical and mental threats by the police against a female Turkish	Turkey - Minister of Justice

	human rights activist is filed. Urged examination of the case and proper judicial procedures taken.	
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Chapter 5

Establishment of System for Protection and Promotion of Human Rights

Section 1. Operation of Task Force Teams for Legislation of Discrimination Prohibition Act, etc.

1. Legislation of Discrimination Prohibition Act

Discussions on the need for the ‘Discrimination Prohibition Act’ have been on going for some time. This piece of legislation is considered necessary to eradicate discriminatory practices, policies and instruments, which are widespread in Korean society. The Participatory Government of President Roh Moo-hyun has targeted discrimination against women, persons with disability, migrant workers, persons with certain educational backgrounds, and irregular workers and proclaimed the commitment of the government to its eradication.

The National Human Rights Commission Act (herein after referred to as the ‘Commission Act’) prescribes the means of investigation and remedies for 18 forms of discrimination, including gender discrimination. However, the Commission Act does not stipulate the concept and specific acts of such discrimination or the standards for judgments. To address the problem, the Commission has reviewed laws concerning discrimination in other countries and various international standards since the inauguration of the Commission for the formulation of the ‘Discrimination Prohibition Act (Proposal).’ The Commission undertook the ‘Discrimination Prohibition Act Promotion Project’ as a key task for 2003.

On January 28, 2003, the Commission organized an advisory body, the ‘Discrimination Prohibition Act Promotion Committee,’ consisting of commissioners of the Commission, NGOs, lawyers, and professors, and it has had discussions on the scope of discrimination to be prohibited by law. According to the decision of the Committee that more thorough examination was needed, a separate group, the ‘Wording Preparation Team’ consisting of several commissioners of the Commission, was organized to do more detailed work for the proposal.

Recognizing the importance of public support for legislating a proposal, the Committee has collected opinions from citizens at all levels of society since the very early stages of the project. Given that the legislative procedure itself entails building the consensus of the society, the

importance of collection and due consideration of opinions cannot be understated. First, the Commission opened a counter to receive suggestions from citizens concerning the legislation of the act (proposal) and accommodated a broad range of opinions from ordinary citizens. Needed expertise was secured by inviting members of academia and civic groups to serve on the 'Discrimination Prohibition Act Promotion Committee,' and a wide range of opinions from society at large was accommodated. At the same time, foreign laws concerning prohibition of discrimination and applicable policies were reviewed broadly to ensure that the proposed legislation was complete.

2. Operation of Task Force (National Security Act, Social Protection Act, Irregular Workers)

At the third workshop of the Commission, held on January 7, 2003 on the occasion of the second anniversary of the Commission, it was agreed that solutions to major human rights issues should be found through systematic research and review. In particular, it was decided that task forces would be established to complete the core tasks for 2003. The first of these three were the National Security Act, Social Protection Act, and irregular workers. Each task force had 10 members: a full time commissioner as leader, nonpermanent commissioners, and outside experts.

The major activities of each task force included a survey on the nature of its assigned issue, research into foreign precedents, formulation of corrective measures, joint research with an expert group in a specific field, and holding workshops, public hearings, and other hearings to obtain advice and gather more information. While carrying out research activities, the Commission will release its opinion on each case after collecting and accommodating the opinions of citizens and related organizations. The Social Protection Act Task Force Team concluded its task in December 2003, and the other two task force teams for the National Security Act and irregular workers will continue their work into 2004.

(1) National Security Act TFT

The National Security Act has long been the subject of heavy criticism by international human rights organizations and NGOs, not to mention local NGOs, due to potentially anti-democratic provisions as well as violations of human rights that have been committed in its enforcement. It has on numerous occasions been recommended that the Act be revised or abolished.

Despite the fact that the Act was based on the Maintenance of the Public Order Act that had been in effect during the Japanese occupation, the National Security Act has been remained

operative for more than 55 years. The opinions of the citizens about the Act run the full spectrum. Those who insist that the National Security Act be maintained argue that the Act itself cannot be a problem in light of the ever-present military threat from the North and that the Act is essential for national security. Others strongly insist that the Act, which declares North Korea an antistate organization, is outmoded and does not address the fact that North Korea is a member of the UN and a 'de facto state' and the Act only serves as an obstacle to establishing peaceful South-North relations.

A fundamental solution to the problem of the National Security Act needs to be found, and a national consensus must be drawn in the process because the Korean people are radically divided over this issue. To this end, the Commission found that all the discussions on revising and abolishing the National Security Act should be reiterated once again and that suggestions should be made such that a national consensus can be reached. The Commission decided to launch a task force to thoroughly review all the problems relating to the National Security Act and hold discussions on measures to handle future issues.

The National Security Act TFT held twelve regular meetings in 2003: the first was on March 3, 2003. For each meeting, a member of the team made a proposal for the issue to be discussed, and experts were invited to offer their views. Major issues discussed at the meetings included the history of revisions made to the National Security Act and the Anticommunist Act; history of the National Security Act and discussion on revision and abolition of the Act; major decisions relating to the National Security Act by the Constitutional Court; the application of the National Security Act today; actual cases handled under the National Security Act (focusing on Article 7); international opinion about the National Security Act of Korea; examination of offenses that will be legally difficult to prosecute when the National Security Act is abolished; the relationship between the National Security Act and Article 10 through 22 of the Constitution; consideration of those who are strongly against revision or abolishment of the National Security Act and issues relating to the changes in the characteristics of the Federation of Students Association in Korea; and the actual process of revision or abolition of the National Security Act.

The National Security Act TFT plans to complete its work during the first half of 2004. It will produce a final report on a study based on the results of the TFT and survey on the situation, after collecting opinions through public hearings from citizens at all levels of society on the maintenance or abolishment of the National Security Act.

(2) Social Protection Act TFT

The Preventive Restriction System under the Social Protection Act has continuously been an issue of controversy with regard to human rights violations since the enactment of the Act because of problems arising in the process of use of the system, such as ill-treatment of detainees. The Commission made the rectification of the Preventive Restriction System one of the key human rights issues to be handled in 2003 and started research and review on the Preventive Restriction System in Korea.

The Commission conducted a survey on the overall Preventive Restriction System in order to analyze and assess it from an objective and practical viewpoint. In 2003, the Commission carried out the 'Human Rights Survey' to ascertain the functioning and configuration of the Preventive Restriction System under the Social Protection Act.

The Commission visited the Cheongsong Preventive Detention Center to conduct inspections into the treatment of detainees by officers, records, and the overall condition of facilities. It was found that the Preventive Restriction System is defective not only as a supplementary system for punishment but also in almost every other respect, including human rights violations and treatment of detainees, respecting the assessment of risks of committing second offenses of a detainee, the state of facilities of detention centers, the life of detainees, current state of education for internees, working environment, communication with the outside world, conditions and operation of medical clinic facilities and treatment of internees.

Based on the opinions submitted by the Social Protection Act TFT and the survey on the Preventive Restriction System under the Social Protection Act, and after discussions with all commissioners of the Commission from December 2003 through January 2004, the Commission recommended that the National Assembly and the Ministry of Justice abolish the Preventive Restriction System by repealing the Social Protection Act.

The Commission made the following judgments: 1) the Social Protection Act is in violation of the Article 13 of the Constitution, which stipulates that no citizen shall be prosecuted for an act which does not constitute a crime under the Act in force at the time it was committed, nor shall he be placed in double jeopardy. Thus it failed to fulfill its original intent of legislation; 2) Release on parole and exemption from detention for an detainee by the decision of the Social Protection Committee is in violation of Paragraph 1 of Article 12 regarding due process and Article 27 regarding the right to be tried in conformity with the Act by judges qualified under the Constitution. In addition, as the Criminal Administration Act is applied to the Social

Protection Act, it is unconstitutional in that it prohibits excessive punishment. In addition, the lack of a system which guarantees expertise and objectiveness in assessing probability of second offense is in violation of Article 9 of the International Covenant on Civil and Political Rights and, ultimately, Article 10 of Korean Constitution, which stipulates that, “All citizens shall be assured of human dignity and worth and have the right to pursue happiness.”; 3) preventive detention does not serve the original intent of the law and constitutes excessive punishment. The actual conditions of the Cheongsong Protective Detention Center with regard to the life of inmates, medical service, and education, training, and the rehabilitation program for inmates are not only out of compliance with the original purpose of the Protective Restriction System, they are also in violation of human rights prescribed in Article 10 of the Constitution and Article 10 of the International Covenant on Civil and Political Rights.

The Protective Restriction System under Social Protection Act has never fulfilled its *raison d’être* as a social system. However, the Commission found that revising the system would be difficult and, therefore, recommended that the Social Protection Act be repealed and that a separate alternative legal system be established to replace the Remedial Restriction System stipulated in the Social Protection Act.

(3) Irregular Workers TFT

The sweeping economic restructuring that has occurred since the economic crisis of 1997 has necessarily had fundamental impact on the labor market. Various forms of employment of irregular workers increased, hourly-paid employment and employment under contracts. The employment conditions of irregular works, in terms of wages, allowances, social security, and various welfare benefits, are extremely poor compared with those of regular workers, giving rise to many complaints. The increase in irregular employment leads not only to more widespread infringement of basic rights of individual workers but has negative impact directly and indirectly on the national economy because it engenders a decline in domestic consumption and greater instability in labor relations. The Commission recognized that the issue of irregular employment is one of the most serious in Korean society and that a viable solution is essential to create a ‘world in which people can live in dignity and self-worth.’

On January 21, 2003, the Commission had an in-house preliminary meeting attended by staff of the Commission, including permanent commissioner Yu Si-chun. Two more preliminary meetings followed shortly afterwards. Through these three preliminary meetings, the Commission decided that the Irregular Workers Task Force Team would focus on irregular

workers in the public sector.

The Commission selected the 'Survey on the Human Rights of Irregular Workers in the Public Sector' as a priority task for 2003 and commissioned it to the Korea Contingent Workers Center. The survey entailed very detailed examination on irregular workers at 38 workplaces including central government offices, local government offices, public corporations, and investment institutes under the government; elementary/middle/high schools and universities; medical services and utilities; as well as the Ministry of Planning and Budget, which had directed the restructuring of the public sector; the Ministry of Government Administration and Home Affairs; and the Public Procurement Service. The survey also recorded number of and current status of irregular workers in the public sector. Researches and examination on the guidelines of the Ministry of Government Administration and Home Affairs and Ministry of Planning and Budget on the restructuring, various court decisions on cases applicable to irregular workers, and foreign countries' polices for protection of irregular workers were conducted concurrently. The research team of the Korea Contingent Workers Center and TFT had meetings continually to discuss the contents of the research and the scope and objectives of the survey.

Without a national consensus on the human rights of irregular workers having yet been reached, discussions on how the Commission will approach the issue of irregular workers, and discussions on how the problems can be solved based on various studies and surveys and discussions that have occurred thus far, are very important.

Based on the results of the survey and research on irregular workers in the public sector, the Commission will hold seminars with experts in related fields and public hearings and discussions with citizens, NGOs, academia and other related persons to collect various opinions for suggested measures to protect human rights of irregular workers.

3. Operation of North Korean Human Rights Research Team

The resolution on the Situation of Human Rights in the Democratic People's Republic of Korea, requested by the EU and adopted at the 59th Session of the UN Commission on Human Rights on April 16, 2003, raised interest in human rights in North Korea both at home and abroad. The government of the Republic of Korea, however, was criticized by the Korean National Assembly and some NGOs for not participating in voting on the resolution. In addition to the resolution at the UN, activities relating to human rights in North Korea had been conducted very actively both at home and abroad, and a number of reports were released. Human rights in

North Korea was included in the Report of the US Department of State and Annual Report on Human Rights of the World by the International Day of Prayer (IDOP). Amnesty International and Human Rights Watch released reports on human rights in North Korea and North Koreans outside North Korea, and NGOs published reports on the human rights situation in North Korea and held international conferences.

It became obvious by that time that the Commission would have to pursue an unbiased, objective project on human rights in North Korea based on concrete and reliable materials to find a solution.

On April 28, 2003, at the 40th Committee meeting, attended by all commissioners, the Commission decided to establish the 'Research Team on Human Rights in North Korea' as a non-permanent organ, headed by the director of the Human Rights Policy Bureau and charged with the task of determining the best approach to the issue of human rights in North Korea. This marked the beginning of the first research ever done on human rights in North Korea by the Commission.

The research team collected, accumulated, and analyzed academic journals with articles about human rights in North Korea published both at home and abroad. Relevant materials published by the UN, EU, and the US, and publications by domestic and international NGOs were also collected and analyzed. Human rights reports submitted by North Korea to the UN concerning the implementation of International Covenants, the recommendations by the UN on human rights in North Korea, annual human rights report by the US Department of State, Annual Report on Human Rights of the World by the International Day of Prayer (IDOP), reports by Amnesty International and Human Rights Watch, and reports by the Citizens' Alliance for North Korean Human Rights were analyzed in-depth and with diverse view points in mind.

The research team held three symposiums to collect opinions from NGOs and experts concerned with North Korean human rights, and the proceedings of the symposium were published as reference material. The first symposium, the 'Meeting with NGOs on North Korean Human Rights,' was held on June 5, 2003, and discussed three topics; 'Characteristics of human rights in North Korea and the proper approach for improvement in the human rights situation,' 'North Korean human rights in the context of cooperative, hostile relations,' and 'Improvement in North Korean human rights and realizing peace on the Korean Peninsula.' The second symposium, the 'Meeting with Experts on North Korean Human Rights,' was held on July 30,

2003. Experts on North Korean human rights were invited from both home and abroad to discuss three topics; ‘Problems of discussion about North Korean human rights,’ ‘Understanding the issue of North Korean human rights under the international legal framework and strategic approach,’ and the ‘Nuclear problem and human rights in North Korea.’ At the last session held on October 17, 2003, the major overall subject was ‘The food shortage problem in North Korea and human rights of North Koreans outside of North Korea.’ The three sub-topics were ‘The North Korean human rights problem and assistance for North Korea,’ ‘Protection of human rights of North Korean refugees in other countries,’ and ‘North Korean human rights and the international human rights movement.’

2003 was the first year during which the Commission conducted research projects on the human rights situation in North Korea. The Commission focused on analysis of existing researches and understanding of the current situation, and heard diverse opinions from citizens at all levels of society both home and abroad. The North Korean human rights problem is not something that can be resolved in the near future: It will require years of dedicated effort and is an important issue that requires the participation of all of society to find a solution.

Section 2. Investigation of Human Rights Situation and Holding of Public Hearings and Debates

1. Investigation of Employment Discrimination

Discrimination that stems from differences in status between individuals is widespread in society. Much of this kind of discrimination is so deeply ingrained in society that many do not recognize it for what it truly is. Of the 173 complaints concerning discriminatory acts filed with the Commission by the end of 2002, 106 cases, or 60.3%, were about employment discrimination. To address the problem, the Commission examined employment application forms from major corporations and conducted comprehensive analysis on discrimination in the recruitment process.

In January 2003, the Commission made requests to 38 companies to remove questions that have no bearing on applicants’ work-related capabilities from their applications and their entire recruitment process. All 38 companies replied that they would comply, stating that they would delete, correct, or supplement questions concerning family relationship, medical history, assets, religion, marital status, and physical conditions such as height and weight. These companies actually did remove many of the questions that could be of discriminatory nature from their

application forms. In June 2003, the Commission conducted the same survey on another 62 companies, and this time, too, every company notified the Commission of its intention to make needed changes. The Commission notified the big five economic federations, including the Federation of Korean Industries, of the voluntary corrections that these companies were making.

When the Commission released the results of the investigation through the mass media in January and June, changes in the recruitment of new employees began occur as corporations voluntarily deleted questions that could be used for discriminatory purposes. The general public was greatly encouraged by the change and had high hopes for the end to widespread employment discrimination.

In November 2003, the Commission checked the implementation of the voluntary changes at the above 100 companies. All 100 companies were indeed found to have deleted questions to applicants about their assets, medical history, sources of tuition funds and prizes, and criminal/legal records. More than 60% of the companies deleted questions about religion, marital status, school background (day/night school), reasons for exemption from military service, family relationships, birthplace, and locations of schools attended. Fifty percent of the companies deleted the question about disability, and 44% of the companies deleted the question about whether applicants attended the main campus or branch campus of their universities. However, only eight companies deleted the question about what school applicants attended on the grounds that such information is important first-stage criteria in distinguishing applicants. This investigation affected KBS, MBC, and Korea National Tourism Organization, which were not included in the 100 companies investigated.

<Table 5-2-1> Questions Voluntarily Deleted by Companies

Questions on the application	Total (+)				First investigation ()				Second investigation 조사 ()				
	No. of companies investigated	No. of companies deleting	Ratio of deletion (%)	No. of companies not deleting	No. of companies investigated	No. of companies deleting	Ratio of deletion (%)	No. of companies not deleting	No. of companies deleting	Ratio of deletion (%)	No. of companies not deleting		
Schools attended	Name	100	8	8.0	92	38	4	10.5	34	62	4	6.5	58
	Location	76	49	64.5	27	36	28	77.8	8	40	21	52.5	19
	Day/Night	38	31	81.6	7	21	20	95.2	1	17	11	64.7	6
	Main/branch	34	15	44.1	19	12	9	75.0	3	22	6	27.3	16
Family relationship	86	66	76.7	20	34	33	97.1	1	52	33	63.5	19	
Reasons for military service exemption	84	68	81.0	16	34	32	94.1	2	50	36	72.0	14	
Physical conditions	81	69	85.2	12	31	30	96.8	1	50	39	78.0	11	
Religion	65	62	95.4	34	31	31	100.0	0	34	31	91.2	3	
Growth process	58	45	77.6	13	26	25	96.2	1	32	20	62.5	12	
Birth place	35	22	62.9	13	14	9	64.3	5	21	13	61.9	8	
Marital status	30	27	90.0	3	10	10	100.0	0	20	17	85.0	3	
Assets owned	17	17	100.0	0	8	8	100.0	0	9	9	100.0	0	
Disability	10	5	50.0	5	3	1	33.3	2	7	4	57.1	3	
Disease	4	4	100.0	0	1	1	100.0	0	3	3	100.0	0	
Others (tuition payer, prize/punishment)	11	11	100.0	0	5	5	100.0	0	6	6	100.0	0	

2. Commissioned Research Project for Survey on Situation of Human Rights

The ‘Human Rights Situation Investigation Promotion Committee (Chairman: Park Gyeong-seo, permanent commissioner)’ was organized to conduct survey on human rights in 2003. The objectives of the Committee were to decide the direction of the human rights investigation. The Committee addressed problems found during the previous year (2002) in the survey to expand the knowledge base for protection and improvement of human rights.

The 2003 survey was carried out pursuant to Paragraph 4, Article 19 of the Commission Act, as shown in Table 5-2-2. Of the 23 projects commissioned, survey and research on ten projects were completed. Survey and research on the remaining 13 projects are being carried over as 2004 projects and are on-going.

<Table 5-2-2> Commissioned Research Surveys on Human Rights Situation

	Title of Survey	Researcher	
1	Situation of Human Rights of Chinese Residents in Korea	Sungkonghoe University	Completed
2	Situation of Human Rights of Alien Workers' Children in Korea	Korean Sociological Association	"
3	Situation of Human Rights of Mixed-blood Children in Military Campsite Town	Durebang	"
4	Situation on Personal Information Sharing among Financial Institutions and on the Internet	Citizens' Action Network	"
5	Current Laws on Discrimination	Korean Women's Development Institute	"
6	Situation of Human Rights of Irregular Workers in Public Sector	Korea Contingent Workers' Center	"
7	Analysis of Types of Human Rights Violations at Detention Facilities and Development of Guidelines	Hankuk University of Foreign Studies	"
8	Survey on the Situation of Human Rights of Female Inmates of Detention Facilities	Hanllym University	"
9	Survey on the Human Rights Situation under the Social Protection Act	Catholic University of Daegu	"

10	Survey on Public Awareness on the Death Penalty	Korea Date Network	"
11	Human Rights Violation in the Execution of National Security Act	MinKahyup - Human Rights Group	Incomplete
12	Human Rights Violation during Investigations and Detention by Military Organ	Wonkwang University	"
13	Survey in Preparation for Measures to Protect Health Rights of Irregular Workers	Kangwon National University	"
14	Survey on Current Military Judiciary System and Human Rights Violation Situation	University of Ulsan	"
15	Survey on Social Rights of the Poor	Korea Center for City and Environment Research	"
16	Sexual Assault in the Army	Kyungwon University	Incomplete
17	Development of Guidelines for Evaluation of Detention Facilities	Kyungwon University	"
18	Basic Survey for the Formulation of National Human Rights Policy Plan to Eradicate Gender Discrimination	Korean Women's Development Institute	"
19	Basic Survey for the Formulation of National Human Rights Policy Plan to Eradicate Discrimination based on Disability and Disease Record	Korea National College of Rehabilitation & Welfare	"
20	Basic Survey for the Formulation of National Human Rights Policy Plan to Eradicate Discrimination based on Age, Educational Background, School Background	International Labor Law Research Institute	"
21	Basic Survey for the Formulation of National Human Rights Policy Plan to Eradicate Discrimination Against Irregular Workers	Seoul Institute of Economic and Social Studies	"
22	Basic Survey on Changes in Industrial	School of Public Health at Seoul	"

	Safety and Health Policy after Easing of Regulations and Its Impact on the Health Rights of Workers	National University	
23	Examination of Discrimination Provisions in Ordinances of Local Governments	Korea Public Law Association	"

3. Holding of Hearings and Debates

Under Article 23 of the National Human Rights Commission Act, if deemed necessary for the performance of its duties of examination and research on laws, systems, policies, and customary practices relating to human rights, the Commission may require the representative of the entity in question, the interested persons, or other persons who have significant knowledge and experience on relevant matters to present themselves to hear their statements of the relevant facts and their opinions. In 2003, the Commission held fifteen hearings and debates as follows:

<Table 5-2-3> Hearings and Debates in 2003

	Subject	Date	Discussions
1	Hearing on Discrimination against Irregular Teaching Staff	2003. 2.20	-Unfavorable compensation for vacation, retirement pay, annual leave due to irregular position -Unequal treatment compared to regular staff
2	Debates on NEIS and Possible Alternatives to NEIS	2003. 4. 8	- Legal ground for National Education Information System (NEIS) - Human rights infringement in collection of private information into this system -Security of existing education information system
3	Hearing on Protection of Human Rights of the Mentally Ill	2003. 4. 9	-Shortage of medical facilities and staff for the number of patients with mental disease -Imprudent admission and discharge by institution and long-term stay at

			mental hospital
4	Discussions on Human Rights Situation in North Korea (held 3 times) -Discussions of NGOs -Discussions of experts -Discussions on food shortage and human rights of North Koreans outside North Korea	2003. 6. 5 2003. 7.30 2003.10.17	-Position of Korean NGOs and experts on human rights situation in North Korea -Food shortages in North Korea and North Koreans who have moved to China
5	Hearing on the use of restraining devices (handcuffs, chains, etc.) in detention facilities	2003. 7. 8	-Collection of diverse opinions on provisions concerning the requirements for and restrictions on the use of retaining devices, debates over actual use of such devices
6	Debate on human rights in the information society	2003. 8.19	-Basic laws for the protection of information on privacy -Establishment of separate, independent organ for protection of personal information
7	Debate on improving hourly-paid college lecturer system	2003.10.14	-Collection of diverse opinions on hourly-paid college lecturer system -Preparation of good alternative
8	Debate on discriminatory questions on application form of companies	2003.10.30	-Discussion of how the questions on application form such as those on family background, physical condition, religion, and assets of applicants relate to capability of an applicant and the job
9	Debate on doubtful death in the Army	2003.11. 26	-Complaints about death and violence in the Army - Need for legal framework to prevent deaths in the Army and recurrence, related to proposed bill on ‘Special Measures to Investigate Doubtful Death in the Army’
10	Hearing on measures to	2003.12. 9	-How to guarantee basic health of

	guarantee health rights of inmates of detention facilities		<p>inmates</p> <ul style="list-style-type: none"> -How to secure funds needed for basic health of inmates -How to increase health staff of detention facilities - How to solve conflicts over medical treatment
11	Hearing on how to improve employment physical examination	2003.12.11	<ul style="list-style-type: none"> -Employment discrimination against applicants with disability and history of disease after physical examination (including that for government employment) -Measures to improve employment physical examination
12	Hearing on CCTV to prevent crimes and human rights	2003.12.12	<ul style="list-style-type: none"> -Debates on unmanned crime prevention with the use of CCTV and human rights violations
13	Hearing on types of human rights violations in detention facilities and development of guidelines for prevention of human rights violations in such facilities	2003.12.16	<ul style="list-style-type: none"> -Use of retaining devices to exercise authority -Communication with outside and punishment system -Treatment of inmates in detention facilities
14	Debates on judicial system and human rights violations in sex trade	2003.12.17	<ul style="list-style-type: none"> -Judicial procedures relating to sex trade, and how to protect human rights of women in sex trade -Problems of judicial procedures in the bill for the prevention of sex trade
15	Hearing on human rights of South Koreans kidnapped to North Korea	2003.12.19	<ul style="list-style-type: none"> -Human rights of 486 South Koreans kidnapped to North and their families -Collection of opinions from relevant ministries and experts

Section 3 Counseling and PR Activities

The Commission has no regional branch offices. In order to provide services to local residents outside Seoul more efficiently and conveniently, the Commission sent counselors on a traveling circuit to the four cities of Busan, Gwangju, Jeonju, and Daejeon in May, 2003. A temporary human rights counseling office was established in each of the four cities, and investigators of the Commission and local lawyers met with citizens to provide counseling and have discussions on human rights violations and discriminatory acts and remedial measures.

<Table 5-3-1> Itinerary of Commission

City	Period	Remark
Busan	5.13(Tue.) 5.14(Wed.) 【2 days】	3 rd week of May
Gwangju	5.20(Tue.) 5.21(Wed.) 【2 days】	4 th week of May
Jeonju	5.22(Thur.) 5.23(Fri.) 【2 days】	
Daejeon	5.27(Tue.) 5.28(Wed.) 【2 days】	5 th week of May

The Commission had discussion meetings with 99 local human rights civic groups. The human rights situation in the local area and means of cooperation were discussed. The meetings were attended by representatives from local governments, prosecutors' offices, police, the Army, detention facilities, and protective facilities in each local area. The Commission explained its major activities and duties and also listened to the difficulties of law enforcement officials in their duties. These meetings were a good opportunity to introduce the organization of the Commission and its activities. It was regrettable, however, that in-depth discussion was impossible because so many different organs and groups were in attendance at the same meetings. It became evident that there was a need for region-specific and organ-specific meetings focusing on in-depth discussions in the future.

Permanent commissioners of the Commission took turns delivering lectures on the role of policemen in protection of human rights under the subject of 'Duties of the Police and Human Rights' to a total of 910 higher-ranking police officers from 74 police stations in four cities.

Nineteen major newspapers and 11 television and 11 radio broadcasting companies reported on the human rights activities including counseling, education, and PR activities of the Commission in the four cities of Busan, Gwangju, Jeonju, and Daejeon as exemplary cases. During this campaign the Commission was effectively able to inform local residents of the duties and activities of the Commission.

In Korea, political, economic, social, and cultural activities are heavily concentrated in Seoul.

For this reason, the human rights situation in other regions tends to be neglected. Until regional branch offices are established, the Commission will continue to dispatch counselors to other cities to raise awareness of human rights throughout the country, establish a cooperation system to share information with local NGOs, and increase the understanding and cooperation with administrative government officials.

Section 4. Enhancement of Human Rights Counseling and Information Service

1. Improvement of Human Rights Counseling Expertise

The Commission developed an in-house training program to improve expertise and working-level job performance capabilities in human rights counseling, and provided training to professional counselors and other ordinary staff assigned to counseling. Training on face-to-face complaints was given to the entire staff of the Commission.

Basic training was provided twice (40 hours in total). Major subjects of the course included the role of counselors, human rights laws, analysis of types of complaints, approaches to human rights issues by field, and discrimination theory. In-depth training course was conducted in the form of a workshop on specific areas including guaranteeing the human rights of inmates of mental health facilities. A total of four workshops were held in 2003. Twenty-five case study meetings were held. Counselors and relevant staff all participated in these meetings to study and analyze cases of counseling and cases of complaints filed with the Commission, seeking to improve the quality of human rights counseling.

The Commission twice provided ‘Job Training for Face-to-Face Complaints’ to the entire staff of the Commission so that they would better understand the characteristics of detention/protective facilities with regard to face-to-face complaints and be better prepared for the various types of situations that will occur in the performance of duties.

The Commission published the ‘Human Rights Counseling Guidebook,’ which suggests the direction and guidelines for human rights counseling with emphasis on the complaints cases and counseling cases on record at the Commission. The Guidebook has been used for various training programs. It also prepared and published the ‘Face-to-Face Complaint Guidebook’ in order to standardize and systematize the handling of face-to-face complaints, a special function of the Commission. These guidebooks are intended to expand the scope and improve the quality of expertise in human rights counseling by providing in-depth information and using a

self-examining approach to human rights issues.

2. Establishment of Integrated Human Rights Information System

The Commission established an integrated human rights information system to provide better quality service to the public and to perform its duties more efficiently. From November 11, 2002 through May 31, 2003, the Commission established systems for on-line information service, complaint counseling, filing of complaints, electronic approval, knowledge management, and document management. The Human Rights Library of the Commission collects, classifies, and analyzes a wide range of human rights materials in order to support research and surveys of the Commission staff. The Commission also took a number of actions in 2003 to help outside researchers, NGOs, and citizens access human rights information easily and conveniently:

The Commission established the Human Rights Integrated Information System to 1) improve the quality of human rights service to the general public and to create a site for human rights cooperation to receive various human rights complaints in one location; 2) to secure efficiency and transparency in the operations of the Commission through information technology so that high-quality service can be provided for the realization of the equal human rights society; and 3) to establish an Internet environment that can be used easily by all citizens.

The Human Rights Integrated Information System aimed at 'Establishment of the One-Click Human Rights Administration Information System,' under which the systems for the home page, handling of complaints, electronic approval, document management, knowledge management, and administrative supports were integrated. The Commission became the first of all government organs to apply the 'New Administrative Management Regulations' to an electronic signature system.

Since June 2003, the public's awareness of **the** need for the Commission and its activities steadily increased. As a result, the numbers of cases in complaint counseling, investigations into incidents, and decisions on review, and other cases increased significantly. Demand for data collected and published by the Commission also increased, necessitating an expansion of the system.

The Commission has reconstructed its system, making it more user-friendly. Additional functions were developed, and tasks are processed more efficiently as a result of linking of related systems and by using automatic statistics calculation tools.

3. Establishment of Human Rights Materials Service System

The Commission held five meetings of the Advisory Group on Human Rights Materials Management. The first meeting was on February 18, 2003. Based on the Book Collection Development Policy adopted at the meeting, the Commission started collecting books through recommendations of its staff and acquisition works of librarians. Materials collected were screened with advice from outside experts to guarantee the quality of objectivity of acquired materials.

Including materials collected in 2002, the Commission started sorting 9,000 kinds of materials in 2003, for which basic guidelines for organization, including a classification table, catalogue rules, and symbols for separate location had been established. The guidelines were used to create the 'Bibliography Database' for books, periodicals, and media materials, and the 'Bibliography Database' was linked to the in-house intranet and website of the Commission so that materials collected by the Human Rights Library could be searched over the Internet.

<Table 5-4-1> Collection of Human Rights Library

(As of Dec. 31, 2003)

		No of Volumes
Books	Korean	7,067
	Foreign	2,144
Audiovisual Materials		388
Periodicals	Korean	151
	Foreign	63
Electronic information source	Information on Korean and foreign law	2
	Korean and foreign electronic journal	3

On June 1, 2003, the Commission began to provide another new service, 'Original Text Copy Service' of materials at the Library, so that citizens can receive materials without actually visiting the Library. The Commission held an event, 'Human Rights Library Open to All' sub-titled 'Human Rights One-stop Information – Come to the Human Rights Library,' to promote the Human Rights Library and encourage more visitors to come. The Commission also had meetings with those responsible for keeping materials on NGOs to discuss ways to promote the use of the Human Rights Library and measures to promote exchanges and cooperation effectively.

Chapter 6 Future Tasks for Human Rights Improvement

Section 1 Systematic Implementation of Human Rights Services

1. Preparation of the Draft of Recommendation on the National Action Plan for the Protection and Promotion of Human Rights

Improved protection of human rights ultimately entails more than correcting individual human rights violations or discriminatory acts: it also requires addressing the basic issues of human rights statutes, institutions, and policy practices comprehensively. A long-term, comprehensive plan to review and reform all national policies and systems should be formulated. This is the National Action Plan for the Protection and Promotion of Human Rights (hereinafter referred to as NAP). Standards must be prepared in order for NAP to be established as an institutional framework that can protect and improve human rights and be practically implemented. The KNHRC has been preparing for NAP since its inauguration.

Formulation of the basic plan for national human rights policy is not only a task for the KNHRC, but a global effort. Recognizing the need for each nation to formulate a plan for human rights policy in order to ultimately improve the human rights situation everywhere, international human rights institutions have widely communicated the need and taken a leading role. The UN published a guidebook to help member countries formulate basic plans for national human rights policy and recommended that the guidebook be translated into the languages of each country. The UN provided technical assistance to developing countries to help them formulate basic plans. In May 2001, the UN Committee on Economic, Social, and Cultural Rights (CESCR) recommended that the Republic of Korea prepare a national human rights plan of action and submit it by June 30, 2006.

The national human rights institution in each country, where it is already established, plays a pivotal role in preparing the national human rights plan of action. Most importantly, the institution suggests the overall direction of the national plan of action and monitors compliance with the plan as it unfolds.

The KNHRC selected the preparation of the NAP recommended by the CESCR as a key task for 2004. Based on human rights materials collected, the KNHRC started studying policies and programs of institutions and NGOs in other countries.

'Social consensus' is most important in preparing the NAP. A social consensus through the participation of citizens is the most important factor for the success of the NAP. The process of deliberation with citizens from all levels of society will not only enhance the quality of the NAP but also immeasurably increase the NAP's success in achieving its goals. National action plans have been formulated in many sectors of society thus far, but they are not being implemented because they do not have adequate social consensus. Learning from the shortcomings of these national action plans, the KNHRC will organize the 'NAP Promotion Team' to fully reflect the opinions of citizens, NGOs, and academics who have contributed to the improved protection of human rights in preparing a recommendation on the NAP to the government. The NAP Promotion Team will set the overall direction of the NAP and formulate strategies to facilitate the NAP. Policy priorities will be selected in each area of human rights, and to set a goal target, surveys on the awareness of citizens and experts will be conducted. These surveys will be drafted according to standardized survey planning so that they represent the entire people of Korea rather than specific interest groups.

The NAP should be based on 'reality' if it is to be practically implemented. To realize that goal, full participation and cooperation of ministries is essential. For this purpose, the KNHRC will organize the 'Council on Human Rights Policies' of officials from relevant ministries, local governments, and human rights experts. In order to establish the legal ground needed for the establishment of the Council, the KNHRC is working to revise the Enforcement Decree of the National Human Rights Commission Act.

The KNHRC will draw up a draft of the NAP in 2004. It will recommend that detailed plans of the NAP be formulated and implemented by appropriate national institutions.

2. Effort to Legislate an Act Concerning Elimination of Discrimination

Korean law has some prohibitions against discrimination. However, such prohibitions were mainly intended to serve promulgation purposes in many cases. In order to truly eliminate discrimination and make corrections to flawed systems and policies in Korean society, it has been incessantly argued that the legal framework should address legal execution, including efficient remedial measures against discriminatory acts, and define the types and scope of discrimination.

The KNHRC organized the 'Committee for Legislation of the Anti-discrimination Act' on January 28, 2003, in its efforts to promote legislation of the on Anti-discrimination Act, which is also a key task of the KNHRC in 2004. In order to realize the legislation of the Anti-discrimination Act, clear definitions of the concept of discrimination and unlawful discrimination that should be prohibited by law should be made first, and a social consensus on these definitions should be reached. The KNHRC has established the basic direction regarding establishment of the concept of discrimination and grounds for discrimination, after consultation with academia and experts in this field, and through in-depth analysis of foreign cases. It has also continued discussions on major issues of controversy contained in the draft of the bill.

Based on the results of such efforts, the KNHRC will prepare a draft of the bill for legislation. It will collect a broad range of opinions from academia. In consideration of the fact that the draft should aggressively correct discrimination in specific and practical ways, the KNHRC will consult appropriate organizations and hold public hearings. The KNHRC plans to prepare the draft in 2004.

The KNHRC will make every effort to make the Anti-discrimination Act effective with regard to protection of the socially weak, who are suffering discrimination based on the eighteen grounds such as gender, disability, age, and national and ethnic origin. The act should be comprehensive in providing evaluation standards that will be used to realize true equality in Korean society.

3. Operation of Task Force Teams

The KNHRC selected the National Security Act, Protection of Irregular Workers,

and Social Protection Act as three major human rights issues for 2003 and set up Task Force Teams together with experts from outside. The Task Force Team for Social Protection Act determined that the Protective Restriction System under the Social Protection Act engendered potential human rights violations and that as long as the current Protective Restriction System remained in effect, the human rights situation would improve little. The Team, therefore, recommended that the Speaker of the National Assembly and the Minister of Justice move to abolish the Protective Restriction System under the Social Protection Act by abolishing the entire Social Protection Act, and prepare another bill on a corrections system.

Based on the results of comprehensive **research** by the National Security Act TFT and Irregular Workers TFT, the KNHRC will prepare a practical draft recommendation, in which the human rights awareness of the Korean people is reflected and which can be also fully agreed by relevant ministries, while complying with international standards for human rights. The draft will be released during the first half of 2004.

The National Security Act TFT has sought to identify problems and find solutions to such problems utilizing research materials that have been accumulated through surveys on the human rights situation and symposiums. It will hold public hearings to collect opinions from various levels of society on whether the National Security Act should be maintained or abolished, and when necessary, it will hold hearings for in-depth discussions before it presents the official opinions of the KNHRC to the National Assembly.

The Irregular Workers TFT has had numerous discussions on how to approach the problem of irregular workers under the reality where a social consensus on irregular workers has not yet been reached. Irregular workers in the public sector are employed in very diverse conditions according to legal status of the agency concerned, such as administrative organs, public corporations, government-run organizations, and educational institutions, and the different employment and management policies of the agencies concerned. As such, it was difficult to find a solution to the issues facing irregular workers. The KNHRC will address the problem with regard to all different issues including discrimination against irregular workers, the right to work, and social rights, etc.

4. Programs for North Korean Human Rights

The resolution on the Situation of Human Rights in the Democratic People's Republic of Korea adopted by the UN Commission on Human Rights on April 16, 2003 raised interest in human rights in North Korea both at home and abroad. On April 28, 2003, the 40th KNHRC Committee meeting, attended by all commissioners, decided to establish the 'Research Team on Human Rights in North Korea' as a non-permanent KNHRC organ.

The research team collected, accumulated, and analyzed academic journals with articles about human rights in North Korea published both at home and abroad. It held three symposiums ('Meeting with NGOs on North Korean Human Rights,' 'Meeting with Experts on North Korean Human Rights,' and 'The Food Shortage Problem in North Korea and Human Rights of North Koreans Outside North Korea') to collect opinions from NGOs and experts on North Korean human rights and monitor activities of groups concerned with North Korean human rights.

The KNHRC will upgrade and expand the 'Research Team on Human Rights in North Korea' as a permanent task force in 2004. The team will: 1) continue to study and analyze pending issues relating to the situation of human rights in North Korea; 2) monitor activities of the UN, EU, and the United States relating to North Korean human rights and follow-up procedures after resolution on the Situation of Human Rights in the Democratic People's Republic of Korea, and collect opinions of domestic North Korean Human Rights NGOs; 3) visit China and North Korea to ascertain the situation of North Koreans outside North Korea and the position of the government concerned; 4) hold public hearings and other hearings on how to approach the issue of North Korean human rights and how to find solutions to human rights problems in the North; and 5) hold international conferences to discuss the activities of the international community relating to North Korean human rights.

As an initial step for North Korean human rights programs, the KNHRC will monitor and evaluate activities for North Korean human rights both at home and abroad, and will conduct a preliminary survey on the situation of human rights

of North Koreans who have moved out of North Korea.

North Korean human rights should be approached very carefully as it is a very important issue that impinges on the possibilities for peace in Northeast Asia and on the Korean peninsula. It is a mid- and long-term project for the KNHRC. North Korean human rights programs of the KNHRC will address not only the human rights of the North Korean people, North Koreans outside North Korea, and prisoners of the South Korean Army, but also human rights of Koreans who have left North Korea and moved to South Korea, families of South Koreans kidnapped to North Korea, and Koreans returned to the South after being kidnapped to the North. It will carry out all these programs comprehensively and step by step.

Section 2 Improving Laws and Systems to Meet International Standards

1. Establishment of a System for Improvement of Human Rights Statutes

Throughout 2003, the KNHRC presented its opinions on those provisions of domestic laws and policies that may lead to violations of human rights or discrimination, and it recommended that certain laws be legislated or revised as required to promote human rights and develop democracy.

The process of reviewing statutes for possible human rights violations and discrimination was difficult for the KNHRC due to lack of understanding about human rights at state organs and local governments and insufficient cooperation with such organs. The KNHRC was only able to make one presentation regarding revision of provincial ordinances over a period of two years. Under clause 1, Article 20 of the National Human Rights Commission Act, if the head of a related state administrative organ or local government intends to enact or amend any statute that includes contents likely to affect the protection and promotion of human rights, he/she shall notify the KNHRC in advance. However, the KNHRC has had to review bills to be revised or legislated on its own because the appropriate administrative organs have not implemented the advance notification system. This is because cooperation with appropriate administrative organs has not yet been established.

To address the problem, the KNHRC will establish a 'System for Improvement of Human Rights Statutes' to prevent human rights violations and discrimination in a more systematic manner and to raise awareness of human rights.

In order to establish such a system, the KNHRC will select those important statutes that need to be reformed and statutes to be enacted and revised, and will hold consultations with relevant organs. If necessary, the KNHRC will also have consultation meetings with relevant ministries and experts in the related fields. Materials collected during the processes of improving individual statutes will be published and distributed to the public, and an expert pool will be organized. The KNHRC will have traveling consultation meetings to improve human rights ordinances and regulations of metropolitan cities and local governments. Cases of statute improvements, research materials, and academic journals of experts will be organized in a database and categorized by field.

Establishment of a System for Improvement of Human Right Statutes will encourage the central and local government to increase their efforts to improve their legal systems and will clear the way for more effective implementation of recommendations and opinions presented by the KNHRC to improve human rights statutes. It will also play an important role in preventing the reoccurrence of similar human rights violations and discriminatory acts.

2. Monitoring of Domestic Implementation of International Human Rights Conventions

The KNHRC will step up its effort to create a social environment under which the statutes of Korea and policies of government organs will be in compliance with international human rights standards, and domestic implementation of international human rights conventions will increase, keeping abreast with the era of globalization. Such a social environment will raise the awareness of the Korean people towards the importance of human rights and bring Korea a major step closer toward becoming an advanced human rights nation where the human rights of foreign workers as well as Koreans are respected. Internationally, it will enhance the prestige of Korea in the international community and will help increase cultural influence of Korea such that it will be able to take leadership

in discussing global human rights issues.

To attain the goal, the KNHRC will monitor precedents and documents of international human rights conventions and draw possible solutions to problems of human rights violations and discrimination that may occur in the future. In order to bring domestic statutes into line with the international human rights conventions to which Korea has already acceded, the KNHRC will continue to monitor domestic implementation of international human rights conventions.

The KNHRC will examine the legal precedents of human rights courts relating to the European Convention of Human Rights; monitor the proceedings of international meetings related to human rights conventions; compare and study conventions to which Korea has acceded and international statutes and domestic statutes; analyze the state report submitted by Korea to human rights conventions and guidelines, recommendations, and decisions made by the committee of the convention; and analyze and prepare recommendations on the reddendum of human rights conventions and those statutes which make mandatory implementation of conventions difficult.

The KNHRC expects that it will be able to provide reasonable standards for inspection that will meet international standards and countermeasures when it reviews domestic statutes for guarantees of human rights and investigate human rights violations and discriminatory acts.

3. Systematic Survey on the Situation of Human Rights

In carrying out the 2003 human rights survey, the KNHRC emphasized continuity of the survey, pending human rights issues, construction of the knowledge base, and the essential duties of the KNHRC. Individual research tasks that were proposed in accordance with these four principles were evaluated and discussed in-depth at the 'Committee on Human Rights Situation Survey Meeting' chaired by permanent commissioner Park Gyeong-seo before decisions were made on final tasks to be conducted for 2004. The discussion and evaluation focused on the necessity for research and the appropriateness, feasibility, and effects of individual research tasks.

In the course of preparing and conducting the projects in 2003, a number of problems arose that need to be solved. In carrying out projects for 2004, the lessons learned in 2003 will be duly considered in the interests of greater efficiency and effectiveness of the survey on the human rights situation as follows:

1) In selecting tasks to be included in the survey, the KNHRC will consider whether the task under consideration will help in the accumulation of basic materials needed for the KNHRC to perform its duties related to human rights policy together with how urgent the task is, whether it is feasible, and what social impact the task will bring. After considering all these factors, the subjects that are **closely** related with all the national human rights issues will be selected.

2) The survey methods should be improved to yield the best and most authentic findings on human rights issues. Thorough preparations will be carried out before the survey to ensure that it is representative of all of Korea or the targeted groups. Security measures will be taken to raise the ratio of respondents.

3) The KNHRC will formulate a mid and long-term plan to conduct the survey efficiently with limited manpower and budget resources. A periodic nationwide survey will be conducted under the plan. The KNHRC will formulate a mid and long-term plan for the survey on the human rights situation linked with evaluations on the research tasks which have been carried out thus far and in preparation for recommendations on the draft for the 'Master Plan for National Human Rights Policy,' which is on-going as a key KNHRC project for 2004.

Section 3. Strengthening the National Human Rights Commission

1. Ensuring the Effectiveness of Investigation and Remedies to Complaints

Since its inauguration in 2001, the Korean National Human Rights Commission (KNHRC) has ceaselessly strived to improve the capabilities of its staff and system of investigation into complaints received with the KNHRC. Most

importantly, it has increased its staff to better handle the workload. Compared with 2001 and 2002, the number of complaints settled and the speed of handling complaints improved in 2003. However, some challenge still face the KNHRC, such as improving the efficiency of investigation and the effectiveness of remedies to complaints, as well as the implementation of recommendations issued and opinions presented by the KNHRC.

In order to solve such problems, the scope of complaints to be investigated by the KNHRC should be expanded, a wider array of investigation methodologies should be employed, more different types of recommendations should be made, and the legal and institutional systems should be reformed through such means as standardization of investigation and remedial procedures. The KNHRC will continue to monitor places such as detention/protective facilities and military facilities where human rights violations are most likely to occur by paying visits to such places and checking whether the recommendations by the KNHRC are being implemented.

1. The KNHRC will expand the scope of 'protective facilities for many persons' prescribed in clause 2 (e), and clause 3, Article 2 of the National Human Rights Commission Act, so that a wider range of matters can be investigated by the KNHRC under clause 2, paragraph 1 of Article 30 of the NHRC Act.

2. The current principle of investigation in writing will be conducted together with compulsory or on-the-site investigation so that efficiency of investigation and remedial work can be improved.

3. The methodologies of investigation and remedial works will be diversified. Models of other countries, such as the alternative conflict settlement system of the EEOC of the US, will be examined.

4. For standardization of investigation and remedial works, the KNHRC will analyze major legal precedents of the courts, Constitutional Court, and the KNHRC's own decisions; analyze materials collected thus far through discussion meetings with experts and hearings; publish the findings of the analysis as a reference book; and formulate standards for judgments by type of human rights violation and discriminatory acts.

In order to carry out investigation more efficiently, the KNHRC plans to introduce a system under which teams of two to three investigators will be formed that can employ more in-depth and diverse approaches to the most serious types of human rights violations that have the greatest impact on society.

2. Establishment of Branch Offices Outside Seoul

Branch offices of the KNHRC should be established in other parts of the country in order to quickly handle complaints about human rights violations and discriminatory acts from areas outside of Seoul and to improve access by local residents everywhere to KNHRC human rights counseling and training.

In 2003, a total of 3,815 complaints were filed with the KNHRC. Of these, those from Seoul and surrounding Gyeonggi-do Province and Incheon numbered 1,398 cases, or 37% of the total. The remaining 2,417, or 63% of the total complaints, came from other regions throughout the country. The respondent organs and prosecutor, police, Army, and detention/protective facilities that were subject to investigations by the KNHRC were scattered all over the country. For this reason, faster investigation and prompt visits for investigation and hearing face-to-face complaints would require the establishment of at least four regional branch offices; one each in Busan, Daegu, Daejeon, and Gwangju.

The budget for 2003 of the Equal Employment Opportunity Commission of the US amounted to 372 billion won, 19 times that of the KNHRC, and the EEOC has a total staff of 2,720 at 51 regional offices throughout the US, performing investigations and remedial works for complaints relating to discrimination.

In order to establish regional offices of the KNHRC, the KNHRC Act and Office Organization Decree (Presidential Decree) need to be revised. The KNHRC will decide on the function, manpower, and organization of the regional branch offices; formulate a plan to establish the regional branch offices;; and consult with related ministries about the establishment of branch offices.

3. Ensuring Independency in Personnel Management and Budgeting

The national human rights institution came into being amidst violations of basic rights by government institutions and failures to protect basic rights. The major duty of a national human rights institution is, therefore, “protection of human rights against government institutions.” Thus, in order for a national human rights institution to perform its duties objectively and impartially, it must be independent of other government organs.

The ‘Principles relating to the Status of National Institutions, Paris Principles, 1991,’ endorsed by the General Assembly of the United Nations include an entire chapter on the independence of the national human rights institution, stressing that independence is a necessary condition for the existence of a national human rights institution. The UN Human Rights Committee regards independence in personnel management and budgeting as the most important criteria for evaluating national human rights institutions.

Securing ‘independence’ has been the major concern for the KNHRC since its establishment. The KNHRC Act was legislated with ‘independence’ as the operative term. Article 3 of the KNHRC Act stipulates the independency of the institution: it reads, ‘The Commission independently deals with matters which fall under its jurisdiction.’

However, the independency of the KNHRC meets neither the level of ‘independence’ recommended by the UN nor the level demanded by the civil groups that had worked so hard to establish the KNHRC. As a result, in the two years that the KNHRC has been in operation, problems relating the independence have arisen as follows:

1. It is difficult for the KNHRC to secure expert manpower in various areas. The characteristics of the missions of the KNHRC require expertise in various fields including medical service, the law, education, and social welfare. Recruitment of such manpower is hindered because 1) the Ministry of Government Administration and Home Affairs intervenes with the organization and recruitment of staff of the KNHRC and 2) KNHRC employment follows the method of recruitment of government officials.

2. It is practically difficult to ensure the independence of the KNHRC under the current budget system. Despite the fact that the KNHRC must be independent in light of the nature of its missions as discussed earlier, the head of the KNHRC has not been granted the authority to present his/her opinions when the requested budget is cut, though such authority has been granted to other independent institutions including the Constitutional Court, Supreme Court, National Election Commission, and administrative ministries. In short, the subordinate position of the KNHRC in personnel management and budgeting serves to reduce its effectiveness in its major functions, among which are making administrative recommendations to government institutions.

Many countries including South Africa and Spain delegate power to the national human rights institution to prepare its own budget and recruit staff independently. The constitutions of many countries including India, the Philippines, Thailand, and South Africa include provisions for the establishment of a national human rights institution, which increases the power and authority of their national human rights institutions.

In order to solve the problems discussed above, the reasons for the establishment and delegation of authority to the KNHRC should be stipulated in the Constitution.

Section 4. Building the Infrastructure for Human Rights Training and PR

1. Preparation for the Formulation of the Five-Year Master Plan for the Development of Human Rights Training

Since its inauguration, the KNHRC has made efforts to build the infrastructure for human rights training within institutions and to build a social consensus on the need for human rights training. For this purpose, it has provided human rights training to law enforcement officials including police and prosecutors, developed and distributed human rights materials including human rights fairy tales for children, organized and managed a pool of human rights lecturers, and had consultations with organizations involved in human rights training. These efforts have indeed led to substantial improvements, including enhanced human

rights awareness of law enforcement officials, and improvement in human rights training. Nonetheless, much remains to be improved. First of all, a long-term master plan should be prepared for more systematic, comprehensive, and more efficient human rights training, and focus should be given to facilitating human rights education and training under the master plan after it is formulated.

The Five-Year Master Plan for the Development of Human Rights Training has been under preparation since 2003. The KNHRC will hold discussion meetings on policy tasks for the development of human rights training, workshops with those engaged in the Five-Year Master Plan for the Development of Human Rights Training, collect opinions of relevant institutions and NGOs for the draft of the master plan, and hold public hearings for review of the draft of the master plan. After completing all these tasks, the KNHRC will draw up policy tasks for human rights training and establish yearly implementation plans. The KNHRC expects that a cooperative network will be established to facilitate human rights training in schools, local communities, workplaces, and government organizations in the process of formulating the master plan.

2. Development and Operation of Human Rights Training Program

The KNHRC has been developing the 'Draft of Human Rights Curricula for Elementary/Middle/High Schools' since 2003. The draft will be finalized after collection of diverse opinions from teachers, academics, and NGOs, and it will be released as a tentative plan of the KNHRC. The KNHRC will have a consultation with the Ministry of Education and Human Resources Development so that the draft will indeed be incorporated into the curricula of schools. Based on the results of the commissioned research on the draft of human rights curricula, the KNHRC will publish a reference book for human rights education curricula and a glossary. For the systematic inclusion of human rights as a regular part of school curricula, the KNHRC will first develop educational human rights programs and educational materials for elementary schools, then for middle schools, and finally for high schools. The KNHRC will increase the quality of human rights education and generate greater student interest in human rights by holding a greater number of competitions on model cases of human rights and human rights essay contests, ultimately accelerating the process of creating a new human rights culture in Korea.

Together with human rights lecturers, the KNHRC will provide training for teachers of various levels, human rights lecturers of the National Police Agency, professors of educational training institutes for government officials, and others engaged in human rights related jobs. This training will help them improve their human rights knowledge and perceptions of human rights, thereby expanding human rights culture into every corner of society.

3. Strengthening of PR for Creation of Human Rights Culture

Human rights culture refers to an environment of society where the human rights receptivity of individuals is increased such that the members of society consider each other and respect individual differences. PR by the KNHRC is intended to create a new human rights culture to prevent violations of human rights and discrimination rather than just promote human rights. At present, the conditions in Korea for such a human rights culture are poor.

The KNHRC started developing the human rights cultural content 2002, its first year of operation. It will continue developing human rights cultural content well into 2004. The KNHRC produced a human rights film titled as 'If You Were Me' and human rights cartoon comics 'Sip-si-il Pan' in 2003. This film and the comic book helped to make the rather heavy and stiff subject of human rights familiar to the general public. With these two steps as a starting point, the KNHRC will create cultural content with more diverse subjects and styles that can be enjoyed by more citizens. As the benefits of this effort will only be realized after years of continuous effort, the development of the contents should be all the more thorough and a long-term plan for it should be laid out.

Human rights animations and posters that have been in production since 2003 will be completed in 2004. Animations are a useful medium to increase receptivity and imagination about human rights. Posters, which are easily distributed compared with other media, will be instrumental in spreading the message about human rights to the general public. On the occasion of the 56th anniversary of the Universal Declaration of Human Rights, the KNHRC will hold the 'Human Right Cultural Festival' featuring a human rights film, posters, cartoons, and photography.

'Human Rights,' a monthly magazine founded in August 2003, will also

contribute to better understanding of human rights by providing information on human rights and addressing current affairs on human rights.

The KNHRC will also stage a campaign jointly with the mass media, including especially broadcasting companies and newspapers, in its efforts to prevent discrimination and improve the perception of the human rights effort.

By addressing human rights issues with various forms and contents in diverse areas of film, animation, cartoon comics, posters, and photography, the KNHRC will increase awareness of human rights violations and discrimination and build a culture under which human rights are respected

Section 5. Promotion of Exchange and Cooperation with Human Rights Organizations

1. Building Foundation for Cooperation with Domestic Human Rights NGOs

It was very meaningful that in 2003 the KNHRC initiated a program to support projects by human rights civic groups and carried out joint projects to develop the Implementation Program for Citizens. Considering the poor financial condition of many human rights NGOs, the support program was a major boost to the pride of human rights activists for all they have been doing.

The 'Private Sector Subsidy Regulations' were legislated to ensure maximum impartiality and transparency in the program, providing the legal and institutional ground for the organization and operation of the 'Project Assessment Committee,' and increase the fairness and effectiveness of procedures for the selection of projects to determine the amount of support, and evaluation. However, the budget for support of human rights activities is limited: an increase is needed for more practical and efficient promotion of human rights.

Commissioned projects to develop implementation programs for citizens addressed five areas where human rights violation and discriminatory acts are most serious; sexual minorities, children and youths, migrant workers, and people with disability. Citizens' programs to promote human rights in these

areas were developed and launched in 2003. In 2004, new citizens' programs will be developed for those types of discrimination of which public awareness and civil activities remain poor.

In addition to such joint cooperation projects with human rights NGOs, the KNHRC needs to build an organic cooperative system through diverse communication channels. In order to share information with civil groups and to foster mutually beneficial relations with them, the KNHRC will collect diverse opinions through regular meetings with human rights NGOs and presentation sessions.

The KNHRC will improve the quality and diversity of 'Human Rights Lectures' to enhance human rights activists' expertise and will invite regional **and** local NGOs, which have very few in-house training opportunities, to fully participate in these lectures. At the same time, it will link discussion meetings with regional **and** local human rights civil groups to traveling human rights counseling and the PR program.

2. Hosting of International Conferences

The efforts of the Korean people to improve protection of human rights have drawn the attention of the international community. In recognition of Korea's efforts, two international conferences will be held concurrently in Seoul in September 2004; the Seventh International Conference for National Human Rights Institutions and the Ninth Annual Meeting of Asia Pacific Forum of National Human Rights Institutions.

The International Conference for National Human Rights Institutions is supported by the United Nations High Commissioner of Human Rights in consultation with the ICC (International Coordinating Committee of National Institutions for Protection and Promotion of Human Rights) and regional associations of national human rights institutions, and it will be attended by national human rights institutions from throughout the world. Since the first conference was held in Paris, it has been held every two years on an alternating basis between four regions: Europe, the Americas, Africa, and the Asia-Pacific. The Seventh Seoul Conference was made possible with full support of the High

Commissioner of Human Rights of the UN and the APF for the hosting of the conference by the KNHRC. The KNHRC will do its best to make this Seoul conference an opportunity to promote establishment of national human rights institutions in Asia and enhance the status of the KNHRC in the international arena.

The APF was established in 1996, and 12 national human rights institutions have since joined as members as of the end of 2003. It regularly holds an annual meeting. The KNHRC acceded to the APF in November 2002, and it has since fully participated in its activities. It has secured budget funding to support APF activities for 2004. The holding of the Ninth Annual Meeting in Seoul and the subjects of the meeting were officially decided at the Eighth Annual Meeting held in Nepal in February 2004. The KNHRC sees the Seoul meeting as a great opportunity to discuss measures to address pending human rights issues in the Asia-Pacific region, strengthen the leadership of the KNHRC, and consolidate the cooperation among the participating national human rights institutions.

At the Eighth Annual Meeting of the APF held in February 2004, the president of the KNHRC was elected one of sixteen representatives of the ICC. The ICC represents national human rights institutions throughout the world and is recognized by the UN. The founding objectives of the ICC are to establish national human rights institutions in compliance with the Principle of Paris and strengthen such institutions. In order to protect human rights, the ICC closely cooperates with the High Commissioner of Human Rights of the UN, monitors the implementation of major recommendations adopted at the UN and international human rights workshops, and promotes implementation of such recommendations. The KNHRC will attend the ICC annual meeting, which will be held concurrently with the annual conference of the UN Commission on Human Rights, representing national human rights institutions of the Asia-Pacific region. The KNHRC hopes that its participation in the ICC meeting will help it gain a better understanding about international human rights policies and help solve pending human rights issues around the world.

3. Strengthening of Exchanges and Cooperation with International Human Rights Institutions and NGOs

The KNHRC is a quasi-international organization created under the 1993

Vienna Declaration. The KNHRC will spare no efforts to protect and promote international human rights by strengthening exchanges and cooperation with international organizations and NGOs, while doing its utmost to protect and promote human rights in Korea. To this end, the KNHRC will do the following:

1. It will fully participate in the activities to protect and promote human rights in the Asia-Pacific region. The APF is a regional organization working for the protection and promotion of human rights in the Asia-Pacific region. The KNHRC will fully participate in such activities of the APF. By doing so, the KNHRC will be able to improve the situation of human rights in Korea to the international level and establish Korea as an advanced human rights nation among Asian nations.

2. It will provide staff of the KNHRC more opportunities to receive international training. In order to increase expertise of its staff in international human rights statutes and actual working, the KNHRC will actively conduct exchange programs with international human rights organizations and NGOs, and expand participation in various international training programs.

3. It will fully participate in international human rights meetings, including those of the UN. As the KNHRC is increasingly involved in international human rights activities, expectations of the KNHRC are rising both at home and in the international community. To meet these expectations, the KNHRC will more actively participate in international human rights meetings and workshops, in particular, meetings of the UN Commission on Human Rights and those of convention supervisory organizations.

4. It will expand the exchange and cooperation program with human rights institutions in other countries, which was established in 2003, in a more systematic and efficient way. The KNHRC will make efforts to share expertise and information relating to programs for the protection and promotion of human rights that are conducted by national human rights institutions throughout the world, and increase cooperation in research on international human rights statutes and case studies of policy decisions in advanced countries. Towards these ends, the KNHRC will study and analyze materials on some one hundred national human rights institutions identified by the UN as soon as possible.

Appendices

1. Commissioners and Secretary - General

2. Staff and Budget

3. Status of Ratification in International Human Rights Treaties, Republic of Korea

1. Commissioners and Secretary -General

	Education	Experiences	Remarks
President Chang-Kuk Kim	Administration, Seoul National University Law, Seoul National University	President, Korean Bar Association President, Seoul Bar Association Co-Representative, People's Solidarity for Participatory Democracy	
Senior Commissioner Kyung-Seo Park	B.A. in Sociology, Seoul National University. Ph.D. in Sociology, Goethinggen University, Germany	Former Chairman of the WCC Asian Policy Commission in Geneva, Swiss. Chairman of the East Asian Peace Commission, First Human Rights Ambassador of Korea	Former Chairman of the WCC Asian Policy Commission in Geneva, Swiss.
Senior Commissioner Yoo Hyun	B.A. Seoul National University Collage of Law, L.L.M. of Washington University	Assistant Judge of Supreme Court, Professor at the Judicial Research and Training Institute, Senior Judge of Seoul High Court, Lawyer	
Senior Commissioner Rhyu, See-Chun	B.A. in Korean Literature, Korea University	Commissioner for the People's Movement for the Democratic Constitution Headquarters, Director at the Korean People's Artists Federation, Novelist	
Commissioner Mi-Kyung Cho	B.A., College of Law, M.A. Seoul National University, Dr. Juris, Köln University, Germany	Professor of Law, Ajou University, President of the Korean Society of Family Law, Vice President of the Korean Civil Law Association	
Commissioner O-Sup Kim	B.A. in Law, Korea University, M.A., Seoul National University	Chief Judge at the Seoul High Court, Lawyer	
Commissioner Dong-Woon Shin	B.A. College of Law, Seoul National University, M.A., Seoul National University, Dr. Juris, Fraiburg University, Germany	Professor of Law at Seoul National University, Director at the Korean Criminal Law Association, Member of the Legal Reform Committee at the Office of Court Administration	
Commissioner Kang-Ja Jung	Department of Library, Ewha Women's University	Chairperson of the Korean Women's Organization Labor Committee,	

		Member of the Committee on Gender Equality Promotion at the Ministry of Gender Equality, joint representative of Women Link	
Commissioner Duk-Hyun Kim	B.A. Law, Hanyang University	President of the Women Lawyers, Chair person for the Women's Affairs Research, Director at the Korean AIDS Suppression League	
Commissioner Heung-Rok Lee	B.A. Seoul National University College of Law M.A. Seoul National University	Saegil Patient & Law Firm : Leading Council Busan District Bar Association : Vice-Chairman Busan District Labor Relations Commission : Commissioner	
Commissioner Man-Hum Kim	Dept of Political Science, Seoul National University Graduate School of Seoul National University(Ph.D)	Professor, The Catholic University of Korea(present) Advisory Committee, People's Solidarity for Participatory Democracy Chief of Policy Committee, People's Union for Democratic Reform	
Commissioner Young-Ae Choi	M.A. in Women's Studies, Ewha Womans University B.A. in Christian Studies, Ewha Womans University	Co-Chairpeson, the Joint Committee of NGOs for Realization of Right National Human Rights Institution President, Korea Sexual Violence Relief Center Secretary General, National Human Rights Commission of Korea.	

2. Staff and Budget

A. Staff

(as of December 31, 2003. Unit: person)

		Total	Administrative managers	Contractors	Special staff	Ordinary staff	Working – level staff
Total		170	4	18	46	71	31
Office of the President		5	1		2		2
Office of the Permanent Commissioner		9	3	3			3
Office of the Secretary-General		3			2		1
Offices for	Public Information Officer	6		2	3		1
	Inspector-General	6			1	4	1
	Counseling Center	10		1	4	4	1
	General Affairs Division	16			2	8	6
Policy Bureau		23		3	9	7	4
Administrative Support Bureaus		20		1	3	13	3
Violation Investigation Bureau		31		5	7	16	3
Discrimination Investigation Bureau		18		1	6	9	2
Education & Cooperation Bureau		18		1	7	7	3
Office for	Human Rights Library	5		1		3	1

※ Staff not included in regular staff: seven non-permanent commissioners, five specialists under contract, eight dispatched from other state organs.

B. Budget

(Unit: ₩ one million)

	Total	Payroll expenses (Salaries and Wages)	Project Expenses		
			Sub-total	Basic project expenses	Major project expenses
2002	19,203 (100%)	5,309 (27.6%)	13,894 (72.4%)	9,372 (48.8%)	4,522 (23.6%)
2003	18,919 (100%)	7,199 (38.1%)	11,720 (61.9%)	6,355 (33.6%)	5,365 (28.3%)
Change	△284 (△1.5%)	1,890 (35.6%)	△2,174 (△15.6%)	△3,017 (△32.2%)	843 (18.6%)

C. Appropriation of Budget to Project

(Unit: ₩ one million)

		Purpose	2002	2003
Total			13,894	11,720
Basic project expenses	Sub-total	-Rent and maintenance of the Commission building -Expenditures for basic functions	9,372	6,355
	Ordinary expenses		8,944	5,887
	Basic expenses		380	411
	Basic expenses for education and training		48	57
Major project expenses	Sub-total		4,522	5,365
	Construction of infrastructure for human rights protection and improvement	- Holding of hearings - Establishment of legal framework for human rights protection and improvement - Computerization	2,269	2,121

	Investigation and remedies for human rights violations and discriminatory acts	<ul style="list-style-type: none"> - Improvement of human rights counseling skills - Development of skills for survey and remedial procedures 	138	369	
	Education and PR activities to expand human rights culture. Strengthening of cooperation with domestic and international organizations	<ul style="list-style-type: none"> - Monitoring of mass media and staging campaign - Provision of complaint guidance and promotion of public awareness of human rights - Publication of materials to increase public awareness - Publication of human rights education materials - PR on human rights education and support for civic groups - Participation in international conferences - Exchange and cooperation with national human rights institutions overseas 	2,115	2,875	

※ Budget for 2002 was from reserve fund.

Tasks and Strategies to Protect & Promote Human Rights

2004 Action Plan of the Commission