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H U M A N R I G H T S
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R E P O R T 2 0 0 4



National Human Rights Commission Annual Report 2004

The Commission publishes and distributes the Annual Report in Accordance with paragraph 1, Article 29 of the National Human Rights Commission Act. It provides information on major projects and activities the Commission carried out during the previous year and future tasks.



foreword

Three years have passed since the National Human Rights Commission of Korea was launched. In this short time, I am happy to report that the Commission has indeed achieved a great deal of success in promoting human rights in Korea. The concept of human rights itself is no longer so foreign to the Koreans: there can be no denying that the National Human Rights Commission has already become an established independent national institution.

In 2004, the Commission strived to improve its expertise and effectiveness in its activities and address human rights in a wider range of areas. This annual report discusses its performance in every respect for the year. Recommendations on improvements to human rights policies and statutes, investigation and remedies for human rights violations by government organs and discriminatory acts, human rights education and public relations, and other activities of the Commission are addressed. This report is also reflective in that it discusses improvements that still need to be made as well as the real limitations that the Commission faces.

This report goes on to evaluate human rights conditions in Korea and suggests the future direction for human rights promotion. It confirms that the human rights situation in Korea has improved substantially in recent years, but it also indicates that further self-examination is needed and that much remains to be done.

Those who are tired of needless suffering readily come to the Commission for help. However, there are also many who are in such truly difficult circumstances and so vulnerable that they do not have even the energy to cry out. These are the people who more than any others are the Commission's purpose. Only if the Commission successfully reaches these people will it fulfill its mission.

I hope this book gives you a proper understanding of the human rights situation in Korea and that you render us your encouragement and opinions on our performance.

President

Young-Hoang Cho

National Human Rights Commission of the Republic of Korea

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National
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National Human Rights Commission of Korea

Part

Introduction





Three years have passed since the National Human Rights Commission was launched. During this time, it experienced many challenges and endured harsh criticism, but it also received encouragement. The Commission is now widely known in Korea and has become a mature organization. The Commission owes its progress to the development of democracy in Korea, support from the people and civic societies, and the enthusiasm and commitment of many who devote themselves to human rights. The Commission is now being called upon to advance to the next level as it must meet the never ending challenges involved in promoting human rights. In order to accomplish its tasks, the Commission must further develop its expertise and increase efficiency while retaining the will and enthusiasm built up during its difficult early years.

In 2004, the Commission engaged in activities in a broader range of areas, and it achieved more substantial results. With the scope and aspects of human rights expanding, the 'human rights net' of the Commission became larger and more effective, and the response time of the Commission in case handling became much shorter.

The Commission's growth depends primarily on the level of interest of the citizenry and its understanding about human rights. The fact that the National Human Rights Commission exists and the Commission performs various human rights duties itself increases in the public perception towards human rights, which in turn requires the Commission to work even harder and develop further. This also serves to improve the human rights situation of the people. That is, a virtuous circle of 'reciprocal traction' has been created.

The mission of the Commission is protection and promotion of human rights under the legal system by making recommendations on revisions to law and policies applicable to human rights. In 2004, the Commission made recommendations on the abolishment of the National Security Act and Social Protection Act. The Commission spent more than an



entire year reviewing and studying the National Security Act before declaring that the Act is ‘a legacy that should be abolished’ as the Act has violated the right of the people to freedom of thought and conscience for the past fifty years.

The Commission presented recommendations on the Social Protection Act. It was flawed since it had been prepared by the Legislative Council for National Defense established in 1980, right after a military coup. The Social Protection Act had been the target of criticism because it subjected victims to double jeopardy. The Commission recommended “abolishment of the protective surveillance system and legislation of an alternative law for medical treatment and custody system.” The Commission thereby sentenced to ‘death’ two laws that have symbolized ‘the reality of Korea as a pre-modern society’.

Many other recommendations were made and opinions expressed in 2004 to protect various rights of the people, covering a wide range from the right to freedom and social rights to rights to the protection of personal information. The Commission expressed opinions on criminal justice laws including a recommendation on the protection of child victims of sexual violence. It made recommendations to protect the rights of social minorities including a recommendation on improvement of compensation for university lecturers who were paid by the hour, a recommendation on legislation of a special act to find the truth behind suspicious deaths in the military, and a recommendation on preparation of legal grounds for the use of CCTVs by public organizations, etc.

The Commission achieved considerable development through the formulation of NAP (National Action Plan) guideline, a comprehensive blueprint of mid- and long-term human rights policy. The Commission established the basic framework for the formulation of NAP guideline through intense debate by the NAP guideline Drafting Committee, which included human rights experts from inside and outside of the Commission, and with reference to the findings of research projects commissioned to outside human rights experts on 25 subjects.

In 2004, many citizens came to the Committee to relate their stories about human rights violations and discriminatory acts. The number of complaints filed with the Commission

and sessions of counseling and guidance by the Commission for the complainants increased by 15-40% in 2004, continuing the rapid increase since the inauguration of the Commission. Keeping abreast of the rising caseload, the quality of the Commission's services (counseling and complaint handling) has improved substantially in terms of expertise and efficiency.

Investigations and remedies for human rights violations by the Commission were conducted at prosecutors' offices, police stations, military units, and other public organs, with focus on detention facilities. The Commission made recommendations such that the wrongful act of reading letters of detainees be corrected, and the Prosecutor Clerical Work Rules be revised so that the person concerned in the case can read and copy of a statement written by him/herself. The Commission decided that the forced field trip to the Buan Nuclear Waste Disposal Facility by a local government was in violation of the right to be let alone. It also recommended correction to wrongful police questioning. What is especially noteworthy in 2004 is that the Commission went beyond merely investigating complaints filed with it: it was very active in initiating investigations, *ex officio*, by visiting the scenes of human rights violations. The Commission, *ex officio*, initiated investigations on the cases of negligence in the protection of a victim of sexual violence and violation of the right to self-determination over personal information by a public library.

The Commission received 389 complaints about discriminatory acts in 2004, an increase of 8% from the year before. This shows that the public understanding toward discrimination has improved steadily. The Commission issued recommendations on 59 cases in 2004, and every recommendation had significant impact. Many types of discriminatory acts were addressed, including those involving gender discrimination, age discrimination in recruitment of police officers, imposition of a limitation on age in application for the teacher appointment examination to age of 40, recognition of no accident records for taxi drivers from any part of the country for issuance of taxi driver's licenses, regulations that may be interpreted to the effect that contact with the same sex is conducive to spreading the AIDS virus, regulations on sign language interpretation which infringe on the right to vote of persons with hearing disabilities, and discrimination against substitute teachers and persons with dyschromatopsia. These forms of discrimination have all long been practiced in Korean



society without any issues being raised about them. The Commission made recommendations to correct such practices and conducted surveys on the situation, and in so doing brought about a turning point for change in the culture of society.

What is noteworthy is that the number of cases where complaints were ‘settled during investigation’ through compromise among the parties concerned under the guidance of the Commission increased sharply in 2004. This fully serves the original purpose of the Commission, which is to bring remedy to victims quickly and at low cost. The increase in such cases shows that the Commission employs a wider array of methods to solve conflicts and also shows that the Commission has earned a certain degree of prestige and authority in Korea.

By providing training and promoting human rights in various ways to many groups of people and generations, we can help people at all levels of society become more aware of human rights. In this regard, the Commission promoted human rights training at schools and built a foundation for human rights training in public organizations and civil societies. It developed a cyber human rights education system and contents, published human rights training materials including ‘Understanding Human Rights Education at School for Teachers’. It also increased awareness of the need for human rights training in schools by providing training to teachers.

The Commission continued its effort to help people understand ‘human rights’, a subject which otherwise may be considered difficult, in an easy and familiar way. It produced ‘Blusia’s Game of “Scissors-Rock-Paper”,’ a fairy tale for children about the human rights of migrant workers.

In 2003, the Commission showed the potential of a human rights movie with ‘If You Were Me’. In 2004, it produced a human rights animation for the whole family. *Human Rights*, a monthly magazine first published in August 2003, has become *a de facto* human rights newsletter which everyone can find easily at various places, school libraries, hospitals, and banks.

The Commission pursued exchange and cooperation with human rights NGOs through various programs including ‘Support NGO Projects’, the ‘Commissioned Project for Citizens’ Voluntary Practice’, and meetings and presentations on NGO activities. In 2004, the Commission hosted the Seventh International Conference for National Human Rights Institutions, a major international forum on human rights. By hosting such a big human rights event, the Commission could strengthen its capability in the international arena and build its confidence. The Conference was devoted to the theme of upholding human rights during conflicts and while countering terrorism, and it was joined by representatives of numerous human rights organizations throughout the world. It served as a new forum of exchange and cooperation among national human rights institutions and NGOs.

The Commission focused on ascertaining the situation of North Koreans in other countries when conducting projects related to human rights in North Korea. In the future, it will pay more attention and make more efforts to protect the human rights of North Koreans in South Korea and improve the human rights situation in North Korea.

In 2005, there will be a great change in the Commission. The change is both an opportunity and a challenge. The tasks of correcting discriminatory acts, which have been the responsibility of a number of ministries, will all become the responsibility of the Commission. This will increase efficiency and strengthen the expertise of staff responsible for handling discrimination cases. This is a major opportunity to improve the capability of the Commission.

In preparation for the integration of discrimination functions, the Commission will enact and revise applicable laws including the Enforcement Decree, Organization Decree, and Rules of the National Human Rights Commission Act. It will organize a discrimination elimination committee, an expert committee, and a mediation committee by type of discrimination. With the establishment of a discrimination correction committee, the Commission will redouble its efforts to develop policy measures to correct discrimination, not to mention investigation and remedy of complaints relating to discrimination. For this purpose, the Commission must prepare standards for decisions by origin of discrimination and guidelines for the prevention of discrimination. As part of these efforts, the Commission



will prepare the Anti-Discrimination Act, the outline of which was made in 2004. The Anti-Discrimination Act will be used for suggesting standards for defining discriminatory acts.

Since its inauguration, the Commission has reviewed major human rights issues including the death penalty, military law, and laws relating to irregular workers and bioethics, and it has conducted surveys and debates on such issues to prepare measures to improve related legal systems. The Commission expects that it will see results of such efforts in 2005.

The 'Five-year NAP guideline 2007 to 2011' will be finalized in 2005. Then, drafting, execution, and monitoring of government policies which should satisfy international human rights standards will be checked and evaluated by NAP guideline.

The Commission will initiate *ex officio* investigations in cases where human rights are most vulnerable. It will be more aggressive in investigating human rights violations in the dead zone of human rights such as protective facilities for many persons and military organs by conducting inspections of them.

Many migrant workers, persons with disabilities, and members of other social minority groups, who live in the dead zone of human rights, may not believe that the Commission can actually do anything for them. The Commission will redouble its efforts to reach out to them.

The Commission will also make efforts to maximize the benefits of human rights training by focusing on the development of basic teaching materials, while enriching the human rights training program. This is one of the major tasks for 2005. In order to establish more effective cooperative relations with human rights NGOs, the Commission will select model projects and establish 'strategic partnerships' under which the Commission and NGOs work together from the very initial stage of planning.

The Commission will practically promote human rights by communicating and forming solidarity with all the people who are longing for a humane society, while reaching out to those who live in 'the lower and the darker side' of our society.



Major Activities of the Commission

Chapter 1 Improvement of Statutes, Legal Systems, Policies, and Practices on Human Rights

Chapter 2 Consultation and Advice on Human Rights Issues and Handling of Complaints

Chapter 3 Investigation of Human Rights Violations and Remedies

Chapter 4 Investigation and Remedies for Discriminatory Acts

Chapter 5 Human Rights Education and Public Relations

Chapter 6 Cooperation with Human Rights Organizations



Improvement of Statutes, Legal Systems, Policies, and Practices on Human Rights

| Section 1 | Overview

Policy on human rights must be properly developed if human rights are to be protected. If ‘policy’ entails making decisions on the orientation, allocation, and use of a country’s human/material resources, then ‘human rights policy’ dictates clearly how the country’s resources should be used for the protection and promotion of human rights. Proper formulation and implementation human rights policy is the most basic and important national task for the protection and promotion of human rights.

Toward that end, the most basic mission of the National Human Rights Commission (hereinafter referred to as the Commission) is to identify issues where human rights protection is lacking through study and research on statutes, legal systems, policies, and practices relating to human rights; and to present recommendations and opinion on those issues. The Commission carries out numerous surveys on human rights to ensure that its recommendations to improve statutes, legal systems, policies, and practices are well informed. In particular, with regard to issues at the heart of heated social debate and conflicting interests, the Commission collects opinions through debates and public hearings with experts and representatives of conflicting interest groups.

In 2004, the Commission presented its opinions and recommendations for promotion of 20 statutes, including recommendations on the abolishment of the Social Protection Act and National Security Act, which have been cited as the two statutes that are most in violation of human rights in Korea. The Commission issued six recommendations on urgent improvements to legal systems for the protection and promotion of human rights. It included recommendations on the legislation of special acts to determine the truth behind suspicious deaths at army installations and human rights violations against family members of abductees to North Korea, and preparation of legal grounds for the installation and



operation of unmanned surveillance systems such as CCTVs in public buildings.

The Commission also conducted a survey on the general status of human rights for the formulation of the National Action Plan for the Protection and Promotion of Human Rights (NAP). This was a major task for the Commission in 2004. The Commission held 15 closed hearings and public hearings to hear opinions from experts in relevant fields on recommendations on the improvement of statutes, legal systems, and policies.

As in 2003, the Commission in 2004 held another human rights essay competition and program to reward writers of outstanding human rights theses. It published the ‘Human Rights White Paper’, which dealt with human rights issues in Korean society in the three years since the Commission was launched.

| Section 2 | Activities in 2004

1. Presentation of recommendations and opinions for improvement of statutes, legal systems, and policies on human rights

The duties of the Commission include investigation and research on statutes (including bills submitted to the National Assembly), legal systems, policies, and practices related to human rights, and making recommendations for their improvement or presentation of opinions thereon. Accordingly, when the Commission determines that statutes in the process of revision or legislation may infringe on human rights, it presents recommendations for their improvement or expresses its opinions. As to important legal systems or policies which need to be improved to guarantee basic human rights, the Commission makes recommendations to the relevant ministry and the National Assembly to prepare policy alternatives or pass applicable laws.

In 2003, the Commission presented 23 opinions or recommendations, including opinions against the Terrorism Prevention Act and opinions on the Hoju (Family Registry) System.

In 2004, it presented recommendations or opinions on 27 statutes and policies relating to human rights to relevant ministries and the National Assembly. The Commission recommended that the National Security Act and Social Protection Act be revised and held debates on their amendment or abolishment, as well as on their constitutionality. It expressed opinions on bills of amendment on the Inmate Disciplinary and Punishment Regulations, and bills of legislation on the Retaining Device Regulations. The Commission strived to guarantee the basic rights of inmates at detention facilities.

By issuing recommendations on statutes, policies, and legal systems, the Commission has facilitated the comprehensive correction of petitions that are unacceptable under the requirements of the National Human Rights Commission Act (hereinafter referred to as the Commission Act) and precluded the need to submit numerous other petitions. Good examples are recommendations on policies relating to the National Security Act and Social Protection Act, suspicious deaths in the army, and recommendations to improve the payment system for university lecturers who are paid by the hour.

Of 27 cases on statutes, legal systems, and policies relating to human rights for which the Commission issued recommendations for improvement or expressed opinions, six were accepted in whole or in part by entities concerned, six were not accepted, and the remaining 15 are under review.

[Table 2-1-1] Recommendations and Opinions on Human Rights Statutes

(As of Dec.31, 2004)

	Title	Contents	Date	Entities concerned	Results
1	Presentation of opinions on bill on amendment to Child Welfare Act	Expressed its opinion that the bill should be repealed as the bill might violate human rights of child and guardians	2004.1.26.	Ministry of Health and Welfare	Accepted
2	Presentation of opinions on bill draft on the amendments to the Inmate Discipline and Punishment Regulations	The bill should be revised to reduce the severity of punishments to the minimum required, shorten the maximum sentences, and clearly stipulate the standards for the consideration of punishment	2004.1.26.	Ministry of Justice	Accepted in part



(continued)

	Title	Contents	Date	Entities concerned	Results
3	Presentation of opinions on bill draft on the amendment to Retaining Device Regulations	The bill should be improved such that the usage and types of retaining devices, such as chains and a face protecting device, are limited as much as possible to prevent their abuse.	2004.1.26.	Ministry of Justice	Accepted in part
4	Recommendation on abolition of Social Protection Act and Preparation of Alternative Bill for Treatment Restrictions	Given that Protective Custody System under the Social Protection Act has never fulfilled its raison d'être as a social system and that the system is too flawed to even be reformed, the Commission recommended that the Social Protection Act be repealed and that an alternative legal system be established for the Remedial Custody System.	2004.1.26.	National Assembly, Ministry of Justice	Under review
5	Presentation of opinions on the Bill on the Amendment to Laws on Politics	Introduction of Real Name Authentication System for the election bulletin board of internet mass media companies should be rejected, the legal voting age should be lowered, Political - related laws, such as those of election campaigns and election of candidates, should be supplemented in order to guarantee opportunities for new politicians to enter politics and ensure adequate representation of all levels of society	2004.2.16.	National Assembly	Accepted in part
6	Recommendation on the Act on the Honorable Treatment and Support of Persons, etc. of Distinguished Services to the State	Provisions of Article 16 -2, which call for an automatic reduction of one grade if the supervisor is 65 years of age or older, should be revised as they constitute age discrimination.	2004.3.17.	Military Manpower Administration	Under review
7	Recommendation on revision of criteria for the appointment of housing construction work supervisors	The Housing Construction Promotion Act and the Enforcement Decree of the Act stipulate standards for calculation of scores to evaluate the technical capabilities of housing construction work supervisors, which call for an automatic reduction of one grade if the supervisor is 65 years of age or older. These provisions constitute age discrimination, and should be revised.	2004.3.29.	Ministry of Construction and Transportation	Not accepted

(continued)

	Title	Contents	Date	Entities concerned	Results
8	Presentation of opinions on bill on the amendment to the enforcement decree and enforcement regulations of the Assembly and Demonstration Act	Definite provisions on the standards for noise and organization and the operation of the Assembly and Demonstration Advisory Committee should be prepared.	2004.4.19.	Korea National Police Agency	Not accepted
9	Presentation of opinions on enforcement decree and enforcement regulations of the Persons with Disabilities Employment and Vocational Training Act.	The quotas for mandatory employment of persons with disabilities should be raised and the government and government agencies should fulfill the mandatory employment quotas.	2004.4.26.	Ministry of Labor	Under review
10	Presentation of opinions on revised Enforcement Decree and Enforcement Regulations of the Juvenile Reformatory Act	Requirements and time limits on the use of retaining devices should be clarified; Interviews and correspondence with juvenile inmates should be permitted; the mental health of juveniles should be considered; standards for separate imprisonment should be clearly stipulated; provisions that stipulate juveniles in detention notify the authorities of acts of other juveniles should be eliminated.	2004.5.12.	Ministry of Justice	Accepted in part
11	Presentation of opinions on the bill on the amendment to the Investigation for Human Rights Protection Rule	Related regulations of the bill should be revised to clearly provide the period of notification when a prosecutor arrests or detains a suspect.	2004.5.27.	Ministry of Justice	Not accepted
12	Presentation of opinions on bill on the amendment to the enforcement decree of the Administrative Procedure Act	Social minorities such as the elderly, children and persons with disabilities should be included in those subject to advance notice of administrative procedures, and their opinions should be reflected in policy-making procedures. Welfare facilities for the disabled persons should be excluded from the category of inconvenient facilities for the public. Provisions on the conditions of exceptions from the application of policies concerned should be clearly defined.	2004.6.9.	Ministry of Government Administration and Home Affairs	Accepted in part



(continued)

	Title	Contents	Date	Entities concerned	Results
13	Presentation of opinions on the Bill on the Public Office Candidate Personal Information Collection and Management Act	The purpose and scope of collection of personal information on candidates for public office should be more narrowly defined, and detailed provisions should be stipulated in case personal information is to be given to other agencies.	2004.7.5.	Civil Service Commission	Accepted
14	Recommendation on the revision of the Enforcement Regulations of the Construction Engineering Management Act	Attachment 11 of the paragraph 4-2 of Article 15 of Enforcement Regulations of the Construction Engineering Management Act should be revised as it constitutes discrimination against non-license holders who have comparable qualifications by more readily recognizing the qualifications of those with engineering licenses than the qualifications of those with excellent educational and work experience.	2004.7.26.	Ministry of Construction and Transportation	Under review
15	Presentation of opinions on the Bill of the enforcement decree and enforcement regulations of newly enacted Sexual Services Act	The guardians should be present during interrogations of victims and information on the usage of support facilities should be notified when investigating female victims of sexual trade.	2004.8.23.	Ministry of Gender Equality	Not accepted
16	Recommendation on abolishment of National Security Act	National Security Act should be abolished given that it has been the subject of heavy criticism since the time of its legislation due to its potential for human rights violations.	2004.8.23	National Assembly, Ministry of Justice	Under review
17	Presentation of opinions on the bill on amendment to the Missing Children Relocation Act	The scope of children to be DNA tested should be restricted to minimum to protect the privacy of personal information of children, and matters concerning management of DNA test results, protection of genetic information, and operation of a DNA database should be stipulated under laws	2004.9.6.	Ministry of Health and Welfare	Under review
18	Presentation of opinions on the bill on Amendment to the Immigration Control Act	Basic human rights of foreign internees should be guaranteed to the maximum	2004.10.8.	Ministry of Justice	Under review

(continued)

	Title	Contents	Date	Entities concerned	Results
19	Presentation of opinions on a bill on the amendment to Framework Act on Education, Elementary and Secondary Education Act and School Health Act	The bill should stipulate matters concerning the responsibilities of the principal for information on students and prohibit the leakage of information specifically, and reinforce provisions to protect the rights of students whose information is in NEIS in compliance with the recommendation issued by the Commission.	2004.10.11.	Ministry of Education and Human Resources Development	Under review
20	Presentation of opinions on Enforcement Regulations of Juvenile Reformatory Act	Provisions of the Enforcement Regulations provide that juveniles in detention should notify the authorities of acts of other juveniles in violation of laws or rules. These provisions should be eliminated because they have the potential of infringing on the freedom of conscience of juveniles.	2004.10.11.	Ministry of Justice	Accepted in part
21	Presentation of opinions on Bill on the Amendment to Civil Law	The bill should stipulated that the definition of a family be limited to blood relatives and relatives by marriage, in consideration of public perception and other laws, and changing the family name of a child and taking the maiden family name of the mother as the family name of the child should be permitted, though it would be desirable not to impose a limit on the age of a son to be adopted.	2004.10.25.	National Assembly	Under review

[Table 2-1-2] Recommendations for Improvement on Government Policies Relating to Human Rights

(As of Dec.31, 2004)

	Title	Contents	Date	Entities concerned	Results
1	Recommendation on policy on suspicious deaths in army	Special act should be legislated to determine the truth of suspicious deaths in the army in the past and restore the honor of the families of the deceased.	2004.2.16	National Assembly, Ministry of National Defense	Under review



(continued)

	Title	Contents	Date	Entities concerned	Results
2	Recommendation on the policy for the installation and operation of unmanned surveillance devices, such as CCTVs, by Public Agencies	A new act be legislated setting forth standards for use of unmanned surveillance devices such as the CCTVs that are now being used by local governments and police stations to prevent and investigate crime, or (2) the Act on the Protection of Personal Information Maintained by Public Agencies be revised in order to set forth legal standards for use of unmanned surveillance devices such as CCTVs.	2004.4.19	National Assembly, Ministry of Government Administration and Home Affairs	Under review
3	Recommendation on Legislation of Special Act relating to Abductees to North Korea	Government should ascertain the damages to the families of abductees to North Korea and that a special act be legislated so that compensation can be made to these families and their honor restored.	2004.4.26	National Assembly, Prime Minister	Under review
4	Recommendation on eliminating discrimination against hourly - paid lecturers	Discrimination against hourly - paid university lecturers with regard to working conditions, job security, compensation and benefits should be corrected.	2004.5.24	Ministry of Education and Human Resources	Under review
5	Recommendation to protect child victims of sexual violence	Measures should be taken for the effective operation of an emergency medical center and exclusive medical facility so that victims of sexual violence can receive proper medical treatment and that when questioning a medical doctor in charge of a victim of sexual violence, priority be given to written statements by a relevant medical doctor so that the doctor will not refuse to provide treatment to victims of sexual violence or be reluctant to appear as an expert witness.	2004.5.27	National Police Agency, Ministry of Gender Equality, Ministry of Justice	Accepted in part
6	Recommendation on improvement of entry formalities for foreigners	A foreigner, whose purpose of entrance to Korea was decided by the immigration officer not to be appropriate should be guaranteed to submit an objection to the Minister of Foreign Affairs, and the foreigner concerned should be notified of the fact.	2004.5.27	Ministry of Justice	Not accepted

(1) Recommendations and Opinions Concerning Politics and Social Life

a. Abolishment of National Security Act Recommended

The National Security Act was an emergency measure enacted and promulgated on December 1, 1948, after the Jeju-do April 3rd Incident and military mutiny in Yeosu and Suncheon. It has been the subject of heavy criticism since the time of its legislation due to its potential for human rights violations. It has since been the subject of incessant debate with regard to its unconstitutionality due to anti-democratic provisions and frequent occurrences of human rights violations that have been committed in its enforcement. International human rights organizations including the UN and NGOs have on numerous occasions recommended the government of Korea that the Act be revised or abolished because it violates international human rights laws. Since the Commission was launched, it has received some 40 petitions and complaints calling for the abolishment of the Act.

At a workshop attended by all commissioners on January 7, 2003, it was decided that the Committee would organize a task force team to investigate and study the National Security Act. Outside experts were also included in the TFT. Under the leadership of the TFT, the Commission started systematic, in-depth review of the National Security Act. Based on the findings of the TFT, the Commission submitted a recommendation to the National Assembly and the Ministry of Justice in August 2004 calling for the National Security Act to be abolished. Details of the recommendation will be discussed in the Part III: Special Projects.

b. Opinions on Freedom of Assembly and Association

Article 21 of the Constitution stipulates that all citizens enjoy the freedom of assembly and association and that licenses are not required for assemblies and associations. The Commission concluded that major provisions of the bill on the Amendment to the Assembly and Demonstration Act, including the requirements for notification by demonstrators to the proper authorities before their assemblies and for notification of cancellation of assemblies and marches along major roads, were incompatible with Article



21 of the Korean Constitution as they excessively limit the freedom of assembly. In November 2003 the Commission expressed opinions that the Commission was against the provisions and that the provisions should be reconsidered. The opinions were accepted only in part.

In accordance with the revision of the Act, a bill on the amendment to the enforcement decree and enforcement regulations of the Act was drafted. The Commission examined the bill and found that problems in the revised Assembly and Demonstration Act were also in the bill on the amendment to the enforcement decree and enforcement regulations of the Act. The Commission once again presented opinions on the bill on the amendment to the Act. In particular, the standards for noise, which are regulated in the enforcement decree, are uniform regardless of the size of assembly or demonstration, which in effect substantially restricts the freedom of assembly and demonstration. The Assembly and Demonstration Advisory Committee, which provides advice on prohibitions or restrictions of assemblies or demonstrations, can actually restrict the freedom of assembly. For this reason, the Commission issued its opinions that definite provisions on the standards for noise and organization and the operation of the Assembly and Demonstration Advisory Committee should be prepared. The Korea National Police Agency did not accept the opinions of the Commission, and the revised bill was promulgated and put into effect in September 2004.

c. Opinions on the Bill on the Amendment to Laws on Politics

The civic and political rights of citizens, including the right to vote and right to hold public office, are basic human rights. They are important rights by which citizens can further the universal practice of human rights and practical improvement by establishing democracy.

Upon receiving complaints from candidates for the general elections in 2004 and requests from NGOs for the expression of opinions by the Commission, the Commission examined the bill on the amendment to political-related laws, including the Act on the Election of Public Officials and the Prevention of Election Malpractices, Political Parties Act, and Political Funds Act. After examining the bill, the Commission delivered its opinions to the

National Assembly for improvement so that the freedom of expression, right to vote, and right to hold public office could be practically guaranteed.

The Act on the Election of Public Officials and the Prevention of Election Malpractices provides for the introduction of the Real Name Authentication System for the election bulletin board of internet mass media companies. The Commission decided that it potentially would restrict the freedom of expression on the internet and the right to formation of public opinion. The Commission decided that the legal voting age should be lowered from 20 to 18 in consideration of the level of development of Korean society and the social awareness of the citizenry. As for political-related laws, the Commission suggested that related provisions, such as those of election campaigns and election of candidates, be supplemented in order to guarantee opportunities for new politicians to enter politics and ensure adequate representation of all levels of society.

The opinions of the Commission were reflected in part as some provisions, such as those for the establishment of an association of supporters and increase in the number of seats for proportional representation, were revised. Nonetheless, in order to increase political freedom and the rights of citizens in the future, politics-related laws need to be further revised.

(2) Recommendations and Opinions on Criminal Judiciary System

a. Recommendation on Abolition of Social Protection Act and Preparation of Alternative Bill for Treatment Restrictions

The Preventive Custody System under the Social Protection Act is a typical extra-judicial custody system. The system was instituted when a new military regime came into power in 1980. Since the enactment of the Act, the system has been a subject of constant controversy with regard to human rights violations because of problems arising in the process of its application, such as mistreatment of detainees, and questions as to whether it violates the principle of double jeopardy. The Commission organized the Social Protection Act TFT in 2003 to conduct a survey of the Preventive Custody System and devise measures to improve it.



The TFT found that the many aspects of the Preventive Restrictive System served to compromise the dignity of individuals and denigrate them, and to violate the freedoms and rights recognized by the Constitution, other laws of Korea, and international human rights treaties. The Commission issued a recommendation to the National Assembly and the Ministry of Justice calling for the abolition of the system.

The Preventive Custody System under the Social Protection Act has never fulfilled its *raison d'être* as a social system. Given the reality of how the preventive custody system works at present, the Commission found the system too flawed to even be reformed and, therefore, recommended that the Social Protection Act be repealed and that an alternative legal system be established for the Remedial Custody System.

b. Recommendation to Protect Child Victims of Sexual Violence

The Commission made recommendations to the Ministry of Justice, Ministry of Government Administration and Home Affairs, National Police Agency, and Ministry of Gender Equality on the improvement of related legal systems in order to prevent the victims of sexual violence from repeated and undue mental and psychological suffering in the case investigation and trial process.

The Commission found that child victims of sexual violence experienced difficulties because (1) doctors refuse to examine and treat victims of sexual violence due to frequent requests by the investigation and trial offices to attend; (2) those in charge of investigation lack expertise, and (3) related information on investigations and trials cannot be provided under the current criminal case procedures.

The Commission recommended that the Ministry of Gender Equality and the Ministry of Justice take measures for the effective operation of an emergency medical center and exclusive medical facility so that victims of sexual violence can receive proper medical treatment and that when questioning a medical doctor in charge of a victim of sexual violence, priority be given to written statements by a relevant medical doctor so that the doctor will not refuse to provide treatment to victims of sexual violence or be reluctant to

appear as an expert witness.

It also recommended to the Ministry of Justice, Ministry of Government Administration and Home Affairs, and National Police Agency that a revised bill be prepared so that child victims of sexual violence and their guardians may receive detailed information on their cases in order to be fully prepared for the judiciary process, that police officers specialized in child sexual violence be assigned to each police station and undergo training on a regular basis, and that the investigation agency fully inform victims on their rights and organizations where they can get help.

c. Opinions on the Protection and Promotion of Human Rights of Inmates at Detention Facilities

The Commission issued recommendations three times on the revision of the legal system for disciplinary measures for inmates. In response, the Ministry of Justice prepared a bill draft on the amendments to the Inmate Discipline and Punishment Regulations and the Retaining Device Regulations and inquired of the Commission about the bill.

After reviewing the bill draft, the Commission concluded that it should be supplemented and improved, in light of international human rights standards such as the United Nations Standard Minimum Rules for the Treatment of Prisoners and the principle to guarantee basic rights under the Constitution.

The bill draft on the amendment to Inmate Discipline and Punishment Regulations needs to be revised to reduce the severity of punishments to the minimum required, shorten the maximum sentences, and clearly stipulate the standards for the consideration of punishment. The Disciplinary Committee should consult outside persons to ensure objective and fair judgment, and standards for qualifications of the said persons should be clearly provided. The draft also needs to be revised to guarantee inmates' rights to write correspondence and engage in physical exercise, even during the period of detention.

The bill draft on the amendment to Retaining Device Regulations should also be



improved such that the usage and types of retaining devices are limited as much as possible to prevent their abuse. When used, the physical condition of inmates should be carefully observed to prevent injury and use for overly extended periods of time.

Regulations relating to detention facilities directly restrict the daily lives of inmates, so the impact of their application is more immediate than any other regulations. The human rights of inmates should therefore be fully considered when revising or legislating the said regulations. It is regrettable that the Ministry of Justice accepted the opinions of the Commission only in part.

d. Opinions on the Protection of Human Rights during Investigations

The Ministry of Justice prepared a bill on the amendment to the Investigation for Human Rights Protection Rule, which is intended to improve and rectify investigation practices for the protection of human rights. The Commission expressed opinions that the bill should clearly provide the period of notification when a prosecutor arrests or detains a suspect. In accordance with the revised Sex Crime and Sexual Violence Victim Protection Act and the newly enacted Sexual Services Act, the Commission communicated its opinions to the effect that (1) the guardians should be present during interrogations of victims younger than 13 years of age; (2) interrogation rooms for witnesses should be equipped with relay devices such as video cameras; and (3) information on the usage of support facilities should be notified when investigating female victims of sexual trade.

e. Opinions on Protection of Human Rights of Juvenile Inmates

The Ministry of Justice revised the Enforcement Decree of the Act and enacted the Enforcement Regulations in accordance with the Juvenile Reformatory Act, which was revised to prevent cruel punishments of juvenile inmates and realize a protective, educational, and rehabilitative environment.

However, the revised Enforcement Decree needs to be improved. The requirements and time limits on the use of retaining devices should be clarified; interviews and correspondence with juvenile inmates should be permitted; the mental health of juveniles should be

considered; and standards for separate imprisonment should be clearly stipulated. Some provisions of the Enforcement Regulations provide that juveniles in detention should notify the authorities of acts of other juveniles in violation of laws or rules. These provisions should be eliminated because they have the potential of infringing on the freedom of conscience of juveniles.

On October 14, 2004, the Commission delivered the above said opinions to the Ministry of Justice. The Ministry accepted the opinions in part and deleted provisions on the use of detaining devices for the purpose of administrative management and restriction on interviews.

f. Opinions on Human Rights of Foreign Internees

In the face of constant criticism on the use of excessive force measures or illegal use of detaining devices at the foreign internment camp, the Ministry of Justice prepared the Bill on Amendment to the Immigration Control Act. The major revision is establishment of provisions on treatment of foreigners interned.

Foreigners detained at the Foreign Internment Camp refer to those who are protected by an internment order issued by the head of the office or branch office or head of the foreigner internment camp, and not a warrant issued by a judicial officer, in cases where (1) the internee is not yet found to have violated the Immigration Control Act, (2) the internee is subject to deportation by administrative punishment, and (3) there is considerable reason to believe that the internee is a flight risk. On the ground of the legal stature of internees, basic human rights of foreign internees should be guaranteed to the maximum. To limit rights of internees requires clear stipulation by law and reasonableness of the law. However, the bill on amendment restricts basic rights of internees even more than those of convicts or unconvicted detainees under the Criminal Administration Act.

The Commission expressed opinions that compelling force only by certain means and searches of the bodies and belongings of foreigners interned should be conducted only when absolutely necessary, and interviews and written correspondence should be guaranteed to maximum.



(3) Recommendation on the Protection of Human Rights of Victims by Government Authorities of the Past

a. Recommendation on Policy on Suspicious Deaths in Army

Through September 2003, the Commission received 54 petitions relating to suspicious deaths in the army. However, in most of the cases, military investigation was already under way or had been terminated, or the time elapsed since the deaths had occurred already exceeded one year, rendering the petitions void under the Commission Act.

The Commission noted that since 1998, 40% of all army deaths have been attributed to suicide and that in 2002, the corresponding figure was 50%. As the number of deaths due to military disciplinary punishments exceeded the number of those due to accidents, and as the ratio of suicides due to problems inside barracks is rising, suspicions as to the actual causes of death continue to mount. The Commission sought improvement to the legal system in order to address the fundamental causes of the petitions.

Suspicious deaths of soldiers are due to lack of fairness and expertise in investigation by military personnel. When an accidental death occurs, the provisional cause of death and type of the death should be reported to the chief of staff concerned within 24 hours, and it should also be reported in writing within seven days. A military investigator in charge of primary investigation is therefore unduly pressed to reach a conclusion within 12 to 18 hours.

In order to prevent suspicious deaths of soldiers, the provisions on authority of the commanding officer concerned to direct and supervise a military prosecutor so that the military prosecutors can be guaranteed practical execution of investigation and command. The details of investigation should be made known to the bereaved family as much as possible, and non-military experts should be admitted or allowed to participate in the examination and autopsy of the dead body in order to ensure objectivity and transparency of military investigation. Expertise in military investigation personnel should be improved. The Barracks Death Investigation Guidelines should be supplemented and revised such that

the causes for suicide can be investigated thoroughly, and training on the Guidelines should be strengthened.

The Commission recommended that the Ministry of National Defense take steps to improve the system. The Commission also made a recommendation to the speaker of the National Assembly that a temporary special act be legislated to determine the truth of suspicious deaths in the army in the past and restore the honor of the families of the deceased.

b. Recommendation on Legislation of Special Abductee Act

The families of those abducted and detained in North Korea filed a petition with the Commission, claiming that their basic rights had been violated: their livelihoods and personal private lives were compromised as they were kept under surveillance and prevented from taking public offices or departing to other countries because family members had been kidnapped to North Korea. The petition was rejected under the Commission Act because more than one year had elapsed since the occurrence of the causes for the petition.

The Commission decided, however, that the issue of human rights violations by past regimes against the families of those abducted and detained in North Korea needed to be examined. The Commission held public hearings and meetings, and collected cases of human rights violations in its efforts to seek improvement to the system. The findings of examination revealed that the private lives of the families of those abducted and detained in North Korea were monitored and that their travel abroad was restricted. Assignment to posts after joining the army was compromised as they were not positioned on the front. The family members could not even apply to take the national examinations or enter the military academies out of fear of being subjected to the implicative system.

Most violations against families of those abducted and detained in North Korea occurred in the 1960s and 1970s. As long time has elapsed, and no systematic investigation has ever been conducted. For this reason, these cases cannot readily be objectively proved, but the government should take responsibility to address the violations against these families and



restore their honor.

The Commission made a recommendation to the speaker of the National Assembly and prime minister that the government should ascertain the damages to the families of abductees to North Korea and that a special act be legislated so that compensation can be made to these families and their honor restored.

(4) Opinions on the Protection of Rights of Social Minorities and Elimination of Discrimination

a. Opinions on Human Rights of Children

The Ministry of Health and Welfare prepared a bill on amendment to Child Welfare Act to protect the human rights of children by restricting forced participation of children in assemblies and demonstrations. The Commission expressed its opinion that the bill should be repealed. The bill called for punishment of guardians who make children participate in legal assemblies and demonstrations even without ill-treatment, abandonment, or noninterference, and for those who urge children to participate in such assemblies and demonstrations to make statements. The Commission decided that such provisions of the bill are against the Child Welfare Act and the UN Convention on the Right of the Child, which stipulate that the interests of children be considered first with prime priority. The Ministry of Health and Welfare accepted the opinion and repealed the bill.

b. Opinions on Mandatory Employment of Persons with Disabilities

The applicable enforcement decree and enforcement regulations were prepared in accordance with the revisions to Persons with Disabilities Employment and Vocational Training Act. The Commission clearly stated that the quotas for mandatory employment of persons with disabilities should be raised and that the government and government agencies should fulfill the mandatory employment quotas under the law in order to correct discrimination in employment against persons with disabilities.

Noting that some specific occupational categories of central and local governments do not apply the mandatory employment quotas of persons with disabilities comprehensively without giving consideration to the degree and type of disability, which is premised on the discriminatory conception that the persons with disabilities are less productive, the Commission expressed opinions that the provisions concerned should be deleted from the Enforcement Decree and that it is desirable to revise the preceding law, which provides grounds for the said provisions.

The Commission communicated opinions that the bill on the amendment to the Enforcement Regulations should stipulate that persons whose qualifications are verified, such as those with vocational rehabilitation training and vocational instructors' licenses under the Special Education Promotion Act, be classified as professional personnel for vocational rehabilitation of persons with disabilities so that the position and interests of persons with disabilities can be better reflected.

c. Recommendation on Eliminating Discrimination against Hourly-paid Lecturers

The system for hourly-paid college lecturers was originally intended for temporary hiring of professors from other universities or specialists in certain fields. However, the system is expanded to apply to positions to employ full-time professors. At present, hourly-paid lecturers teach many classes offered at universities.

Unlike the past, when hourly-paid lecturing was recognized as a stage in training before appointment to full professorship, hourly-paid lecturers now form a category of vocations. Universities, nonetheless, do not consider lecturing as a regular vocation: the position of lecturer is classified as miscellaneous. Universities do not sign specific employment contracts with lecturers, so lecturers are not guaranteed legal status, unlike full-time teaching staff. Compensation for hourly-paid lecturers is less than one-fifth that of full-time professors, and they are not entitled to basic welfare schemes such as social insurances. The compensation for lecturers is below the minimum living cost for family of four according to figures by the Ministry of Health and Welfare in 2004.



The Commission concluded that the position and value of educational activities of hourly-paid lecturers should be recognized, and discrimination against them should be eliminated by paying them compensation commensurate with that of full-time faculty members. In May 2004, the Commission made a recommendation to the Minister of Education and Human Resources Development that discrimination against lecturers with regard to working conditions, job security, compensation and benefits should be corrected.

d. Recommendation on Elimination of Discrimination Based on Age

The Act on the Honorable Treatment and Support of Persons, etc. of Distinguished Services to the State stipulates that those 60 years of age or older shall receive distinguished military service allowances to honor them for distinguished military service. Under the Act, the standard for the allowance is based on age, rather than contribution and sacrifice to the state.

The Housing Construction Promotion Act and the Enforcement Decree of the Act stipulate standards for calculation of scores to evaluate the technical capabilities of housing construction work supervisors. They call for an automatic reduction of one grade if the supervisor is 65 years of age or older.

The Commission decided that the above two statutes constitute age discrimination as compensation or capability to perform duties are evaluated by age without any reason, so the Commission recommended that the provisions be revised.

e. Opinions on Bill on the Amendment to Civil Law

In June 2004, the Ministry of Justice and lawmakers Lee Gyeong-suk and Noh Heu-chan submitted bills on amendment to the Civil Act to the National Assembly. The bills contain desirable provisions for the protection and promotion of human rights of women and children, such as those permitting change of the last name of a child and adoption of a son from the wife's family since the abolition of the Hoju system (patriarchal family registry system).

After examining each bill, the Commission concluded that (1) it should be stipulated that the definition of a family be limited to blood relatives and relatives by marriage, in consideration of public perception and other laws; and (2) changing the family name of a child and taking the maiden family name of the mother as the family name of the child should be permitted, though it would be desirable not to impose a limit on the age of a son to be adopted. The Commission expressed its opinions as concluded to the National Assembly. The Commission requested that the National Assembly deliberate the bill on the amendment and pass it at the earliest possible date to reduce the duress on children of divorced and remarried families.

f. Other Recommendations

The Enforcement Regulations of the Construction Engineering Management Act more readily recognize the qualifications of those with engineering licenses than the qualifications of those with excellent educational and work experience. This may lead to needless discrimination against non-license holders who have comparable qualifications. The Commission recommended that the Minister of Construction and Transportation correct such discrimination.

The current Immigration Control Act does not set forth rational procedures of appeal by foreigners who are prohibited from entering Korea by the Ministry of Justice. It makes it possible that foreigners are prohibited from entering Korea without just cause. The Commission made recommendations to the Ministry of Justice that foreigners be guaranteed the right to protest in such cases.

(5) Recommendation and Opinions on the Protection of Privacy

a. Recommendation on Unmanned Surveillance Devices, such as CCTVs, by Public Agencies

In December 2002, the Gangnam-gu district office and Gangnam-gu police station, Seoul, installed five CCTVs to prevent crime in the Nonhyeon-dong area as a model case. Since



then, the Commission has closely examined the case to determine if there is a possibility of violation of human rights to privacy by unmanned surveillance devices. The Commission deeply studied the issue of human rights violations by these unmanned surveillance devices and measures to improve the situation, and it held public hearings on this subject.

At present, 230 CCTVs are in use in Gangnam-gu area on the pretext of efficient crime prevention and investigation. As the performance of the CCTVs is gradually improving, they increasingly violate the right of privacy of those who are photographed and right to self-determination over personnel information. The surveillance system is highly likely to infringe on the privacy of residents in the neighborhood of the area where CCTVs are installed. Notwithstanding, the use of CCTVs is at the discretion of the heads of local governments or chiefs of police stations, rather than by law. It is against the principles of due process and basic rights stipulated by the Constitution.

The Commission made recommendations to the National Assembly and Ministry of Government Administration and Home Affairs that either (1) a new act be legislated setting forth standards for use of unmanned surveillance devices such as the CCTVs that are now being used by local governments and police stations to prevent and investigate crime, or (2) the Act on the Protection of Personal Information Maintained by Public Agencies be revised in order to set forth legal standards for use of unmanned surveillance devices such as CCTVs.

b. Opinions on the Bill on the Public Office Candidate Personal Information Collection and Management Act

The Civil Service Commission prepared a bill on the Public Office Candidate Personal Information Collection and Management Act in order to enforce particulars under the State Public Officials Act. The Commission found that the bill has potential to violate rights to privacy of personnel information of public officials and candidates for public office as the bill stipulates the purpose and scope of collection of personal information on candidates for public offices more broadly than the State Public Officials Act. The Commission also concluded that the bill was highly likely to infringe on secrets, freedom of privacy, and

rights of integrity due to exposure of information as there are no provisions that restrict the transfer of collected information to other agencies.

The Commission expressed opinions that (1) the purpose and scope of collection of personal information on candidates for public office should be more narrowly defined, (2) detailed provisions should be stipulated in case personal information is to be given to other agencies and approval should be obtained from an information provider in advance before giving information to other agencies, or notification should be given to the information provider of the fact that information has been given to other agencies.

c. Opinions on Protection of Personal Information of Children

In 2003, the Commission clarified its basic position on human rights relating to student information in the National Education Information System (NEIS). In 2004, the Commission expressed its opinions on three bills on amendments including the bill on amendment to the Missing Children Relocation Act and the bill on amendment to the 'Framework Act on Education'.

The main point of the bill on amendment to the Missing Children Relocation Act, prepared by the Ministry of Health and Welfare is to conduct DNA testing to discover missing children and confirm identity. The Commission found that the bill was insufficient to protect the privacy of personal information of children because the bill defined the scope of children to be DNA tested too broadly. The definition includes most children transferred to child welfare facilities, such as those who have no guardians, among those accommodated at social welfare facilities and adopted children who want to be DNA tested. However, matters concerning management of DNA test results, protection of genetic information, and operation of a DNA database are subject to Presidential decree.

The Commission presented opinions that the scope of children to be DNA tested should be minimized, and matters on management of DNA test results, protection of genetic information, and construction of a DNA database should be provided for in the law in detail.



On September 7, 2004, the Ministry of Education and Human Resources Development prepared a bill on the amendment to Framework Act on Education, Elementary and Secondary Education Act and School Health Act in order to reinforce the legal grounds for construction and operation of the NEIS and to protect the information of students.

The Commission had already expressed opinions to the effect that students' personal information could be needlessly accumulated, leaked, and used by entities other than schools, and it recommended that construction of an integrated and comprehensive information system for (1) school affairs relating to admissions and transfers, (2) admissions and transfers, and (3) student health

The bill on amendment to the Elementary and Secondary Education Act and School Health Act may possibly stipulate that construction and operation of the NEIS are the responsibility of the Minister of Education and Human Resources Development and superintendent of education of a city or province concerned, while preparation and management of information thereof are the responsibility of the principal of the school concerned. In this case, if the 'operation' of the NEIS as stipulated in the bill is interpreted very broadly, free access to information in the NEIS may be granted freely. Recognizing this, the Commission expressed opinions that the bill should stipulate matters concerning the responsibilities of the principal for information on students and prohibit the leakage of information specifically, and reinforce provisions to protect the rights of students whose information is in NEIS in compliance with the recommendation issued by the Commission.

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

International human rights standards, such as international human rights covenants and treaties, have served as guidelines for each nation to formulate policies on human rights. The degree to which a country recognizes and observes various international human rights standards has become a yardstick for ascertaining the human rights conditions in a country.

Since it was established, the Commission has urged the government to accede to and observe various international covenants and treaties, and it has monitored the government's implementation of treaties previously ratified. These efforts are meant to improve domestic laws and legal systems relating to human right, ultimately to bring Korea up to par with international standards.

The Commission Act stipulates that if a related state organ prepares a governmental report under the provisions of any international treaty on human rights, it shall hear the opinions of the Commission. The Commission examined the third governmental report on the International Covenant on Civil and Political Rights for 2004 and expressed opinions to the Ministry of Justice.

The Commission examined the third governmental report according to general guidelines given by the UN Human Rights Committee and the concluding opinions of the Human Rights Committee on the first and second governmental reports submitted by Korea. The Committee found that it was difficult to ascertain the overall status of implementation because the report focused only on the description of statutes and policies under the jurisdiction of the Administration. The report also did not offer adequate discussion on whether the issues previously cited during the deliberation of the second government report had been addressed or resolved.

The third government report states that international covenants supercede domestic laws without carefully analyzing decisions of the Constitutional Court and precedents of other courts, and it did not include explanations on practical application of enacted and revised laws. It was noted that the third governmental report failed to provide information objectively on the level of guarantee for civic and political rights in the Korean society, and only listed related polices of the government.

In February 23, 2004, the Commission expressed opinions that the aforementioned problems should be resolved and any omissions addressed. The Ministry of Justice accepted the opinions of the Commission in part, and it plans to submit a revised government report



to the UN in early 2005.

3. Survey on Human Rights Conditions

The objectives of the survey on human rights conditions are to ascertain conditions accurately in order to determine the orientation and objectives of programs of the Commission, and to establish concrete grounds for recommendations by the Commission on various laws and policies.

In 2004, the Commission conducted 25 surveys on the human rights conditions with regard to a number of issues. These surveys were commissioned to outside organizations of experts in the form of research service. Twenty-two surveys were completed, and the remaining three are to be continued in 2005.

[Table 2-1-3] Surveys on Human Rights Conditions

No	Title	Research institute	Remarks
1	National Basic Livelihood Security System for the Formulation of NAP guideline (National Action Plan) for Economic, Social, and Cultural Rights	Korea Research & Consulting Institute on Poverty	Completed
2	Social Security Survey (Four Major Social Insurances) for the Formulation of NAP guideline for Economic, Social, and Cultural Rights	Choongang University	"
3	Survey on Right to Housing for the Formulation of NAP guideline for Economic, Social and Cultural Rights	Korea Center for City and Environment Research	"
4	Survey on Right to Health for the Formulation of NAP guideline for Economic, Social and Cultural Rights	Graduate School of Public Health, Seoul National University	"
5	Survey on Right to Work (Collective Labor Relations: right to organize, right to bargain collectively, right to strike) for the Formulation of NAP guideline for Economic, Social and Cultural Rights	International Labor Law Research Institute	"
6	Survey on Right to Work (Individual Labor Relations: work conditions, corporate welfare) for the Formulation of NAP guideline for Economic, Social and Cultural Rights	Korea Labor and Society Institute	"
7	Survey on Right to Education for the Formulation of NAP guideline for Economic, Social and Cultural Rights	Korea Education Development Institute	"
8	Survey on Rights of the Elderly for the Formulation of NAP guideline for Economic, Social and Cultural Rights	Wonderful Aging Civil Network	"

(continued)

No	Title	Research institute	Remarks
9	Survey on Rights of Children for the Formulation of NAP guideline for Economic, Social and Cultural Rights	Korea Social Research Center	"
10	Research on Policies for Protection and Promotion of Human Rights of Victims	Industry and Academia Cooperation Division, Hanyang University	"
11	Research on Policies for Protection of Human Rights and Improvement of Treatment of Inmates	Korean Institute Criminology	"
12	Research on Policies for Formulation of NAP guideline for Freedom of Assembly and Association	MINBYUN: Lawyers for Democratic Society	"
13	Research on Policies for Formulation of National NAP guideline for Freedom of conscience and religion	Baekje Law Firm	"
14	Research on Political Issues for Expansion of Freedom and Rights and Interests of Mass Media	Industry and Academia Cooperation Division, Hanyang University	"
15	Research on the Protection and Promotion of Human Rights of Crime Suspects, the Accused, Witnesses, and Informants	Korean Institute Criminology	"
16	Research on Policy Measures for the Protection of Freedom of Expression on the Internet and Other IT Spaces	Seoul National University of Technology	"
17	Research on Policy for the Protection of Personal Information and Privacy	Industry and Academia Cooperation Division, Hanyang University	"
18	Research on Policy for the Formulation of NAP guideline for Foreigners	Korea Association for Survey Research	"
19	Development of Bill on Amendment to Bioethics and Safety Act and Draft of Guidelines for Bioethics	Seoul National University	"
20	Survey on the Basic Situation and Health Status of the Second Generation Atomic Bomb Victims	Association of Physicians for Humanism	"
21	Survey on the Basic Situation of cultural rights for the formulation of NAP guideline in the Area of Cultural Rights	Cultural Action	"
22	Government Budget Funding Requirements of Anti - Discrimination Act	Korea Labor Institute	"
23	Survey on Environmental Right for Formulation of NAP guideline	Green Korea	Under way
24	Survey on Human Rights of Sexual Minority for Formulation of NAP guideline	Ilda	Under way
25	Survey on Public Perception towards Human Rights	Hankook Research	Under way

(1) Survey for the Formulation of NAP guideline (National Action Plan for the Protection and Promotion of Human Rights)

The Commission is working hard to prepare a recommendation on the NAP guideline



(National Action Plan for the Protection and Promotion of Human Rights). It conducted a comprehensive human rights survey in 2004 to be included in the recommendation.

The survey for NAP guideline is primarily intended to suggest objectives for governmental policy to achieve in five years. The survey ascertained the current state and problems of existing statutes and legal systems with regard to rights to freedom, social rights, and social minorities and discrimination, and it comprehensively examined the legal system of other countries as well as recommendations by the UN and experts in related fields.

a. Survey on Basic Situation of Civil and Political Rights

The survey on civil and political rights was conducted with regard to crime victims, suspects, the accused, and witnesses during the criminal justice process, inmates of detention facilities, freedom of assembly and association, freedom of conscience and religion, freedom of the press, freedom of expression in IT spaces such as the internet, and protection of personal information and privacy.

The survey findings showed that crime victims suffered damages not only due to actual crimes but also as a result of the coverage of the press and reports in the mass media, and their human rights were not protected during the interrogations at investigation agencies or when giving testimony in court. The Commission sought improvements in the criminal justice procedures and to establish alternatives such as a legal system for rectifying damages from crime.

The survey on human rights of inmates of detention facilities was conducted through examination of actual proof by human rights NGOs such as the Catholic Human Rights Committee, SARANGBANG: Group for Human Rights, and the Seoul Bar Association. In order to improve the human rights situation of inmates, the Commission suggested measures to improve the general conditions of detention facilities including methods of detainment, education and work, medical service, outside communication, disciplinary measures and use of retaining devices, and remedy for violation of private rights. At the same time, the Committee studied the juvenile detention system and devised measures to improve conditions

for juveniles.

The survey on freedom of assembly and association focused on the execution of laws by the police in which they arbitrarily interpreted various dangerous provisions. The Commission pointed out problems including various restrictive provisions such as one for mandatory reporting on open-air meetings, reality and problems of misleading reports by the press on assemblies and demonstrations, and excessive intervention by the police, and suggested corrective measures.

With regard to freedom of conscience and religion, the Commission examined current situation and alternative proposals focusing on the current system, especially as it concerns conscientious objectors to military service, assignment to elementary and secondary schools by lottery drawing without giving consideration for the religion of students, and enforced submission of statements in cases of suspension of indictments.

With regard to freedom of press, the Commission examined statutes relating to the press and measures to revise them in order to reinforce people's right to know, right to access to the press, judicial balance between freedom of the press and libel prevention, and judicial balance between freedom of the press and right to personal dignity.

Studies on policy measures to protect freedom of expression in IT spaces including the internet focused on the internet rating system, internet real-name system, and problems of agencies in charge of censorship and control. Through study on policy measures for the protection of personal information and privacy focused on tightening of principles on collection and use of personal information, establishment of guidelines for common use of administrative information, and control of spam mail, the Commission examined the current situation and sought measures to improve the situation.

b. Survey on Basic Situation of Social, Economic and Cultural Rights

The Commission carried out a survey on the basic situation of social security, right to housing, right to education, right to health, and right to work, in order to prepare a



recommendation proposal for NAP guideline on social, economic and cultural rights.

The Commission divided social security into four sub-systems; National Basic Livelihood Security System, Industrial Accident Insurance, Employment Insurance, and Health Insurance. The Commission suggested policy tasks and measures for improvement of the National Basic Living Security System, with focus on issues raised under the current system such as criteria for selection of beneficiaries and persons subject to family responsibilities, criteria for judging the income earner of a family, assets and contribution rate on income. The survey on the actual conditions of the four types of social insurance focused on (1) eliminating exception from payment of each social insurance and (2) adjusting qualifications and the level of payments according to the characteristics of beneficiaries. Based on the survey, the Commission examined the problems and advantages of social security systems in other countries.

In conducting the survey on the right to housing, the Commission examined the main points by detailed subject in order to guarantee the right to housing for social minorities in the lowest standard housing zones, such as those forced to move or evacuate, households with poor housing, and the homeless. It also reviewed the possibility of improving policies on housing welfare such as public rental housing policy.

Through the survey on the right to health, the Commission presented the problems of social security for medical care in a systematic and efficient manner. The survey included the scope of payments of the current health insurance system, standards for the calculation of insurance payments, and improvement of the medical care payment system.

The Commission divided the issues of the right to work into two categories - (1) collective labor relations for the right to organize, right to bargain collectively, and right to strike, and (2) individual labor relations for labor conditions and industrial welfare - and it conducted a survey on each. The survey on collective labor relations focused on the legal and institutional tasks to practically guarantee the fundamental rights of labor in various respects including negotiations for free organization of association and labor conditions, practical guarantee of the right to strike, protection against unfair labor practices, and

elimination of discrimination against foreign and irregular workers. With regard to individual labor relations, the Commission put emphasis on the raising employment rate in guaranteeing the right to work. It suggested measures to improve the applicable regulations, which entails promotion of employment of and prevention of employment discrimination against vulnerable groups as well as introduction of affirmative action, which values equal results in the labor market.

The Commission also conducted a survey on the right to education. It addressed equal opportunity for education for vulnerable groups such as low-income families, persons with disabilities, youths from North Korea, and children of foreign workers, the increase in human rights violations at schools of all levels, the right to participation, and provision of opportunities for social education and life-long education. After examining the situation, the Commission suggested policy tasks and an implementation strategy to practically guarantee the right to education.

Cultural rights have not yet been recognized in Korean society. Cultural rights as defined by the Commission are the right to cultural freedom, right to cultural equality, and right to cultural participation. The issues of each were examined, and improvements were sought.

c. Survey on Social Minorities and Discrimination

In 2003, the Commission conducted a survey on discrimination based on gender, disability, age, academic cliques, and educational background. In 2004, the Commission conducted a survey on discrimination against the elderly, children, foreigners, and sexual minorities.

The survey on human rights of the elderly was conducted with regard to housing, health, education, and income. The Commission suggested policy measures for the elderly to promote their human rights and improve their quality of life.

On human rights of children, the Commission looked at major issues and tasks concerning children's rights to survival, growth and development, protection, and participation. The



Commission presented alternatives for proper implementation of human rights policy on children.

The Commission examined the human rights situation of each group of foreigners: migrant workers and their families, migrant women, Korean residents abroad with foreign nationalities, refugees, and Chinese residing in Korea, and it ascertained the truths of racial discrimination in Korean society. The Commission suggested various measures to guarantee the human dignity and value and freedom and rights guaranteed under the Constitution and laws of Korea and international human rights treaties ratified by the Republic of Korea and recognized by the International Customary Law.

(2) Development of Bill on Amendment to Bioethics and Safety Act and Draft of Guidelines for Bioethics

Since the cloning of Dolly, the sheep, in 1997 in Scotland, the need for legislation and improvement of laws on bioethics has been a constant subject of discussion in the advanced countries. In Korea, the Bioethics and Safety Act was enacted and will become effective on January 1, 2005. However, it has been pointed out numerous times that the Act is inadequate as a social safety net for bioethics and safety.

The Commission organized the Bioethics Task Force Team in March 2004. The Bioethics TFT has strived to identify problems of the Bioethics Act and examined the need to revise the Act. At the same time, the TFT conducted a survey on bioethics in order to develop a scheme for revision of the Bioethics Act and draft guidelines for bioethics.

Based on the results of the TFT's activities and a survey on the situation, the Commission will examine measures to improve the applicable laws on bioethics.

(3) Survey on the Basic Situation and Health Status of Second Generation Atomic Bomb Victims

For five months from August through December 2004, the Commission conducted a

survey on the basic situation and health status of the second generation of atomic bomb victims, its first such survey ever. The intention of this survey was to obtain information to formulate measures to solve problems concerning the health and medical care of atomic bomb victims. It ascertained the current state and health conditions of the second generation of atomic bomb victims and allowed the Commission to collect basic data needed for the establishment of more fundamental and longer-term national policy by building a social consensus.

The survey focused on identifying various problems related to the health of the victims themselves and their families through (1) mail questionnaires on the health of first and second generations of atomic bomb victims (1,256 victims of the first generation, 1,226 victims of the second generation), (2) health examinations for some victims (223 victims of the first generation, 49 victims of the second generation), (3) in-depth interviews with 47 victims of the second generation, and (4) a review on support systems relating to atomic bomb damage in Japan and Korea.

The results of the survey showed that the first generation atomic bomb victims had been suffering various diseases as an aftereffect of bombing, and that their offspring were also suffering aftereffects. Furthermore, the members of the second generation of atomic bomb victims were found to have been alienated from society precisely because they are children of atomic bomb victims.

The Committee will conduct more comprehensive and accurate examination at the government level on the health damages which will affect future generations after the second. From various points of view, it will study measures for the protection of the health and welfare of atomic bomb victims.

(4) Government Budget Funding Requirements of Anti-Discrimination Act

Since the inauguration of President Roh's participatory government, the Commission prepared a proposal for the Anti-Discrimination Act for its enactment. It is pressing for



passage in 2005. Despite our moral obligations to eliminate discrimination, many opinions on the full impact and other effects of the Anti-Discrimination Act and legal system have been voiced. Sufficient study has not yet been done on the issue. There has been especially great controversy over what impact the Anti-Discrimination Act would bring to the public and private sectors, finances in particular.

Noting the lack of research on the issue, the Committee commissioned a research project on ‘Government Budget Costs of the Anti-Discrimination Act’ to the Korea Labor Institute. The Committee intended to collect all opinions of social debate over legislation of the Anti-Discrimination Act by attempting to define the concept of discrimination and categorization of such discrimination and by seeking to establish a new methodology to evaluate the social and economic effects of the proposed Anti-Discrimination Act. In addition, the Committee asserts that debates over the legislation of the Anti-Discrimination Act be conducted based on concrete grounds rather than abstract discussions by estimating the actual financial burdens of the Act.

The research report determined the costs to the government of the Anti-Discrimination Act, focusing on discrimination based on gender, disability, and form of employment, and the financial burden of affirmative action to ensure equal employment.

The financial burdens estimated through this research were only direct costs to the public sector: costs which were already addressed under other laws or policies were excluded, even if the costs were related to the Anti-Discrimination Act. The Commission expects that the research findings will provide meaningful data and information for the debates over legislation of the Anti-Discrimination Act and facilitate the implementation of the Act afterwards.

4. Holding of Hearings and Debates

The Commission held hearings to confirm the facts and hear opinions from related agencies, interest groups, and experts on socially controversial issues that had been raised

during the survey and research on laws, legal systems, and practices relating to human rights. It has held open discussions and public hearings where experts in respective fields and representatives of NGOs express their views and discuss controversial issues.

In 2004, the Commission held 15 debates and public hearings on how to improve laws, legal systems, and polices under review.

[Table 2-1-4] Hearings and Debates Held in 2004

No	Subject	Date	Contents
1	Presentation of Survey on Human Rights of Irregular Workers in Public Sector and Debate	2004.3.18.	<ul style="list-style-type: none"> - Scope and working conditions of irregular workers in public sector - Working conditions of irregular workers at public organs - Measures for improvement
2	Presentation of Survey on Sexual Violence in the Army and Debates	2004.4.8.	<ul style="list-style-type: none"> - Significance of on - site questionnaire survey on sexual violence by visiting military units - Measures to eliminate sexual violence in the army
3	Hearings on Death Penalty	2004.4.28.	<ul style="list-style-type: none"> - Related international human rights covenants - Case of other countries including US and Japan - Measures for improvement
4	Presentation of Survey on Military Legal System and Human Rights Violations and Debates	2004.5.11.	<ul style="list-style-type: none"> - Results of questionnaire survey for detainees of military detention facility on human rights violation during judiciary procedures - Measures for improvement of military law
5	Public Hearing on National Security Act	2004.5.20.	<ul style="list-style-type: none"> - Review and discussions on abolishment and partial revision of National Security Act
6	Public Hearing on Those Abducted and Detained in North Korea	2004.6.30.	<ul style="list-style-type: none"> - Situation and social status of those abducted and detained in North Korea, and measures to protect human rights and cooperation with governmental and non - governmental organizations
7	Discussions on the Protection of Genetic Information	2004.9.22.	<ul style="list-style-type: none"> - Legal system relating to protection of genetic information
8	Hearing on Problems in Implementation of International Human Rights Treaties in Korea	2004.10.27.	<ul style="list-style-type: none"> - Comparison of international human rights treaties and domestic laws - Alternatives relating to 'Constitutional Status' of international human rights treaties
9	Debates on the Use of Biometric Information such as Fingerprints	2004.11.23.	<ul style="list-style-type: none"> - Situation of biometric technology and related human rights issues - Measures to protect personal information in the use of biometric information
10	Debates for the Preparation of Measures for Right to Education of Persons with Disabilities	2004.11.29.	<ul style="list-style-type: none"> - Situation of early education for pre - school children with disabilities - Measures to improve system, including licensing of paid pre - school system for disable children



(continued)

No	Subject	Date	Contents
11	Debates to Prepare Measurers for Improvement of the Definition and Legal Prescription System for Disabilities	2004.11.30.	- Definition and Legal Prescription System for Disabilities seen from human rights perspective - Need to expand scope of disability and determine future policy direction
12	Discussions on Protection and Promotion of Right to Education for the Disabled Children of School Age	2004.12.7.	- Situation of integrated education and special education, and challenges
13	Discussions on How to Guarantee Higher and Life-long Education for Persons with Disabilities	2004.12.16.	- Higher education, life-long education, and night schools for persons with disabilities
14	Discussions on North Koreans outside North Korea	2004.12.22.	- Situation of North Korean escaped from North Korea - Related policies of China and US
15	Hearing on Sexual Offender Notification System and Detailed Information Notification System (Proposed)	2004.12.29.	- Problems and measures to improve the current sexual offender notification system

(1) Hearings

a. Hearings on Death Penalty

In 2003, the Commission attempted to build a public consensus on the death penalty. In 2004, the Commission held hearings to hear opinions of experts on international human rights norms on the death penalty; the death penalty systems in Europe, US, and Japan; and developments of the death penalty abolition movement.

The results of a survey on public opinion towards the death penalty revealed that 50-60% of opinion leaders of Korea including journalists, judges, lawyers, and lawmakers, and more than 80% of the permanent staff of NGOs and the correctional volunteers working at correction facilities were for the abolition of the death penalty. About 34.1% of population favors the abolition of the death penalty, and the remaining 65.9% favors maintaining the death penalty as it is. However, they answered differently to detailed questions such as those about its effects concerning crime prevention and protection of victims, and they appear to agree on a reduction in the scope of crimes punishable by death penalty and the importance of the right to life.

Testimony was heard at the hearing by a victim who had served 28 months in prison on death row on charges of being a member of a student spy ring studying in Europe in 1985, in violation of the National Security Act. NGOs, governmental agencies including the Ministry of Justice, and lawyers and judicial officials participated in the heated debates on (1) international human rights norms and the socio-political environment of European countries at the time of abolishing the death penalty, (2) the history and current state of the death penalty in the US and Japan, and (3) measures to improve death penalty. The results of the hearing will be reflected when the Commission presents its opinions on the death penalty.

b. Hearing on Problems in Implementation of International Human Rights Treaties in Korea and Preparation of Measures for Improvement

Despite the fact that international human rights treaties and international common law have equal legal force as domestic laws, it has been constantly pointed out that they have not been properly enforced in Korea. The Commission held a hearing on ‘Problems in Enforcement of International Human Rights Treaties in Korea and Preparation of Measures for Improvement’ in order to find ways to enforce international human rights laws effectively in Korea.

The hearing was joined by representatives from academia, legal professionals, and working-level experts. The main subjects of discussion were (1) implementation of international human rights laws during trial proceedings, (2) the stature of international human rights laws as provided for under the Constitution of Korea, and (3) roles of the judiciary, the legislature, and the executive in enforcement of international human rights laws in Korea and measures for implementation. In particular, the role of the National Human Rights Commission was emphasized in implementing international human rights laws.

The Commission will conduct a PR campaign to press for making international human rights laws legally binding in Korea and help promote human rights of citizens practically in Korea. It will continue to conduct programs to improve public awareness.



(2) Debates on Human Rights of Irregular Workers

a. Debates on Human Rights of Irregular Workers in Public Sector

The Commission held the ‘Presentation of Results of Survey on Human Rights Situation of Irregular Workers in Public Sector and Debate’ on March 18, 2004. The meeting was held to present the results of the Public Sector Irregular Workers’ Human Rights Survey and hear opinions of experts on major issues that emerged during the survey.

Problems were pointed out, including the facts that (1) there are 1.61 million irregular workers in the public sector, a huge number relative to the private sector, (2) one-third of workers in the public sector are in the low-income bracket under the OECD standards, and 72.9% of them are irregular workers, and (3) the ratio of female workers who are irregular workers is higher in the public sector than in the private sector.

b. Debates on Sexual Violence in the Army

On April 8, 2004, the Commission held the ‘Presentation of Results of Survey on Sexual Violence in the Army and Debates’. The results of the Survey on Sexual Violence in the Army were presented, followed by discussions by experts on major issues that emerged during the survey.

The survey indicating that sexual violence in the army is daily problem. As many as 81.7% of assaults involved sexual violence, showing that there is a vicious cycle of sexual violence. The survey showed that, in most cases, sexual violence is perpetrated against lower ranking personnel by superiors, which led to the conclusion that sexual violence in the army is related to the chain of command of the army. Discussions were made on this issue and measures to improve the situation were presented.

It was decided that sexual violence in the army should be approached with regard to human rights protection rather than accidents in violation of military discipline. In this regard, it was suggested that separate measures to protect victims should be taken, a

professional report receiving agency should be established to provide professional consulting personnel, and a psychological treatment program should be created. For this end, it was also suggested that systems be improved including allocation of a separate budget by the Ministry of Defense and establishment of a cooperative system with outside experts from the private sector.

c. Presentation of Survey on Military Judicial System and Human Rights Violations and Debates

On May 11, 2005, the Commission held a meeting for ‘Presentation of Survey on the Operation of Military Judicial System and Human Rights Violations and Debates’. The Commission conducted a survey for six months starting in September 2003 jointly with Ulsan University. A total of 114 inmates of a military prison were surveyed on human rights violations and guarantees of their rights in the military legal system overall with regard to procedures for arrests and detention, investigation by prosecutors, trial procedures, and life in military prison.

Discussions were held on the issues of human rights violations during military investigations such as torture, threats, and violence, and the problem of arbitrary application of rights to confirm and take measures by an officer in charge of the jurisdiction, which is the authority of an officer under military law to grant pardons. Suggestions were made on preparation of measures to prevent human rights violations during investigation and trial procedures, to improve the military prosecutor system by strengthening the authority of military prosecutors while restraining the investigative authority of military police, and abolition of authority to confirm and take measures by an officer in charge of the jurisdiction.

d. Discussions on the Protection of DNA information

Genetic information is widely used not only in the life sciences for such purposes as creating or extending life but also in identifying missing persons and conducting crime investigations. In the latter case, however, there are problems associated with gathering and use of genetic information: in most cases, the privacy of persons subject to DNA testing is



infringed as hereditary information the persons themselves don't know becomes known to and is managed by others. Such information can include the presence of hereditary diseases that have not yet become manifest. This, in turn, opens the possibility of discrimination. On September 22, 2004, the Committee held a meeting to discuss the use of Genetic information and measures to protect it.

The meeting proceeded in the order of (1) discussions on the legal protections of genetic information, and (2) presentation of opinions by experts on the current situation of the use of genetic information followed by discussions by related agencies and human rights experts. The participants reached agreement that legislation of applicable laws was urgent given that there is a serious legal vacuum regarding protection of confidential personal information as there are no laws on the use of DNA or use of databases by government agencies. However, opinions differed considerably about the need for establishment and operation of database on genetic information by government agencies.

The Commission will reflect the proceedings of the meeting as much as possible when it reviews issues relating to the protection of genetic information under applicable laws and policies.

e. Debates on the Use of Biometric Information such as Fingerprints

As some local governments, libraries, and universities installed fingerprint recognition systems to check the identification of individuals, controversies over the violation of human rights between these organizations and the users of their facilities widened. Aware of the issue, the Commission held a meeting to discuss the use of biometric information such as fingerprints. The current state of biometric information use was discussed, and problems of infringement of personal information which may arise in the process of using biometric information were cited. The participants suggested measures for the protection of personal information, which included assessment of impacts of personal information and participatory technology impact assessment. The Commission will use the results of the discussions to prepare separate guidelines for protection of each type of biometric information including fingerprints, irises, and DNA.

f. Debates to Prepare Measures for Improvement of the Definition and Legal Prescription System for Disabilities

The Commission received a petition which claimed to recognize Complex Regional Pain Syndrome as a legal disability. After reviewing the petition, the Committee decided that the issue was not limited to Complex Regional Pain Syndrome and that it needed to examine it as an issue to be covered with the definition and legal prescription system for disabilities. The Committee held the ‘Debates to Prepare Measures for Improvement of the Definition and Legal prescription for Disabilities’ on November 30, 2004.

At the debate, the relations between Complex Regional Pain Syndrome and the definition and legal prescription for disabilities, and problems of the definition and legal prescription for disabilities were reviewed in-depth, and measures to improve the definition and legal prescription for disabilities were discussed.

The discussion participants agreed on the need to expand the concept of legal disabilities. However, they disagreed over how much the scope of the system should be expanded and what the contents should be. The Commission will comprehensively review the various opinions presented and discussed and prepare policy measures for the future definition and legal prescription for disabilities .

g. Debates for the Preparation of Measures for Right to Education of Persons with Disabilities

The Commission held three successive debates in November and December 2004 to prepare for measures to protect the right to education of persons with disabilities.

Despite government efforts to ensure the right to education of persons with disabilities, such as the Persons with Disabilities Welfare Development Plan and the Comprehensive Special Education Development Plan, problems concerning educational opportunities and the educational environment of persons with disabilities and the education support system for them stubbornly persist. Despite the prohibitions in the Special Education Promotion Act



against rejection of admissions based on disability, an elementary school in Daejeon refused to admit a child with disability, which indicates that the legal protections for persons with disabilities are not yet very effective.

The Commission concluded that the right to education of persons with disabilities is itself a basic human right and that it directly concerns the integration of persons with disabilities into society and their right to life. Noting this, the Commission held a debate in order to formulate measures to make the applicable laws effective, including the Special Education Promotion Act. and to improve the educational system such that it addresses the needs of persons with disability at different ages.

The subjects of the first, second, and third debates were preschool children with disabilities, elementary school children with disabilities, and education of secondary school children and adults with disabilities, respectively. Experts in related fields, parents of children with disabilities, students with disabilities, teachers and other teaching staff, and those in charge of policy at related agencies participated in the debates and discussed the current situation of education of persons with disabilities at each grade level and measures for improvement.

The Commission will reflect the proceedings of the debate when formulating the NAP guideline for elimination of discrimination against persons with disabilities. It will also use the discussion findings for policy projects to guarantee the right to education of persons with disabilities.

(3) Public Hearings

a. Public Hearing on National Security Act

On May 20, 2004, the Commission held a public hearing on the ‘National Security Act, Issues and Alternatives’. The National Security Act has long been a major subject of controversy, specifically as to whether or not it should be repealed or revised in part due to possible human rights violations stemming from its application.

There was heated debate among various participants at the public hearing. Some insisted that the National Security Act be revised in part to rectify problems that have emerged rather than abolishing it completely. Others argued that the Act should be repealed completely, claiming that it is seriously flawed and poses great risk of human rights violation.

More than one hundred representatives from civic groups participated in the debate. Many believed that the National Security Act was essentially corrosive of human rights in its application as well as outdated.

b. Hearing on Sexual Offender Notification System and Detailed Information Notification System (Proposed)

On August 3, 2004, the Youth Protection Commission prepared a proposal for the amendment to the Juvenile Sexual Protection Act. The intention of the proposal is to introduce a system to register detailed information on sexual predators who target juveniles and who have three or more criminal convictions and to allow local residents access to the information complete with photos and the current address of those sexual offenders, while maintaining the current Sexual Offender Notification Act.

The Commission held the 'Hearing on the Sexual Offender Notification System and Detailed Information Notification System (Proposed)' in order to (1) consider problems that might occur under the current Sexual Offender Notification System and system for registration and provision of detailed information included in the proposal for the bill on the amendment and (2) to seek alternatives that will effectively satisfy both the public interest of protection of youths against sexual predators and the private interest of protection of personal rights of sex offenders.

At the public hearing, experts in Constitutional law, criminal law, criminal psychology, sex offence consulting, and rehabilitation participated and discussed (1) problems of the proposal for the bill on amendment and measures to correct them, (2) the necessity for notification of sexual offenders including posting of facial photographs, (3) problems of the Detailed Information Notification System (Proposal) based on decisions by the Constitutional



Court, and (4) the possibility of repeat offenses by sexual offenders.

Based on the discussions at the public hearing, the Commission will consider whether the proposal for the bill infringes on human rights and prepare an alternative in consideration of protection of both juveniles and the moral rights of sex offenders.

5. Human Rights Essay Competition, Publication of Human Rights White Paper, etc.

(1) Human Rights Essay Project

The Committee conducted a human rights essay contest and cited outstanding human rights papers in 2004 in order to encourage research on human rights by promising researchers and expand the knowledge base of human rights.

Entries to the Human Rights Essay Competition included those by undergraduate and graduate students, those from human rights civic groups, and ordinary citizens. Two essays were selected as outstanding essays. One is ‘Study on Human Rights Exclusion of Social Minorities and Human Rights Dilemma: Human Rights of the Homeless from a Social Exclusion and Integration Viewpoint’ by Kim Su-yeong, graduate student of Seoul National University. The other is ‘Human Rights of Miners in Coal Industry Restructuring in Sabuk, Gangwon-do Province: Prospects for the Formation of a Human Rights Concept as a Social and Cultural Right’ by Lee Geum-suk et al, Gangwon University.

Kim Su-yeong’s essay was highly praised in that it indicated specific cases of violations of the human rights of homeless who were neglected in society and analyzed these cases realistically. The essay by Lee et al was selected for bringing up the human rights of workers by criticizing the current situation of human rights in Korean society by exposing problems with the Coal Industry Restructuring Project and Special Abandoned Mine Area Development Act, based on a survey of miners who were victims of mine closures in Sabuk, Gangwon-do Province, and by showing the reality of their situation.

The Commission selected outstanding papers among those recommended by ordinary citizens, NGOs, academic societies, universities, and research institutes. Out of 24 papers recommended, the Commission selected one outstanding paper titled ‘Study on Oppression Based on ‘Gender’ as the Standard and Legal Grounds for Deciding Refugee Status under International Treaties Focusing on Refugee Qualifications of North Korean Women from a Gender Viewpoint’. This paper was unlike the other papers in that the author reinterpreted the standards for deciding refugee qualification under international treaties from the viewpoint of gender, based on which the author pressed for refugee status of North Korean women. The paper was recognized as excellent in that family violence, trade in human life, forced marriage, forced abortion, sexual violence, and sexual torture in North Korea were dealt with under the concept of ‘gender’ oppression, which was then associated with qualification for refugee status.

(2) Human Rights White Paper and Other Publications

a. Human Rights White Paper

The Commission published its first Human Rights White Paper at the end of November 2004. The Human Rights White Paper is a comprehensive report on Human Rights. It reports the human rights situation in Korea over the three years since the inauguration of the Commission.

Twenty-two human rights experts in 13 areas including politics, economics, law, social welfare, education, and women and social minorities participated in its drafting.

The Human Rights White Paper comprehensively deals with human rights issues, controversies, and the current situation in every part of Korean society. The White Paper is expected to be very useful for experts in various fields, including government officials, professors, lawyers, journalists, and civic activists.

The Commission will publish the Human Rights White Paper every three years and will use it as data for analyzing the short and mid-term human rights situation.



b. Annual Report

The Commission publishes and distributes the Annual Report. It provides information on major projects and activities the Commission carried out over the previous year. The major contents concern the Commission's pursuit of human rights protection; efforts to improve statutes, legal systems, and practices; consultation and advice on human rights and handling of complaints; investigation and remedies for human rights violations and discriminatory acts; raising awareness of human rights through training and public relations; and cooperation with human rights organizations.

The Commission published the 2003 National Human Rights Commission Annual Report on April 30, 2004, and distributed it to Cheong Wa Dae (Blue House), central and local governments, universities, public libraries, and human rights NGOs.

c. Case Studies on Human Rights Policies

In December 2004, the Commission compiled the recommendations and opinions it had made by the end of 2004 since its inauguration on statutes, policies, and domestic implementation of international human rights laws and published 'Case Studies on Human Rights Policies'. This book is expected to provide human rights standards which can be used for enactment and revision of laws and formulation of policies.

| Section 3 | Evaluation

In 2004, the Commission made 28 recommendations, of which 21 were on revision of laws, six on improvement of policies, and one relating to implementation of international human rights standards in Korea. In the course of making such recommendations, the Commission conducted 25 surveys on human rights conditions and research projects commissioned to outside experts, and it held 15 debates and public hearings.

The Commission issued recommendations and expressed opinions on the issues in various areas of human rights: traditional civil liberties such as the freedom of assembly and demonstration, and freedom of thought and conscience; issues of economic and social rights such as rights of workers and social security; and issues of social minorities including rights of foreigners and homosexuals.

The Commission conducted researches and surveys on subjects evoking keen and intense interest from the citizenry such as the National Security Act, Social Protection Act, and death penalty, and made recommendations on these hot issues. These efforts show that the Commission has strived for and fulfilled its mission of human rights protection and promotion by focusing on human rights issues in our society broadly.

In 2004, the Commission recommended that the National Security Act be abolished. This is of great significance. Many human rights NGOs and international organizations have long pointed out that the National Security Act is the greatest obstacle to pursuit of human rights in Korea. With the Commission having recommended the abolishment of the Act, it introduced human rights standards into the surrounding controversies.

Also noteworthy is that in 2004 the establishment the NAP guideline was fully underway, and the Commission carried out numerous researches and surveys relating to the NAP guideline. If the 20 surveys and researches commissioned to outside research groups continued from 2003 are included, the subjects of on-going researches cover all important aspects of human rights in Korean society. This means that comprehensive and overall study on the status of human rights in important areas of Korean society is being conducted.



Consultation and Advice on Human Rights Issues and Handling of Complaints

| Section 1 | Overview

Many victims of discrimination and human rights violations came to the Commission to ask for remedy of rights in 2004.

The number of civil complains filed with the Commission in 2004 increased by more than 40% from the year before, and requests for counseling and guidance rose by 15~20%. It is noteworthy that face-to-face complaints have become the standard means of remedy of rights. The number of cases in which problems were solved through arbitration and reconciliation during the counseling process increased sharply, and in response to the much higher caseload, the counseling system was streamlined and made more effective.

In 2004, the Commission strived to improve expertise and efficiency in its consultation and advice services and in handling civil complaints. The Commission formulated and rationalized the rules and guidelines on management of professional counselors to ensure that enough are on staff at all times, and it put them through comprehensive training. These efforts dovetailed neatly with the publication of 'Case Studies on Consultations and Advice', 'Human Rights Consultation and Advice Guidebook II', and the 'Face-to-Face Complaint Handling Guidebook'.

The Commission has unceasingly strived to increase its accessibility by the citizenry. It improved the face-to-face complaints handling system, set up complaint collection boxes within multitude protective facilities, established a traveling human rights consultation center, and cooperated with human rights NGOs.



| Section 2 | Major Activities in 2004

1. Receiving Complaints and Providing Counseling

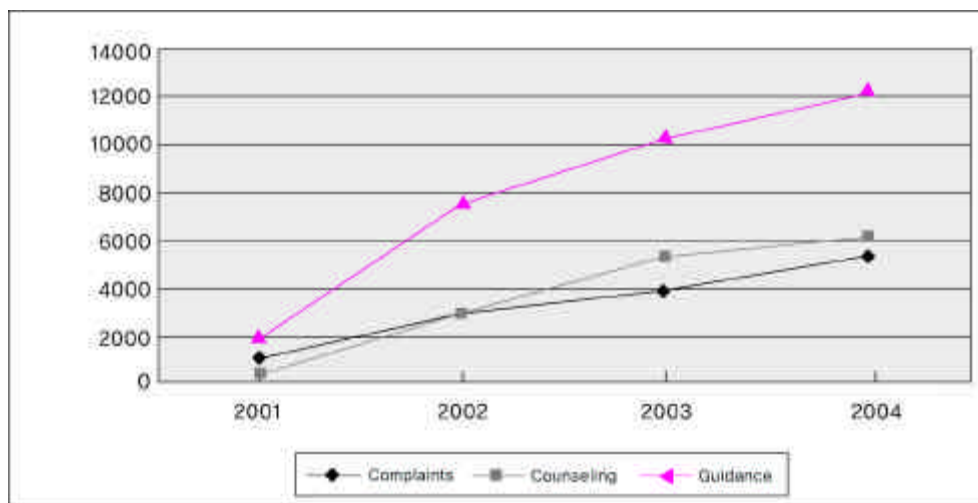
The Commission received 59,278 human-rights civil complaints from November 26, 2001, when the Commission was launched, to December 31, 2004. Of these, 14,327 were requests for counseling, 12,776 were complaints, and 32,175 were requests for guidance. The number of complaints filed in 2004 alone totaled 5,368, an increase of 40.7% from the year before. Out of these complaints, 1,249 were collective complaints relating to the Overseas Korean Protection Law. There were 4,120 other types of complaints about the Ethnic Korean Protection Law, 8.0% more than in 2003. In 2004, there were 6,057 and 12,425 requests for counseling and guidance, representing increases of 15.1% and 20.1%, respectively.

Citizens can request counseling on issues relating to human rights or file complaints about human rights violations and discrimination by any of several means, including in-person visits to the Commission, telephone, regular mail or fax, the internet, and face-to-face at any location throughout the country. The Commission received 33,949 civil complaints by phone, the largest percentage of civil complaints (57.3%), followed by 7,316 complaints (12.3%) filed by regular mail/fax, and 7,140 (12.0%) filed by visits to the Commission. There were 5,490 civil complaints (9.3%) filed face-to-face and another 5,383 (9.1%) filed over the internet.

[Table 2-2-1] Annual Statistics on Civil Complaints Filed

(Unit: case)

	Counseling	Complaints	Guidance	Total
2001	348	803	1,852	3,003
2002	2,661	2,790	7,558	13,009
2003	5,261	3,815	10,340	19,416
2004	6,057	5,368	12,425	23,850
Total	14,327	12,776	32,175	59,278



[Figure 2-2-1] Annual Statistics on Civil Complaints Filed

[Table 2-2-2] Annual Statistics on Civil Complaints Filed by Channel

(Unit: case)

Year	Visits	Telephone	Mail/Fax	Internet	Face-to-Face	Total
2001	497	2,140	320	38	8	3,003
2002	1,599	8,425	1,741	389	855	13,009
2003	2,037	11,493	2,381	1,498	2,007	19,416
2004	3,007	11,891	2,874	3,458	2,620	23,850
Total	7,140	33,949	7,316	5,383	5,490	59,278

(1) Counseling on Human Rights

a. Counseling on Human Rights and Settlement

Counseling can be regarded as the first step to remedy rights of victims of human rights violations and discriminatory acts and to resolve conflicts. Counselors serve as guides as they explain the cases to be examined by the Committee and procedures for rights remedy and provide guidance to those who visit the Commission. They are also sympathetic listeners as they carefully and caringly listen to the stories of visitors. In this way, they



help visitors overcome their feelings of anger and recover, and they determine damages suffered by visitors and organize and record facts and data on such cases for the case investigator. They also ascertain and monitor human rights conditions at the scene.

In 2004, the Commission provided counseling in 6,057 cases. As [Table 2-2-3] shows, 3,798 cases were counseled by telephone, accounting for 62.7% of all cases counseled, followed by 1,346 cases (22.2%) in which counseling was conducted face-to-face. Counseling for complainants visiting to the Commission was provided in 856 cases (14.1%). Only 57 cases (1.0%) were counseled over the internet.

[Table 2-2-3] Cases Counseled by Channel

(Unit: case, %)

Year	Visits	Face-to-face	Telephone	Internet	Total
2003	890(16.9)	878(16.7)	3,487(66.3)	6(0.1)	5,261(100.0)
2004	856(14.1)	1,346(22.2)	3,798(62.7)	57(1.0)	6,057(100.0)
Sum total (2001~2004)	2,335(16.3)	2,529(17.7)	9,400(65.6)	63(0.4)	14,327(100.0)

Of all requests for counseling, 3,149 cases (61.9%) were closed immediately as investigation was not justifiable or the complainant only wanted to receive counseling. Of all cases counseled, complaints were filed in 375 (7.4%).

[Table 2-2-4] Results of Counseling

(Unit: cases, %)

	2003	2004	Sum total(2001 ~ 2004)
Closed after counseling	2,377(50.3)	3,149(61.9)	6,948(54.8)
Referred to other agencies	612(12.9)	33(0.7)	1,147(9.0)
To be filed as a complaint	894(18.9)	1,014(19.9)	2,283(18.0)
To be re - counseled	404(8.6)	453(8.9)	1,166(9.2)
Complaint filed after counseling	346(7.3)	375(7.4)	893(7.0)
Others	96(2.0)	62(1.2)	254(2.0)
Closed after counseling	4,729(100.0)	5,086(100.0)	12,691(100.0)

Total = number of counseled cases - number of face-to-face counseled cases + number of complaints filed after counseling

b. Categorization of Cases Counseled by Type

Of all cases closed after counseling, 2,160 cases (45.9%) were about human rights violations, followed by 448 (9.5%) about discriminatory acts. A considerable number of cases, 2,103 (44.6%), did not concern either human rights violations or discriminatory acts.

[Table 2-2-5] Cases Closed after Counseling by Type

(Unit: case, %)

	Human rights violation	Discriminatory acts	Others	Total
2003	1,766 (40.3)	395 (9.0)	2,222 (50.7)	4,383 (100.0)
2004	2,160 (45.9)	448 (9.5)	2,103 (44.6)	4,711 (100.0)
Sum total (2001~2004)	4,965 (42.1)	1,046 (8.9)	5,787 (49.0)	11,798 (100.0)

1) Counseling about Human Rights Violations

[Table 2-2-6] shows cases of human rights violations by agency for which counseling was requested. As was the case in 2003, in 2004, counseling about human rights violations by police topped the list with 847 cases (39.2%), followed by 444 cases (20.6%) about human rights violations by government organizations including central government agencies or other special administrative agencies. Cases of counseling about human rights violations by prosecutors and multitude protective facilities numbered 215 (10.0%) and 176 (8.1%), respectively.

Compared with the situation in 2003, in 2004, the percentage of counseling cases concerning prosecutors and detention facilities declined slightly, while the percentage involving special law enforcement officers, protective facilities for many persons, and other government agencies rose slightly. This indicates that awareness of human rights issues in Korean society at large has indeed improved and that government agencies have come under increasing scrutiny with regard to human rights.



[Table 2-2-6] Classification of Counseling by Agency

(Unit: case, %)

	2003	2004
Total	1,766(100.0)	2,160(100.0)
Prosecutors	269(15.2)	216(10.0)
Police	676(38.3)	847(39.2)
NIS(National Intelligence Service)	18(1.0)	16(0.7)
Special law enforcement officers	7(0.4)	19((0.9)
Local governments	129(7.3)	152((7.0)
Judicial agencies	39(2.2)	33(1.5)
Legislative organs	-	7(0.3)
Other state agencies	313(17.7)	444(20.6)
Detention facilities	104(5.9)	103(4.8)
Protective facilities	3(0.2)	24(1.1)
Protective facilities for many persons	117(6.6)	176(8.1)
Military prosecutors	9(0.5)	15(0.7)
Military police	6(0.3)	5(0.2)
Defense Security Command	-	6(0.3)
Military detention facilities	1(0.1)	1(0.1)
Other military agencies	75(4.2)	96(4.4)

[Table 2-2-7] below shows the number of cases counseled concerning specific types of human rights violations. Most of the human rights violations by investigation agencies including prosecutors, police, NIS, military prosecutors, military police, Defense Security Command, and special law enforcement officers entailed biased, unfair investigation; violence, cruel acts, excessive use of firearms or other offensive devices; or violation of moral rights, such as excessive searches of bodies and abusive language. Cases counseled about moral rights numbered 162, which represented an increase of 68.8% compared with 98 such cases counseled in 2003.

Many cases counseled concerning human rights violations by government agencies and local governments were about illegality and unfair treatment. The number of cases counseled about passive treatment such as forbearance and violation of the right to personal integrity increased considerably in 2004.

The percentage of cases counseled involving violence and cruel acts at protective facilities for many persons, detention/protective facilities, and military agencies including military units remained high. This clearly calls for improvement to the legal system and educational system.

[Table 2-2-7] Counseled Cases by Type of Violation

(Unit: case, %)

		2003	2004
Total		1,766 (100.0)	2,160 (100.0)
Prosecutors, police officers, NIS, special law enforcement officers, military prosecutors, military police, DSC (Defense Security Command)	Sub - total	985(55.8)	1,124(52.0)
	Questioning by patrolling policemen, unfair confiscation, search, inspection, wiretapping, excessive force	55	69
	Violence, cruel conducts, excessive use of guns and other such devices	197	213
	Violation of the right to personal dignity such as excessive searches of body	98	162
	Partiality and unfair investigation	369	301
	Illegal arrest, forced companion, inappropriate holding	59	82
	Entrapment, securing evidence by illegal means and coercion	29	20
	Failure to notify victim of rights, failure to notify victim's family	11	22
	Restrictions on interview and communication	3	2
	Violation on right to know	16	21
	Abuse of the right of arraignment	32	32
	Failure to delete criminal record after elapsed time	9	4
	Classification of case into unfair category	15	8
	Leaking of information on suspect	7	12
	Refusal to give or limitation on right to medical care	12	24
	Insufficient protective measures for social minorities and victims	11	17
	Others	62	135
Other government agencies, local governments	Sub - total	481(27.2)	636(29.5)
	Violation of law, inappropriate treatment	106	144
	Negative action, such as omission	54	137
	Violence and cruel conduct	34	23
	Violation of right to personal dignity	78	95



(continued)

		2003	2004
Other government agencies, local government	Violation of privacy	45	55
	Violation of right to be informed	13	11
	Unfair treatment of government officials	14	25
	Inadequacy of administrative works and system	68	55
	Limitation on entry into, and departure from the country	33	36
	Others	36	55
Detention/ Protective facilities (including military detention facilities)	Sub - total	108(6.1)	128(5.9)
	Inappropriate medical treatment	37	41
	Limitation on remedy of right	6	5
	Limitation on writing of letters	6	2
	Wrongful/unfair investigation, punishment	7	6
	Violence and cruel conduct	21	23
	Unfair treatment	19	30
	Others	12	21
Multitude protective facilities	Sub - total	117(6.6)	176(8.1)
	Forced internment	58	60
	Violence and cruel conducts	29	49
	Limitation on right to correspondence with outsiders	6	17
	Inappropriate/inadequate medical treatment	5	13
	Forced labor	2	5
	Violation of the right to personal dignity	7	8
	Facility and environmental problems	2	8
	Others	8	16
Military organs (Military investigation organs, military detention facilities excluded)	Sub - total	75(4.2)	96(4.5)
	Violation of the right to life	14	12
	Violence and cruel conduct	26	23
	Violation of the right to personal dignity	1	7
	Working environment (inadequate medical treatment)	7	6
	Irrational administrative system	10	21
Others	17	27	

2) Counseling about Discriminatory Acts

In 2004, there were 226 cases counseled about discriminatory acts by government agencies, accounting for 50.4% of all cases counseled about discriminatory acts. Those

concerning discriminatory acts by corporations, associations, and private individuals totaled 166 cases (37.1%), and discriminatory acts by educational institutions including schools of all levels totaled 56 (12.5%). Compared with the corresponding figures in 2003, the number of cases of discriminatory acts by government agencies and educational institutes increased by more than 20%.

[Table 2-2-8] Discrimination Cases by Agency Involved

(Unit: case, %)

		2003	2004	Sum total(2001 ~ 2002)
Total		395(100.0)	448(100.0)	1,046(100.0)
State organs	Sub - total	185(46.8)	226(50.4)	547(52.3)
	Prosecutors/Police	75(18.4)	74(16.5)	240(22.9)
	Detention facilities	1(0.6)	1(0.2)	2(0.2)
	Military organs	7(1.8)	6(1.3)	14(1.3)
	Other state organs	86(21.8)	111(24.8)	231(22.1)
	Local governments	15(3.8)	34(7.6)	57(5.5)
	Protective facilities	3(0.8)	-	3(0.3)
Corporations, groups, individuals	Sub - total	165(41.8)	166(37.1)	389(37.2)
	Corporations	125(31.7)	137(30.6)	308(29.5)
	Private companies	17(4.3)	15(3.4)	35(3.4)
	Groups	6(1.5)	4(0.9)	13(1.2)
	Individuals	17(4.3)	10(2.2)	33(3.1)
Educational institutions	Sub - total	45(11.4)	56(12.5)	110(10.5)

Of all cases of discrimination by government agencies, unfair non-indictment decisions by prosecutors and those involving unfair treatment within facilities and others accounted for 41.4%. Most of the remaining cases were about discriminatory acts based on social status, age, and disability regardless of agency involved.



[Table 2-2-9] Types of Discrimination Cases Counseled

(Unit: cases, %)

	State organs (%)		Corporation/group/ individual (%)		Educational institute (%)	
	2003	2004	2003	2004	2003	2004
	185(100.0)	226(100.0)	165(100.0)	166(100.0)	45(100.0)	56(100.0)
Disability	17(9.2)	17(7.5)	28(17.0)	22(13.3)	4(8.9)	7(12.5)
Social status	31(16.8)	42(18.6)	36(21.8)	40(24.1)	10(22.2)	17(30.4)
Nationality	13(7.0)	6(2.7)	12(7.4)	6(3.6)	-	2(3.4)
Disease history	3(1.6)	4(1.8)	9(5.5)	13(7.8)	1(2.2)	-
Gender	5(2.7)	8(3.5)	17(10.3)	11(6.6)	4(8.9)	6(10.7)
Age	13(7.0)	22(9.7)	16(9.7)	22(13.3)	4(8.9)	2(3.6)
Birth place	6(3.3)	6(2.7)	1(0.6)	1(0.6)	-	-
Past criminal record which time has been served	4(2.2)	12(5.3)	3(1.8)	6(3.6)	-	1(1.8)
Physical conditions such as countenance	-	4(1.8)	6(3.6)	5(3.0)	-	1(1.8)
Marital status	1(0.5)	1(0.4)	3(1.8)	3(1.8)	-	1(1.8)
Beliefs or political opinions	1(0.5)	2(0.9)	4(2.4)	2(1.2)	1(2.2)	2(3.6)
Religion	1(0.5)	-	-	3(1.8)	3(6.7)	2(3.6)
Family status	-	5(2.2)	1(0.6)	4(2.4)	-	2(2.6)
Sexual orientation	-	-	1(0.6)	3(1.8)	-	-
Ethnic origin	2(1.1)	-	-	1(0.6)	-	-
Pregnancy or maternity	2(1.1)	2(0.9)	1(0.6)	3(1.8)	1(2.2)	-
Race	-	-	-	-	1(2.2)	-
Skin color	-	-	-	-	-	-
Academic background/cliques	3(1.6)	2(0.9)	6(3.6)	3(1.8)	4(8.9)	4(7.1)
Others	83(44.9)	93(41.1)	21(12.1)	18(10.9)	12(26.7)	9(16.1)

Although Article 30 of the National Human Rights Commission Act does not delineate the ground 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.

[Table 2-2-10] Discrimination Cases Counseled

(Unit: cases, %)

	State organs (%)		Corporation/group/ individual (%)		Educational institute (%)	
	2003	2004	2003	2004	2003	2004
Total	185(100.0)	226(100.0)	165(100.0)	166(100.0)	45(100.0)	56(100.0)
Employment	56(30.3)	93(41.2)	121(72.7)	127(76.5)	29(64.5)	32(57.1)
Supply or use of goods and services	25(13.5)	41(18.1)	31(18.8)	29(17.5)	2(4.4)	1(1.8)
Use of educational facilities, etc.	4(2.2)	4(1.8)	3(1.8)	1(0.6)	10(22.2)	19(33.9)
Others	100(54.0)	88(38.9)	10(6.7)	9(5.4)	4(8.9)	4(7.2)

Of the cases counseled concerning discrimination in employment, supply or use of goods and services, and in the use of educational facilities or vocational training institutions, counseling about employment discrimination topped the list. A huge percentage of cases counseled 76.5% concerned employment discrimination by corporations, organizations, or individual persons.

3) Other Cases Counseled

Under the Commission Act, the number of cases counseled cases that cannot be categorized as human rights violations or discriminatory acts decreased slightly to 2,103 in 2004 from 2,222 in 2003. Cases classified into the ‘Others’ category include conflicts or violence among private individuals, property rights violations, inquiries about laws, and complaints relating to trials. Cases that cannot be clearly defined are also in the ‘Others’ category.



[Table 2-2-11] Other Cases Counseled

	2003	2004	Sum total(2001 ~ 2004)
Total	2,222(100.0)	2,103(10.0)	5,787(100.0)
Human rights violations among individuals	737(33.2)	746(35.5)	2,049(35.4)
Property rights disputes	203(9.1)	186(8.8)	523(9.1)
Other violations by state organs	116(5.2)	95(4.5)	275(4.8)
Inquiries for laws	158(7.1)	152(7.2)	419(7.2)
Discontent with government agencies	127(5.7)	143(6.8)	386(6.7)
Demand for revision of laws and legal systems	124(5.6)	100(4.8)	295(5.1)
Discontent with activities of the Commission	103(4.7)	83(4.0)	234(4.0)
Inquiries about activities of the Commission	51(2.3)	72(3.4)	170(2.9)
Suggestions on matters related to the Commission	96(4.3)	34(1.6)	167(2.9)
Others	507(22.8)	492(23.4)	1,269(21.9)

c. Complainants 'Visits to the Commission

Those who live in big cities or in areas close to Seoul, where the Commission is headquartered, were found to be most likely to visit the Commission in person for counseling. Of all cases counseled through visits to the center, 1,287 cases (27.3%) were counseled in Seoul, followed by 741 (15.7%) in Gyeonggi-do Province, 220 (4.7%) in Busan, 189 (4.0%) in Incheon, 161 (3.4%) in Gyeongsangnam-do Province, and 139 (3.0%) in Gangwon-do Province. These statistics suggests that greater efforts should be made to increase accessibility to the Commission by establishing regional branch offices and other means.

[Table 2-2-12] Regional Distribution of Complainants Visiting the Commission

(Unit: case, %)

Region	2003	2004	Sum total(2001 ~ 2004)
Total	4,383(100.0)	4,711(100.0)	11,798(100.0)
Seoul	750(17.1)	1,287(27.3)	2,462(20.9)
Busan	181(4.1)	220(4.7)	486(4.1)
Daegu	88(2.0)	135(2.9)	265(2.2)
Incheon	143(3.3)	189(4.0)	396(3.4)
Gwangju	87(2.0)	86(1.8)	202(1.7)
Daejeon	69(1.6)	79(1.7)	180(1.5)
Ulsan	39(0.9)	29(0.6)	82(0.7)
Gyeonggi	487(11.1)	741(15.7)	1,498(12.7)
Gangwon	70(1.6)	139(3.0)	252(2.1)
Chungbuk	59(1.3)	101(2.1)	199(1.7)
Chungnam	100(2.3)	106(2.3)	248(2.1)
Jeonbuk	86(2.0)	125(2.7)	252(2.1)
Jeonnam	77(1.8)	97(2.1)	223(1.9)
Gyeongbuk	81(1.8)	120(2.5)	255(2.2)
Gyeongnam	111(2.5)	161(3.4)	327(2.8)
Jeju	26(0.6)	34(0.7)	74(0.6)
Unknown	1,929(44.0)	1,062(22.5)	4,397(37.3)

As for the gender distribution of complainants who visited the Commission for counseling, 3,632 cases (77.1%) counseled were requested by men; the remaining 1,072 cases (22.8%) were by women. Men clearly use rights remedial procedures of the Commission more aggressively than women. This indicates that measures must be taken to ensure that counseling is provided equally from a gender viewpoint.



[Table 2-2-13] Gender Distribution of Visiting Complainants Counseled

(Unit: case, %)

	2003				2004			
	Total	Human rights violation	Discrimination	Others	Total	Human rights violation	Discrimination	Others
Male	3,164 (72.2)	1,350 (76.4)	271 (68.6)	1,543 (69.4)	3,632 (77.1)	1,720 (79.6)	343 (76.6)	1,569 (74.6)
Female	1,216 (27.7)	415 (23.5)	123 (31.1)	678 (30.5)	1,072 (22.8)	438 (20.3)	104 (23.2)	530 (25.2)
Female (transgender)	-	-	-	-	-	1 (0.05)	-	-
Unknown	3 (0.1)	1 (0.1)	1 (0.3)	1 (0.1)	6 (0.1)	1 (0.05)	1 (0.2)	4 (0.2)
Total	4,383 (100.0)	1,766 (100.0)	395 (100.0)	2,222 (100.0)	4,711	2,160	448	2,103

(2) Receiving Complaints

a. Complaints Received

The Commission received 5,368 complaints in 2004. [Table 2-2-14] shows the ratio of complaints filed by channel. In 2002 and 2003, fully half of complaints were received through regular mail/fax. In 2004, the percentages for channels were nearly evenly distributed, with 31.0% of complaints received through visits, 24.0% face-to-face, and 34.0% by mail/fax.

[Table 2-2-14] Complaints Filed by Channel

(Unit: case, %)

	Visits	Face-to-face	Telephone	Mail/fax	Internet	Total
2001.11~12	247(30.8)	5(0.6)	203(25.3)	310(38.6)	38(4.7)	803(100.0)
2002	445(15.9)	553(19.8)	177(6.3)	1,442(51.7)	173(6.3)	2,790(100.0)
2003	555(14.5)	1,129(29.6)	76(2.1)	1,760(46.1)	295(7.7)	3,815(100.0)
2004	1,670(31.1)	1,274(23.7)	122(2.3)	1,844(34.4)	458(8.5)	5,368(100.0)
Total	2,917(22.8)	2,961(23.2)	578(4.5)	5,356(41.9)	964(7.6)	12,776(100.0)

Of the total 5,368 complaints received in 2004, 4,627 were complaints about human rights violations, which accounted for 86.2% of the total. Complaints about discriminatory acts accounted for 7.2%, or 389 cases. The remaining 352 complaints (6.6%) were categorized as others.

As the general public gains an increasingly better understanding of the role and functions of the Commission, the number of cases not qualified for investigation by the Commission is likely to continue to decline.

[Table 2-2-15] Categorization of Complaints

(Unit: case, %)

	Human rights violation	Discriminatory acts	Others	Total
2001	619(77.1)	53(6.6)	131(16.3)	803(100.0)
2002	2,214(79.4)	136(4.8)	440(15.8)	2,790(100.0)
2003	3,041(79.7)	358(9.4)	416(10.9)	3,815(100.0)
2004	4,627(86.2)	389(7.2%)	352(6.6)	5,368(100.0)

b. Classification of Complaints by Type

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 in the execution of their duties. Complaints about discriminatory acts are defined such that they concern violations of the right to equality by government agencies, local governments, or detention/protective facilities; or 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 or skin color, marital status, pregnancy or maternity, familial status, sexual orientation, age, physical conditions such as facial disfigurement, beliefs, political orientation, or past criminal record for which time has been served.



[Table 2-2-16] Classification of Complaints by Type

(Unit: case, %)

Human rights violation			Discriminatory acts			Others		
	2003	2004		2003	2004		2003	2004
Total	3,041(100.0)	4,627(100.0)	Total	358(100.0)	389(100.0)	Violation by private individuals	416(100.0)	352(100.0)
Prosecutor	173(5.7)	164(3.5)	Disability	14(3.9)	54(13.9)	Corporations	43(10.4)	36(10.2)
Police	702(23.1)	688(14.9)	Disease history	15(4.2)	7(1.8)	Other organizations	11(2.6)	31(8.8)
NIS	5(0.2)	11(0.2)	Social status	36(10.0)	64(16.5)	Property rights violation	3(0.7)	6(1.7)
Special law enforcement officers	26(0.9)	26(0.6)	Regional origin	2(0.6)	6(1.5)	Statutes or legal systems	12(2.9)	6(1.7)
Local government	81(2.7)	115(2.5)	National origin	9(2.5)	10(2.6)	Legislation, trial	166(39.9)	111(31.5)
Judicial agencies	35(1.2)	41(0.9)	Ethnic origin	1(0.3)	-	Others	22(5.3)	40(11.4)
Legislative organs	2(0.1)	8(0.2)	Race	-	-		159(38.2)	122(34.7)
Other state organs	201(6.6)	1,553(33.5)	Skin color	-	-			
Detention facilities	1,686(55.4)	1,835(39.6)	Gender	34(9.5)	25(6.4)			
Protective facilities for many persons	57(1.8)	126(2.7)	Marital status	4(1.1)	7(1.8)			
Military prosecutors	1(0.0)	4(0.1)	Pregnancy /Maternity	15(4.2)	4(1.0)			
Military police	4(0.1)	7(0.2)	Familial status	2(0.6)	4(1.0)			
DSC	3(0.1)	3(0.1)	Sexual orientation	2(0.6)	1(0.3)			
Military detention facilities	6(0.2)	11(0.2)	Age	21(5.9)	57(14.7)			
Other military facilities	59(1.9)	35(0.8)	Countenance, etc	4(1.1)	6(1.5)			
			Religion	5(1.4)	8(2.1)			

(continued)

Human rights violation			Discriminatory acts			Others		
	2003	2004		2003	2004		2003	2004
			Political opinion	7(2.0)	-			
			Criminal record	1(0.3)	7(1.8)			
			Violation of right to equality ¹	127(35.4)	-			
			Academic background/cliques	27(7.5)	12(3.1)			
			Others	32(8.9)	117(30.0)			

¹Discriminatory acts by state organs, local governments, detention/protective facilities were classified as 'violations of right to equality' regardless of cause of discrimination in previous statistics. However, in April 2004, such discriminatory acts were re-classified under relevant causes of discrimination.

As is shown in [Table 2-2-16] above, 1,835 complaints out of 4,627 human rights violations were filed against detention facilities including prisons, accounting for 39.6% of total human rights violations.

A total of 389 complaints was filed concerning discriminatory acts. Of these, 64 cases concerned discrimination on the grounds of social status, accounting for the largest percentage of the total discriminatory acts, followed by discrimination due to age at 57 cases and disability at 54 cases. Both the number and percentages of cases involving discrimination on the grounds of these three reasons (social status, age, and disability) out of total discrimination cases increased sharply in 2004.

Of 352 cases grouped into the 'Others' category, most fell outside the jurisdiction of the Commission as they were mostly complaints regarding property disputes and human rights violations among private individuals. Of these cases, 111 were about requests for revision of laws and legal systems relating to human rights. Although complaints about private individuals are rejected under the Commission Act, they are actually being addressed by the Commission in its efforts to improve laws and legal systems.



c. Regional Distribution of Complainants

Regions with higher populations account for higher percentages of the total number of complaints.

[Table 2-2-17] Regional Distribution of Complainants

(Unit: case, %)

Region	No. of cases	Region	No. of cases
Seoul	2,012(37.4)	Gyeonggi	770(14.3)
Busan	309(5.8)	Gangwon	145(2.7)
Daegu	355(6.6)	Chungbuk	105(2.0)
Incheon	139(2.6)	Chungnam	157(2.9)
Gwangju	199(3.7)	Jeonbuk	131(2.4)
Daejeon	196(3.7)	Jeonnam	146(2.7)
Ulsan	59(1.1)	Gyeongbuk	390(7.3)
		Gyeongnam	201(3.7)
		Jeju	27(0.5)
		Not known	27(0.5)
Total			5,368(100.0)

Of the total of 5,368 complaints filed, 3,645 (67.9%) were filed by male complainants, compared with only 344 cases (6.4%) by female complainants.

As shown in [Table 2-2-17], most complainants who seek remedy of rights are male, while the percentage of female complainants requesting rights remedy is higher with regard to complaints about discrimination, including right to equality.

[Table 2-2-18] Gender Distribution of Complainants

(Unit: case, %)

	Total	Human rights violation	Discriminatory acts	Others
Total	5,368(100.0)	4,627(100.0)	389(100.0)	352(100.0)
Male	3,645(67.9)	3,059(66.1)	300(77.1)	286(81.2)
Female	344(6.4)	233(5.0)	77(19.8)	34(9.7)
Unknown	1,379(25.7)	1,335(28.9)	12(3.1)	32(9.1)

The 30-40 age group accounted for the highest percentage in both human rights violations and discriminatory acts.

[Table 2-2-19] Age Distribution of Complainants

	Total	Human rights violation	Discriminatory acts	Others
Total	5,368(100.0)	4,627(100.0)	389(100.0)	352(100.0)
Aged 10~19	32(0.6)	13(0.3)	18(4.6)	1(0.3)
Aged 20~29	570(10.6)	493(10.7)	54(13.9)	23(6.5)
Aged 30~39	1,252(23.3)	1,086(23.5)	99(25.5)	67(19.0)
Aged 40~49	1,249(23.3)	1,049(22.7)	113(29.0)	87(24.7)
Aged 50~59	483(9.0)	367(7.9)	52(13.4)	64(18.2)
Aged 60~69	184(3.4)	129(2.8)	20(5.1)	35(10.0)
Aged 70 or older	127(2.4)	109(2.4)	4(1.0)	14(4.0)
Not known	1,471(27.4)	1,381(29.8)	29(7.5)	61(17.3)

The Commission received 1,440 complaints filed by foreigners in 2004, as compared to only 49 in 2003. Even after consideration of the fact that 1,249 cases were group complaints relating to the Overseas Korean Protection Law, 191 cases were filed by individuals, four times as many as during the year before.

(3) Guidance and Handling of Civil Complaints

The Commission provides guidance on civil complaints. It primarily addresses what may be investigated by the Commission, the complaint filing procedure, complaint handling status, and advice on how to satisfy the requirements for investigation complaints. The number of cases for which guidance is provided has increased each year.

The percentage of cases for which guidance is provided by phone or visits has been steadily falling; the percentage for which guidance is provided by regular mail and fax is steadily increasing. In particular, 2,943 cases involved requests for guidance through the internet, accounting for 23.75% of all cases provided guidance in 2004. This is in sharp



contrast with 2001, when not one single such request was made over the internet.

[Table 2-2-20] Guidance on Civil Complaints by Channel

(Unit: case, %)

	Visits	Telephone	Mail/fax	Internet	Total
2001 (Nov. - Dec)	129(7.0)	1,713(92.5)	10(0.5)	-	1,852(100.0)
2002	686(9.1)	6,357(84.1)	299(4.0)	216(2.8)	7,558(100.0)
2003	592(5.7)	7,930(76.7)	621(6.0)	1,197(11.6)	10,340(100.0)
2004	481(3.6)	7,971(64.2)	1,030(8.5)	2,943(23.7)	12,425(100.0)
Total	1,888(5.9)	23,971(74.5)	1,960(6.1)	4,356(13.5)	32,175(100.0)

2. Face-to-face Complaints and Traveling Human Rights Counseling Services for Better Accessibility to Remedy of Rights

(1) Stabilization of Face-to-face Complaints

The face-to-face complaint receiving system involves complaint filing by which a commissioner or staff of the Commission visits a detention/protective facility to receive a complaint from an inmate verbally or in writing. This system was established to guarantee the rights of inmates to file complaints. The Commission received 7,372 applications for face-to-face complaints from November 2001 through December 2004. In 2003, the Commission received an average of 219 applications a month. The number of applications for face-to-face complaints increased sharply to 293 a month in 2004.

In order to handle the flood of applications for face-to-face complaints, the Commission made several improvements to the face-to-face complaint filing system. In 2003, the Commission published 'Face-to-face Complaints Guide 1'. In 2004, it published 'Face-to-face Complaints Guide 2'. The face-to-face complaint filing system has indeed become more efficient, and the number of face-to-face complaints settled increased by 34.4% in 2004. However, as many as 800 more applications for face-to-face complaints were filed in 2004, and given that 23 days are required from the application date to the interview face-to-face, it is obvious the further improvements to the system are needed. The Commission expects

the situation to improve when the Gwangju and Busan regional offices of the Commission open in 2005.

[Table 2-2-21] Application and Settlement of Face-to-face Complaints

(Unit: case on monthly average)

	2001-2002	2003	2004	Total
Applied	1,243 (89)	2,615 (218)	3,514 (293)	7,372 (194)
Settled	1,104 (79)	2,600 (217)	3,385 (282)	7,089 (187)

Settlement = Complaints + Counseling closed + Withdrawal

The majority of applicants for face-to-face interviews were inmates of detention facilities. In 2004, the number of applications by inmates of protective facilities increased to 34 from only 14 in 2003. The Commission received only one application from military detention facilities in 2004, which points to the need to establish the face-to-face complaint system for inmates detained in all facilities.

Of all applications for face-to-face complaints, 1,274 were filed for complaints after interview counseling, and 1,346 applications were closed without filing of complaints after counseling in 2004. Compared with 2003, the number of face-to-face complaints filed after counseling decreased to 36.2% of the total cases counseled, while cases closed after counseling without filing complaints increased to account for 38.2% of cases counseled, up from 33.6%. Counselors were more experienced and better trained, and the number of cases where problems were solved during counseling increased because the counselors provided relevant information to the applicants, explained the procedures for remedy of rights, and advised detention facilities on proper measures.

The Commission has received an increasing number of applications for face-to-face complaints from inmates who want counseling only. This shows that the quality of human rights counseling service, which is provided at locations where human rights are less protected, has improved.



[Table 2-2-22] Face-to-face Complaints by Facility

(Unit: Case, %)

	2003					2004				Accumulated Pending cases
	Applied	With-drawn	Filed	Counseling closed	Pending	Applied	With-drawn	Filed	Counseling closed	
Total	2,615 (100.0)	593 (22.7)	1,129 (43.2)	878 (33.6)	154 (5.9)	3,514 (100.0)	765 (21.8)	1,274 (36.2)	1,346 (38.2)	283
Detention facilities	2,595	590	1,122	870	152	3,473	762	1,250	1,329	282
Military detention facilities	1	-	1	-	-	-	-	-	-	-
Police	7	3	2	-	1	7	1	5	3	1
Protective facilities	12	-	4	8	1	34	2	19	14	-

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.

[Table 2-2-23] Reasons for Closure of Cases after Face-to-face Counseling

(Unit: case, %)

Reasons for closure	2003	2004
Subject to rejection under the Article 32 of the Commission Act	98(11.2)	158(11.7)
Legal counseling	18(2.0)	39(2.9)
Concerned about possible retribution for filing complaints	11(1.2)	12(1.0)
Wanted the Commission to make a proposal for rectification to the facility	93(10.6)	96(7.1)
Only counseling was wanted	82(9.3)	237(17.6)
Wanted to receive assistance from the Commission	23(2.5)	46(3.4)
Complaint is related to previous complaint	148(16.8)	192(14.2)
Urged investigation on the complaint filed	87(9.9)	40(3.0)
Wanted to file the complaint later	49(5.6)	80(5.9)
Original problem was solved	102(11.6)	188(14.0)
Suggested improvement of statute or system	26(3.2)	36(2.7)
Others (Expiration of term of imprisonment, doubt about effectiveness of complaint, or concern about retaliatory act by inmates)	141(16.1)	222(16.5)
Total	878(100.0)	1,346(100)

A total of 765 applications for face-to-face complaints were withdrawn, or 21.8% of all applications for face-to-face complaints. Many applicants withdrew their applications for interviews before staff of the Commission visited the facilities or decided not to have interviews when staff of the Commission arrived at the facilities. In 420 of these cases, the original causes of their requests had been resolved; inmates had been released from the facilities in 90 cases; and inmates changed their minds about having interviews in 142 cases.

In most of the cases, the causes of inmates' complaints were resolved voluntarily by the detention facilities through counseling after face-to-face complaints were heard.

[Table 2-2-24] Reasons for Withdrawals of Applications for Face-to-face Complaints

(Unit: case, %)

Reasons for closure	2003	2004
	No. of cases (%)	No. of cases (%)
Original problem was solved	218(36.8)	420(55.0)
Change of mind	89(15.0)	142(19.0)
Automatic withdrawal due to release	61(10.3)	90(11.6)
Doubt about effectiveness of filing a complaint	16(2.7)	12(1.5)
Changed to written complaint	13(2.2)	9(1.2)
Concerned about possible retribution for filing complaint	6(1.0)	1(0.1)
To make a sue	13(2.2)	7(0.8)
Investigation not wanted	1(0.2)	5(0.5)
Complaint identical with the one already filed	37(6.2)	9(1.2)
Plans to file after release	0(0.0)	3(0.4)
Others	139(23.4)	67(8.7)
Total	593(100.0)	765(100.0)

Most of the applications for face-to-face complaints were from prisoners detained in Daegu Prison. They accounted for 357 cases, followed by Gwangju Prison, Seoul Detention House, Daejeon Prison, Busan Detention House, Cheongsong Detention House No.2, and Cheongsong Detention House. The largest number of complaints filed through face-to-face interviews at any facility was 130 at Daegu Prison, followed by Seoul Detention House,



Gwangju Prison, Daejeon Prison, and Busan Detention House.

[Table 2-2-25] Complaints Applied and Filed by Detention Facility

(Unit: case)

	2003		2004	
	Applications	Complaints filed	Applications	Complaints filed
1	Daegu Prison (265)	Gwangju Prison (119)	Daegu Prison (357)	Daegu Prison (130)
2	Gwangju Prison (232)	Seoul Detention House (109)	Gwangju Prison (274)	Seoul Detention House (124)
3	Seoul Detention House (228)	Daegu Prison (108)	Seoul Detention House (253)	Gwangju Prison (99)
4	Daejeon Prison (189)	Cheongsong Prison (83)	Daejeon Prison (23)	Daejeon Prison (78)
5	Cheongsong Prison (173)	Busan Prison (79)	Busan Prison (212)	Busan Prison (76)

(2) Traveling Human Rights Counseling Center

The Commission continued to make use of the Traveling Human Rights Counseling Center to provide human rights counseling and guidance and receive complaints in areas of the country where access to the Commission was more limited. Unlike 2003, when the traveling center visited major cities, in 2004, the Commission visited small and medium-sized cities including Chuncheon and Cheongju. The traveling center in 2004 provided services for 115 civil cases. It provided counseling in 72 cases and received 18 complaints. The Commission visited three regional protective facilities for many persons and installed complaints collection boxes therein.

[Table 2-2-26] Performance of Traveling Human Rights Counseling Center

- Cases Counseled and Complaints Received

(Unit: case)

Region	Human rights counseling and guidance				Receiving of complaints				Total	
	Human rights violation	Discriminatory acts	Others	Sub-total	Human rights violation	Discriminatory acts	Others	Sub-total		
Daegu	9	3	21	33	5	2	1	8	4	45
Cheongju	3	0	11	14	8	1	0	9	8	31
Chuncheon	0	0	25	25	0	1	0	1	13	39
Total	12	3	57	72	13	4	1	18	25	115

The Traveling Human Rights Counseling Center did much to raise the awareness of human rights. It increased the understanding and accessibility of local residents of the Commission, promoted participation of local lawyers, and established a cooperative system with local governments. In order to better serve the objectives of the program, the Commission will dispatch the Traveling Human Rights Counseling Center to smaller cities, remote country locations including islands, and protective facilities, where accessibility to human rights remedy and the Commission is most limited.

3. Employment of Support Systems to Improve Human Rights Counseling Service

The Human Rights Counseling Center is the very first place where victims of human rights violations and discrimination come and talk about their cases and receive service and support to solve their problems. Service quality is important in building confidence in and satisfaction with the Commission. Clearly, the Commission's first priority should be on improving the expertise and effectiveness of counseling.

Over the past three years, the Center provided counseling in 50,000 cases. It accumulated a great deal of valuable experience in counseling and upheld the human rights of numerous individual citizens.

(1) Training for Better Quality Human Rights Counseling

In 2004, the Commission put its counselors through a number of training programs in order to increase their expertise. In addition to its own in-house training, the Commission took full advantage of training opportunities outside of the Commission. Professional counselors led study groups including those on cases counseled and supervision, as well as subgroup studies on specific subjects.

The Commission moved to employ professional counselors as regular full-time employees to ensure adequate staffing of counselors at all times and to provide professional counseling more efficiently. In 2004, the Commission revised regulations and guidelines including the



Professional Counselor Appointment and Management Regulations and Professional Counselor Evaluation and Management Guidelines.

(2) Increasing Accessibility to Rights Remedy through Counseling On-site and Improving Procedures

The Commission had meetings with a migrant workers' group, a group concerned with women in prostitution, and other groups to increase its accessibility to vulnerable social groups. It provided these groups human rights counseling in the field, explained its mission and programs, and collected opinions.

The Commission revised rules and regulations on guidance on civil complaints, counseling, and receiving complaints to improve its work procedures. It specifically made changes to the Civil Complaint Handling Regulations, Complaint Receiving and Counseling Regulations, and Rules on Investigation and Remedy of Human Rights Violations and Discriminatory Acts.

The Commission established legal systems to guarantee rights to complaint of inmates of detention/protective facilities, whose human rights are most at risk. This entailed, among other things, setting up more complaint collection boxes at such facilities, revision of guidelines for related agencies, and drafting of a new face-to-face complaint form for more effective face-to-face complaint handling. Setting up complaint collection boxes at protective facilities for many persons was an especially high priority. The number of such boxes in use more than doubled in 2004.

(3) Publication of Materials on Human Rights

The Commission published 'Case Studies on Human Rights Counseling', 'Human Rights Counseling Guide 2', and the 'Face-to-face Complaint Guide'. These materials and other programs were instrumental towards standardizing and improving the effectiveness of counseling and training programs.

a. Case Studies on Human Rights Counseling

The Commission received requests in some 6,000 cases for counseling. ‘Case Studies on Human Rights Counseling’ was used to select important cases, and these were all closed after counseling. The book contains significant counseling cases for reference in the field and for improving legal systems and policies related to human rights. The Commission analyzed various counseling cases that can be used for improving laws and legal system and for formulation of a comprehensive plan for human rights counseling service.

b. Human Rights Counseling Guide 2

In follow up to ‘Human Rights Counseling Guide 1’ published in 2003, the Commission published ‘Human Rights Counseling Guide 2’ in 2004. The 2004 edition deals with cases that had been rejected or dismissed under Articles 32 and 39 of the Commission Act. The ‘Human Rights Counseling Guide’ includes actual complaints and details of counseling, decision statements, cases in other countries, and applicable decisions by the Constitutional Court and the Supreme Court. The Commission reinterpreted the contents of complaints received based on the materials collected in order to determine how the scope of investigation and remedy of rights should be widened. The cases in the guide book suggest standards for future counseling and remedy works.

c. Face-to-face Complaints Guide 2

In 2003, the Commission published the ‘Face-to-face Complaints Guide’, a manual on handling face-to-face complaints, to improve the face-to-face complaint system. ‘Face-to-face Complaints Guide 2’ was published in 2004 and focuses on guidelines on how to handle face-to-face complaints by analyzing face-to-face complaint cases and details of counseling provided.

| Section 3 | Evaluation

In 2004, the Commission achieved considerable growth and improvement in all its



operations including counseling on human rights, receiving complaints, and providing guidance. The Commission made efforts to increase accessibility to human rights remedies and human rights protection in the field. It indeed made itself widely known to the general public.

The face-to-face complaint system became more efficient, and inmates of detention/protective facilities were very satisfied with it. Counseling on human rights and complaints from inmates are now handled much more smoothly than before.

To improve the effectiveness of the human rights counseling system, the Commission published ‘Case Studies on Human Rights Counseling’ and ‘Human Rights Counseling Guide 2’ and put counselors through rigorous and comprehensive training on human rights counseling. The Commission also strived to increase the expertise and receptivity of professional human rights counselors and its staff. Significant synergies were realized in all these related efforts.

The Commission has also strived to increase accessibility by those whose human rights are most at risk. Nonetheless, too few requests for counseling or complaints by members of social minority groups such as immigrant workers or persons with disabilities are received. To address the problem, the Commission should seek determine how to reach out more effectively to those who are most vulnerable.

The legal status of professional counselors remains an issue to be resolved. All of the Commission’s counselors are volunteers, but it should seek to employ full-time professional counselors to further improve the quality of counseling and reinforce the public trust in its counseling service.



Investigation of Human Rights Violations and Remedies

| Section 1 | Overview

Under subparagraph 2, Article 19 of the National Human Rights Commission Act (hereinafter referred to as the Commission Act), the Commission shall conduct investigation and remedy with respect to human rights violations. Under subparagraph 1-1, Article 30, any person whose human rights are violated may file a petition to the Commission in case such human rights as guaranteed in Articles 10 through 22 of the Constitution are violated by the performance of duties (excluding the legislation of the National Assembly and the trial of a court or the Constitutional Court) of state organs, local governments or detention or protective facilities.

After receiving complaints, the Commission examines each case, and if the contents of a complaint do not fall under the scope of the matters subject to the investigation of the Commission, or do not fall under the scope of human rights violations subject to investigation of the Commission, the Commission rejects or dismisses the complaint. If the Commission deems that a violation of human rights occurred as a result of investigation of any petition, it takes measures as necessary to prevent reoccurrence or for restoration to original state.

In 2004, the Commission focused on improving systems and practices to prevent human rights violations, in addition to carrying out investigations and remedies of complaints filed with the Commission. In its efforts to prevent human rights violations, the Commission analyzed complaints filed over the past two years concerning police, prosecutors, detention facilities, and protective facilities for many persons, and it ascertained which types occur most frequently. Based on its findings, the Commission prepared proposals for improvement of systems so that such violations cannot happen again and made recommendations to the government agencies concerned. Furthermore, even if any petitions were closed after the Commission rejected or dismissed them, they were delivered to the appropriate government



agencies if they indicated needed improvements to policy.

The Commission was especially quick to open *ex officio* investigations in 2004. The Commission initiated *ex officio* investigations on handling procedures for military personnel who died on duty, use of personal information at public libraries, and protective measures for victims of sexual violence, and took remedial measures for victims and prepared guidelines for prevention of human rights violations.

If the Commission determines that a case constitutes a human rights violation after investigation, it first and foremost seeks to raise the human rights awareness of all parties involved by means of human rights training rather than punishing the respondent so that similar violations will not recur.

| Section 2 | Major Activities in 2004

1. Handling of Human Rights Violations

As [Table 2-3-1] below shows, the number of human rights violation complaints filed with the Commission in 2004 rose by 1,586 (52.1%) to 4,627. The number of complaints filed with the Commission has been rising sharply every year, which points to the fact that the Commission is now widely recognized by the people as a human rights protection agency. In 2004, the number of cases closed rose by 1,795 (56.3%) to 4,932. The complaint handling system was streamlined; the petition handling procedures was simplified; and the case solving capability of investigators was improved.

[Table 2-3-1] Human Rights Complaints Filed and Closed

(Unit: case)

Classification	Cases filed	Cases closed	Investigation under way
Total	10,501	9,434	1,067
2004	4,627	4,932	-
2003	3,041	3,137	-
Up to 2002	2,833	1,365	-

(1) Settlement of Human Rights Violation Complaints

In 2004, the Commission settled 4,932 human rights violation complaints. [Table 2-3-2] below shows human rights violation complaints settled by the Commission by the action taken. Accusations and requests for investigation were made in six cases, requests for legal assistance in four cases, recommendations for disciplinary action in two cases, recommendations in 79 cases, and compromises were made in 54 cases, which sums to 145 cases, accounting for 3% of the total. A total of 1,280 cases were dismissed; 3,306 cases were rejected; 1,280 cases were transferred; and 53 cases were suspended.

What is noteworthy in the performance of the Commission concerning human rights violation investigation and remedies is that more cases were settled through compromises. A settlement through a compromise occurs when the parties to a complaint settle their conflict in prompt and peaceful way under the mediation of the Commission while an investigation is on-going through mutual understanding and taking responsibility for the original cause for the complaint. This method best suits the purpose and intentions of the Commission.

Most settlements through compromises were made in cases where the causes of conflicts were less serious, such as cases involving use of violent language or impolite speech, unkindness, or trivial mistakes made in the execution of duties, and other cases in which the complainant did not want to punish the respondent.

The Commission rejected 3,306 complaints. Of these, 1,477 were withdrawn by complainants, accounting for 45% of the total. Most of these withdrawals were made because the original causes of complaints were resolved after the Commission started investigation. This was due to improvements in the capability of the investigators of the Commission and the complaint handling system.



[Table 2-3-2] Settlement of Human Rights Violation Complaints by Actions Taken

(Unit: case)

	Action taken										
	Sub-total	Accusation /Request for investigation	Request for legal aid	Recommendation of disciplinary actions	Recommendation made	Emergency relief	Com-promised	Dis-missed	Re-jected	Trans-ferred	Pen-ding
No. of cases	9,434	18	4	21	144	4	77	2,133	6,690	290	53
2004	4,932	6	4	2	79	-	54	1,280	3,306	148	53
2003	3,137	9	-	3	57	2	23	717	2,210	116	-
Up to 2002	1,365	3	-	16	8	2	-	136	1,174	26	-

As shown in [Table 2-3-3] below, among all human rights violation complaints against organizations that were filed with the Commission, complaints against detention facilities numbered 4,634, accounting for the largest portion of 44%, followed by cases against police in 2,229 cases, or 21%. Complaints against military organizations and protective facilities totaled 243 and 217, respectively, showing low percentages of about 2%. Evidently, few complaints about violations by these entities are filed despite the tremendous public uproar over human rights violations committed by them. To deal with the situation, the Commission should take more aggressive action for human rights at military organizations, where complaint filing is naturally rendered difficult by the command structure, and at protective facilities for many persons, where the majority of detainees are members of social minority groups. The Commission needs to conduct a survey on the situation and, *ex officio*, initiate investigations at these two types of organizations.

[Table 2-3-3] Settlement of Complaints by Organization

Accumulated total as of Dec. 31, 2004 (Unit: case)

	Cases filed (A)	Settlement										
		Sub-total (B)	Accusation Request for investigation	Recommendation of disciplinary actions	Emergency relief	Recommendation made	Request for legal aid	Dis-missed	Trans-ferred	Re-jected	Com-promised	Pen-ding
Total	10,501	9,434	18	21	4	144	4	2,133	290	6,690	77	53
%	-	100.0	0.2	0.2	0.0	1.5	0.0	22.6	3.1	70.9	0.8	0.6
Prosecutor	637	575	2	-	2	6	-	112	6	444	-	3

(continued)

	Cases filed (A)	Settlement										
		Sub-total (B)	Accusation Request for investigation	Recommendation of disciplinary actions	Emergency relief	Recommendation made	Request for legal aid	Dismissed	Transferred	Rejected	Compromised	Pending
Police	2,229	1,973	7	18	2	39	-	512	32	1,290	58	15
Detention facilities	4,634	4,205	2	2	-	68	4	1,208	246	2,640	7	28
Protective facilities	217	162	3	-	-	2	-	58	3	90	3	3
Military organs	243	198	1	-	-	3	-	18	-	175	-	1
Other state organs	2,541	2,321	3	-	-	26	-	225	3	2,051	9	3

(2) 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 investigations, and recommendations on compromises were made are shown in [Table 2-3-4]. Detailed explanations of major cases are given in the next pages.

[Table 2-3-4] Actions Taken for Human Rights Violation Complaints

Violations by Prosecutors

Action taken	Case description	Details of action	Date of decision	Implementation results
Investigation requested	Cruel act by police in violation of human rights	Illegal arrest and cruel act during interrogation admitted, and request for investigation by prosecutor requested.	2004.2.23.	No suspicion on the charge (human rights training provided)
Recommendation issued	Human rights violation relating to restoration of the person with record	Legal system should be revised such that police will be notified of reinstatement on pardon immediately.	2004.3.31.	Recommendation accepted
Recommendation issued	Illegal search of home	Measures should be taken so that a different person with the same name will not be searched when investigating the home of a person who is dismissed of indictment.	2004.4.30.	Recommendation accepted
Recommendation issued	Interrogation of a victim of sexual violence	The respondent should be warned for prohibiting the guardian of a minor victim of sexual violence from attending interrogation which lasted hours.	2004.5.10.	Recommendation accepted



(continued)

Action taken	Case description	Details of action	Date of decision	Implementation results
Recommendation issued	Non - notification of emergency arrest	The respondent should be warned for not notifying the family of the person arrested on charges of making a false accusation of the arrest.	2004.5.10.	Recommendation accepted
Recommendation issued	Violation of right to know by rejecting the request for copying of statement	Prosecutor's clerical work regulations should be revised so that parties to a case can copy their statements.	2004.6.9.	Under review
Recommendation issued	Violation of right to correspondence with others besides lawyers	Human rights training should be given such that the respondent will observe applicable procedures when the convicted is restricted from communicating with others.	2004.6.23.	Recommendation accepted
Recommendation issued	Non - notification of right to reject statement of the convicted	That the convicted has the right to reject a statement should be included in the 'form of statement by the convict on residence', and the convicted should be notified of the fact in advance.	2004.8.23.	Recommendation accepted
Recommendation issued	Violation of right to correspondence with lawyers	The respondent should be warned for violating the right of the convicted to correspond with his/her lawyer. In a case where a decision to restrict the convicted from corresponding with his/her lawyer is made, the scope and the period should be clearly stipulated.	2004.11.23.	Under review

Violations by Police

Action taken	Case description	Details of action	Date of decision	Implementation results
Investigation requested	Human rights violation in emergency arrest procedure	Requested prosecutor for investigation of the respondent who hit the complainant on the head in handcuffed state.	2004.1.26.	No suspicion on the charge
Human rights education	Human rights violation by abuse of investigation authority	The respondent should be given in - house human rights training for delaying the wanted - list release process.	2004.2.11.	Recommendation accepted
Accusation	Human rights violation by cruel act during investigation	An accusation was filed with the prosecutor against the respondent for hitting the complainant with a baseball bat.	2004.2.23.	Prosecuted without physical restraint
Accusation	Interference and illegal confinement	An accusation was filed with the prosecutor against the respondent for confining the complainant in a car for 4 - 5 hours to prevent attendance at an assembly.	2004.2.23.	Prosecuted without physical restraint (Dismissed on May 28, 2004)
Warning	Violation of right of the complainant to interview with a lawyer	A written warning should be given to the respondent.	2004.3.31.	Recommendation accepted

(continued)

Action taken	Case description	Details of action	Date of decision	Implementation results
Human rights education	Violation of human rights by not observing due procedures	In -house human rights training should be given to the respondent for delaying notification of arrest and restraint.	2004.3.31.	Recommendation accepted
Human rights education	Violation of legal procedures	The respondent should be given a warning and in -house training for conducting an investigation in a private room.	2004.4.2.	Recommendation accepted
Human rights education	Violation of right to personal liberty	The respondent should be given human rights training for neglecting emergency arrest notification	2004.4.16.	Recommendation rejected
Human rights education	Non - notification of Miranda Principle	The respondent should be given human rights training for executing (arrest?) without notification of the Miranda Principle	2004.4.30.	Recommendation accepted
Human rights education	Violation of right of the convicted to application	The respondent should be given human rights training for depriving the complainant the opportunity to review warranty against the will of the complainant. Measures should be taken to prevent recurrence of such cases.	2004.5.10.	Recommendation accepted
Human rights education	Human rights violation by not observing checking procedures	The respondent should be given in - house human rights training on a regular basis for not revealing his identification before checking.	2004.6.4.	Recommendation accepted
Human rights education	Illegal investigation	The respondent should be warned and given in - house human rights training for using violent language during an investigation.	2004.6.9.	Recommendation accepted
Human rights training	Illegal checking	The entire police station should be given in - house human rights training so that all officers will understand the requirement for checking correctly.	2004.6.9.	Recommendation accepted
Human rights education	Forced fingerprinting	The respondents should be given human rights training for forcefully taking fingerprints without warrant.	2004.6.28.	Recommendation accepted
Recommendation issued	Illegal prohibition of interview	Related regulations should be revised. The respondents should be warned and in - house human rights training.	2004.8.9.	Recommendation accepted
Warning, etc.	Insufficient protective measures for juveniles with disabilities	The respondents should be warned and given in - house human rights training for not taking proper protective measures in the investigation of the convicted with mental disabilities.	2004.10.11	Recommendation accepted
Recommendation issued	Matters relating to improving police detention facilities	Prison inmates should be given basic necessities such as bedding and toiletries.	2004.11.8.	Under review
Recommendation issued	Human rights violation due to illegal procedures	The respondents should be warned and given in - house human rights training for not making notification of arrest and restricted interviews.	2004.11.8.	Recommendation accepted



□ Violations by detention facilities

Action taken	Case description	Details of action	Date of decision	Implementation results
Recommendation issued	Human rights violations in medical service	Comprehensive medical service system for inmates should be established.	2004.1.16.	Recommendation accepted
Recommendation issued	Violation of right of inmates to sleep	The right of inmates to sleep should be guaranteed by turning down the light during sleeping hours.	2004.1.16.	Recommendation accepted
Legal aid	Human rights violation due to improper facilities and treatment	The inmate's right to life was violated, and legal aid was requested from the Korea Bar Association.	2004.1.16.	Recommendation accepted
Recommendation issued	Exercising, bathing, use of detaining devices	Inmates of investigation room should not be prohibited from exercising and taking baths.	2004.2.11.	Under review
Recommendation issued	Matters concerning facilities and treatment	Restrictions on watching television and electric fans should be eliminated.	2004.2.27.	Recommendation accepted
Recommendation issued	Matters concerning facilities and treatment	The size of the punishment room should be expanded to satisfy regulations on facilities of judiciary facilities.	2004.2.27.	Recommendation accepted
Human rights education	Violation of rights of detainee to personal integrity	The respondent should be given human rights training for excessively humiliating the complainant.	2004.4.2.	Recommendation accepted
Recommendation issued	Violation of right to privacy of detainees	The respondent should be warned for opening letters of the complainant. Letter opening by officers should be prohibited.	2004.4.2.	Accepted
Recommendation issued	Rejection of medical treatment by outside medical hospitals	The complainant should be permitted to receive outside medical treatment at his own expense.	2004.4.2.	Recommendation accepted
Recommendation issued	Requested to pay medicine for detainees with lung cancer	Medicine expenses for the inmate with lung cancer should be paid.	2004.4.16.	Under review
Recommendation issued	Matters relating to window of single prison room	Lighting and ventilation of single prison room should be improved to satisfy regulations for facility standards of the Ministry of Justice.	2004.4.17.	Recommendation accepted
Recommendation issued	Human rights violation relating to treatment	The complainant should be permitted to wear running shoes for medical purposes.	2004.4.30.	Recommendation accepted
Legal aid	Matters relating to death of a detainee	Measures should be taken to prevent suicide, and legal aid was requested to Korean Bar Association because the inmate committed suicide due to negligence of supervision.	2004.4.30.	Accepted by Korean Bar Association/ Under review by Ministry of Justice

(continued)

Action taken	Case description	Details of action	Date of decision	Implementation results
Recommendation issued	Human rights violation by the use of altered detaining devices	The respondent should be warned for using improper retaining device and causing pain to the complainant. Training should be provided to all officers of retention facilities. Use of irregular detaining devices should be forbidden entirely.	2004.5.19.	Under review
Recommendation issued	Human rights violation due to cruel act	The respondents should be warned for wringing the neck of the complainant for making noise.	2004.6.4.	Under review
Recommendation issued	Punishment of those with mental illness	Medical treatment system should be improved so that proper medical treatment will be given to inmates with mental illness.	2004.6.4.	Recommendation accepted
Human rights education	Human rights violation by not giving medical treatment	The respondent should be given in-house human rights training for taking the complainant, who was still under emergency treatment, to police station.	2004.6.4.	Recommendation accepted
Recommendation issued	Use of improper detaining devices on an unconvicted prisoner	The head of the detention facility should be warned for the use of detaining devices for the unconvicted, who was expected to receive a long prison sentence.	2004.6.14.	Accepted in part
Recommendation issued	Human rights violation by making detailed report on particulars of inmates	The head of the prison should be warned for maintaining detailed report on particulars of inmates. The reports should be abolished, and officers should be given human rights training	2004.7.14.	Recommendation accepted
Recommendation issued	Improper medical service by detention facilities officer	The respondent should be given warning for providing unlicensed medical treatment. Education should be given to prevent recurrence.	2004.8.16.	Under review
Recommendation issued	Violation of property right of detainees	Regulations relating to works by inmates to be presented on exhibition should be established specifically, in case such works are subsidized by the detention facilities.	2004.8.16.	Recommendation accepted
Recommendation issued	Violation of freedom of correspondence due to loss of letters	Measures to prevent recurrence of such cases should be formulated.	2004.8.23.	Under review
Legal aid	Matters relating to death of an inmate	Recognizing that the death of inmate was due to negligence of supervision, legal aid was requested of the Korean Bar Association.	2004.8.23.	Under review
Legal aid	Matters relating to death of an inmate due to insufficient medical treatment	Recognizing that the death of the respondent was due to negligence of supervision, legal aid was requested to Korean Bar Association.	2004.8.23.	Under review
Legal aid	Matters relating to death of an inmate due to insufficient medical treatment	Recognizing that the death of the inmate was due to insufficient medical treatment, legal aid was requested of the Korean Bar Association.	2004.8.23.	Under review



(continued)

Action taken	Case description	Details of action	Date of decision	Implementation results
Recommendation issued	Human rights violation due to installation of CCTVs in the living room of detention facilities	Legal grounds for installation and operation of CCTVs in the living room of detention facilities should be prepared.	2004.10.12.	Under review
Recommendation issued	Human rights violation in the decision to revoke release on parole	Regulations on the decision on revoking protective custody on parole should be revised so that such decisions should be made in a timely manner.	2004.11.8.	Under review
Warning	Violation of right to correspond with outsiders	The respondent should be given human rights training for not sending letter of court appearance to complainant.	2004.11.22.	Under review

Violations by Military Organs

Action taken	Case description	Details of action	Date of decision	Implementation results
Recommendation issued	Improvement of facilities at military prison	Regulations on restriction of male officers who was deprived of his position with sentence of punishment on transfer to ordinary prison should be revised.	2004.2.27.	Under review
Recommendation issued/ Legal aid requested	Negligence of duties of the Army Headquarters	The head of the Army should be given disciplinary action for delayed notification to families of those who died on duty. The Navy and the Air Force should review similar cases. Legal aid was requested for the complainant.	2004.7.12.	Legal aid rejected

Violations by Other Organs

Action taken	Case description	Details of action	Date of decision	Implementation results
Recommendation issued	Violation of right to vocation	Nonsan Municipal Government violated right to freedom and equality as it asked applicants for career experience in specific area when recruiting Grade 10 officials. Measures should be prepared to prevent recurrence.	2004.2.11.	Recommendation accepted
Recommendation issued	Human rights violation by abuse of authority	Notification method should be improved so that privacy will be protected when sending bills for parking violations.	2004.4.17.	Recommendation accepted
Investigation requested	Violation of right of mental hospital inmates to personal liberty	An accusation against the director of the hospital was filed with the prosecutor for discharging patients with mental illness on paper, without applying for examinations by the Mental Health Evaluation Committee when patients should be in the hospital for longer than six months.	2004.6.4.	One million won fine

(continued)

Action taken	Case description	Details of action	Date of decision	Implementation results
Investigation requested	Violation of right of mental hospital inmates to personal liberty	An accusation was filed against the director of the hospital with the prosecutor for discharging and re-admitting patients with mental illness on paper without actually discharging them.	2004.6.4.	Prosecuted without physical restraint
Recommendation issued	Negligence in keeping information of transferred student confidential	The school should take proper measures not to divulge personal information of a student who was transferred due to violence at home.	2004.6.4.	Recommendation accepted
Recommendation issued	Violation of privacy in the use of a library	The respondent, who violated moral right of the complainant by putting up notes of personal attacks on the complainant with the real name of the complainant on the board of the lounge of the library, should be given warnings and human rights training, and that measures to prevent recurrence of such complaints should be taken.	2004.7.14.	Recommendation accepted
Warning	Registration at nursing aids job office at university hospitals	The director of a university hospital should be warned for forcing nursing aid to register at paid employment office.	2004.7.14.	Recommendation accepted
Recommendation issued	Refusal to issue visa of spouse to Korean resident in China	Permitting entrance to Korea and issuance of visa to Chinese - Korean spouse recommended.	2004.8.16.	Recommendation accepted
Recommendation issued	Restrictive measures on military service evader	Article 76 of the Military Service Act should be revised.	2004.8.23.	Recommendation accepted
Recommendation issued	Violation of right to self-determination relating to Buan Nuclear Disposal Terminal	Recommended to the Minister of Industry to take steps to prevent recurrence of similar cases.	2004.10.12.	Under review
Recommendation issued	Abuse of authority in installation of pedestrian overpass	Facilities of pedestrian overpass should be improved for safety and convenience of pedestrians.	2004.10.12.	Recommendation accepted
Recommendation issued	Violation of right to personal integrity of professor	The respondent should be disciplined for distributing leaflet saying the complainant was admitted to the school by improper means.	2004.11.8.	Recommendation accepted
Recommendation issued	Human rights violation in treating an ill wayfarer	Respondent should be warned for negligence in identifying ill wayfarer.	2004.11.22.	Under review



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

(1) Filed an Accusation against Cruel Act by Police

The complainant filed a complaint with the Commission stating that he suffered cruel acts by the police, such as beating with baseball bat, while he was investigated as a witness of an illegal withdrawal of cash from Nonghyeop Bank in March 2003.

The Commission found that policemen handcuffed the complainant the house of the complainant and forced his head against the floor and beat his buttocks and the back with a baseball bat and perpetrated other cruel acts against him for about seven hours. The Commission concluded that the policemen violated the Criminal Procedures Act while seizing and searching the complainant's belongings. The Commission filed an accusation against the policemen who led the cruel acts with the prosecutor and recommended that other policemen who assisted in such unlawful acts be duly warned. The policeman in question was prosecuted without physical restraint by the prosecutor, and the chief of the police station warned the other four policemen according to the recommendation by the Commission.

(2) Recommended Warning for Violations of Criminal Procedures such as Non-notification of Arrest

The complainant filed a complaint stating that he was arrested without warrant on a false charge during investigation on a case in which the complainant himself filed the accusation, and he was not given an opportunity to notify his family of the arrest. The Commission found that the respondent had not notified the complainant's family of the arrest when making the arrest without warrant on a false charge, and released the complainant in the afternoon of the next day saying, "Never do this kind of thing again".

The Commission concluded that failure to notify the family of the complainant of the arrest without a warrant was in violation of paragraph 5, Article 12 of the Constitution and

Article 200-5 and provisions of Article 87 of the Criminal Procedures Act, even the respondent released the complainant one day after arresting him without a warrant. The Commission recommended that the respondent be warned.

(3) Recommended Disciplinary Action on Violation of the Right to Prompt Counsel

The complainant filed a complaint with the Commission stating that a policeman came into the interview room of the complainant and listened to and recorded the interview with the lawyer and thus violated the right of the suspect to prompt assistance of counsel as guaranteed under the Constitution.

After examining the case, the Commission found that the policeman in charge of the interview room entered the room with the paper on the arrested suspect and listened to and recorded the conversation between the complainant and the lawyer. Even though the lawyer demanded that the policeman get out of the room, the policeman asked the lawyer for the lawyer's address and recorded it. The Commission decided that such act violated the right of the lawyer to render prompt assistance of counsel guaranteed by paragraph 4, Article 12 of the Constitution, and recommended to the police agency of the respondents that the respondents who interrupted the interview be subjected to disciplinary actions or warned.

(4) Recommended to Improve Treatments of Detainees

The Commission received a complaint claiming that failure to provide toilet articles and pillows to those detained at a police station was in violation of the right to personal integrity. The Commission decided that the act of not supplying basic living necessities such as pillows and toilet articles violated the provision relating to the provision of bedclothes and daily necessities to detainees of the Criminal Administration Act, and the United Nations Standard Minimum Rules for the Treatment of Prisoners. The Commission made a recommendation to the chief of the National Police Agency that basic daily necessities, such as bedclothes and daily necessities, be properly provided to detainees at police stations nationwide.



(5) Negligence of Protective Measures for a Victim during Sexual Violence Investigation

The Commission received a complaint claiming that the respondents of OO Provincial Police Agency applied gross intimidation in cross-examination of a minor rape victim and subjected the victim to long hours of interrogation.

The Commission found that despite the fact that the respondent had known that the victim, who was a minor, was suffering from toxemia of pregnancy due to the rape and that it was difficult for the victim to appear for interrogation, the respondent did not take sufficient protective measures for the minor rape victim, who needed special protection on the grounds that (1) the interrogation was conducted without a health and mental examination of the victim, (2) the victim was placed under undue psychological distress by being seated next to the assailant during the cross-examination, (3) the investigation was conducted for long hours without appropriate break time, and (4) the guardian of the victim was denied attendance to the interrogation.

The Commission decided that the respondents violated not only the ‘Guide on the Protection of the Victims during Sexual Crime Investigation and Trial’ of the Supreme Public Prosecutor’s Office, but also Articles 10 and 12 of the Constitution, which stipulate that all citizens are assured of human worth and dignity and have the right to pursue happiness and all citizens enjoy personal liberty and integrity, by subjecting the victim to fear and sexual humiliation as well as physical pain. It recommended that the Prosecutor-General give an appropriate warning to the respondents.

(6) Recommended Correction of Wrongful Police Questioning

A number of complaints were received on the violation of the right to pursue happiness because the policemen in charge of questioning blocked traffic at specific places such as universities without giving notification of the purpose of and reasons for questioning and without disclosing the unit to which they were stationed and their names.

The Commission found that the police had been conducting questioning according to uniform and automatic interpretation of the requirements for questioning prescribed in the Police Officer Duties Act or in disregard for legal procedures. It also found that it was a general practice for all the policemen to question citizens without showing their identification. The Commission made a recommendation to the relevant agencies that in-house human rights training be conducted at every provincial police agency and police training institute on the requirements and procedures of questioning stipulated in the Police Officer Duties Act and that the riot police and auxiliary police, not to mention regular policemen, be instructed and trained to show their identification.

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

(1) Recommended Abolishment of System for Joint Liability among Inmates

A complaint was filed with the Commission asserting that when one inmate of a room for many inmates was under investigation and punished for violation of rules, it was wrongful to prohibit other inmates not involved with the case from watching TV and using an electric fan in the living room on charges of joint liability.

The Commission found that OO Prison had established its own rules on watching TV and using electric fans: when an inmate violates rules, other inmates in the same room are to be prohibited from watching TV and using an electric fan for three to ten days.

The Commission concluded that the prohibition on watching TV and using an electric fan of inmates for the reason that another inmate had violated rules was in violation of the right to pursue happiness under Article 10 of the Constitution and the principle of individual accountability.

The Commission recommended that the restriction on inmates on watching TV be revised and that measures restricting the use of an electric fan be abolished to protect the



interests of inmates who are not directly responsible for rule violations. The Ministry of Justice ordered the prison in question and all other detention facilities to discontinue the practice of restricting Television use and electric use on charges of joint liability.

(2) Recommended Guarantee of the Right to Sleep of Inmates

The complainant filed a case with the Commission, stating that OO Prison was keeping lights on in living rooms during bedtime and that such act was in violation of the right to sleep.

The Commission investigated the case and found that some prisons used only night lights or turned off some lights, but 28 prisons including the prison concerned did not turn off any lights during bedtime.

The Commission concluded that maintaining the same intensity of illumination at bedtime as during daytime not only violated the Judicial Facilities Standards but also the right to pursue happiness (right to sleep) of the inmates as stipulated in Article 10 of Constitution because it violated the principle of proportionality under the Constitution. It recommended that the intensity of illumination be lowered during bedtime of inmates except for cases where the occurrence of incidents at detention facilities is very high and that facilities be improved and correctional institutions be controlled and supervised so that the right to sleep of the inmates is not violated.

The Ministry of Justice decided to have night lights installed at 39 institutions where no such lights were in use by 2006.

(3) Recommended Prohibition of Opening Letters of Inmates

The complainant, who was an inmate of OO Prison, filed a case stating that the right to privacy was violated because a prison officer who was not in charge of mail read a letter of the complainant.

The result of the investigation on the case revealed that although only officers in charge of education were authorized to read inmates' letters, officers responsible for detention wards were routinely reading the letters of inmates.

The Commission concluded that reading letters of inmates by prison officers in charge of wards violated the rights of inmates to privacy. It recommended that the Minister of Justice prohibit prison officers in charge of wards from opening and reading letters of inmates at their discretion.

As for the complaint filed from OO Prison claiming that the freedom of correspondence was infringed because letters forwarded to a lawyer and others became missing, the Commission found that five registered letters sent by the complainant went missing during the course of transfer to the prison officer in charge of letters at the Administrative Affairs Division of the prison. The Commission recommended preparation of measures to prevent recurrence, including preparation of instructions on transfer of letters.

(4) Recommended Actions to Prevent Recurrence of Wrongful Use of Detaining Devices

Mr. Lee interned in OO Prison filed a complaint saying that when he demanded to be released from detaining devices including leather manacles by kicking at the door of the living room, the respondent tied up the legs and arms of the complainant behind the back and left him so restrained for more than one hour, causing him to suffer undue physical pain.

The Commission concluded that, even though the internee was making noise and disturbance, use of the detaining devices to tie the lower half of the detainee's body without recourse to other methods of control was in violation of the right to personal liberty. The Commission recommended that the respondent who ordered the wrongful use of the detaining devices be duly warned and that human rights training be given to prison officers of the complainant so that detaining devices should no be longer used other than for



originally intended purposes.

(5) Legal Assistance for Suicide and Medical Treatment Requested

The mates of the victim, who had been held in OO Prison, filed a complaint about the failure of the prison to take proper measures after they asked for medical treatment for the victim, who was experiencing difficulty in breathing for about six days before his death. The mates claimed that the failure to take proper action had led to the victim's death, and the Commission recognized that the respondent organ did not act properly in an emergency situation and requested legal assistance from the Korean Bar Association so that proper compensation could be made to the bereaved family of the victim.

In another complaint about a victim held in OO Prison, who had been complaining of headaches and inflammation of the middle ear for fifteen days before his death, the prison had not provided proper medical treatment, leading to the death of the victim. The Commission recognized the possibility of negligence in observation and mistakes by the medical staff leading to the death, and requested legal assistance from the Korean Bar Association.

The Commission also concluded that the respondent prison did not pay sufficient attention to the inmate who committed suicide at OO Prison despite the fact that the inmate had shown various indications of suicidal intent before he actually killed himself. The Commission made a recommendation to the Minister of Justice that separate measures taken to prevent suicides of inmates and that other measures be taken to observe the psychological state of inmates who were punished within prisons for long periods of time and to improve counseling and educational programs. In addition, the Commission requested the Korean Bar Association for legal assistance so that proper compensation could be made to the bereaved family of the victim.

(6) Recommended Reversal of Cancellation of Release on Parole by Social Protection Committee

A complaint was filed stating that the cancellation of releases on parole for those who

committed second crimes under protective supervision were released on the expiration of the period of prison terms and that suspensions of sentences was wrongful.

The current law stipulates that when a person under protective supervision is arrested for a second crime, the person must be removed from protective supervision and imprisoned at a protective prison. Complainants were suddenly imprisoned in a protective prison even though they were living normal lives one year after they had served their full prison sentences or were sentenced to probation for the second crime.

The Commission concluded that even if the decision on cancellation of release on parole for the complainants was a rightful act in accordance with related laws, cancellation of release on parole was deemed too long since the date when the cancellation decision was made, and accordingly the efforts of the complainants to restore their legal status and return to society after expiration of their prison terms or probation were excessively restricted.

The Commission made recommendations to the Minister of Justice that measures to revise the action on the cancellation of release on parole be established and implemented so that the Social Protection Committee will make decisions on cancellation of release on parole quickly (within two months from the date of sentencing on second crimes).

(7) Recommended Policy for Treatment and Operation of Substitute Prison

The Commission conducted a survey on eight substitute prisons nationwide to identify general problems in medical care, exercise, meals, health, and sanitation.

The results of the survey showed that overall conditions were very poor. When a detainee of a substitute prison becomes sick, medical treatment of the detainee entirely depends on outside medical care. No exercise or sun exposure is permitted. The quality of foods is very poor. Health and sanitary measures are insufficient. The prisons are overcrowded. No female prison officers are assigned, so female detainees are under supervision of male officers.



The Commission recommended that the management of substitute prisons be transferred from the National Police Agency to the Ministry of Justice and that the Commissioner-General of the National Police Agency take the following measures until the transfer of substitute prisons to the Justice Ministry is completed: provide health and medical care; allowing sunbathing and outdoor exercise as stipulated in Detention and Guard Rules and Prison Design Standards; provide sufficiently nutritious meals sanitarily prepared; improve facilities to allow natural lighting and ventilation; maintain a clean and sanitary environment; and assign female officers if there are female detainees.

(8) Recommended Notification of Belated Notification of Death in the Performance of Duties

The Commission received a complaint about belated notification. The Republic of Korea Army changed the cause of death of Mr. Min, who died during his military service, to death at his post of duty from death from sickness, and notified the widowed wife of Mr. Min of the change at a late date. As a result of the late notification, the widow could not receive veteran's benefits for six and half years.

The Commission confirmed the fact that despite the fact that the Military Merit for the Dead and the Injury Review Committee of the Republic of Korea Army made four changes in 1996 and 1997 through which 9,756 soldiers out of 45,804 soldiers whose causes of death had been attributed to sickness and accidental death, *ex officio*, were attributed to death on duty, the army did not notify the bereaved families of the changes. The Commission, *ex officio*, initiated an investigation on whether similar cases occur in the air force and the navy.

The results of the investigation showed that there were no reexaminations, *ex officio*, in the air force and the navy, unlike the army. However, the air force and the navy reexamined cases for which complaints were filed, and the navy changed 28 cases to death on duty, and the air force made such changes for four cases. Given the circumstances, it was possible that many military personnel whose deaths occurred on duty were attributed to deaths from sickness or accidents with the air force and the navy. The Commission recommended that all deaths of military personnel attributed to sickness and accidents since

the founding of the air force and the navy be reexamined.

The Commission decided that the army violated the right to know and right to honor of the bereaved family concerned by not notifying the family of the change to death in action, and recommended that the working-level officer responsible be disciplined and that notification duties be implemented promptly in the future. The Commission requested legal assistance from the Korean Bar Association to obtain compensation for damage.

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

(1) Recommendation to Improve Situation Relating to Violation of Freedom of Personal Liberty of Inmates of Mental Hospital

A complaint against a mental hospital was filed with the Commission. The complainant claimed that the mental hospital neglected its patients by making the same counseling reports on all charts of its patients, and did not give examinations for continued admission to the hospital by processing admission to and discharge from the hospital on documentation only for patients who had been hospitalized for more than ten years.

The results of the investigation revealed that the respondent did not discharge those patients hospitalized for more than ten years from the hospital despite being ordered by the Mental Health Review Commission to do so. Instead, the respondent processed admissions and discharges only on documentation. The Commission concluded that the respondent violated paragraphs 3 and 4, Article 24 of the Mental Health Act, the right to pursue happiness under Article 10 and personal liberty under Article 12 of the Constitution, and accused the respondent thereof.

(2) Recommend Measures against Violation of Privacy in Use of Library

The Complainant expressed criticism over the website of OO City Library with regard to the installation and operation of CCTVs inside the reading room and the requirement for



entering resident registration numbers to the unmanned seat assignment device. The staff of the Library deleted the complainant's criticism without notice and put up notes of personal attacks on the complainant with the real name of the complainant on the board of the lounge of the library. The complaint against the library staff was filed on charges of violation of moral right of the complainant.

The Commission decided that even though comments that violated the moral right of the complainant were already made public on the internet, it was in violation of moral right including the integrity of the complainant under Article 10 of the Constitution and right to privacy under Article 17 of the Constitution in that a third person printed the comments carried on the internet and posted them in a public place with a specific intent.

The Commission also concluded that the requirement for library visitors to enter resident registration numbers into the automatic seat assignment device and keeping the information entered constitutes an act of excessive collection of personal information, which may violate rights to privacy. However, as the library concerned established separate procedures for visitors who do not agree to entering their resident registration numbers so that they could use the library without any inconvenience, the Commission decided that remedial measures would not be necessary.

The Commission recommended that the respondent be given warnings and human rights training, and that measures to prevent recurrence of such complaints be taken.

(3) Recommended Abolishment of Restriction on Employment of Military Draft Dodgers under Trial

The complainant filed the case where he claimed that the OO Regional Military Manpower Administration had the workplace of the complainant fire the complainant, who was released on bail after being arrested on charges of refusal to call public interest service personnel despite the fact that he was subject to the service requirement.

After investigation, the Commission found that the act of the respondent was made in

accordance with Article 76 of the Military Service Act, which stipulates that measures be taken to restrict employment of those who do not fulfill the obligation of military service. The Commission concluded that the law was against the principle of presumption of innocence and principle of prohibition of excessive restriction, and might violate the right to pursue happiness and freedom of choice of vocation.

The Commission recommended that Article 76 of the Military Service Act be revised. Given that the respondent in this case withdrew the demand to fire the complainant and the complainant began to work, the Commission dismissed the case judging that the case did not require separate remedial action.

(4) Recommended Issuance of Visas to Korean Residents in China

The victim voluntarily reported her illegal stay in Korea to marry the complainant, after which the two departed to China in January 2003, in accordance with the order to depart Korea, and registered their marriage in China. In June 2003, they registered their marriage in Korea, after which they applied for visas two times but were rejected. They filed a complaint with the Commission on this case.

The Commission concluded that disapproval of visa issuance for the victim of the respondent was against the duties of the state to protect the family and children under the Constitution, international covenants, and the Child Welfare Act. Given that the complainant and the victim voluntarily reported her illegal stay to marry and departed Korea and that the complainant visited China several times to maintain the marriage, the Commission decided that the complainant and the victim should be permitted to maintain a normal marriage life.

The Commission recommended issuance of a visa for the victim so that she could enter Korea, and the Ministry of Justice accepted the recommendation.

(5) Recommendation on Right to Be Let Alone

The complainant filed a case stating that the local government applied for permission to



build a nuclear waste disposal site without collecting opinions of the local residents, forced local government officials to make a tour through the atomic power station, and demanded statements on the reasons for absence from those officials who could not go on the tour, which was in violation of human rights of local residents and the local government officials.

The Commission recommended that attention be paid to prevent a similar incident from reoccurring regarding the inappropriate acts of relevant organizations revealed in the course of promoting the Nuclear Waste Disposal Management Facility Construction Project. As for the act of forcing officials who failed to make the field trip to submit statements of their reasons for absence, the Commission recommended that the statements be returned to the officials concerned and no retribution be taken against the officials concerned, and that attention be paid to prevent reoccurrence of such a case.

| Section 3 | Evaluation

In 2004, the Commission settled 4,932 complaints, an increase of 57% from 3,137 cases settled in 2003. The average period of time spent handling a complaint was shortened to four months in 2004 from six months in 2003. Of the complaints settled, the number of cases where human rights violations were confirmed has increased rapidly year after year, from 29 cases in 2002, to 83 cases in 2003, and to 143 cases in 2004.

Major achievements attained from investigation in 2004 are as follows.

First, the method of closure with compromise, where the parties concerned solved the conflicts in a reasonable and peaceful way, has been established. Such cases are closed promptly and to the satisfaction of the parties concerned. Both the complainants and respondents showed great satisfaction with the system. The Commission will closely study investigation techniques for closure by compromise to raise the percentage of cases closed with compromises.

Second, the Commission made efforts to guarantee human rights by, *ex officio*, initiating investigations more actively. In particular, *ex officio* investigation on procedures of interrogation of a female middle school student who was a victim of sexual violence should do much to improve protection of the human rights of sexual violence victims.

Third, the Commission strongly demonstrated to the public the need for a human rights impact assessment system on large-scale government projects. The complaint regarding the Buan Nuclear Waste Disposal Facility confirmed the need for human rights impact assessment by examining government project from a human rights viewpoint and by confirming the opinions of the local residents.

Fourth, the Commission strived to promote the public perception towards human rights through the publication of Case Studies of Decisions, which presents human rights violations cases filed with the Commission by area and by type filed. It was distributed to related agencies, organizations, and libraries.



Investigation and Remedies for Discriminatory Acts

| Section 1 | Overview

The Commission investigates and remedies discriminatory acts under Subparagraph 3, Article 19 of the National Human Rights Commission Act (hereinafter referred to as the Commission Act). Under Subparagraph 2, Paragraph 1, Article 30 of the Commission Act, the person whose right to equality is violated by a discriminatory act by a juristic person, organization, or private individual, may file a petition with the Commission. A discriminatory act in violation of the right to equality is any of the following acts of unreasonable discrimination for any of 18 reasons including gender, religion, disability, age and social status: Any act of favorable or unfavorably treatment, exclusion, or differentiation of a particular person in (1) employment (including recruitment, appointment, training, assignment of tasks and promotion); (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. However, if favorable treatment of particular persons (including groups of particular persons) is excluded from the scope of discriminatory acts by any other Act, such favorable treatment shall not be deemed a discriminatory act.

In 2004, the Commission conducted investigation and remedial measures in 389 cases of discriminatory acts. Of these, the Commission made recommendations on 21 cases for rectification, settled four cases with compromises, and settled 67 cases during the investigation process. The Commission strived to increase public awareness about discrimination through a heavy PR campaign. It distributed materials on discrimination and released reports on recommendations presented by the Commission on major discriminatory acts. It also conducted a survey on the situation of discrimination in employment against persons with dyschromatopsia, an issue of discrimination that remains little known to Korean society. The results of the survey will be used when the Commission handles complaints and prepares recommendations on improvement.



| Section 2 | Major Activities in 2004

1. Handling of Complaints about Discriminatory Acts

In 2004, 389 complaints concerning discriminatory acts were filed with the Commission, which represents a slight increase of 8% from 358 cases filed in 2003. This indicates that the public awareness of discrimination has been improving steadily. As of the end of 2004, a cumulative total of 936 complaints of discriminatory acts had been filed with the Commission, of which 766 cases (81.9%) of the total were settled and closed. The remaining 170 cases are under investigation or review.

Recommendation on changes to systems or for human rights training were made in response to 59 cases, accounting for 7.7% of the 766 complaints settled and closed, as these cases were found to constitute discriminatory acts in violation of equal rights. Nine cases (1.2%) were concluded in amicable compromises between the parties concerned during the investigation. A total of 140 cases (18.3%) were dismissed because the contents of the appertaining petition were false or ill-founded or the contents of the petition did not fall under the scope of matters subject to investigation by the Committee. The vast bulk of complaints, 551 cases (71.9%) were rejected because the contents of the petition did not fall under the scope of matters subject to investigation by the Committee or the complainants withdrew their cases after filing. The number of cases settled during the course of investigation because remedial measures had been made by the parties concerned after persuasion by the investigators has been increasing year after year, from seven cases in 2002, to 16 cases in 2003, and 44 cases in 2004.

Complaints settled in 2004 included cases about employment of Hepatitis B carriers, regulations banning marriage between students, and corporate systems that prevent foreigners without alien resident registration numbers from making phone calls through the internet.

[Table 2-4-1] Complaints of Discriminatory Acts Handled

(Unit: Case, %)

	Filed (case transferred)	Action taken								Under investigation (transferred)
		Sub- total	Recomm- endation	Amicable com- promise	Media- ted	Dismissed	Rejected	Trans- ferred	Investigation suspended	
No. of cases (%)	936	766 (100)	59 (7.7)	9 (1.2)	1 (0.1)	140 (18.3)	551 (71.9)	4 (0.5)	2 (0.3)	170
2002	189	102	8	2	-	18	73	1	-	87
2003	358[87]	212[84]	14[16]	2[1]	-	23 [25]	173[42]	-	-	146[3]
2004	389[149]	238[130]	8[13]	3[1]	-(1)	24[50]	201[62]	2[1]	-[2]	151[19]

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

Figures in [] are cases filed by the end of previous year and transferred to next year.

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

(1) Classification of Discrimination Complaints by Type

a. Discrimination Classified by Type

Since its establishment, the Commission received 936 complaints of discriminatory acts by the end of 2004. Of these, 458 cases were related to employment, accounting for 49% of all discrimination complaints, followed by 125 cases (13%) concerning the supply or use of goods, etc., and 53 cases (6%) concerning use of educational facilities, etc. The year 2004 was no exception from this general trend. Of the 389 complaints filed for the year, cases concerning employment numbered 175, or 45% of the total. A total of 54 cases (14%) concerned the supply or use of goods, etc., and 26 cases (7%) concerned use of educational facilities, etc. This shows that elimination of discrimination in employment is still a matter of great importance that urgently needs to be addressed in Korea.

Of the 175 complaints about discriminatory acts in employment, 51 cases (29%) concerned recruitment, 22 cases (17.5%) pertained to appointments, 18 cases (10%) concerned assignments, and 17 cases (12%) were on dismissals. Of all the complaints concerning the supply or use of goods and services, etc., 40 cases (74%) pertained to discrimination in the



use of goods, ten cases (19%) related to services, and two cases (2%) concerned transportation. A total of 26 complaints were about the use of educational facilities, etc., 24 (92%) of which were about educational facilities. A total of 300 cases did not fall under any of the above said categories and were classified as 'Others', and they accounted for 32.1% of all complaints about discriminatory acts.

[Table 2-4-2] Complaints about Discriminatory Acts Filed by Field

(Unit: Case, %)

		Discrimination in employment (458 cases)											Discrimination in the supply or use of goods, etc (125 cases)					Discrimination in the use of educational facilities, etc. (53 cases)		Other		
		App-oint-ment	Dism-issal	Recru-itement	Wages	Others	Assign-ment of tasks	Pro-motion	Commo-dities other than wages	Retire-ment	Age limit	Train-ing	Goods	Ser-vices	Transpo-rtation	Comm-ercial facili-ties	Land	Resi-dential facili-ties	Educ-ational		Voca-tional	
Filed	Total	936	94	88	78	55	48	33	29	14	12	6	1	99	15	4	4	1	2	45	8	300
	2002	189	18	10	6	17	5	1	9	6	1	0	1	30	3	2	2	0	1	7	3	67
	2003	358	54	61	21	26	9	14	11	4	6	3	0	29	2	0	1	1	0	14	3	99
	2004	389	22	17	51	12	34	18	9	4	5	3	0	40	10	2	1	0	1	24	2	134
	Ratio (%)	100	10.0	9.4	8.3	5.9	5.1	3.5	3.1	1.5	1.3	0.6	0.1	10.7	1.6	0.4	0.4	0.1	0.2	4.8	0.9	32.1
Settled	766	68	81	56	52	27	24	27	14	11	4	1	89	11	2	4	1	2	34	8	250	
Pending	170	26	7	22	3	21	9	2	0	1	2	0	10	4	2	0	0	0	11	0	50	

b. Complaints Filed by Ground

[Table 2-4-3] Complaints Filed by Ground of Discrimination

(Period: Nov. 26, 2001 ~ Dec. 31, 2004 Unit: Case, %)

		Gen-der	Re-ligion	Disa-bility	Age	Social status	Reg-ional origin	Nat-ional origin	Ethnic origin	Fe-atures	Marital status	Pregnancy or delivery	Family status	Race	Skin color	Thought	Criminal record	Sexual orientation	History of diseases	Edu-cational back-ground	Others	
		Filed	Total	936	73	19	105	88	187	13	49	1	12	13	19	7	1	1	11	17	7	33
2002	189		13	6	33	7	48	5	20		2	2		1	1	1	4	7	4	10		25
2003	358		35	5	18	24	75	2	19	1	4	4	15	2			7	3	2	16	28	98
2004	389		25	8	54	57	64	6	10		6	7	4	4			7	1	7	12	12	117
Ratio (%)	100		7.8	2.0	11.2	9.4	20.0	1.4	5.2	0.1	1.3	1.4	2.0	0.7	0.1	0.1	1.2	1.8	0.7	3.5	4.3	25.6
Settled	766	66	15	79	74	158	9	48	1	6	10	16	5	1	1	10	17	6	29	16	199	
Pending	170	7	4	26	14	29	4	1	0	6	3	3	2	0	0	1	0	1	4	24	41	

Of the complaints of discrimination filed with the Commission in 2004, 57 were about age, more than double the 24 such cases filed in 2003. In Korea, age discrimination had been a relatively less serious issue. However, as the Commission raised the issue of age discrimination to the public and the public began to pay increasing attention to retirement age, public awareness about age discrimination naturally rose.

Of all complaints about discrimination the Commission received since its inauguration through December 2004, 11% were about disabilities, the largest percentage. In 2004, the Commission received 54 complaints about discrimination based on disability, accounting for 14% of the total discrimination cases. The fact that the percentage of disability is that high shows that disability discrimination is a chronic problem of Korean society. It is difficult to solve despite the fact that many people recognize it as a serious form of discrimination.

c. Settlement of Complaints by Form of Discrimination

[Table 2-4-4] Settlement of Complaints by Form of Discrimination

(Unit: Case)

Actions taken Form of discrimination	Improvement of systems and human rights education recommended	Compromised settlement
Subtotal (25)	21 (Including 4 cases combined)	4
Social status (9)	Discriminations against substitute teachers (3 cases combined), contract workers, miscellaneous workers, and holders of certificates earned by self-teaching (2 cases combined)	-
Gender (3)	Discrimination against Women's Right to Vote at General Meeting of Seoul YMCA, Discrimination in Determining Grades of Facial Scars, Discrimination in Recruitment of Police Officers	-
Disabilities (5)	Discrimination in Application for Special Screening of Persons with Disabilities, Preparation of supplementary measures for the disabled in tests for public office appointment, Disability in Promotion	Discrimination in the use of educational facilities on the ground of disability (1)
Country of birth (1)	Discrimination against a Foreigner in Reappointment	-
Sexual Orientation (1)	Medical check-up questionnaire about blood donors violated the rights to equality	-
Age (2)	Discrimination in application for teacher appointment test, Discrimination in grades for teachers assigned overseas	Age discrimination in employment(1)
Religion (1)	-	Enforced religious activities at high school (1)
Regional origin (1)	Discrimination against Taxi Drivers with Accident-free Records from other Regions in Issuance of Private Taxi Driver's Licenses	-
Others (2)	Violation of right to equality in excluding an unconvicted prisoner from attending religious meetings	Discrimination in the use of educational facilities on the ground of political opinions (1)



In 2004, the Commission made recommendations in 21 cases for improvements through revision of legal systems and human rights training. Compromises were reached in four cases between the complainants and respondents during investigation and closed. In 44 cases, the conflicts causing the complaints were resolved due to aggressive efforts by the investigators from the Commission.

Looking at complaints for which the Commission recommended improvement in legal systems and human rights education, nine cases concerned social status, five were about disability, three about gender, two about age, and one each about religion, sexual orientation, and country of birth. Most of the nine social status cases were complaints about employment as irregular workers, such as substitute teachers, contract workers, and miscellaneous workers. This shows that discrimination against irregular workers emerged as a new issue in Korea.

Through December 2004, the Commission presented recommendations on improvements to organs cited in a cumulative total of 59 complaints concerning discriminatory acts. Of these, 46 cases (78%) were accepted, and the remaining 13 cases are under consideration.

Four cases were settled by compromises between the complainants and the respondents during investigation. They concerned against discrimination based on age, disability, religion, and political opinion. In these cases, the parties concerned reached compromises and solved the problems amicably and promptly. Settlement by compromise is the most desirable way to solve a problem, and it best serves the objectives of the Commission to handle cases on the behalf of victims quickly and cost-effectively.

In 2004, the Commission engaged in conciliation for the first time. A complaint was filed in December 2003 because there were no toilets or desks for persons with disability available during the government-sponsored scholastic aptitude test for university admissions. The Commission attempted conciliation between the complainant and the superintendent of educational affairs of the City of Daegu three times since April 2004. Through conciliation, it was agreed that persons with disabilities would be permitted to take the tests at the Health School of Daegu University, which has desks and toilets for persons with disabilities.

(2) Major Actions Taken for the Complaints of Discriminatory Acts

Tables below show actions taken by type of discrimination.

[Table 2-4-5] Major Actions Taken for the Complaints of Discriminatory Acts

Violation of Rights to Equality by State Organs to which recommendations were issued

	Case description	Actions taken	Date decided	Results of action
Recomm ended (1 cases)	Discrimination against the unconvicted by exclusion from religious gatherings	Recommended to permit the accused presumed innocent to attend religious assemblies and religious training and take necessary measures to prevent difficulties in the investigation or trial process, such as separating inmates involved in the same case.	2004.1.19.	Accepted

Gender Discrimination for which recommendations were issued (3 cases)

	Case description	Actions taken	Date decided	Results of action
Recomm ended (3 cases)	Discrimination against women's right to vote at general meeting of Seoul YMCA	Recommended that female members also be given the right to vote at the general assembly	2004. 5.10.	Rejected
	Discrimination in determining grades of facial scars	Recommended to make amendment of Article 14 of the Enforcement Decree of the Act on the Support of Persons of Distinguished Services to the State.	2004. 6.21.	Accepted
	Discrimination in recruitment of police officers	Recommended to make revision to the Police Officers Appointment Regulations such that age discrimination based on sex in application qualifications be removed.	2004.10.18.	Accepted

Disability Discrimination for which recommendations were issued and opinions were presented

	Case description	Actions taken	Date decided	Results of action
Recomm ended (3 cases)	Discrimination in the use of educational facilities	Recommended to give persons with disabilities other than visual handicaps, hearing impairments, and physical handicaps opportunities to apply for special screening for special education, under the Special Education Promotion Act.	2004.2.16.	Accepted in part/ Under review
	Discrimination in employment	Recommended that successive acts of discrimination against the complainant in ratings and promotion screening procedures be redressed and that effective rules on prohibition of discrimination against the disabled be prepared, including new guidelines for performance ratings in order to prevent reoccurrence of such discriminatory acts.	2004.11.8.	Accepted



(continued)

	Case description	Actions taken	Date decided	Results of action
Recomm ended (3 cases)	Discrimination in employment	Recommended to take supplementary measures for the disabled applicants with difficulties in writing for public office appointment examination, such as extension of test hours and use of computers.	2004.11.22.	Under review
	Other discriminations based on disability	Opinions expressed that provisions of the Public Officials Election and Prevention of Election Malpractice Act should be revised to make airing of subtitles or sign language for voters with hearing disabilities mandatory instead of optional.	2004.10.25.	Under review

Age Discrimination for which recommendations were issued

	Case description	Actions taken	Date decided	Results of action
Recomm ended (1 cases)	Age discrimination in application for teacher appointment test	Public Educational Officers Appointment Act should be amended as it is in violation of the right to equality to limit the age of applicants for the teacher licensing test to 40 years old or younger.	2004.6.28.	Accepted

Regional, National, or Ethnic Discrimination for which recommendations were issued

	Case description	Actions taken	Date decided	Results of action
Recomm ended (3 cases)	Discrimination against a foreigner in reappointment	Recommended that the president of OO University hold deliberations on renewal of the complainant's position as an assistant professor.	2004.1.12.	Accepted
	Discrimination in issuance of private taxi driver's licenses	Recommended the mayor to revise the applicable regulations such that those with accident - free driving records outside the jurisdiction permitted to apply for private taxi driver's licenses.	2004.10.11.	Under review

Social Status Discrimination for which recommendations were issued

	Case description	Actions taken	Date decided	Results of action
Recomm ended (3 cases)	Discrimination against substitute teachers in employment	pay unpaid compensation for vacations to the complainant. retirement allowances.	2004.3.22.	Rejected
	Violation of the right to equality	Recommended to correct and prevent discriminatory acts against those with past records as irregular workers in calculating pay step for past career records.	2004.5. 3.	Under review

(continued)

	Case description	Actions taken	Date decided	Results of action
Recomm ended (3 cases)	Discrimination in payment of nutritionists employed as miscellaneous posts	Recommended to rectify discriminatory acts against miscellaneous job titled nutritionists working for schools under the jurisdiction of each educational office.	2004.5.24.	Accepted
	Discrimination against government approved license holders	Recommended to revise related rules so that government approved word processor license holders can get additional scores in promotions	2004.6.14.	Accepted
	Discrimination in renewal of teaching assistant	Recommended to revise Teacher Personnel Management Regulations to eliminate discrimination in appointment.	2004.9.6.	Accepted
	Discrimination against university lecturers in calculation of pay step	recommended to revise Local Government Official Compensation Regulations such that some portion of the period worked as a university lecturer should be recognized and factored into the calculation of pay step.	2004.9.20.	Rejected (will be reviewed as long - term project)

Sexual Orientation Discrimination for which recommendations were issued

	Case description	Actions taken	Date decided	Results of action
Recomm ended (3 cases)	Medical checkup questionnaire for blood donors in violation of the right to equality	Recommended to revise the question concerned such that the fact of having sexual contact with a member of the same sex alone should not be interpreted as being infected by AIDS	2004.8.3.	Under review

Other Complaints for which recommendations were issued

	Case description	Actions taken	Date decided	Results of action
Recomm ended (3 cases)	Discrimination in issuance of private taxi driver's license	Recommended to revise regulations on private taxi driver's license so that right to equality will not be violated	2004.4.9.	Under review
	Enforcement Decree of Electric Power Technology Management	Recommended to revise Enforcement Decree of Electric Power Technology Management which does not allow high school graduates to hold special technician qualification.	2004.5.17.	Accepted
	Enforcement Decree of Life - long Education Act	Recommended to revise Enforcement Decree of Life - long Education Act to include two - year degree program.	2004.5.17.	Accepted



(continued)

	Case description	Actions taken	Date decided	Results of action
Recomm ended (3 cases)	Age discrimination by rank and post for teachers to be dispatched overseas	Recommended to revise Attachment 1 of related law	2004.7.26.	Accepted
	Discrimination in issuance of private taxi driver's license	Recommended to revise regulations on private taxi driver's license so that right to equality will not be violated	2004.9.20.	Accepted
	Discrimination in issuance of private taxi driver's license	Recommended to revise regulations on private taxi driver's license so that right to equality will not be violated.	2004.11.22.	Under review

The results of action are as of January 20, 2005.

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

Violations of the right to equality are violations of human rights, which are guaranteed by Article 11 of the Constitution, by state organs, local governments, or detention/protective facilities in the performance of their duties. These are acts of preferential treatment, exclusion, discrimination, or unfavorable treatment of a particular person by administrative organs without any reasonable grounds.

The complainant, who is detained in OO Prison, filed a complaint in August 2003 claiming "It is unjust to prohibit those presumed innocent before proven guilty from attending religious activities within the prison".

The Ministry of Justice and OO Prison justified their actions by arguing (1) those presumed innocent until proven guilty are, unlike the convicted, not subject to rehabilitation; (2) the Criminal Administration Act stipulates that the convicted and those presumed innocent are to be housed separately; (3) if those presumed innocent gather in large numbers within a detention facility to attend a religious gathering, they will have greater opportunities to destroy evidence and accomplices may be difficult to manage; and (4) those presumed innocent must be excluded from such gatherings because of manpower

shortages at the prison and lack of adequate space in facilities.

The Commission decided that “It is in violation of the right to equality to prohibit those presumed innocent from attending religious assemblies while the convicted, whose fundamental rights are restricted, are permitted to attend such meetings”.

The Commission concluded that there were sufficient legal grounds to permit them to attend such gatherings under (1) Paragraph 1, Article 67 of the Criminal Administration Act, which stipulates that the unconvicted may be given tasks or training when they apply, and (2) the rules of the Ministry of Justice as prescribed in the Detainee Religious Life Guidelines and Detainee Church and Welfare Activities Guidelines, which stipulate that the unconvicted are to be allowed to engage in religious activities hosted by religious groups and persons. Accordingly, the Commission made recommendations to the Minister of Justice and Chief of OO Prison to permit the accused presumed innocent to attend religious assemblies and religious training and take necessary measures to prevent difficulties in the investigation or trial process, such as separating inmates involved in the same case.

3. Investigation and Remedies of Gender Discrimination

Discriminatory acts on the basis of gender refer to any act of favorably treating, excluding, differentiating, or unfavorably treating on the basis of gender, both male and female, in every sector of society. Matters subject to prohibition of discrimination on the basis 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 in the form of indirect discrimination.

(1) Discrimination against Women’s Right to Vote at General Meeting of Seoul YMCA

A complaint was filed against the Seoul YMCA (Seoul Young Men’s Christian Association) in January 2003. The complainants demanded that female members also be given the right to vote at the general assembly, which had been denied for the past one



hundred years. When the Seoul YMCA rejected the demand, the complainants filed the complaint with the Commission.

After investigation, the Commission found that (1) the ‘Seoul YMCA Charter’ stipulates to vote in the general assembly, which serves a legislative organ, a member must be ‘a person aged 20 or above who has a full membership in the Christian Association and has participated in the activities of the Seoul YMCA for more than two years’, without any restrictions on gender; and (2) all 43 regional YMCAs throughout Korea except the Seoul branch grant female members the right to vote at the general assembly.

The Commission found that substantial changes have occurred in the one hundred years since the YMCA was established in Seoul, even though the operation of the Seoul YMCA has been dominated by men because women had little involvement in its social activities one hundred years ago. The Commission also found that the claim of the Seoul YMCA that it was established as a men’s organization and it is a men’s society, the ‘Seoul YMCA Charter’, which serves as grounds for prohibiting female members from voting at general assembly, does not restrict any gender to membership to the general assembly, and that all other 42 YMCA regional branches give women the right to vote. The Commission decided that the Seoul YMCA’s prohibition constituted gender discrimination.

(2) Sex Discrimination in Determining Grades of Facial Scars

The complainant filed a petition with the Commission against the Minister of Ministry of Patriots and Veterans Affairs in May 2004. The complainant’s wound incurred during military service was rated ‘Grade 6-2’. His face suffered a cut of ten centimeters, and three of his teeth were broken. However, wounds to female soldiers of the same degree as the complainant are rated ‘Grade 5’ in accordance with the Enforcement Decree of the Act on the Support of Persons of Distinguished Services to the State, making women eligible for higher pensions.

After investigation, the Commission found that the Enforcement Decree of the Act on the Support of Persons of Distinguished Services to the State (Attachment 3 on Classification

of Grades of Wounds relating to Article 14 of the Act) applies different grades to the facial scars of the same severity. According to the rules of the Decree, (1) the same scope of 'severe facial scars' is classified as 'Grade 5-96' for women, but 'Paragraph 2-90 Grade 6' for men; and (2) 'scars on the face' are classified as 'Paragraph 2-90 Grade 6' for women, but 'Grade 7-601' for men.

Regarding the rules, the Ministry of Patriots and Veterans Affairs explained that the Enforcement Decree was formulated as a separate statute in 2000 in consideration of the socially accepted idea that women suffer greater social damage due to scarring than men and in military service as women. The ministry added that it will revise the related regulations on grading wounds after sufficient research, including comparison of similar legal systems in Korea and other countries and a workshop of medical doctors at a military hospital.

The Commission decided that even after allowing for the purpose of the enactment of the law, such criteria for grading was a discriminatory act in violation of the right to equality without reason given that (1) a scar on the face causes pain and damage to both men and women, (2) other laws similar to the Enforcement Decree of the Act on the Support of Persons of Distinguished Services to the State, including the Enforcement Decree of the State Compensation Act, Enforcement Decree of the Industrial Accident Compensation Insurance Act, and Enforcement Decree of the Guarantee of Compensation for Car Accident Injury Act specify 'those with facial scars' without any reference to gender. Accordingly, the Commission recommended amendment of Article 14 of the Enforcement Decree of the Act on the Support of Persons of Distinguished Services to the State.

(3) Gender Discrimination in Recruitment of Police Officers

A complaint was filed with the Commission in October 2003 to the effect that imposing different age limits for application for the police open recruitment test was in violation of the right to equality on grounds of gender. The age limit was 30 years or younger for male



applicants and 27 years or younger for female applicants.

Paragraph 1, Article 39 of the Police Officers Appointment Regulations stipulates the application age limits on the open recruitment test for police officers differently based on gender, from 21 to 30 years old for men and from 18 to 27 years old for women.

The National Police Agency explained, “Men in general go to the army after graduation from high school, so most men can only apply for the open competition recruitment test for police officers at the age of 21 or older. Thus, the age limit from 21 to 30 years olds was set”. On the other hand, the Agency stated that it is reviewing measures to raise the age limit on application to be same for both men and women because the percentage of four-year college graduates among successful applicants older than 25 years is increasing regardless of gender, and in consideration of the view that fewer opportunities are given to women than men as the result of the rule.

The Commission concluded that there were neither legal grounds nor good reasons for the National Police Agency to (1) limit qualification of male applicants to ‘those who finished military service (including those exempted from military service or those to be transferred)’ and (2) to set the application age limit considering the period of military service, despite the fact that related laws including the Police Officer Act and Police Officers Appointment Regulations do not stipulate that the completion of military service be included in the requirements for application for the police open competition recruitment test.

The Commission also concluded in consideration of the facts that (1) a man cannot apply until he reaches the age of 21 whether he finished military service or not, (2) opportunities for women to apply end at the age of 27, three years earlier than men, and (3) the number of four-year college graduate applicants is increasing that the imposition of different age limits on the ground of gender constitutes discrimination and violates the right to equality.

After examination of the case, the Commission presented a recommendation to the

Commissioner-general of the National Police Agency calling for revision to the Police Officers Appointment Regulations such that age discrimination based on sex in application qualifications be removed.

4. Disability Discrimination

Disability discrimination is 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 that serve to disadvantage persons with disabilities or acts of exclusion, discrimination, and unfavorable treatment of persons with disabilities 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) Disability Discrimination in Application for Special Screening of Persons with Disabilities

A complainant filed a petition against OO University and □ □ University, arguing that these universities permitted only those persons with visual handicaps, hearing impairments, and physically handicaps only to apply for special screening for special education, which constitutes discrimination against persons with disabilities other than the above said.

The complainant, whose bipolar disorder was classified as a Grade 2 mental disability, was going to apply for special screening for special education at OO University and □ □ University in 2003. However, the universities refused to receive the application because the complainant did not come under the scope of the disabilities as defined by them.

The investigation revealed that most universities that select students through special



screening for special education allow those with visual handicaps, hearing impairments, and physically handicapped to apply for the screening. Only a few universities receive applications from all those registered as persons with disabilities under the Welfare of Disabled Persons Act without limitation on the specific scope of disabilities and then select according to their own admission standards including the degree of disability.

Although universities are not required by law to conduct special screening for a greater number of students above the legally required quotas, and though authority to select finalists through special screening for students for special education lies with the university concerned, it is the view of the Commission that universities need to (1) make college education available to those who are educationally and socially neglected, upholding the principle of equality and universality, (2) expand facilities for special education as higher educational institutions, (3) expand opportunities for the disabled to receive higher education by offering preferential treatment aggressively, and (4) take leadership in improving public awareness about the disabled.

The Commission decided that to limit the qualifications of application for special screening for special education to those persons with visual handicaps, hearing impairments, and physical handicaps only serves to deprive those with other disabilities including mental disorders, emotional disorders (including autism), language disorders, and learning disorders (prescribed under Article 10 of Special Education Promotion Act) of opportunities to apply for special screening. This therefore constitutes discrimination on the ground of type of disability in the use of educational facilities.

The Commission recommended that OO University and □ □ University also give persons with disabilities other than visual handicaps, hearing impairments, and physical handicaps opportunities to apply for special screening for special education, under the Special Education Promotion Act. The Commission also presented a recommendation to the Minister of Education and Human Resources Development to require universities to rectify the practice of limiting application qualifications to specific types of disabilities during screening for special education.

(2) Discrimination against Disability in Promotion

The complainant filed a case against the president of OO University in February 2004 arguing that he “has been passed over for promotion to Grade 6 for the last 20 years on the grounds that he is disabled since he was appointed a public officer at Grade 9 in 1977”.

The complainant, who is disabled with Grade 3 cerebral palsy, acquired a Grade 2 regular librarian license. He was appointed to the library of OO University as a Grade 9 public officer in 1977. He worked in the reading room and collection room of the library in charge of classification, assortment, and rearrangement of various types of books including Japanese and Chinese books. He was promoted to Grade 7 in 1984. Since then, he has engaged in assortment of Japanese and Chinese books as a Grade 7 public officer.

After investigation, the Commission found that as of March 2004, OO University library had 34 librarians, and 11 of them were Grade 6. It took each six years, eight months to thirteen years to be promoted to Grade 6 from Grade 7. The average period is about nine and one-half years. There are currently 14 Grade 7 librarians. Except for the complainant, the other 13 librarians were promoted to Grade 7 four to ten years ago. The complainant is exceptional in that he is the only one who has not been promoted for 20 years.

The complainant has worked for a very long period of time. He has sufficient language skills in Japanese and Chinese needed for assortment of Japanese and Chinese books. The majority of the complainant’s colleagues at the office evaluate his work capabilities very favorably. The person in charge of determining the efficiency rating of the complainant from 1999 to 2003 could not point out any particular shortcoming in the job performance or capability of the complainant and conceded that the case constituted disability discrimination, stating that the complainant had always been given the lowest grade.

In 1999, the chairman of the Ordinary Promotion Screening Committee asked the director of the library why the complainant had been given such an unusually low grade for his



work experience, and the director gave an evasive answer to the effect that the complainant could not perform the duties of Grade 6 because he was disabled with a 'learning disorder'. In 2000, the complainant was the best candidate for promotion, but the Ordinary Promotion Screening Committee submitted the opinion that the circumstances of the library should be considered, resulting in exclusion of the complainant from promotion. The Commission decided that such acts by committee constituted a direct and huge disadvantage to the complainant in promotion on the grounds of a disability that had none impact on job capability or performance.

The Commission recommended to the President of OO University that successive acts of discrimination against the complainant in ratings and promotion screening procedures be redressed and that effective rules on prohibition of discrimination against the disabled be prepared, including new guidelines for performance ratings in order to prevent reoccurrence of such discriminatory acts.

(3) Discrimination Due to Lack of Sign Language on Election Programs on TV

The representative of the Korea Association of the Deaf filed a petition against the chairpersons of political parties and the Central Election Management Committee in April 2004, arguing that, "Subtitles and sign language were not provided properly during the joint campaign speeches of the 17th General Elections, which constitutes discrimination against the hearing impaired". The Commission expressed opinions to the chairman of the Central Election Management Committee that the provisions of Paragraph 6, Article 70; Paragraph 2, Article 72; and Paragraph 10, Article 82 -2 of the Public Officials Election and Prevention of Election Malpractice Act be revised to make airing of subtitles or sign language for voters with hearing disabilities mandatory instead of optional.

After investigation, the Commission found the following. The Election Act was revised on March 12, 2004. Before the revision, sign language had been required at live joint campaign speech meetings. However, under the revised Election Act of March 12, 2004,

TV debates among candidates began to be held as joint campaign speech meetings. During the 17th General Election, 272 TV debates were aired. Among these, only 205 debates, or 75% of the total, aired subtitles or sign language screens. The other 67 debates did not air subtitles or sign language because of either technical difficulties at the broadcasting company concerned or the debates were joined candidates who were not invited and thus not financially supported.

The Commission upholds that persons with disabilities have rights to participate in all areas of social activity including politics, economics, and socio-culture as full members of the nation and society, if the fundamental idea of welfare for the disabled to guarantee the rights to humane lives and the rights of the disabled is respected.

The Commission concluded that (1) information technology and broadcasting facilities should be improved such that the disabled can access information and express their opinions with ease; (2) it was proper that a sign language screen should be aired for the disabled with hearing difficulties when broadcasting national events; and (3) campaigns of general elections for the National Assembly should provide subtitles or sign language screens when airing campaign-related events so that the disabled with hearing difficulties will have no difficulty exercising their rights to vote. The Committee expressed above said opinions to the speaker of the National Assembly and the chairman of the Central Election Management Committee.

5. Age Discrimination

Age discrimination refers to any act of depriving persons of opportunities or unfavorable treatment on the basis of age. These are acts of unfavorable treatment of a particular person on the basis of age 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 cases about discriminatory acts on the grounds of age and provided remedial measures as follows:



(1) Age Discrimination in Application for Teacher Appointment Test

In May 2003, the complainant filed a petition with the Commission against the Minister of Education and Human Resources Development stating, “It is in violation of the right to equality to limit the age of applicants for the teacher licensing test to 40 years old or younger”.

Article 11-2 of the Education Officials Appointment Act states, “An applicant for open screening (teacher appointment test) under Paragraph 1, Article 11 of the Education Officials Appointment Act should be 40 years old or younger in the year when the first test is to be taken. However, the head of the open screening organ may disregard the age if there are special circumstances, such as an urgent need fill a vacancy or need for a person with career experience in a special field”.

In the process of investigation, the Ministry of Education and Human Resources Development maintained that (1) the limit on the age of applicants was set after considering physical health and ability to master the assigned job; (2) the age limit is necessary to ensure timely advancement and availability teachers; (3) it is necessary to secure teachers who are committed to teaching at younger ages; and (4) a teacher’s performance is greatly improved by long experience in teaching and training. Forming strong relationships with students especially requires long experience; and (5) if there was no limit on age, many applicants would spend years taking the teachers appointment test repeatedly, which would be an inefficient use of national labor resources. The Commission also found that (6) the age limit was set at 40 after considering the age limit for applicants for state examinations for ordinary public officers and that the retirement age for teachers was 62; but (7) the law stipulated that the age limit might be disregarded in special circumstances. Accordingly, the minister said that the age limit was not in violation of the right to equality.

The Commission concluded that (1) to consider only those under 40 years as having the physical strength needed to perform duties as teachers is nonsensical; (2) the capability of a teacher should already be proved through teachers licensing procedures and the teachers

appointment screening test, rather than on the basis of age; and (3) ensuring timely advancement and adequate availability of teachers can hardly be seen as rational as to exclude those who are above a certain age.

The Commission issued a recommendation to the Minister of Education and Human Resources Development to the effect that Article 11-2 of the Public Educational Officers Appointment Act be amended as it violated the rights to equality provided by Article 11 of the Constitution, given all the reasons as follows: (1) Teachers are in charge of the special profession called education. The duties, social status, and characteristics of the organization of teachers are different from other types of public officials including ordinary public officials. (2) Those who already acquired teachers' licenses can apply for the Teachers Appointment Test. Cultivation and appointment procedures for teachers are special. (3) Those who acquired teachers' licenses at age of 40 or older have many years ahead to work as teachers, and if they have the will and capability to work as teachers, they should be guaranteed opportunities to take the test. (4) Although Article 11-2 of the Educational Officers Appointment Act stipulates that the age limit be extended in special circumstances, this proviso applies to the appointment test for elementary school teachers in certain regions where there are often shortages of teachers, which means that the 40-year age limit applies in reality. (5) In other countries including the US and UK, there is no such age limit on hiring of teachers.

(2) Age Discrimination in Grades for Teachers Assigned Overseas

In January 2003, the complainant filed a petition against the Minister of Education and Human Resources Development in March 2004, claiming that, "It is in violation of the right to equality to impose age limits on public educational officers to be assigned overseas; 58 years old or younger for principals, 56 years old or younger for vice-principals, and 46 years or younger for ordinary teachers". The Commission concluded that Subparagraph 3, Paragraph 1, Article 2 of the Rules on Personnel Administration of Educational Public Officials to be Assigned Overseas revised on June 27, 2003, which stipulates age requirements for qualification of educational public officials to be assigned overseas at 58 years old or younger for principals, 56 years old or younger for vice-



principals, and 46 years or younger for ordinary teachers is in violation of the rights to equality without reasonable grounds. The Commission recommended that the Minister of Education and Human Resources Development revise the law.

During the investigation, the minister maintained that it was reasonable to impose age limits by rank when assigning public educational officials overseas because (1) Parents and students of Korean schools overseas want young teachers; (2) teachers who are exemplary and active in every respect need to be assigned; (3) principals are generally older than teachers; and (4) the assignment of older teachers is more costly due to their higher salaries. Lifting the age limits could, therefore, compromise the quality of education.

The statistics submitted by the Ministry of Education and Human Resources Development militate against the minister's view. They reveal that (1) when asked about the age of teachers, 25% of parents and students of Korean schools overseas declared that 'Age does not matter'. In fact, 41% of parents of 9th to 12th graders answered that they wanted teachers aged between 41 and 50 because they have more experience. Thus, the assertion of the ministry that younger teachers were wanted was not persuasive. (2) The ministry intends to ensure the high quality of education by selecting exemplary and active teachers. This cannot be achieved by imposing age limits. (3) Although salaries paid increase as years of service accumulate, when all factors such as dependent allowances and assistance for tuition of children are taken into account, the assertion of the ministry that the total number of teachers assigned overseas must be reduced if age limits are removed, which in turn, should lead to lead to lower quality of education, was found to be groundless. Taking all factors into consideration, the Commission recommended that the Minister of Education and Human Resources Development revise the Attached Table 1 of Subparagraph 3, Paragraph 1, Article 2 of the Rules on Personnel Administration of Public Educational Officials to be Assigned Overseas.

6. Social Status Discrimination

Social status refers to the long-term recognition of a distinct group of people 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 in the Payment of Compensation for Vacations and Retirement Allowances

Three complainants filed a petition against the principals of their respective schools, the Gyeonggi-do Provincial Office of Education, and the Minister of Education and Human Resources Development, arguing “It is discriminatory to not pay compensation for vacations and retirement allowances on grounds that we are substitute teachers”. One of the complainants, who worked as a substitute health teacher at OO Middle School in Yangju-gun, Gyeonggi-do Province, was not paid compensation during vacations. The school argued that it did not pay compensation during vacations because substitute teachers need not come to school to work as no students came to school during vacations. However, the Commission decided that vacations for a substitute health teacher were important for rest and preparation for the next semester by such means as researching teaching materials, which is the case for regular health teachers. The Commission recognized that the school’s actions against the complainant constituted discrimination without reasonable grounds. The Commission recommended that the principal of OO Middle School pay unpaid compensation for vacations to the complainant.

The other two complainants are substitute teachers at OO Elementary School in Goyang-si and OO High School in Gunpo-si, respectively. They filed a petition stating that the schools set the contract terms of service from March 2, 2002 to February 28, 2003, just one day short of a full year in order to avoid having to pay the legally required retirement allowance. The Commission recommended that the principal of the two schools pay retirement allowances.

The school insisted that they did not pay retirement allowances because the terms of



service were less than full one year as prescribed by Article 34 of the Labor Standards Act. However, the Commission found that, in cases where contracted terms of service did not exceed full one year in form, if the period excluded from the contract was the first day of new school semester, it should be deemed that labor continued practically without interruption. Accordingly, the Commission recommended payment of the retirement allowance.

Previously in March 2003, the Commission recommended that the principal of the school concerned, the commissioner of the Office of Education concerned, and the Minister of Education and Human Resources Development revise the applicable administrative rules and regulations including the Substitute Teacher Management Guidelines in recognition that the failures to pay the substitute teachers less favorably than regular teachers constituted a discriminatory act in violation of the right to equality. In response, the Ministry of Education and Human Resources Development revised the Substitute Teacher Management Guidelines, under which discriminatory practices and rules against substitute teachers were corrected considerably.

(2) Discrimination against Irregular Workers in Calculation of Pay Step

In January 2003, the complainant filed a petition, claiming that he was treated unfavorably in calculating pay step because his previous working record on contract for a five-month and six-month period at OO Construction Company was not included under the regulations of the Seoul Subway Corporation, according to which the career record of regular work is recognized in calculation of pay step.

Seoul Subway Corporation responded that it excluded the complainant's past record as an irregular worker before joining the Seoul Subway Corporation according to the Work Record Pay Step Standards, which had been established by agreement between labor and the management at the meeting of the Work Record Deliberation Committee in August 1988. The corporation maintained that to establish objective standards for irregular workers was difficult because the scope of irregular workers, such as contractors, was too broad.

After investigation, the Commission concluded that the case constituted a discriminatory act in violation of the right to equality on grounds of social status. Refusal to include past career record for the only reason that the post was irregular was an act of unfavorable treatment in light of the fact that 70% of past work records in regular work (at a company with 200 or more employees or a listed company) before joining the Seoul Subway Corporation are included regardless of whether or not past work is in the same job category as the current one at the Seoul Subway Corporation.

Although the Corporation argued that it had difficulty establishing objective standards for calculating past career record to be included in pay step due to an overly broad scope of irregular work and that it was general industry practice to recognize only regular work records as part of career records before joining the company, the Commission decided that treating a person with a record of irregular work less favorably than the others with past records as regular workers when both worked the same type of job constituted discrimination without just cause. The Commission recommended that the president of Seoul Subway Corporation correct and prevent discriminatory acts against those with past records as irregular workers in calculating pay step for past career records.

(3) Discrimination in Payment of Nutritionists Employed as Miscellaneous Posts

In May 2003 the Commission received a petition stating “The rights to equality of nutritionists in miscellaneous posts at schools in Gyeonggi-do Province are being violated”.

After investigation, the Commission found that nutritionists employed in miscellaneous posts experienced discrimination as follows: (1) Both public food sanitation officials and nutritionists assigned to miscellaneous posts at schools possess nutritionist’s licenses prescribed by the Food Sanitation Act; (2) Article 7 of the School Meals Act and the Article 35 of Food Sanitation Act, which require each school to employ nutritionists, do not differentiate between a public food sanitation official and a nutritionist; and (3) the basic duties of the two are the same as prescribed under Paragraph 4, Article 5 of the School



Meals Act, although there is a division of duties depending on the size of each school. Despite these facts, the annual salary of a first year nutritionist employed in a miscellaneous post was only 10 million won, which is 60% of the first year public nutritionist officers' salary employed as a Grade 9 public official. It was also found that although they worked in the same working environments, nutritionists of miscellaneous positions were not paid during school vacations by excluding vacations from labor contract terms. Vacations were also excluded from the period subject to retirement allowance for nutritionists of miscellaneous positions.

The respondent, Gyeonggi-do Provincial Office of Education, argued that (1) Public food sanitation officials were appointed through the public officials appointment test after acquiring nutritionist's licenses; (2) the duties of public food sanitation officials and nutritionists of miscellaneous positions were the same as employees in exclusive charge of school meals; but (3) there were differences between the two in handling affairs to promote better operation of the school meal system and other tasks.

The Commission concluded that (1) regulations such as the School Meals Act, the legal grounds for requiring that a nutritionist be maintained at each school, do not stipulate any differences between the two, and (2) the duties of public food sanitation officers and miscellaneous job titled nutritionists were all the same. The Commission found that (1) miscellaneous job titled nutritionists received substantially lower salaries than nutritionists appointed by public food sanitation officials and (2) that vacation pay was not granted in the labor contract. Recognizing such acts were in violation of equal rights guaranteed by Article 11 of the Constitution, the Commission recommended that the superintendent of Gyeonggi-do Provincial Office of Education take corrective action as necessary.

The Commission also decided that the problem was not only limited to the Gyeonggi-do Provincial Office of Education but also to all other municipal and provincial educational offices. Thus, it recommended that the Ministry of Education and Human Resources Development, the competent institution, rectify discriminatory acts against miscellaneous job titled nutritionists working for schools under the jurisdiction of each educational office.

(4) Discrimination against University Lecturers in Calculation of Pay Step of Public Research Officials

In June 2004, a 38-year-old complainant filed the petition stating that he was paid below the poverty line because his past career record as a university lecturer was not included when he was appointed as a public research official at the Culture and Art Division of OO City in January 2003. His pay step was set at almost the same level as that for a worker with a starting salary at a first job.

Article 8 of the Local Government Official Compensation Regulations on new appointment of public officials stipulates that (1) the initial pay step should be set according to the pay step table provided for in Attachment 1 of the Local Government Official Compensation Regulations; (2) the pay step of public research officials who had career records should be the number of years calculated according to the standards in Attachment 3 plus one; and (3) Attachment 3, the 'Conversion Rate of Past Career of Research Public Officials' stipulates that the career records of regular/temporary/substitute teachers but not university lecturers be included in calculating the pay step.

The complainant taught four to six hours a week at Gosin University for two years and six months from September 1999 to February 2002, and three hours a week at Gyeongbuk University for four years from March 1998 to March 2002. However, his record of career as a lecturer was not included in calculating the pay step in accordance with the Local Government Official Compensation Regulations. On the other hand, when a university lecturer is appointed as a public educational official, 50% to 100% of his/her record as a lecturer is added according to the weekly hours lectured, in accordance with Public Official Compensation Regulations.

The Minister of Government Administration and Home Affairs argued that (1) the university lecturers are not subject to the Local Government Official Compensation Regulations, and (2) the decision as to whether to recognize university lecturers as other workers should be considered from a long-term perspective relating to the inclusion of past records of irregular work.



The Commission noted that (1) both public research officials and university lecturers are required to conduct research continually, and (2) when a person has career a record in similar area, the record of work as a teacher, substitute teacher, or temporary teacher at either a public or a private school is included in the calculation of the pay step. In contrast, a university lecturer record is excluded from the pay step calculation for the only reason of its not being full-time work. The Commission concluded that this was a discriminatory act on grounds of social status.

The Commission recommended that the Minister of Government Administration and Home Affairs revise Attachment 3, ‘Conversion Rate of Past Career of Research Public Officials’ of the Local Government Official Compensation Regulations such that some portion of the period worked as a university lecturer should be recognized and factored into the calculation of pay step.

7. Investigation and Remedies for Discriminatory Acts on the Grounds of National Origin

Discrimination due to national origin refers to acts of discrimination because the victim came from another country or was raised in another country. This refers to cases where those such as foreign laborers and foreign professors face discrimination by reason 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 illegal 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. Below are two cases the Commission handled regarding discrimination against foreigners.

(1) Discrimination against a Foreigner in Reappointment

The complainant filed a petition in January 2003 when he was fired by OO University. The complainant was appointed as a full-time lecturer at OO University when he confirmed

the same duties as other full-time professors of the department concerned. He was promoted as a full-time assistant professor through the same procedures as Korean professors. He filed the petition when the university released him without considering the renewal of his assistant professorship.

After investigation, the Commission found that the complainant was renewed twice as a full-time lecturer after he was first appointed as a full-time lecturer in 1999. On April 1, 2002, he was promoted as an assistant professor through the same screening procedures as Korean professors. In his performance evaluation, he received a score of 795, far better than the minimum requirement of 300. However, the university notified the complainant of dismissal from the employment for the reason of ‘expiration of contract’ on the grounds of Paragraph 3, Article 11 of university regulations on personnel affairs of its teaching staff, which stipulates ‘When appointing a foreigner to full-time teaching staff, the term may be non-tenured, meaning an irregular position. The contract term shall be two years’. The one assistant professorship, which previously had been held by the complainant, was filled by two other professors one visiting professor and one adjunct professor.

The university explained that (1) appointment of a foreigner to a full-time professorship can be on a contract-basis according to the regulations on personnel affairs of teaching staff; (2) the one assistant professor was replaced with one adjunct professor and one visiting professor in accordance with the long-term development plan of the Department of Regional Studies on China; and (3) the long-term development plan was finalized through confirmation procedures of the Professor Personnel Committee.

The Commission, however, noted that (1) the regulations on personnel affairs of teaching staff of the university stipulated that ‘the posts of teaching staff shall be professor, associate professor, assistant professor, and full-time lecturer’, and that (2) separately from the preceding provision on full-time teaching staff, the regulations provided for categorization of non-tenure teaching staff into professor emeritus, guest professor, adjunct professor, research professor, visiting professor (exclusively for teaching), and emeritus professor.



Under the above said classification, the university had appointed the complainant as a full-time lecturer. If he was a member of the full-time teaching staff, he should be subject to renewal under the Private School Act and teaching staff personnel affairs regulations of the university. Nevertheless, the university dismissed the complainant, a member of the full-time teaching staff, on the grounds of ‘expiration of contract’ without implementing the renewal deliberation procedures due to the long-term development plan of the Department of Regional Studies on China. The Commission concluded that such act by the university violated the right to equality.

The Commission also concluded that Paragraph 3, Article 11 of the regulations on personnel affairs of the teaching staff of OO University may promote discrimination against foreigners as they stipulate that the term may be a non-tenure contract only when appointing a foreigner to full-time teaching staff, without providing for separate detailed provisions on the duties and obligations of foreign and domestic teaching staff. In relation to this case, OO University deleted the provisions above said. The Commission concluded, “It is without reasonable ground to dismiss the complainant by applying provisions voluntarily deleted by the university”. The Commission recommended that the president of OO University hold deliberations on renewal of the complainant’s position as an assistant professor.

(2) Discrimination against Taxi Drivers with Accident-free Records from other Regions in Issuance of Private Taxi Driver’s Licenses

The complainant had worked as a taxi driver for 14 years in Daegu before he moved to Gyeongju in January 2002. After two years, the complainant applied for a private taxi driver’s license, but he was rejected as the related rules had been revised in September 2003 such that only those who had accident-free records in Gyeongju could be qualified for private taxi driver’s licenses in Gyeongju. The complaint was filed with the Commission in April 2004.

The Gyeongju Municipal Government argued that (1) the Enforcement Rule of the

Passenger Transport Business Act stipulates that the requirements for issuance of licenses or priority cannot be established separately from the Act; (2) in 2002, when a person who had a taxi driving record only in areas other than the City of Gyeongju-si applied for a private taxi driver's license in Gyeongju-si, there was resistance from applicants with taxi driving records on the wait-list for private taxi driver's licenses; (3) in response to such resistance, Gyeongju city government referred to results of a commissioned research project on efficient operation of the taxi system in the City of Gyeongju-si; and also (4) referred to precedents in other cities which put less priority on driving history in other regions in issuance of private taxi driver's licenses before it revised the applicable regulations.

After investigation, the Commission found that (1) the complainant had a taxi driving record of 14 years outside Gyeongju, and two or three months inside Gyeongju; (2) in 2003, Gyeongju Municipal Government revised wording in the applicable laws on priority candidates for private taxi transport business licenses from 'those taxi drivers with records of no accidents for the last eleven years or more' to 'those tax drivers with records of no accidents for the last eleven years or more within Gyeongju'. Accordingly, the complainant was excluded from applying for a private taxi driver's license. The Commission also found that (3) those priority candidates who had actually been issued private taxi driver's licenses under the Gyeongju-si Private Taxi Transport Business License Handling Procedures for the last three years numbered 15 persons in 2001, 15 persons in 2002, and 17 persons in 2003; and (4) of all those who were issued private taxi driver's licenses in Gyeongju-si, those who were issued licenses in recognition of taxi driving records outside Gyeongju number only one in 2000 and one in 2001 (two in total).

The Commission concluded, (1) although applicable laws state that the office of jurisdiction may decide priorities in issuance of licenses, this constitutes establishment of standards and revision according to priorities set by the applicable laws; (2) Gyeongju-si revised the applicable rules such that records of no-accidents outside Gyeongju, which previously recognized 100%, would not be recognized. This is beyond authority invested by state law. The Commission furthermore concluded that (3) actually, only two taxi drivers, one in 2000 and the other in 2001, were issued private taxi driver's licenses in recognition of records of no-accidents outside Gyeongju; and (4) there already are regulations that



require that applicants must live in Gyeongju-si more than two years or have to drive taxis in Gyeongju-si for more than three years before applying for private taxi transportation business licenses. The Commission decided that these existing regulations effectively restricted applications for private taxi driver's licenses by those with driving records outside Gyeongju.

The findings of the above mentioned commissioned research showed that in giving priority to private taxi licenses, more local governments recognize driving records outside their jurisdictions than those which do not. The Commission concluded that refusal to recognize accident-free driving records outside Gyeongju quoting the results of commissioned research despite the fact that there was no mention of driving records within Gyeongju in deciding priority of issuing private taxi driver's licenses, was without reasonable grounds. The Commission recommended that the mayor of Gyeongju-si revise the applicable regulations such that those with accident-free driving records outside Gyeongju may be permitted to apply for private taxi driver's licenses.

8. Investigation and Remedies for Discrimination on the Grounds of Sexual Orientation

Sexual orientation, unlike sexual identity, is an already existing inclination of an 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 involves a person's sexual and emotional interest 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.

The Lesbian and Gay Human Rights Federation filed a petition against the Minister of Health and Welfare, arguing, "The statement, 'he/she had sexual contact with a person of the same sex or unspecified sex' in the medical checkup questionnaire that must be filled out before blood donations is in violation of the right to equality on the grounds of sexual orientation".

After investigation, the Commission found that Paragraph 1-a, Article 12 of the Enforcement Regulations of the Blood Management Act stipulates “A medical doctor or a nurse should perform the medical checkup questionnaire before collecting blood and fill out a blood donation record provided for by Attachment No. 5 of the Act”. Item 15 of the medical checkup questionnaire in the blood donation record card asks if, ‘He/she had sexual contact with a person of the same sex or unspecified sex’. If the answer is ‘yes’, blood donation is not permitted.

The Minister of Health and Welfare explained that the medical check-up questionnaire was conducted to prevent contamination of the blood supply. The major contents of the medical check-up questionnaire were about the health of the blood donor including whether he/she had any infectious diseases such as infectious hepatitis, syphilis, AIDS, malaria, mad cow disease, etc. The ministry continued that (1) it was important to exclude blood donations beforehand from those who might have contracted infectious and other high-risk persons including those with HIV during the window period during which infection cannot be detected by current blood test methods; and (2) the medical check-up questionnaire was intended to eliminate the possibility of blood donation by a person with HIV. However, the ministry responded that because the question might lead to faulty interpretation that sexual contact with the same sex alone could cause infection by AIDS, the ministry would consider the wording of the question when revising the Enforcement Rules of the Blood Management Act in the future.

The Commission concluded that (1) the possibility of transmission of AIDS does not depend on the sex of the other person with whom sexual contact has been made; (2) AIDS is transmitted when a person engages in high-risk sexual practices with an AIDS carrier; and (3) simple sexual contact with a member of the same sex does not cause infection by AIDS.

The Commission decided that the medical check-up questionnaire (1) excluded homosexuals who had no possibility of AIDS infection from donating blood; (2) reinforced the incorrect perception that homosexuality is the cause of AIDS; (3) such faulty perception hinders the prevention of AIDS; and (4) as the possibility of being infected through sexual



contact among women was extremely low, in other countries including the US, Canada, UK and Japan, only men are asked about sexual contact with the same sex. Given all these facts, the Commission decided that the question violated the rights to equality under Article 11 of the Constitution on the grounds of sexual orientation.

The Commission recommended that the Minister of Health and Welfare revise the question concerned such that the fact of having sexual contact with a member of the same sex alone should not be interpreted as being infected by AIDS, and to minimize questioning to men as to whether or not they had sexual contact with persons of the same sex.

9. Other Complaints Filed and Handled

Other complaints involved cases that did not fall under the category of human rights violations or discriminatory acts at the time of filing with the Human Rights Counseling Center. These other complaints fall under seven categories: infringements of private individuals, revisions of laws and systems, judicial legislation, property rights, corporations, other organizations, and others.

As [Table 2-4-6] shows, 1,339 other complaints were filed, of which 1,258 cases were closed. Of these 1,258 cases closed, 15 cases (1.1%) were closed with recommendations, and 59 cases (4.5%) were dismissed. A total of 1,181 cases (88.2%) were rejected.

[Table 2-4-6] Treatment of Complaints Classified as Others

(Period: Nov.26, 2001~ Dec.31, 2004)

	Complaints filed (transferred from 2003)	Type of settlement					Investigation underway
		Subtotal	Recommended	Dismissed	Rejected	Transferred	
Sub - total	1,339	1,258	15	59	1,181	3	81
Ratio (%)	100.0	94.0	1.1	4.5	88.2	0.2	6.0
2002	571	389	2	6	381	-	182
2003	416(182)	293(71)	2(1)	10(10)	281(60)	-	123(111)
2004	352(234)	282(223)	1(9)	10(23)	268(191)	3	70(11)

Figurers in [] are cases filed by the end of previous year and transferred to next year.

| Section 3 | Evaluation

In 2004, more complaints about discrimination in employment were filed than during any other year before. Complaints about discrimination in employment on various grounds, including gender, national origin, and age were made.

The Commission remedied victims' cases by making recommendations, and rectified discriminatory practices and legal systems. It set new precedents in Korea, realizing equality of opportunity by ensuring equal opportunities in employment.

Of the 18 types of discrimination specified in the Commission Act, most complaints about discrimination concerned social status. Of these social status-related complaints, those relating to irregular work, such as 'substitute teachers', 'past record of irregular work not being recognized', and 'lower wages for temporary nutritionists' accounted for the largest portion. Social status refers to the position a person has held for a long period of time in society. Social status can be seen to include certain recognition or prestige in society. The Commission saw the irregular worker problem as discrimination on the grounds of social status and took remedial measures as necessary. By doing so, the Commission furthered the objectives of human rights protection and promotion for social minorities.

The number of cases settled and closed by compromises among the parties concerned at the urging of the Commission during investigations increased. Good examples of cases closed by compromises involved 'violations of the rights to equality, including prohibitions of the political activities of students under school rules', 'discrimination in the use of educational facilities on the grounds of religion', 'age discrimination in applying to become a superintendent of a child care center and restriction on retirement age', and 'sexual harassment of a student with disability at OO University'. Helping the complainant and respondent reach agreement by compromise fully serves the founding objectives the Commission to relieve a victim promptly and at low cost.

Having found that the check-up questionnaire to be done before blood donations included



a question that might be misinterpreted such that sexual contact with the same sex was a direct cause of AIDS infection, the Commission recommended that the Minister of Health and Welfare revise the questionnaire. Few complaints about discrimination on the grounds of sexual orientation have been filed with the Commission so far. For this reason, the questionnaire case is important in that it has raised public awareness of the need to protect homosexuals from discrimination, while rectifying prejudices and misunderstandings of society towards them.

It should be noted, however, that because the Commission was focused on handling complaints, it could not spend sufficient time and energy on planning how to correct discriminatory acts and on investigations and remedial measures for discriminatory acts.

Being an institution responsible for eliminating discrimination, the Commission should formulate standards for types and judgments of discriminatory acts and perform investigations of and remedies for discriminatory acts that are practiced customarily in society.



Human Rights Education and Public Relations

| Section 1 | Overview

The United Nations has emphasized the obligations of central government to provide education on human rights to its population. Human rights education should be provided by all means in order to create a new society that guarantees universal human rights for all its citizens. Since the Commission was launched, it has strived to provide human rights education and promote human rights to raise public awareness of their importance and prevent human rights violations and discrimination in society.

The Commission has developed human resources and the physical infrastructure for human rights education. It has engaged in consultations with the Ministry of Education and Human Resources Development, Ministry of Justice, and the National Police Agency on the inclusion of human rights in the curricula of schools and in public officials' educational and training programs.

The Commission included human rights education in the NAP guideline in 2004 specifically to increase public awareness of the need for human rights education and the social infrastructure. The Commission prepared recommendations for human rights education plans for five years for the 2007-2012 period. It is now building a permanent infrastructure for human rights education, including the development of contents for a cyber human rights educational system.

In order to promote human rights education at schools, the Commission developed teaching materials, operated a human rights education research school, held open competitions on success cases of human rights education in practice and literature essays, and provided training for teachers. It also helped establish a foundation for human rights education at public agencies and in civic society through development and research of educational



materials to be used for training of instructors specialized in human rights and training to prevent discrimination at corporations.

| Section 2 | Major Activities in 2004

1. Building a Permanent Infrastructure for Human Rights Education

(1) Preparation of NAP guideline Recommendations for Human Rights

In its resolution of the ‘United Nations Decade for Human Rights Education, 1995-2004’, the United Nations recommended that countries around the world formulate and implement specific plans of action to guarantee universal human rights. In response, the Commission promoted NAP guideline(National Plan of Action) for human rights education. In 2003, it conducted a survey on human rights education and studied policy tasks. It continued the efforts in 2004 and prepared a recommendation proposal for the master plan for human rights education.

The Commission held eight meetings of the NAP guideline Human Rights Education Subcommittee, and the Subcommittee determined the tasks that should be given policy priority in the area of human rights education as follows: four tasks for schools, including one on improving the contents of human rights education; four tasks for public agencies, including one for improving human rights education for human rights trainer candidates; four tasks for civic society, including one to improve human rights education and public relations for the general public; and establishment of a cooperative system among the government, NGOs, and academia in order to build the infrastructure for human rights education.

(2) Development of Contents for On-line Human Rights Education

The Commission established and has developed the contents for the on-line human rights education system (<http://humanrights.go.kr>). The system is accessible by anyone or entity,

anytime, anywhere, be it a school, workplace, or home to learn about human rights. The on-line human rights education system includes the Human Rights Learning Site (teaching-learning), Human Rights Knowledge Site (provision of information), and Human Rights Experience Site (enhancement of human rights perception).

The teaching-learning contents of the Human Rights Learning Site are for public officials in administration affairs and teachers, and they include ‘Understanding of Human Rights’, ‘Administration and Human Rights’, ‘Understanding of Human Rights of Children and Juvenile’, and ‘Understanding of Social Minorities’. Each course offered on this site is in an experience-yourself format and includes presentations of cases, discussions of issues through multi-media learning material, and exercises on fact-finding and applying principles to actual situations. Such training is intended to translate learning into effective action.

The contents of the Human Rights Knowledge Site have been developed based on the findings of the human rights survey, educational materials, and policy materials. The Human Rights Experience Site includes a cyber photo and comic gallery on human rights.

The on-line human rights educational system will soon be opened to the public after adequate human resources are made available and the system is thoroughly tested and improved.

2. Promotion of Human Rights Education at Schools

(1) Development and Utilization of Educational Material

The Commission conducted ‘Research on the Development of Human Rights Curricula for Kindergarten, Elementary, Middle, and High Schools’ in 2003 to integrate human rights education into the formal educational system. In 2004, the Commission published ‘Understanding of Human Rights Education at Schools for Teachers’ and ‘Human Rights Education Glossaries for Teachers’. These materials are intended to help teachers teach human rights more effectively to students at various grade levels and in consideration of the curricula of schools.



These books were distributed to schools nationwide in 2004. The books have helped teachers better understand the basics of human rights education and have been used by teachers effectively in human rights classes. In December, the Commission held a workshop, 'Understanding of Human Rights Education for Teachers' with the participation of school commissioners and research fellows of provincial education offices and teacher training centers.

In an effort to develop human rights education programs to promote human rights education at schools, the Commission conducted a contracted research project for the development of human rights education program for elementary schools. The human rights education program for elementary schools has been developed in consideration of the level and characteristics of class operations of each elementary school. Different program manuals, guidebooks for teachers, and workbooks for students were developed specifically for lower and higher grades. The program developed in 2004 will be produced in books and CDs and in libraries of websites of related agencies in 2005 so that teachers can use the program any time when needed for human rights education.

The Commission has published comics on the subject of the human rights of social minorities since 2002. The Commission has been developing an educational manual based on the comic books so that they can be used as human rights education material.

In 2004, the Commission published Blusia's Game of 'Scissors-Rock-Paper', a story about prejudices and discrimination against migrant workers, and 'We Are All Equal Regardless of Skin Color', a guidebook for education.

The storybook contains cartoons that make human rights more accessible to children. The book was distributed to elementary schools free of charge so that it could be used as supplementary material to human rights texts. Blusia's Game of 'Scissors-Rock-Paper' has five stories.

[Table 2-5-1] Blusia & Game of Scissors-Rock-Paper '

Title of story	Contents	Author
Bandubi	Friendship between a child of a migrant worker from Bangladesh and Korean children	Kim Jung - mi
A Very Special Day	The attitudes of Koreans toward foreign workers seen in the eyes of a Mongol child	Park Gwan - hui
Eating Meal Alone	Story about a family of a migrant worker living in fear and loneliness in 'Illegality'	Park Sang - ryul
Ma, Mommy, Eomma	Conflicts and reconciliation between Suyeon's family with a Vietnamese mother and her neighbors	Ahn Mi - ran
Blusia's Game of 'Scissors - Rock - Paper'	Story of an aunt who worked as a nurse in Germany in the 1960s and the dream of Indonesian workers in the neighborhood	Lee Sang - rak

(2) Operation of Human Rights Education Research School and Training of Teachers

With support from the Ministry of Education and Human Resources Development, the Commission offered human rights education at five elementary schools nationwide in a pilot project to develop human rights education for children. The term of the project is two years at each school.

The five elementary schools designated are Daepyeong in Busan; Songdo in Incheon; Ori in Seongnam, Gyeonggi-do Province; Ssangyong in Cheonan, Chungcheongnam-do Province; and Euryeong in Euryeong, Gyeongsangnam-do Province. Each elementary school receives eight million won per year in support from the relevant educational office, educational materials on human rights education, and training for teachers and parents of students. The Commission has made efforts to develop human rights educational programs for regular classes and extracurricular activities at elementary schools. It has also provided diverse human rights education programs for schools, households, and local communities with focus on first-hand experience and practice, while making efforts to create an environment in schools respectful of human rights.

When the project at the five schools listed above expires in December 2005, the Commission will evaluate the results. Documentation on success cases will be distributed to other elementary schools. The Commission expects this system to provide further momentum



to promote human rights education and institutionalize human rights at schools.

The Commission conducted training for teachers to prepare for expansion of the human rights education program at schools. The Commission helped increase teachers' knowledge and awareness of human rights and improve human rights educators' capabilities by providing training on the concept and principles of human rights education and techniques of participatory human rights education. This curriculum was commissioned to the Korea National Open University. After the completion of the program, the participants organized human rights meetings of elementary and middle school teachers.

[Table 2-5-2] Human Rights Education for Elementary/Middle/High School Teachers

Session	School	No. of teachers	Period	Major programs
1 st	Elementary school	34	2004.10.8.~10.10.	The history of human rights education and why it is needed Human rights education in other countries
2 nd	Middle/High school	30	2004.10.15~10.17.	Human rights pedagogy Human rights violations and handling Human rights education in schools Human rights field trip

The Commission held consultations with the Ministry of Education and Human Resources Development on the inclusion of human rights education in the training program for teachers. It was eventually decided that part of the training for teachers would include a unit on 'Effective Teaching in Human Rights Education'. In its efforts to promote awareness of human rights at universities, the Commission also conducted a survey on human rights education at universities and made requests to them to begin offering human rights classes.

(3) Human Rights Education Essay Contest

The Commission has held the Open Competition of Human Rights Education and Literature Essays on Human Rights since 2003. The Open Competition of Human Rights Education is designed to create an environment conducive to human rights education at elementary schools by awarding outstanding teachers in human rights education. Success cases in human rights education in which publications by the Commission or educational

programs independently developed at schools were used in extracurricular classes or reading classes may be entered into the competition, and outstanding cases are selected for awards.

The Open Competition of Literature and Art on Human Rights is held to raise the human rights awareness of children and ordinary citizens. Entrants are invited to enter poetry, impressions of books, catchwords, paintings, and flash movie into the competition, and outstanding works are selected for awards.

The Commission published and distributed the book ‘Human Rights Education in Action’, a collection of award-winning cases of the Open Competition of Human Rights Education as a follow-up to the competition. The award winning essays of the Open Competition of Literature and Art on Human Rights will be published on the website of human rights education. In 2004, 434 essays were entered into the competition. The award winning essays are as follows:

[Table 2-5-3] First Prize Winners

Model case of human rights education	Human rights literature and art
Kim sol (Teacher, Cheonma Elementary School) <We love you all, whether you are short or long!>	Sin Gyeong - seong, Flash Category Jeong Jin - ung (Ansan IT High School, Gyeongdi - do), Flash Category Kim Sa - ra (Namsan Elementary School, Daegu), Essay Category Lee Seo - yun (Uiryeong Elementary School, Gyeongsangnam - do), Letter Category Hwang Jeong - min (Pori Elementary School, Gyeonggi - do), Children's verse Category Jeong Hye - su (Samseong Elementary School, Seoul), Catchword Category Park Jun - je (Daepyeong Elementary School, Busan), Painting Category

3. Building of Foundation for Human Rights Education in Public Agencies and Society

(1) Human Rights Education for Employees of Public Agencies

Since nearly its establishment, the Commission has given lectures to law enforcement



officers to raise their awareness on the importance of human rights.

In 2004, the Commission provided human rights training by dispatching lecturers of the Commission specialized in human rights at the request of government agencies, including police agencies and prosecutors' offices. The Commission has especially given priority to lectures for chiefs of police stations, newly appointed prosecutors, and public officers responsible for protection of juveniles. The Commission held a workshop in November to increase the capabilities of its own lecturers specialized in human rights.

[Table 2-5-4] Lectures Given to Public Officers

	Police	Prosecutors	Immigration	Juvenile protection	Others (Prosecutors/Detention facilities)	Total
No. of lectures	26	4	4	6	4	44
Size of audience (no. of persons)	3,080	197	155	370	155	3,957

The Commission offered educational courses for those responsible for human rights education at detention facilities, prosecutors' offices, and police agencies so that human rights education lecturers and human resources at each government agency could be identified and the base for human rights education could be expanded, and at the same time each government agency could establish its own system for in-house human rights education.

The Commission gave 20 training sessions on human rights to 1,200 visitors representing a variety of groups, including those from the Seoul Metropolitan Police Agency, Jayang High School, Nangok Middle School, students of the Korea National University of Education, Nowon Youth Training Center, and Juvenile Committee. The Seoul Metropolitan Police Agency, among others, sent 800 policemen for eight sessions of the Commission's training as part of its own human rights education program. The purpose of their visits to the Commission for the training was to increase the human rights awareness of policemen of the Seoul Metropolitan Police Agency and to help them understand the activities of the Commission.

[Table 2-5-5] Human Rights Education for Employees of Detention Facilities and Prosecutor's Office

Area	Participants	No. of participants	Period	Major programs
Detention facilities	Public officers at detention/protective facilities	35	2004. 9.15. ~ 9.17.	<ul style="list-style-type: none"> - Increase knowledge of human rights education - Enhance human rights awareness and attitudes for human rights protection - Human rights for social minorities - Effective human rights teaching method
Prosecutor's office	Public officers at prosecutor's office	25	2004. 9.20. ~ 9.22.	
Police	Public officers at Police	37	2004.10.25. ~10.27.	

In order to expand the base of human rights education in law enforcement, the Commission helped the Legal Research and Training Institute, training institutes for policemen, and the Judicial Research and Training Institute open human rights classes through consultations with relevant agencies. In consultation with the Ministry of Health and Welfare, the Commission provided five special lectures on human rights for 800 public officials.

(2) Study in Discrimination Prevention Education at Corporations

More than half of respondents to the 'Survey on Public Awareness about Discrimination' conducted by the Commission in 2003 recognized sixteen question items as serious discrimination. Nonetheless, not even 10% of all complaints filed with the Commission concerned discrimination, which indicates that the attitudes which give rise to discrimination remain so deeply rooted in Korean society that few still dare to oppose it.

Of all complaints about discrimination filed with the Commission, 74.3% (as of December 31, 2003) concerned discrimination in employment, a figure that is far too high compared to discrimination in the supply or use of goods and services or in the use of educational facilities or vocational training institutions. For this reason, the need for action to prevent discriminatory acts by major corporations was raised.

Before actually providing training on prevention of discriminatory acts at major corporations, the Commission contracted a project for 'Research for the Development of



Discrimination Prevention Teaching Material for Corporations'. This research project, the objective of which was to collect basic objective information needed to establish training methods, surveyed the discrimination situation in employment and the need for the above said training at corporations.

The findings of the research project showed (1) that the training should focus mainly on raising awareness such that discriminatory employment practices would be recognized as a 'problem' and (2) the greatest need was for basic materials by which judgments on discrimination could be made. Applicable laws, regulations, and guidelines needed to be passed or formulated for prevention of discrimination. In addition, educational programs should address specifically types of jobs and working environments. Cases that highlight the benefits to corporations of prevention of discrimination were documented and widely disseminated.

The Commission will apply the findings of research in the development of discrimination prevention programs, while preparing guidelines for judgments of discrimination and enactment of the Anti-discrimination Act.

4. Development and Distribution of Human Rights Cultural Contents

(1) Production and Distribution of Human Rights Films

a. Production of Human Rights Films

The Commission has developed and distributed diverse human rights cultural contents to prevent human rights violations and discrimination and to raise awareness of human rights. The Commission produced its first human rights film titled 'If You Were Me' in 2002, and in 2004, it produced 'If You Were Me II'. 'If You Were Me II' is an omnibus film consisting of five short human rights films directed by Ryu Seung-wan, Park Gyeong-hui, Jeong Ji-u, Jang Jin, and Kim Dong-won (running time: 111 minutes) This 35mm film was shown in theaters. The 2004 version was a follow-up to the first human rights film in 2002. It is intended to raise the human rights awareness of the general public and bring the issue of discrimination deeply rooted in our everyday life to the surface.

The second version of 'If You Were Me' deals with the indifference of the general public toward social minorities including young people who escaped from North Korea, persons with disabilities, Korean residents in China, and discriminatory acts that are common everyday practice. The film is about the everyday life of a girl with disability. A camera traces the life of a deceased person to tell the story and reveals the consciousness of an offender who violated the human rights of others.

[Table 2-5-6] If I Were You II

Director	Title	story	Running time
Park Gyeong - hui	Please understand	Story about a girl named Eunhye with Down Syndrome who openly fights prejudice against the disabled.	22min
Ryu Seung - wan	You know it because you are a man	So many different forms of discrimination seen through the main character who is obsessed with mistaken ideas of what it means to 'be a man'.	20min
Jeong Ji - u	A boy with a backpack	Story about the sense of alienation of two boys who settled in South Korea after escaping from North Korea.	26min
Jang Jin	Benevolent people	Black comedy about an irregular worker who works as a torturing investigator at night and on weekends.	24min
Kim Dong - won	Jongno, winter	Story about a Korean resident in China who froze to death on the streets of Jongno in the winter of 2003. The camera traces his life in the year before his death	19min

b. Distribution of Human Rights Film 'If You Were Me'

'If You Were Me I' produced in 2002 began showing in November 2003 at 55 theaters throughout the nation and drew a paid audience of 33,000 persons. 'If You Were Me I' later came out on DVD and video, aired on major national television stations and cable, and ran on the internet and mobile phone service. It was requested at a number of film festivals both at home and abroad. In January 2005, the film will begin showing at theaters in 76 cities in Japan, including Tokyo.

'If You Were Me I' has been used as educational material at various levels of educational institutions and by public officers since 2003. It is also shown in middle schools, high schools, and colleges. In December 2003, a group of 500 from the Ministry of Justice, another group of 500 from the Supreme Prosecutor's Office, and a group of 1,200 from the Seoul District Prosecutor's Office went to the theater to see the film. In May 2004,



students of the Police Academy also saw the film.

[Table 2-5-7] International Film Festivals to Which *If You Were Me I* Was Requested
(as of December 2004)

Title of the festival	Period	Place	Remarks
4 th Jeon - ju Film Festival	2003. 4.	Jeon - ju Korea	Opening film
1 st Vladivostok International Film Festival	2003. 9.	Vladivostok, Russia	
13 th Fukuoka International Film Festival	2003. 9.	Fukuoka, Japan	
22 nd Vancouver International Film Festival	2003. 9.	Vancouver, Canada	
47 th London International Film Festival	2003. 10.	London, UK	
8 th Busan International Film Festival	2003. 10.	Busan, Korea	Awarded for "Special Subject" by the Asian Film Promotion Organization
Asian Film Festival	2004. 1.	Romania	
27 th Goteborg Film Festival	2004. 1.	Goteborg, Sweden	
Paris Asian Film Festival	2004. 3.	Paris, France	
2004 Korea Independent Film Festival sponsored by Japanese Foreign Ministry	2004. 3.	Tokyo, Japan	
Las Palmas Film Festival	2004. 3.	Las Palmas, Spain	
GVAC Art Center	2004. 4.	Spain	
Valencia Film Institute	2004. 4.	Spain	
Women's Film Festival in Seoul	2004. 4.	Seoul, Korea	
17 th Singapore International Film Festival	2004. 4.	Singapore	
51 st Sydney Film Festival	2004. 6.	Sydney, Australia	
Hong Kong - Film Mart	2004. 6.	Hong Kong	
Cinemanila International Film Festival	2004. 6.	Manila, Philippine	
53 rd Melbourne International Film Festival	2004. 7.	Melbourne, Australia	
Hong Kong - Asian Film Awards	2004. 7.	Hong Kong	
8 th San Francisco Asian Film Festival	2004. 8.	San Francisco, US	
2004 New York - Korea Film Festival	2004. 8.	New York, US	
Film Awards for New, Talented and Young	2004. 8.	Taipei, Taiwan	
1 st Israel International Women's Film Festival	2004. 9.	Israel	
Japanese Korean Film Festival	2004. 9.	Osaka, Japan	
Canada - Korea Film Festival	2004. 10.	Canada	
Hong Kong Art Center - Excellent Film Awards	2004. 11.	Hong Kong	
3 rd UK - Korea Film Festival	2004. 11.	UK	Tour on 5 cities
2004 Kanazawa Community Film Festival	2004. 11.	Kanazawa, Japan	

* Awarded the 13th Korean Catholic Masscom in the category of film in December 2003.

* Invited to many domestic film festivals including the 4th Disabled Persons' Human Rights Film Festival, the 6th Goding Video & Film Festival, etc.

(2) Production of Human Rights Animation 'Unusual Stories'

The Commission planned to produce human rights animations in recognition of the fact that cultural means should also be used to raise the human rights awareness of the general public, ascertain the level of awareness in society, and provide instruction on the difference between discrimination and distinction. Animation is an especially effective means of communicating in that it is loved by persons of all ages and allows for unlimited forms of expression.

Six directors participated in this human rights animation 'Unusual Stories', in the form of omnibus: 'Nap' directed by Yu Jin-Hui deals with the realities faced by disabled persons; 'Traveling by Bicycle' directed by Lee Seong-gang addresses the plight of migrant workers; 'Her House' directed by a group of five deals with fixed perceptions of the role of women that are widespread in society; 'Animal Farm' directed by Gwon O-seong discusses discrimination against social minorities; 'A Big Women' directed by Lee Ae-rim deals with discrimination based on physical appearance; and 'Be a Decent Person' directed by Park Jae-dong points out problems of an education system that is geared toward preparation for the college entrance examination.

[Table 2-5-8] Human Rights Animation 'Unusual Stories'

Director	Title	Story	Running time
Gwon O-seong	Animal Farm	Discusses discrimination against social minorities by telling stories about goats in different appearances.	15' 30"
Park Jae-dong	Be a Decent Person First	Points out problems of an education system that is geared toward preparation for the college entrance examination.	13'
Yu Jin-Hui	Nap	By telling a story about the realities faced by disabled persons, issues relating to right to education and child's rights are raised.	13'
Lee Seong-gang	Traveling by Bicycle	The bicycle rider follows the plight of a migrant worker in illegal stay who died while hiding from immigrant officers.	10'
Lee Ae-rim	A Big Women	Discrimination based on physical appearance widespread in our society.	10'
A group of five directors	Her House	Story about fixed perceptions of the role of women that are widespread in society.	11'



The Commission will distribute the film and animation to more screening facilities such as district office halls, starting with regular theaters so that more people can see the film. It will enter these human rights films and animations into film festivals in 2005. The Commission will also produce the films and animation on video tapes and DVD and air them on national television. These materials will be used for human rights training and public relations in many ways.

(3) Production and Distribution of Human Rights Posters

Posters have great visual and emotional impact. They deliver important messages in a very powerful way and on a single sheet of paper. The Commission produced 16 human rights posters in 2004.

The Commission distributed the posters to locations nationwide, including 11,000 elementary, middle, and high schools, and universities; 850 public and university libraries; 4,350 public offices; and civic NGOs. In commemoration of the 56th anniversary of the Universal Declaration of Human Rights, the Commission exhibited human rights posters in the lobby of the Commission building and Ilgok Library in Gwangju. Human rights posters were put on the walls of subway stations and trains: on subway lines 1, 2, 3, and 4 (December 20, 2004-January 2, 2005), subway lines 5, 6, 7, and 8 (December 6-13, 2004), and subways in Busan.

[Table 2-5-9] Human Rights Posters

	Name	Theme		Name	Theme
1	Ko Gang - cheol	Discrimination in general	9	Ahn Sang - su	Migrant workers
2	Kim Do - hyeong	Color of skin	10	Ahn Seong - geum	The elderly
3	Kim Du - seop	Discrimination in general	11	Yun Ho - seop	Age
4	Kim Yeong - cheol	Educational background	12	Lee Na - mi	Trans - gender
5	Mun Seung - yeong	Discrimination in general	13	Lee Seop	Educational background, irregular workers
6	Park Geum - jun	Minorities	14	Lee Seong - pyo	Minorities
7	Park Bul - ttong	Gender discrimination	15	Choi Jun - seok	Thoughts and political opinions
8	Ahn Byeong - hak	Gender discrimination	16	Hong Seong - dam	Gender discrimination

The Commission also reprinted the human rights posters in the 'Human Rights Calendar 2005' and distributed the calendars widely. Each poster will be reprinted in 'Human Rights' a monthly magazine. The Commission plans to use the posters in diverse ways in the future.

(4) Promotion of Human Rights Comic Book 'Sip-si-il Pan'

The Commission planned and produced the human rights comic book 'Sip-si-il Pan' in 2002. First printed in August 2003 with 5,000 copies, the comic book was in its ninth printing by December 2004 for a total 33,000 copies. The Commission distributed 'Sip-si-il Pan' to public organizations such as libraries and high schools so that it could be used for human rights training and public relations. It also distributed the book to ordinary citizens in order to help the general public access interesting information on human rights issues more easily. 'Sip-si-il Pan' was selected by the Korean Publication Ethics Commission as a book recommended for youth, and it was recommended by the Association of Teachers who Are Making the World Warm with Books.

5. Publication and Distribution of 'Human Rights', a Monthly Magazine

The Commission first published 'Human Rights', a monthly magazine, in August 2003. The magazine was founded to promote healthy public attitudes toward human rights by reporting on the activities of the Commission. 'Human Rights' carries columns on human rights issues in society and the activities of the Commission as well as interviews, comics, and photos.

Issue no. 17 was published in December 2004, marking a cumulative total of 490,000 copies issued thus far. Every month, 28,000 copies are distributed to human rights experts (335), civic NGOs (413), libraries (3,338), state organizations (10,625), press organizations (1,184), regular subscribers (3,311), and others (8,715). Two thousand copies are distributed to visitors to the website of the Commission and staff of the Commission. In May 2004, the Commission opened the webzine, www.humanrights.go.kr/harmonthly, another human rights public relations system. The Commission carries main articles of the monthly 'Human Rights' on OhMyNews, an internet newspaper.



[Table 2-5-10] Major Articles of Human Rights

Issue	Special feature	Interviewee	Other major articles
Aug. 2003. (Serial Number 1)	- Human rights film, If You Were Me - National Human Rights Commission changes the world	Heo Byeong - du, teacher of Sungmun High School	Windows to the World: Water - Is it rights and interests, or human rights?
Sep. 2003. (Serial Number 2)	- Against Anti - terrorism Act - Human Rights, just this much more	Chun Soonok, representative of Social Program for Action and Research in Korea	The Scene of Human Rights: Mental illness - Let's solve it together
Oct. 2003. (Serial Number 3)	- About recommendations by the Commission - Let's send human rights letters	Lee Ran - ju, representative of Bucheon Migrant Worker's House	Windows to the World: Behind stories about Apartheid and Dalits
Nov./Dec. 2003. (Serial Number 4)	- Discrimination in our society revealed in job applications - Human rights encountered at a bookstore	Rev. Kim Hyun - su, Village of Wild Flowers	Windows to the World: Death of De Mello and Vienna + 10
Jan. 2004. (Serial Number 5)	- NAP guideline - Opinion poll on discrimination and the Commission	Lee Jae - gap, photographer	Windows to the World: IT is for people
Feb. 2004. (Serial Number 6)	- Skin color discrimination in Korea - Social Protection Act abolished	Jeong Mi - rye, representative of Chonbuk Women's Associations United	Human Feel I lived in discrimination
Mar. 2004. (Serial Number 7)	- An eight - year - old and Human rights - International human rights covenants observed in Korea	Kim Dong - won, representative of Docupum	The third citizens: the elderly in a city
Apr. 2004. (Serial Number 8)	- Irregular workers with no brighter future - Detention facilities and human rights	Ahn Gyeong - hwan, Dean of College of Law, Seoul National University	Four brothers
May 2004. (Serial Number 9)	- Human rights education in schools - the 16 th National Congress, human rights, the Commission	Kwon In - suk, professor of Myungji University	The Scene of Human Rights: Hearing on four brothers
June 2004. (Serial Number 10)	- Korea ten years after rectifying refugee treaty - Memories of National Security Act	Kwon O - il, vice - principal of EBADA School	Windows to the World: Abu Ghraib prison in Baghdad
July 2004. (Serial Number 11)	- Let's spend 10% of summer vacation on human rights - 20,000 cases of complaints and counseling	Park Hyung - gyu, teacher of 'Jageun - nuri' (Biotope)	The Scene of Human Rights: An old boy in mental hospital
Aug. 2004. (Serial Number 12)	- Let's solve conflicts in peaceful way	Sister Jo Seong - ae, mother of those who are sentenced death penalty	Sorokdo Island still forgotten

(continued)

Issue	Special feature	Interviewee	Other major articles
Sept. 2004. (Serial Number 13)	- Come if you feel like doing it, international human rights organizations	Choe Min - sik, photographer	The Scene of Human Rights: National Security Act, 50 years are more than enough
Oct. 2004 (Serial Number 14)	- Human rights of the world in 2004	Hina Zilani, special human rights reporter	Life still exists on the verge of history
Nov. 2004 (Serial Number 15)	- Looking back 1096 days	Won Ki - jun, Taebaek Regional Research Institute	People going out to the sea in dawn
Dec. 2004 (Serial Number 16)	- Information society and human rights	Ryu Jeong - sun, director of Research Institute on Poverty	Sawing machine keeps going on and on

6. Promotion of Human Rights to Improve Public Understanding of Human Rights

(1) Human Rights Television Public Service Announcement

In November and December 2004, the Commission aired public service announcements on human rights under the slogan ‘Recognize Differences in an Open a World without Discrimination’. The campaign was intended to prevent discrimination and publicize the rights to petition. The 40-second announcement aired 96 times on MBC and KBS.

The announcement delivered a message about ‘a world where there is no discrimination’ through a monologue by Bae Gi-cheol, a half-Korean, saying ‘I am all Korean; the only difference is the color of my skin’. It featured a background of photos of first generation half-Koreans excerpted from ‘Another Korean’, and photos carried in the human rights photo book, ‘*Nun · Bakke · Nada*’, published by the Commission in 2003. The announcement was directed by Park Myeong-cheon.

The announcement was selected by www.tvcf.co.kr, a TV commercial portal site, as the best public service announcement or commercial from December 27, 2004 to January 31, 2005. The announcement was also introduced on ‘Media Daum’, an internet portal site, under the headline, ‘Human Rights Commission impresses us quietly through public service announcement campaign’. KBS 2TV reported on the television public service announcement



campaign and the lives of the half-Koreans who appeared in the announcement, Bae Gi-cheol, An Seong-ja, and Park Geun-sik.

The Commission plans to air another television public service announcement in 2005 as a sequel to 2004 campaign. A sequel is a cost-effective way to produce public service announcements and has greater effect.

(2) Public Relations with the Press

The Commission prepared and distributed 175 press kits in 2004: 64 for the national/political division of the press, 19 for editorial offices, and 214 for civic NGOs. The press kits were also distributed to relevant standing committees of the National Assembly. Because the Commission by 2004 had accumulated more experience, it received more interview requests on major human rights issues rather than only simple reports on its recommendations. In 2003, the Commission received a total of 122 interview requests from the press. In 2004, it received 179 requests.

The Commission held eight meetings with reporters to publicize its recommendations on the abolishment of the National Security Act and its activities including the hosting of the Seventh International Conference for National Human Rights Institutions. In addition, the Commission translated 42 press kits in English and carried them on its website to introduce its activities to the press and human rights NGOs overseas. English version press kits were also distributed to related organizations.

The public relations activities of the Commission in 2004 included special features on major newspapers, magazines, and broadcasting companies. It contributed 'Human Rights of Children below the Poverty Line' in a special feature section of the JoongAng Daily, 'Discrimination in Korean Society' in the Dong-A Daily, 'Human Rights: Beyond Discrimination' on the Weekly Dong-A, and a special report on 'Discrimination in Korea' on KBS. These special reports spurred Korean society into addressing human rights in Korea in a more serious way. The Commission publicized its activities aggressively to local

communities by contributing articles to local newspapers and having interviews on the traveling human rights counseling circuit nationwide. The Commission also regularly publicized decisions of the Commission on radio programs on current affairs.

The Commission collected articles and essays on human rights issues and the activities of the Commission that appeared in newspapers and other publications in 2004 and published them in two books, 'Collection of Press Kits' and 'Collection of Articles'. One-thousand two-hundred copies of each of the books were printed, and the Commission distributed them to the National Assembly, the press, civic NGOs, and government organizations.

| Section 3 | Evaluation

The Commission placed priority on (1) building an efficient, permanent system for human rights education, (2) promotion of human rights education at schools, and (3) creation of a foundation for human rights education at public organizations and in society.

The Commission's efforts to establish mid and long-term human rights training programs entailed selection of tasks for human rights education for NAP guideline and establishing the orientation of human rights training. The Commission developed contents for the on-line human rights education system, which was instrumental toward to making human rights education available over the internet.

The Commission developed teaching materials for human rights education at schools, such as 'Understanding Human Rights School Education for Teachers' and the 'Human Rights Glossary for Teachers'. It provided training to elementary and middle school teachers and offered human rights education at selected schools as a pilot project. All these activities increased the public awareness towards the need for human rights education and created a foundation for more active human rights education at schools.



The Commission published the human rights fairy tale Blusia's Game of 'Scissors-Rock-Paper', a story about the human rights of migrant workers. It produced and distributed human rights program manuals. It also held competitions for essays and artworks on human rights, which were invaluable opportunities for children to become familiar with the issue of human rights.


In order to educate law enforcement officers, including those from prosecutors' offices, police stations, and detention facilities, on human rights, the Commission held consultations with related ministries and included human rights classes in training programs. In this way, the Commission helped build a foundation for human rights education at public organizations.

Despite these achievements, human rights education in the military and protective facilities for many persons is still at the initial stage. Clearly, the programs need to be vastly expanded. Human rights education programs should be designed more carefully and efficiently, and better basic teaching materials should be developed in order to maximize the benefits of human rights education. More focused and more effective programs are needed to build a foundation for human rights education in the military and society at large.

The Commission produced 'If You Were Me II', a sequel to the first version, 'If You Were Me', and it produced a human rights animation which everybody, the young and the old, men and women, can understand easily. It also printed 16 posters by sixteen artists.

'If You Were Me' was requested by a number of international film festivals throughout 2004 worldwide, and the film was shown in seven big cities in Korea.

The Commission printed the comic book 'Sip-si-il Pan' for a seventh time in 2004 and distributed it to teachers, students, parents, and other readers. A total of 33,000 copies of 'Sip-si-il Pan' have been distributed since the first printing. 'Human Rights', a monthly magazine, addressed human rights issues for its readers. It carried information on human rights and columns on human rights by numerous different authors. The Commission



distributed the monthly to a wide range of organizations including school libraries, hospitals, and banks so that ordinary citizens could access it easily. The Commission also increased access to human rights information by providing services on the internet. The Commission enhanced its international status by aggressive PR to the domestic and overseas press on the Seventh International Conference for National Human Rights Institutions held in Seoul.

Throughout 2004, the Commission reported its activities and contents of decisions it had made promptly in press kits and released the kits to the press and NGOs. Through these promotional activities, the public came to better understand the Commission. The Commission also drew the attention of the public on the issue of discrimination in society through special reports on discrimination.



Cooperation with Human Rights Organizations

| Section 1 | Overview

Principles relating to the status and functioning of national institutions for protection and promotion of human rights (Paris Principle) ‘adopted at the World Conference on Human Rights (WCHR)’ held in June 1993 in Vienna urged NHRIs to serve as a bridges between NGOs and governments.

Article 19 of the National Human Rights Commission Act of Korea stipulates that it is the duty of the Commission to ‘cooperate with organizations and individuals engaged in any activity to protect and promote human rights’ and to ‘exchange and cooperate with international organizations related to human rights and human rights institutions of other countries’.

The role of human rights organizations which have accumulated first-hand experience and expertise is very important in handling human rights issues in society and raising the public’s understanding of human rights. In 2004, human rights organizations actively addressed major issues in Korea, including the National Security Act, Social Protection Act, protection of personal information, and migrant workers’ rights. The Commission cooperated with human rights organizations through various programs. In 2004, the Commission continued to carry out two joint programs with human rights organizations. One is the NGO Project Support program, and the other is the programs for Commissioned Projects to Develop Implementation Programs for Citizens. Both programs are designed to protect and promote human rights. The Commission held meetings with human rights NGOs and Human Rights Classes for Human Rights Activists to encourage practical cooperation with human rights organizations.

The year 2004 was remarkable in that the Commission established cooperative relations with international organizations and NHRIs in other countries. In 2002, the Commission



had acceded to the APF, the forum of national human rights institutions in the Asia-Pacific, and joined the full membership of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, ICC, a group of 69 NHRIs. In September 2004, the Commission hosted two international conferences in Seoul: the Seventh International Conference for National Human Rights Institutions and the Ninth Annual Meeting of Asia Pacific Forum of National Human Rights Institutions. The Commission participated in the 60th session of the Commission on Human Rights of the United Nations and presented its position on the global human rights issues and measures to improve the stature of NHRIs in compliance with human rights mechanisms of the UN.

| Section 2 | Major Activities in 2004

1. Cooperation with Human Rights Organizations Strengthened

(1) Joint Projects with NGOs

In 2004, the Commission continued two joint cooperation programs with human rights civic groups that had been initiated in 2003. One is the NGO Support Projects and the other is Commissioned Projects for Voluntary Programs for Citizens. Both programs are designed to protect and promote human rights by helping human rights organizations and activists apply their first-hand on-site experience and expertise through human rights projects. These two programs were conducted much more efficiently in 2004 as important lessons were gleaned in the operation of the program in 2003 and suggestions from NGOs which had participated in 2003 were duly applied.

The Commission provided financial support for NGO projects under the NGO Support Projects. In 2004, the Commission selected 26 civic organizations to receive 150 million won in grants for projects to be carried out by NGOs. The projects supported in 2004 included (1) those that needed to be further developed or revitalized for the promotion of human rights, (2) projects intended to strengthen solidarity with international organizations and groups, (3) projects related to international treaties and that have great impact on

Korea, and (4) projects that are expected to create substantial networking effects.

According to the Private Sector Grant Regulations enacted in 2003 to promote the projects, the Project Screening Committee of academics and private sector experts was organized to select projects and determine the amounts of grants to be provided, thereby ensuring fairness and transparency. The projects and organizations for which grants were provided are shown in [Table 2-6-1].

[Table 2-6-1] NGO Support Programs in 2004

(Unit: 1,000 won)

	Title of project	NGO	Amount supported
1	Development and publication of guidebooks for protection of database information - related human rights	Jinbo Network	7,000
2	Competition of scenario for mock court trial of the youth and performance	Ulsan Solidarity For Human Rights,	7,000
3	Survey on human rights situation of refugees in Korea	Lawyers for a Democratic Society	5,000
4	Basic work for counseling center for sexual minorities	Solidarity For Lesbian Gay Bisexual Transgender Human Rights of Korea	5,000
5	Survey on discrimination to secure rights of patients, and activities to improve legal system	Health Right Network	7,000
6	Campaign for legislation for laws to guarantee rights of the disabled persons to move	The Solidarity of the Disabled to Obtain the Mobility Right	6,000
7	Distribution of human rights video with sign language	Deaf Korea	7,000
8	Measures to seek the role of human rights of the jobless to work	Seoul Women's Trade Union	7,000
9	Guaranteeing of sharing information through expansion of licenses to be shared	Intellectual Property Left ("IPLeft")	4,000
10	Telephones for soldiers	(GUNKAHYUP)Family Council for Examination of mysterious deaths of soldiers and eradication of violence in the army	6,000
11	Human rights educational program for elementary/ middle/high school students with disabilities	Community Council for the Disabled	6,700
12	Human rights education for adults and the elderly	Catholic - Women Center	4,000
13	Human right watchers to improve living environment and legal systems for human rights of child	Ansan YMCA for Child's Human Rights	6,000
14	Research on cases of environmental human rights cases filed in other countries	Citizen's Movement for Environmental Justice	5,000
15	Project to record statements by atomic bomb victims	KYC Daegu Division	5,000



(continued)

	Title of project	NGO	Amount supported
16	Participation in ILO General Assembly and traveling seminar in major cities	The Korean Council for the Women Drafted for Military Sexual Slavery by Japan	6,200
17	Workshop on human rights of Korean workers overseas	KHIS: Korean House for International Solidarity	7,000
18	Strategies for abolition of death penalty	Catholic Human Rights Commission	6,300
19	Public hearing on legislation of Disability Anti - Discrimination	DDASK: Disability Discrimination Acts Solidarity in Korea	5,000
20	Joint activities with North Korean human rights NGOs	Good Friends	4,000
21	Development of religious human rights NGOs and human rights academy for religious people	Won Buddhism for Human Rights	5,000
22	Campaign and research to promote application of international standards for child protection in Korea	The Naeil Women's Center for the Youth	7,000
23	Human Rights Hot - Line all the year round	Committee for Justice and Peace of Catholic Chung - ju Division	6,000
24	Establishment of human rights civic groups in Busan	Pusan Center for Human Rights	6,000
25	Human rights symposium - Tasks and prospects for human rights campaign	The National Council of Churches in Korea Commission for Human Rights	5,000
26	Projects to protect human rights of victims of crime by US soldiers	National Campaign for Eradication of Crime by U.S. Troops in Korea	4,800
Total			150,000

The most successful project supported by the program was that for Adult and Senior Citizens' Human Rights Education conducted by the Catholic Women's Center. Human rights education was provided to those with little or no formal education and to senior citizens with a textbook on the subject of human rights designed to teach reading in Korean. The students, who were illiterate and had little knowledge of human rights issues in society, became interested in general human rights issues and more actively involved in society. The project was deemed effective in helping them gain a proper understanding of human rights.

The Child Living Environment and Human Rights System project conducted by the Children's Human Rights Center of the Ansan YMCA was widely deemed a good example of an effective human rights learning program for children. The children themselves investigated installation standards and maintenance conditions of the facilities of their

playgrounds, found problems, and devised solutions.

The Human Rights Education Program for Disabled Students of Elementary, Middle, and High School in Daegu: Let's Play! Friends with Disabilities'! conducted by the Regional Community of the Disabled was evaluated to have helped students better understand students with disabilities by demonstrating to students without disabilities that the disabled are just like them and teaching them proper etiquette when making friends with persons with disabilities. This project first surveyed students of elementary, middle, and high schools in Daegu on their perceptions towards persons with disabilities. The human rights education program was devised based on the survey findings. A manual on how to understand persons with disabilities was also published under the project.

The Commissioned Projects for Voluntary Programs for Citizens are intended to raise the public's understanding of human rights and increase the interest of citizenry in human rights issues by developing and distributing various human rights programs. The Commission launched this program in 2003. In 2004, the Commission called for and received project suggestions relating to the 18 forms of discrimination stipulated in Paragraph 2, Article 30 of the Commission Act. It selected 16 projects and provided 125 million won in funding for them. The Commission utilized lessons learned from the results of the projects granted in 2003 to improve the program in 2004. Unlike 2003, in 2004, the Commission held an interim progress presentation and evaluation sessions with the organizations conducting the selected project, and it improved the on-site monitoring system.

[Table 2-6-2] Commissioned Projects for Volunteer Programs for Citizens

(Unit:1,000 won)

	Title of project	NGO	Amount supported
1	Measures to eliminate discrimination against persons with disabilities in having tests	Research Institute of the Differently Abled Rights in Korea	11,000
2	Publication and distribution of guidebooks for HIV/AIDS - related human rights PR and open forum on issues relating to HIV/AIDS	People's health coalition for equitable society	10,000
3	Making a world without discrimination against women with disabilities	Differently Abled Women United	8,000



(continued)

	Title of project	NGO	Amount supported
4	Citizens' Actions to Remove Discrimination against the Disabled in Transportation and Access to Information	Citizen's Coalition for Economic Justice in Mokpo	10,000
5	Monitoring of newspaper report on the socially vulnerable	Citizen's Coalition for Democratic Media	6,000
6	Multi - cultural Society Built Together by the Migrant Workers and Local Residents program	Association For Foreign Worker's Human Rights in Pusan	9,000
7	'Recognize Others and Our Classroom Will Become Larger' Program to help children from North Korea mix with children in South in a school	Okedongmu(Children in Korea)	5,000
8	Making equal relationship of man and wife	Korea Women's Hotline	8,000
9	Human rights education for employers to prevent discrimination against migrant workers	Friends of Asia	6,000
10	Cyber campaign to secure human rights of the jobless with disabilities from low income families	Disabled Unemployed Relief Center	8,000
11	Establishment and operation of information desk to increase awareness of the rights to equal work of juveniles and elimination of labor discrimination against juveniles	Daejon Women's Association For Democracy	9,000
12	Development of playground manual for children with and without disabilities, and campaign to legislate ordinance to build such playground	Easy Access Movement for People with Disabilities in Korea	8,000
13	Campaign for human rights of juveniles	Gunsan YMCA (Young Men's Christian Association)	7,000
14	Culture education for elementary school children to eliminate discrimination against foreign workers and development of action plans	Association for Foreign Workers' Human Rights	7,000
15	Making Human rights stories together with children with disabilities	Gwangju Hakbumo Association for True Education in	6,000
16	To make the world beautiful for all	Center for Woman Sexual Minority Rights	7,000
Total			114,000

The Screening Committee designated 'Citizens' Actions to Remove Discrimination against the Disabled in Transportation and Access to Information' by Mokpo CCEJ (Citizens' Coalition for Economic Justice) as an outstanding project. The 2004 project was a continuation of the 2003 project for the 'Ordinance Enactment Initiative for Inspection of Disabled Persons' Access to Public Transportation and Public Building in Mokpo City'. Under the 2004 project, (1) teaching materials on access and convenience facilities for the disabled adequate for the actual environments were developed; (2) on-the-job training was given for specialists in convenience facilities for the disabled; and (3) a civic campaign to

reserve parking spaces for the disabled was staged. This project was considered as having contributed to the unity of society by upholding the rights of the disabled to use public transportation and access information, and by providing opportunities for the disabled to be more actively engaged in society. The project was duly recognized at the Grass Root Citizens Campaign Competition 2004 hosted by the Federation of NGOs.

The Association for Foreign Worker's Human Rights in Busan conducted the 'Multi-cultural Society Built Together by the Migrant Workers and Local Residents program'. The Association hosted the Human Rights Camp, Asian Food Festival, Asian Culture Festival, and other such events with the participation of both migrant workers and local residents. The purpose of the program was to help local residents gain a better understanding about the protection of human rights of foreign workers and eliminate discrimination against foreign workers. The program was considered a new paradigm for projects that address regional characteristics.

The 'Recognize Others and Our Classroom Will Become Larger' project by the Okedongmu (Children in Korea) was conducted to inform the public of the discrimination against children from North Korea and to encourage a change in the public's perceptions and attitudes. The Society for South and North Korean Children conducted a class with students who had escaped from North Korea and staged a campaign to urge citizens to change their perceptions and attitudes towards children from the North. The program effectively spread knowledge of the difficulties faced by children from the North and helped improved the public perception towards them.

(2) Meetings and Presentation

The Commission held meetings with local human rights organizations in Daegu, Cheongju, and Chuncheon in 2004. A total of 106 persons from 72 organizations attended the meetings. The Commission collected opinions of the represented organizations on its projects, discussed a wide range of human rights issues, and sought means of effective cooperation.



In February 2004, the Commission hosted the Commission Activities Presentation with 53 persons from 41 human rights organizations attending. Information on various projects of the Commission was shared, and measures for cooperation were discussed. The Commission will fully reflect the opinions suggested by the organizations at the meeting in major policy proposals when planning projects for next year.

(3) Human Rights Classes

Jointly with local organizations, the Commission planned and held human rights classes to raise the expertise of the permanent staff of human rights organizations in their general operations. In 2004, the Commission conducted such classes in Gangwon-do Province and Daegu, and 95 persons from 42 organizations attended. Subjects covered included human rights law theory, trends in international human rights organizations, and proper use of national human rights institutions, etc. The class was designed help the participants acquire knowledge on applicable laws and master consulting techniques which are needed for the everyday practical business of human rights activists. The class also helped cement the solidarity among local organizations in the region and was an opportunity to discuss regional human rights issues.

(4) Visits to Sites with Poor Human Rights Records

The objective of this program is to make human rights policy more effective by ensuring that the staff of the Commission properly understands the current situation of human rights in society. Staff members visit locations where the socially disadvantaged and neglected live and frequent to witness their situation first-hand. In 2004, they visited eight places: Jjokbang-chon (Yeongdeungpo station area), where numerous elderly live alone in a poor neighborhood; Nanumeu-dongsan (Chuncheon, Gangwon-do Province), a common home for senior citizens who do not have dependents, persons with serious disabilities, and children; Ansan Migrant Workers' Center (Ansan, Gyeonggi-do Province), a counseling and care facility for migrant workers; Jegeui-jip (Yangpyeong, Gyeonggi-do Province), a rehabilitation and care facility for disabled persons who do not have dependents; and Ttolbae-hakgyo (Jangchung-dong, Seoul), an alternative school for youths who escaped from North Korea.

(5) Site for Learning 'Opened to the Public to Promote Discussions on Human Rights Policies

The Commission opened the Bae-Um-Teo (hall for learning) in its building to the public with free admission. Human rights organizations can host symposiums, seminars, public hearings, and debates to help form public opinion and promote human rights campaigns. A total of 179 events, including the Suspects' Legal Rights Forum hosted by the People's Solidarity for Participatory Democracy and the NGO Campaign for North Korean Human Rights hosted by the Citizens United for a Better Society, were held at the Site for Learning in 2004. Since the room was first opened to the public, a total of 527 meetings have been held there.

(6) Hosting Regional Human Rights Film Festival and Other Exchange Programs

In order to raise the understanding of local residents towards human rights and strengthen cooperation with regional human rights organizations, the Commission planned the Traveling Human Rights Film Festival jointly with local human rights organizations and co-hosted the festival for the first time in 2004. A total of 22 human rights films including 'If I Were You' were presented in downtown parks and college campuses in the three cities of Daegu, Cheongju, and Chuncheon. The festival attracted some 2,000 citizens and youths.

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 new-year ceremony of the civic social groups, Human Rights of the Disabled Prize Award Ceremony hosted by the Korea Differently Abled Federation, and an evening event to support People's Solidarity for Participatory Democracy. The Commission supported human rights NGOs in various ways including patronage of events, awarding prizes by the president of the Commission, and delivering congratulatory speeches.



2. Cooperation with International Human Rights Organizations Strengthened

(1) Hosting the 9th APF Annual Meeting and 7th International Conference of National Human Rights Institutions

The Commission successfully hosted two important international meetings in 2004: the Seventh International Conference of National Human Rights Institutions for the Promotion and Protection of Human Rights and the 9th Annual Meeting of the Asia-Pacific Forum of National Human Rights Institutions. The 9th APF annual meeting was held on September 13 with 47 representatives attending. The President of the National Human Rights Commission of the Republic of Korea was unanimously elected as chairman of the APF. Forum members discussed APF programs and major issues including the potential roles of national human rights institutions in the Commission on the Status of Women (CSW), the role of government in following up the results of surveys conducted by national human rights institutions, and presentations of recommendations.

The 7th International Conference of National Human Rights Institutions for the Promotion and Protection of Human Rights will be discussed in Chapter 3 (page 179).

(2) Participation in International Human Rights Meetings

The National Human Rights Commission of Korea participated in the 60th Session of the United Nations Commission on Human Rights held in Geneva in March 2004. The Korean delegation, led by the president of the Commission attended four weeks of the six-week 60th Session. The Korean delegation attended the APF meeting, ICC annual meeting, meeting of APF member countries and the Geographic Unit of the Office of the High Commissioner for Human Rights (OHCHR), and meeting of APF member countries and National Institutions Unit of OHCHR.

At the APF meeting, discussions were held on cooperation between OHCHR and APF, the 9th annual meeting of APF, and the draft of a resolution on national institutions to be

submitted to United Nations Commission on Human Rights. At the ICC annual meeting, members elected the ICC Chairperson. A discussion was held on the draft resolution for the 60th Session of the CHR on National Institutions. Thematic discussions were held by the members and observers on human rights education and disability, respectively.

At these meetings, the president of the Korean National Human Rights Commission briefed the members on arrangements concerning the 7th International Conference of National Institutions to be held in September in Seoul and requested national institutions for their participation in the conference and their cooperation. At the meeting to discuss Agenda Item 18(b), Effective Functioning of Human Rights Mechanisms: National Institutions and Regional Arrangements, the president of the Commission introduced the activities of the Commission and its recommendation to the Korean government to seek peaceful solutions and not to dispatch armed forces to Iraq, and urged the UN Commission on Human Rights to pay special attention to the situation in Iraq.

During his stay, the president of the Commission had individual meetings with Mr. Bertrand G. Ramcharan, Acting High Commissioner for Human Rights of the UN, and Mr. Morten Kjaerum, newly elected ICC Chairperson. The president also met with representatives of some 20 international human rights NGOs including the International Service for Human Rights and requested them to attend the 7th International Conference of National Human Rights Institutions for the Promotion and Protection of Human Rights to be held in Seoul.

The Commission also participated in the international workshop on justiciability of social, economic and cultural rights hosted by UN in 2004, the 3rd Ad hoc Meeting for the International Convention on the Rights of Persons with Disabilities, and the 36th Session of the Committee on the Rights of Child. The Commission presented its opinions on pending human rights issues and monitored the proceedings. The Commission also participated in international meetings hosted by human rights NGOs including the Fourth World Social Forum held in India, Asian Forum on Terrorism and Counter-Terrorism, and Asian Civil Society Forum.



[Table 2-6-3] Participation in International Meetings

Organization	Conference	Purpose	Period	Place
UN(7)	The international workshop on justiciability of social, economic and cultural rights hosted by UN	To increase cooperation with countries in Asia - Pacific, and share information on justiciability	1.24.~30.	Mongol
	12 th Asia - Pacific workshop	To increase regional cooperation	2.28.~3.6.	Katar
	60 th session of the Commission on Human Rights of the United Nations	To participate meetings of APF, ICC and monitor the meeting of the Commission on Human Rights of the United Nations	4.3.~25.	Swiss
	57 th WHO general meeting	To see global trends of human rights relating to right to health of WHO	5.15.~19.	Swiss
	3 rd Ad hoc Meeting for the International Convention on the Rights of Persons with Disabilities	To monitor discussions on the International Convention on the Rights of Persons with Disabilities	5.22.~30.	U.S.A
	36 th Session of the Committee on the Rights of Child	To monitor activities of the Committee on the Rights of Child	5.30.~6.3.	Swiss
	Asia - Pacific specialists' meeting regarding NAP guideline	To share information and discuss case studies on NAP guideline in Asia - Pacific region	10.19.~24.	Thailand
APF (3)	8 th APF annual conference	To strengthen cooperation with national human rights organization	2.13.~21.	Nepal
	NAP guideline workshop on human rights	To study cases of NAP guideline in human rights education in Asia - Pacific region	7.9.~5.	New Zealand
	Training program for national human rights organization in Asia - Pacific region	To study training program for national human rights organization in Asia - Pacific region	11.30.~2.12.	Thailand
NGO (4)	World Social Forum	To monitor World Social Forum	1.15.~22.	India
	Training program for human rights and Human Rights Act	To promote understanding of legal and political concepts and systems relating to military conflicts	10.11.~15.	Thailand
	Asian Forum on Terrorism and Counter - Terrorism	To monitor meetings on terrorism	11.18.~21.	Thailand
	Asian Civil Society Forum	To monitor activities of Asian Civil Society relating to development of plans for new millennium for the UN	11.20.~26.	Thailand

(3) International Cooperation with Human Rights Organizations in Other Countries

In 2004, Commission continued to be very active in exchange programs with international human rights organizations and national human rights commissions of other countries.

In order to raise the awareness of its staff on human rights and learn from the examples of advanced countries, staff members of the Commission attended the Interministerial Committee for Human Rights, Special Commission for Human Rights and Ministry of Gender Equality in Italy and IHD-Turkish Human Rights in Turkey. In 2004, the Commission visited the Greek Human Rights Commission and Egyptian National Council for Human Rights for the first time and made arrangements for future cooperation. The Commission visited the Asian Human Rights Commission in Hong Kong to strengthen exchanges and cooperation with national human rights institutions and human rights NGOs in Asia.

[Table 2-6-4] Visits to Human Rights Organizations in Other Countries

Organization	Purpose of the trip	Size of delegation	Period
Italy (3) · National Human Rights Commission · Special Human Rights Commission · Ministry of Equal Genders Turkey (1): Association for Human Rights Protection	To enhance human rights awareness of staff of the Commission and study cases of advanced countries	Nine including Discrimination Investigation Division Manager	6.27.-7.3.
Human rights committees in Greece, Egypt	To survey human rights activities of advanced countries	Five led by Commissioner Kim Man - heum	11.13.-20.
Thailand National Human Rights Committee Asia Human Rights Committee in Hong Kong	To better know activities of National Human Rights Committees in Asia	Five led by Commissioner Park Gyeong - seo	11.13.-19.

(4) Publication of Collection of Laws and Regulations relating to Prohibition on Discrimination, etc.

The Commission selected and translated nine statutes of five nations including the US and Australia which had already enacted and enforced exemplary statutes, and it published them in both English and Korean. These books will be used as reference material for formulating the Anti-Discrimination Act of Korea.

Included in the publication are Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967 of the US, Human Rights Act of Canada, Equal Pay Act 1970 and The Sex Discrimination Act 1975 of UK, The Human Rights and Equal



Opportunity Commission Act 1986, Disability Discrimination Act 1992 and the Northern Territory Anti-Discrimination Act 1992 of Australia, and the Family Status Discrimination Ordinance (FSDO) of Hong Kong.

In order to help ordinary citizens and human rights activists better understand international human rights systems, the Commission translated and published the Human Rights Fact Sheet of the United Nations. The Commission published four books in a human rights series in 2004: the International Bill of Human Rights, Prevention of Torture, UN Special Rapporteurs, and Introduction to National Human Rights Institutions. The Commission will publish 14 more books in 2005. The books in the series will be distributed to government agencies, university libraries, and relevant NGOs so that both experts and ordinary citizens can easily access them.

| Section 3 | Evaluation

In 2004, the Commission laid the foundation for effective cooperation with human rights organizations and created an environment more conducive to international cooperation. Through programs continued from 2003, i.e. the NGO Support Projects program and Commissioned Projects for Voluntary Programs for Citizens, the Commission facilitated the general human rights movement and raised public awareness of human rights in 2004. The Commission also revised systems to rectify shortcomings discovered at the initial stages of the programs.

During the travelling forums, the Commission discussed the full range of human rights issues in the different regions and sought measures for reciprocal cooperation with the local communities. The Commission planned and held human rights classes jointly with regional NGOs to improve the expertise of human rights activists of regional NGOs and further cement the solidarity among them. The Local Human Rights Film Festivals were held for the first time in 2004, and they did much to raise human rights awareness of local residents through film, a medium that is familiar and easy to understand.

The most urgent task for the Commission is to build a permanent system for communication with human rights NGOs through which diverse opinions can be heard and reflected in policies.

Since it was launched, the Commission has been active in exchange and cooperation projects with international organizations to defend and promote human rights and national human rights institutions of other countries. The Commission acceded to the APF as a full member in November 2002 and elected a regional representative in February 2004. The president of the Commission became the chairperson of APF in September 2004. By successfully hosting the Seventh International Conference for National Human Rights Institutions in September 2004, the Commission laid the foundation for international exchange and cooperation in a relatively short period of time. The Commission built a human network needed for exchange of information and cooperation by attending various international human rights meetings and visiting national human rights institutions overseas.

Leveraging this network, the Commission will reinforce its stature at the APF and ICC and will plan and facilitate projects on global human rights issues jointly with national human rights institutions of other countries. The Commission, meanwhile, is faced with the challenge of addressing the major global human rights issues such as the right to development, right to a clean environment, right to information access, and rights of child and persons with disabilities.

The Commission will take leadership in building a human rights protection mechanism in Asia for the long-term by supporting countries in Northeast Asia in establishing their own national human rights institutions. It will foster quality-based development of international cooperation projects by such means as forming strategic partnerships with core nations in addressing various human rights issues.



Part

Special Projects

Chapter 1 The 7th International Conference of National Human Rights Institutions for the Promotion and Protection of Human Rights

Chapter 2 Recommendation on the Abolition of the National Security Act

Chapter 3 Preparation of Draft of Recommendation on the NAP guideline

Chapter 4 Revision of National Human Rights Commission Act

Chapter 5 Anti-Discrimination Act (Proposal)

Chapter 6 Research Project for North Korean Human Rights

Chapter 1



The 7th International Conference of National Human Rights Institutions for the Promotion and Protection of Human Rights

1. Background

The Commission hosted the 7th International Conference for National Human Rights Institutions from September 14 through 17 at Lotte Hotel in Seoul. Since the first meeting was held in 1991 in Paris, it has been held every two years on an alternating basis between Europe, the Americas, Africa, and the Asia-Pacific. The Conference is supported by Office of the High Commissioner for Human Rights (OHCHR).

The Commission hosted the Conference in Seoul at the request of the APF and proposal of the OHCHR. It was an opportunity for the Commission to raise its stature as a human rights institution in Korea and build momentum to raise public awareness about human rights in every part of society. The Commission also hoped to facilitate international human rights activities by reinforcing the solidarity between national human rights institutions and civic NGOs in the international arena as well as the Asia-Pacific region, and by participating in discussions on human rights protection concerning terrorism and counter-terrorism all over the world.

2. Preparation

In preparation for the Conference, the Commission launched the 7th International Conference for the National Human Rights Institutions (ICNI) Preparation Team, led by the secretary-general of the Commission in February 2004. An advisory council was organized to hear opinions from citizens at every level of society on the agenda and development of programs for the conference. Outside experts were included on the council. To promote the conference, the committee set up a conference website in Korean, English, French, and Spanish.

Two-hundred persons participated in the conference. Sixty internationally recognized



human rights experts including Ms. Louise Arbour, High Commissioner for Human Rights, 119 representatives of national human rights institutions from 61 nations, and 60 representatives from NGOs both at home and abroad attended.


The Conference started with the opening ceremony attended by President Roh Moo-hyun of Korea. The main topic of the conference was “Upholding Human Rights during Conflict and while Countering Terrorism”. Discussions essentially focused on the role of national human rights institutions in such circumstances. There were five working groups focusing on “Conflict and Countering Terrorism: Economic, Social and Cultural Rights”, “Conflict and Countering Terrorism: Civil and Political Rights and the Rule of Law”, “The Role of National Institutions in Conflict Situations”, “Migration in the Context of Conflict and Terrorism” and “Women’s Rights in the Context of Conflict”.

The discussions at the 7th ICNI are summarized in the Seoul Declaration, adopted on the final day of the conference. The Declaration set forth the roles and tasks for national human rights institutions in conflicts and countering terrorism, and urged the establishment of a mechanism, the function of which is to supervise whether countering terrorism measures satisfy international human rights standards, within the United Nations. The Seoul Declaration also provided for procedures to report on the implementation of the Seoul Declaration at the forthcoming ICC annual meeting.

On September 13 and the morning of September 14, an NGO pre-meeting was held to hear the positions and opinions of NGOs on the 7th ICNI. About 100 representatives from NGOs both at home and abroad attended the pre-meeting. On September 13, 14 national human rights institutions from Asia-Pacific held the ninth APF annual meeting.

3. Evaluation and Follow-up

The 7th ICNI was an international conference attended by national human rights institutions to discuss one topic about conflicts and countering terrorism when wars and terrors are widespread all over the world, including war on Iraq. The conference was also



attended by various human rights NGOs from all over the world. They stated their positions and opinions were heard at a pre-meeting and attended the 7th ICNI as observers for active discussions with representatives of national human rights institutions. The 7th ICNI indeed served as a new forum for exchange and cooperation among national institutions and NGOs.

By successfully hosting the largest ICNI meeting within only three years since its establishment, the Commission raised its stature in the international human rights arena. The meeting was also a valuable experience toward assuming major roles in the international human rights community.

The Commission will continue to heed the Seoul Commitment provided for in the Seoul Declaration and follow it up.



Recommendation on the Abolition of the National Security Act

1. Background

The National Security Act (NSA) has long been criticised widely both at home and overseas for its arbitrary provisions because it opens the possibility for numerous human rights violations in its broad application. The NSA was enacted in the Cold War when countering the military threat from North Korea and national security were the highest priorities of national policy, and it remains in force despite the democratization of Korea and the improvement in relations between South and North Korea. There has been steadily increasing demand for amendment or repeal of the NSA. During the Summit Meeting of South and North Korea in 2000, the South for the first time officially declared its intention to pursue unification with the North through dialogue and negotiation, rather than considering the North as an enemy. The Summit provided momentum for active discussions on revising or abolishing the NSA, and the international community continued to press for its abolishment.

In 1991, South and North Korea simultaneously acceded to the United Nations: North Korea was granted the stature of an independent nation under international law. International human rights organizations, the UN Human Rights Committee for the Covenant on the Right to Freedom, among others, made recommendations to the Korean government many times to abolish the NSA because the NSA is against international human rights covenants, including Articles 9, 18, and 19 of International Covenant on Civil and Political Rights.

In response to demands from the domestic and international community, the Commission had been studying and reviewing the NSA since early 2003 and decided to recommend to the Speaker of National Assembly and Minister of Justice the abolishment of the NSA on August 23, 2004. Before deciding to make the recommendation, the Commission conducted



a comprehensive study on the NSA with regard to human rights. It established an NSA Task Force Team, conducted commissioned research on the treatment of human rights under the application of the NSA, and held public hearings.

2. Recommendation

The NSA was enacted on December 1, 1948. It was an extraordinary step intended to punish leftist subversives immediately after the nation was liberated from Japan. Nonetheless, since its enactment, the NSA had been criticised for violations for human rights, and disputes over the constitutionality of the NSA have continued as antidemocratic acts and human rights violations have occurred in the application and execution of the NSA. Since its establishment on November 25, 2001, the Commission received 40 complaints and petitions demanding abolishment of the NSA.

At the third workshop held on January 7, 2003, attended by all commissioners, the Commission decided to establish the NSA Task Force Team consisting of staff of the Commission and outside experts in order to study and research the NSA. The team was launched on February 3, 2003, and it has examined the NSA systematically and in-depth. The team held 16 forums, three debates and public hearings, and conducted a survey on actual cases where the NSA was used, applied, or executed. On July 26, 2004, the team submitted a 325-page NSA report.

After having referred to the report by the NSA Task Force Team, a commissioned research report on the NSA, and opinions heard at public hearings and other forums, the Commission sought to determine whether the NSA was violating the basic human rights of the Korean people from historical/legal/realistic viewpoints. The Commission finally decided that the NSA should be abolished for the following reasons:

The NSA was enacted in 1948 with six articles, and it has a number of problems from a historical viewpoint.

The NSA is based on the Public Order Maintenance Act, which had been used to oppress fighters for national independence during the Japanese occupation. The NSA was enacted to suppress leftists the basic rationale for its existence when the nation was in chaos after liberation from Japan. Thus, the passage of the NSA itself was antithetical to human rights’.

The amendment of the NSA (February 4, 1958) was not conducted in a just and legitimate way. The third amendment to the NSA was passed after opposition party lawmakers had been forcefully removed from the National Assembly by armed police. The sixth amendment in 1980 was made by the State Defence Legislative Council led by the leading group of the military coups, and the bill for the seventh amendment in 1991 passed after voting by opposition party lawmakers was blocked. All these amendments were done without democratic legitimacy and were in violation of proper legal procedure.

Through examination of the NSA from a legal viewpoint, the Commission found a number of problems as follows:

First of all, the NSA is not in compliance with the principles of the Criminal Act and the principle of *nulla poena sine lege*. Articles of 2, 3, and 4 of the NSA stipulate that merely joining an anti-national organization alone is punishable, which is in violation of the Criminal Act. As the law does not provide a definition of an anti-national organization, it also violates the Principle of Legality. The NSA has such wide legal loopholes that it serves to deny basic rights such as the right of freedom of thought and conscience, and the right to academic and artistic expression. When it is broadly applied, Article 7 of the NSA can be used to undermine the freedom of expression and consciousness guaranteed by the Constitution by oppressing virtually any activity of the press, publication, academia, and art. The mere possession of a book or viewing a certain film, for instance, can be considered a violation of Article 7. Article 10 (Failure to Inform) can seriously violate the freedom of consciousness by infringing the most private intention of man such as the right to silence.

Seen from a realistic viewpoint, the NSA is problematic as follows:

First, acts limited and restricted by the NSA including those to be deprived of the



benefit and protection of the law are, in principle, overlapping with provisions of the Criminal Act relating to offences of rebellion and external threats, and offences against public safety. Those acts are, therefore, punishable under the Criminal Act.

Given the fact that there exists no act equivalent to the NSA in North Korea and crimes as defined by the criminal laws of North Korea are basically the same as offences against national security and for external threats, and espionage provided for by the Criminal Act of South Korea, and that any illegal acts can be punished by other special laws, it is groundless to insist that the abolition of NSA would violate the principle of equality with North Korean law when North Korea's strategy towards South Korea and legal systems remain the same as before, and that those who praise North Korea are not subject to punishment.

Controversies over the serious anti-human rights orientation of the NSA have been noted in the international community. The UN Committee on Civil and Political Rights has consistently recommended the abolishment of the NSA. With North Korea having joined the UN simultaneously with South Korea and gaining status as an independent state, the Commission concluded that it would be appropriate to see North Korea as 'de facto a sovereign state' rather than 'anti-state organization militarily occupying the northern part of Korean Peninsula' in consideration of the changes in the political environment and international law. In particular, it was pointed out that it would be contradictory to continue to declare North Korea an anti-national entity given the results of the South-North Summit held in 2000.

3. Evaluation

For the reasons listed above, the Commission concluded that the NSA should be completely repealed because the NSA is flawed to such a degree that even partial amendment would be inadequate to remove provisions antithetical to human rights. The Commission's recommendation on abolishing the NSA equipped with careful examination of the Act from historical, legal and realistic viewpoints should be a significant contribution to the development of democracy and promotion of human rights in Korea.



Preparation of Draft of Recommendation on the NAP guideline

1. Background

The National Action Plans for the Promotion and Protection of Human Rights (NAP guideline) is of great significance in that it comprehensively evaluates the current situation of human rights in Korea and then suggests policy tasks for the formation of mid and long-term human rights policy. In this regard, the NAP guideline intends to realize human rights mainstreaming, which considers human rights protection and promotion from the initial stage to the implementation stage and to the evaluation stage of policy of the state by presenting a blueprint of mid and long-term national human rights policy.

The NAP guideline is in compliance with the recommendation of the World Conference on Human Rights, Vienna, 1993, which urged the formulation of a master plan for national human rights policy adequate for political/cultural/historical and actual conditions of each country. More than fifteen countries thus far have established or have been working on their own NAP guidelines since then.

In May 2001, the UN Committee on Economic, Social, and Cultural Rights recommended that the Korean government prepare a NAP guideline and report it to the Committee by June 30, 2006. The Commission has done preparatory work to formulate a draft of recommendation on the NAP guideline since 2002, when the Commission was established.

2. Procedures

In 2002 and 2003, the Commission collected basic materials including case studies on the NAP guidelines of other countries, translated the UN NAP guideline handbook, and researched and reviewed the implementation of recommendations by international organizations in each country.



In 2004, the Commission established an organization to facilitate the formulation of the NAP guideline, which included a working-level team, promotion group, and advisory team. The Commission conducted 25 preliminary surveys on the situation.


Based on results of the preliminary surveys, the NAP guideline working level team selected major issues and tasks in each area of civic/political rights, economic/social/cultural rights, social minorities, human rights education, reinvigoration of civic society, and international human rights activities, after considering the number of people concerned, feasibility, viability, seriousness, and budget requirements, etc. Selected tasks were streamlined into major policy tasks to be included in the draft of the recommendation on the NAP guideline after reviews by NAP guideline expert advisory team consisting of experts in each field and representatives of NGOs.

In order to ensure the procedural legitimacy of the draft recommendation on the NAP guideline, the Commission received opinions on major policy tasks to be included in the draft of the recommendation on the NAP guideline in writing from 86 NGOs concerned. The Commission created a NAP guideline page on the website of the Commission (www.humanrights.go.kr) to help citizens better understand the NAP guideline, while allowing them to make suggestions on it. Opinions submitted through the website will be fully reflected in the process of formulation of the draft of the recommendation on the NAP guideline and implementation and monitoring of the NAP guideline.

Under the revised Articles 19 through 21 of the Enforcement Decree of National Human Rights Commission Act, the Commission organized the Human Rights Policy Consultation Committee consisting of central and local government officials and representatives of NGOs for more effective discussion on policy on the NAP guideline.

3. Evaluation and Future Tasks

It is very difficult to formulate a long-term comprehensive master plan after identifying and prioritizing human rights issues in Korean society. However, through strenuous efforts



and activities of the NAP guideline working level team, ten meetings of the promotion team, and 25 commissioned researches, a foundation for the formulation of the NAP guideline recommendation draft was established.

In 2005, the Commission will prepare a draft of the recommendation on the NAP guideline based on the findings of efforts made thus far. The Commission will then hold forums and hearings on the draft for comprehensive and focused consultations with civic NGOs and citizens, while holding close consultations with policymakers at state agencies. Afterwards, the Commission will formulate a practical and viable NAP guideline and recommend it to the government.

After the Commission delivers the recommendation, each related administrative body should establish detailed implementation plans for each year which address related statutes and organizations as well as necessary budget funding in order to prepare a master implementation plan for each policy task. The Commission will monitor the implementation of each administrative body from 2007 through 2011 to ascertain how the NAP guideline recommendations are practically implemented.



Revision of National Human Rights Commission Act

1. Background

The National Human Rights Commission Act (hereinafter referred to as the Commission Act) was enacted and promulgated as Act No. 6428 on May 24, 2001. The Commission Act provides for the purposes of the Act, which are to protect fundamental human rights of all individuals and to improve the standards of human rights by establishing the National Human Rights Commission, an independent body.

The Commission Act was enacted after long, hard discussion between human rights organizations and the government. Even during this process, many components needed for remedy of rights of the people were not reflected in the Commission Act. In actual application and execution of the Commission Act, many shortcomings were found concerning such matters as the independence of the Commission, the duties of investigation, and the practical effect of recommendations. For this reason, there have been unceasing calls for revision of the Commission Act. On January 29, 2004, Article 11 of the Commission Act (Restriction on Retired Human Rights Commissioner's Taking Public Office) was ruled unconstitutional.

The proposal for the revision of the Commission Act (draft) was first discussed in the 16th session of the National Assembly. The two major proposed revisions were to appoint the secretary-general of the Commission to the vice-minister level (proposed by Lee Sang-su on December 10, 2001) and establish a human rights impact assessment system (proposed by Cheon Jeong-bae, December 1, 2003). The proposal was abandoned automatically as the 16th session of the National Assembly broke for recess in May 2004.

Since the opening of the 17th session of the National Assembly, the need to revise the Commission Act was again raised by candidates for the Legislation and Judiciary Committee.



Assemblyman Choe Jae-cheon proposed three bills of amendment. As [Table 3-4-1] shows, the major contents of Choe Jae-cheon's proposal were about strengthening the functions and authority of the Commission. They addressed such matters as granting the Commission more independence, strengthening its investigative authority, establishment of regional branch offices of the Commission, and introduction of a human rights impact assessment system.

In June 2004, discussion began under the leadership of the Presidential Committee on Reducing Inequality in Income Distribution and Elimination of Discrimination on how to integrate all administrative functions to eliminate discrimination, which had been shared by a number of ministries including the Ministry of Gender Equality, into the Commission. The government decided to integrate the functions to correct discrimination into the Commission and is now preparing a draft of an amendment to the Commission Act to that effect.

[Table 3-4-1] Proposals for Bill of Amendment to the Commission Act presented in 2004

Proposal	No. of lawmakers in favor of the bill	Submitted	Procedures	Major contents
Choe Jae - cheon (proposed)	150	2004.12.10.	· Presented to Judiciary Committee: 2004.12.28 · Under deliberation at sub - committee 1	Revisions to provisions to strengthen independency of the Commission, etc.
Yu Seon - ho (proposed)	37	2004.7.2.7	"	Establishment of regional offices
Jeong Seong - ho (proposed)	18	2004.8.13.	"	Deletion of provisions restricting former Commissioners holding of public office
Proposed by government		2005.2.17.	-	Integration of discrimination state organs into the Commission

2. Major Contents of the Bill of Amendment

(1) Consolidation of Discrimination Correction Administrative Functions

After the government decided to integrate functions to correct discrimination into one state agency, it prepared a draft of a bill to amend the Commission Act.

The government proposal is to integrate functions to correct discrimination which have been dispersed among different ministries into the Commission. The Equal Employment Committee functions specified by the Equal Gender Employment Act, which are under the Ministry of Labor, and the functions of the Gender Discrimination Committee specified by the Anti Gender Discrimination Act, which are under the Ministry of Gender Equality, are to become duties of the Commission. The proposal stipulates that a Discrimination Correction Committee be established in the form of a sub-committee under the Commission and that a special sub-committee in each area such as gender and disability be established under the Commission.

In order to carry out functions to rectify discrimination in an effective manner, the bill clarifies the concept of discrimination provided for in the Commission Act such as disability, regional origin, and marital status. In order to expand the concept and scope of discrimination, the bill specifies that investigation and remedy of other areas of discrimination such as sexual harassment be permitted.

In order to strengthen the role of the Commission as coordinator, the bill stipulates that the Coordination Committee in each area such as women's issues and disability be established and that the participation of experts outside the Commission be expanded. The function of coordination of the Commission is to be stepped up by allowing the Commission to initiate conciliation by an application of the person concerned or ex officio without the recommending compromise.

(2) Independence and Function of the Commission Strengthened

The proposal by Assemblyman Choe Jae-cheon primarily calls for strengthening the independence and functions of the Commission. If estimated expenditures requested by the Commission are to be reduced, the opinions of the president of the Commission should be presented to the Cabinet. Matters concerning the organization, operation, and personnel affairs are to be determined by the rules of the Commission. To grant the president of the Commission the authority of personnel management of the secretariat, the authority of the



Commission over the budget and organization is to be strengthened. In accordance with expansion of the secretariat and strengthening of functions of international cooperation and coordination of the secretary-general of the Commission, such as centralization of discrimination correction organs, the secretary-general is permitted to hold the position of a permanent commissioner of the Commission. The proposal also calls for the establishment of two vice secretary-general posts.

The proposal introduces a system of human rights impact assessment on statutes and policies of the government in order to prevent controversies and social conflicts over human rights violations due to needless trial and error in government projects in advance.

In order to increase the efficiency of the complaint receiving and handling system, the proposal stipulates that regional branch offices be established under the Commission, complaint collection boxes be installed at detention and protective facilities, and the presence of staff of such facilities be prohibited in order to guarantee the rights of detainees to make statements during interviews. Cases under criminal investigation are also to be subject to investigation by the Commission. The existing provision which required the resolution of the Commission before investigation by visiting the facility is to be deleted in order to simplify the procedures.

In order to ensure the practical effect of a recommendation, which is non-binding, the proposal stipulates that a Human Rights Policy Consultation Committee with representatives of the central and local governments and outside experts be established under the Commission and that the head of the government agency given a recommendation by the Commission notify the Commission as to whether or not the recommendation will be implemented and provide notification of the results if it is implemented.

3. Future Plans

The Commission will establish its final position after reviewing the proposal for the amendment to the Commission Act. The Commission will hear opinions of human rights

organizations on the proposal. It will endeavor to have the opinions of the Commission reflected in the deliberation process of the National Assembly, and will press for passage of the bill at the extraordinary session of the National Assembly in 2005. When the bill for the amendment to the Commission Act passes and is promulgated, the Commission will start follow-up tasks for the centralization of discrimination functions and complete them by the soonest possible date. Related provisions, including the Enforcement Decree of the Commission Act, Organization Decree of the Commission, and Commission Rules, will be enacted and revised. In assuming the related functions from other ministries including the Ministry of Gender Equality, the Commission will take precautions to ensure that the remedy of rights of citizens is thoroughly upheld during the course of transfer of such functions.

The debate on what kind of organization should be established for correction of personal information infringement is increasingly fierce. One option is to establish it under the Commission. Correcting infringements of personal information in the public sector is the duty of the Commission at present. The Commission will monitor the debate on this issue and will take whichever position best promotes and strengthens the remedy of rights of the people.



Anti-Discrimination Act(Proposal)

1. Background

The Commission has pressed for the enactment of the Anti-Discrimination Act in order to effectively correct discriminatory practices, institutional discrimination, and discrimination in the legal system. The Commission also concluded that the Anti-Discrimination Act would be an excellent supplement to the Commission Act given the vagueness of the concept and standards for judgment of discrimination provided in the latter.

The Commission designated the enactment of Anti-Discrimination Act as a high priority project for 2003, and it organized the Committee for Legislation of the Anti-Discrimination Act. The Committee examined case studies of other countries germane to the Anti-Discrimination Act and discussed major issues. The Commission organized a separate team in charge of wording the provision to facilitate the writing of the provisions included in the anti-discrimination bill.

In the review process, the Commission decided that bill should clearly define the concept of discrimination, the eighteen forms of discrimination stipulated in the Commission Act, and the nature of unreasonable discrimination, and specify government measures to correct discrimination in employment, supply and use of goods and services, and use of educational facilities. Before drafting the bill, the Commission heard opinions from citizens at all levels of society and held consultations with ministries concerned with discrimination.

The Commission decided that major issues should be more carefully examined and that especial care should be taken in establishing more concrete definitions of the types of discrimination and remedial measures. As the consultations with related ministries became protracted, it became clear that the Act could not be passed in 2003: it had to be postponed to 2004.



2. Procedures

In 2004, the Commission's Anti-Discrimination Act Promotion Committee and Provision Drafting Team continued their work and reviewed the major issues in-depth. The Promotion Committee held nine meetings attended by all team members, three meetings by each of three sub-committees, and two review meetings each by area. The Provision Drafting Team had 36 team meetings and eight review meetings on the wording of the provisions.

The Commission revised and added wording in each of the articles of the bill and secured materials supporting its actions. It also received advice from experts. In order to analyze the socioeconomic effects of the bill, the Commission conducted a commissioned research project on the government budget funding requirements.

The Commission actively participated in consultations with relevant ministries concerned with the Anti-Discrimination Act and discrimination correction agencies in its efforts to organize discussions concerning the bill.

3. Evaluation and Future Plans

The Commission has endeavored to draft a bill that would meet the consensus of the Korean people by working with experts and conducting commissioned research in consideration of the importance of the Anti-Discrimination Act and difficulties in composing the bill. However, with ministries beginning to engage in discussion on the re-arrangement of discrimination correction agencies only in the second half of 2004, the passage of the Anti-Discrimination Act necessarily had to be further delayed as it directly concerns modification of discrimination correction agencies.

The Commission Act is to be revised to allow for the consolidation of all the discrimination correction functions now performed by various ministries. When the Commission Act is revised, the Commission will make full efforts to prepare an Anti-Discrimination bill which should fully prevent discrimination and correct discrimination effectively.



Research Project for North Korean Human Rights

1. Background

The resolution on Human Rights in the Democratic People's Republic of Korea adopted by 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 abstained from the voting on this resolution in consideration of its relations with North Korea, provoking heavy criticism from the opposition party and some civic organizations. Reports on human rights in North Korea by international human rights organizations including Amnesty International have been released. In Korea, citizens increasingly raised their voices demanding improvements in human rights in North Korea and protection of North Koreans who escaped from North Korea. In 2004, the resolution on Human Rights in the Democratic People's Republic of Korea was passed again by the UN Commission on Human Rights, and the North Korean Human Rights Act was passed in the US. Domestically, the number of North Koreans escaping from North Korea has increased and violations of the human rights of North Koreans en route to South Korea or when settling in South Korea have emerged as a more serious issue.

The National Assembly and civic organizations demanded that the Commission carry out a project for human rights in North Korea. The Commission received complaints demanding rectification of human rights violations in North Korea and protection of the human rights of North Koreans who escaped to South Korea. The Commission started to carve out a new role for itself with focus on ascertaining the human rights situation in North Korea and of North Koreans outside North Korea.

2. Major Activities in 2004

The Commission carried out projects for North Korean human rights in 2004 as follows:



First, the Commission held forums and visited China to conduct on-site investigations to ascertain the situation of North Koreans who moved out of North Korea. The forums were held twice on June 30 on the 'Current Situation of North Korean Human Rights Outside North Korea and Tasks' and on December 22 on 'Changes in the Situation of North Korean Human Rights outside North Korea and Policies of the Countries Concerned'. These meetings were attended by North Koreans who had settled in South Korea, organizations supporting North Koreans outside North Korea, and experts on North Korea. They discussed the reasons for defection from North Korea and the routes of escape, life of North Koreans in foreign countries, and the activities of organizations supporting North Koreans outside North Korea.

On-site investigations in China were conducted twice, one in late June and the other in late October. The Commission visited Beijing and Yanji and surveyed the activities of the Korean embassy to protect North Koreans outside North Korea, had interviews with North Koreans outside North Korea and Chinese experts in this field. The Commission also visited the China-North Korea border area. Through this on-site investigation, the Commission could understand the motivation of North Koreans to flee their country, their life in China, activities of civic groups concerned, and measures of the government. However, the Commission found that there were considerable differences in viewpoints among the North Koreans outside North Korea, NGOs supporting North Koreans, and the positions of the governments of countries concerned including the South Korean government in seeking fundamental solutions to the protection of North Koreans outside North Korea and the reality of escapes from the North.

The Commission hosted the International Symposium on North Korean Human Rights and participated in related meetings hosted by the UN in order to ascertain the human rights situation in North Korea. The International Symposium held on December 1, 2004 at the Far Eastern Research Institute of Gyeongnam University in Samcheong-dong, Seoul, provided a forum to grasp the developments surrounding the issue of North Korean human rights both at home and abroad.

The Symposium had two sessions. One was on North Korean Human Rights in the International Community, and the other was on North Korean Human Rights in Northeast Asia. A special lecture by the UN Special Rapporteur on Human Rights in North Korea was delivered at the symposium, followed by speeches and discussions among North Korean human rights specialists, activists from NGOs, and members of the National Assembly.

Participants discussed the domestic and foreign environments surrounding North Korean human rights and the current situation of human rights in North Korea. Various measures were proposed to solve the problems. The Commission participated in meetings of the UN Human Rights Commission and Committee on the Right of the Child to monitor discussions relating to North Korean human rights.

3. Evaluation and Future Plans

In carrying out the project for North Korean human rights, the Commission focused on ascertaining the current situation of North Koreans who had fled from North Korea. The survey and research on the human rights situation in North Korea and North Koreans who escaped to South Korea were extremely inadequate, and little was done.

In 2005, the Commission will focus more heavily on the human rights of North Korean escapees to South Korea and human rights issues in North Korea. It will conduct a survey on North Koreans in South Korea and face-to-face interviews with them. It will also hold public hearings, seek advice from experts, and attend international meetings to better ascertain the human rights situation in North Korea. Finally, it will host another international conference on this theme. The Commission will conduct all of these tasks comprehensively and step-by-step after consideration of the complexity and sensitivity of the North Korean human rights issue in South Korea.



National Human Rights Commission of Korea

Part

Future Tasks for Protection and Promotion of Human Rights

Chapter 1 Strengthening the Foundation and Progressive Implementation of Human Rights Activities

Chapter 2 Strengthening Human Rights Protection by Ensuring Efficiency of Counseling and Inspection/Remedy

Chapter 3 Strengthening Education and PR for Human Rights Awareness

Chapter 4 Strengthening Cooperation with Non-governmental Human Rights Organizations at Home and Abroad



Strengthening the Foundation and Progressive Implementation of Human Rights Activities

1. Expansion of Functions of the Commission

The government decided to consolidate all of the functions for correction of discrimination, which have been dispersed among a number of ministries including the Ministry of Gender Equality, into the Commission. The Enforcement Decree of the National Human Rights Act, Decree on Organization of the Commission, and other applicable laws will accordingly be revised and enacted to install Discrimination Correction Committee and Experts Committee and Mediation Committee in each area of discrimination in the Commission.

The Commission will prepare an effective legal framework to ensure that the remedy of rights of the people is fully upheld in the transitional period when the discrimination correction functions are transferred. With the establishment of a discrimination correction body under the Commission, it will fully develop policies to correct discrimination and investigate and remedy discrimination complaints.

The details of centralization of agencies concerned with the protection of personal information under the Commission will be determined by the outcomes of discussions on three bills on the protection of personal information pending in the National Assembly.

The Commission has expressed its opinions on the NEIS. It has reviewed government policies and presented its opinions on issues of protection of personal information such as the use of personal information including genetic information, fingerprinting and iris detection, and installation and operation of unmanned monitoring devices by public organizations. The Commission will make its personal information protection functions more specialized in 2005. It will seek the most desirable methods to establish a body for the protection of personal information through consultation with human rights NGOs and related government organizations.



2. Presentation of Direction for Mid- and Long-term Human Rights Policy

In 2005, the Commission will make a recommendation on the draft of the Five-Year Plan of NAP guideline from 2007 through 2011, which will present the direction of human rights policy from mid- and long-term perspectives. The Commission will monitor the policymaking process and the implementation of the policy.

Keeping pace with the schedule to establish a discrimination correction body within the Commission, the Commission will endeavor to map out a concrete program for the enactment of the Anti-Discrimination Act. The legislation of the Anti-Discrimination Act will facilitate efforts to address unreasonable discriminatory practices and legal systems by presenting standards for decisions on discrimination, while increasing the effectiveness and efficiency of discrimination correction activities of the Commission.

The Commission already made recommendations on the abolishment of the National Security Act and Social Protection Act. It will prepare measures to address other human rights issues in Korea, including capital punishment, irregular workers, and bioethics law, for which the Commission has reviewed related policies through surveys and debate sessions. As for human rights in North Korea, the Commission has thus far focused on collection of materials, surveys on the situation, and collection of diverse opinions. In 2005, the Commission will prepare policy measures to improve the human rights situation of North Korean defectors to South Korea.

3. Monitoring of Domestic Implementation of International Human Rights Treaties

Since its establishment, the Commission has monitored the implementation of international human rights covenants in Korea. It will conduct in-depth examinations on reservations made to human rights covenants and treaties to which Korea has acceded, and when necessary, will recommend the withdrawal of the reservations.

The Commission will hold consultations with related government agencies to improve the perception of those engaged in the legal profession about domestic implementation of international human rights treaties.

Noting that the support for settlement of refugees in Korea is insufficient despite the increasing number of refugees being admitted, the Commission will prepare measures to make necessary amendments to applicable laws and legal systems. To this end, the Commission will collect and analyze refugee protection cases of other countries. It will also carry out basic studies on international refugee laws to develop expertise in this area.

4. Laying a Stronger Foundation for Human Rights Policy

It has been difficult to conduct surveys on human rights efficiently due to a shortage of human resources. This has resulted in disuse of budget funds and budget carry-overs. In 2005, the Commission will draft a guideline on conducting surveys that lays out standard procedures and a master plan for surveys from the initial stage of selection of research projects to evaluation of survey findings.

The Commission will take full advantage of the Human Rights Policy Consultation Committee established in 2004 to conduct consultations and exchange information with related ministries more actively and smoothly while rectifying acts of discrimination and preparing a draft recommendation on the NAP guideline.

In consideration of changes in applicable laws and the environment thus far, the Commission will finalize its analysis of the types of human rights violations and preventive guidelines at detention facilities and during investigations, which it has developed since 2003 through surveys.

The Commission will continue to translate documents published by international human rights organizations including the United Nations. In order to keep abreast of the latest developments in human rights, the translation effort will be expanded to cover documents



published by major human rights organizations including the EEOC, the Australian Human Rights and Equal Opportunity Commission, and the European Court of Human Rights. The Commission will refer to these translated materials when formulating human rights policy.



Strengthening Human Rights Protection by Ensuring Efficiency of Counseling and Inspection/Remedy

1. Ensuring the Effectiveness of Human Rights Counseling and Complaint Receiving

The Commission must build an infrastructure in order to offer counseling, such as human rights counseling and receiving complaints. To this end, the Commission will publish the ‘National Human Rights Commission Act Commentary’ in 2005, and streamline the procedures for receiving petitions and handling procedures of complaints. It will also publish a detailed operation manual for its staff.

The National Human Rights Commission Act Commentary will provide in-depth analysis of the background information on each article of the National Human Rights Commission Act and its purpose, case studies of other countries, precedents and court decisions, and applicable laws. The Commentary will make the application and execution of laws consistent as it will include explanatory notes and standards for the application of the law for law enforcement officials. The Commentary will also greatly help ordinary citizens remedy their rights on their own.

In order to increase the efficiency of the face-to-face complaint system, the Commission will seek to improve the system and develop educational programs on face-to-face complaints.

The Commission will review the contents of complaints it has received in the three years since it was established in order to improve the complaint handling process. It will publish a manual for handling complaints to prepare for an increasing volume of complaints in the future.

The Commission will build a database on each detention facility where complaints originate to facilitate the collection of complaint statistics on detention facilities. The data



collected will be analyzed so that the Commission can prepare more effective standards for categorization of complaints from respondent organizations.

2. Ensuring the Effectiveness of Human Rights Violation Investigation and Remedies

The Commission simplified the complaint handling process, standardized the investigation process, and increased the capabilities of investigators of the Commission. As a result, the Commission raised the success rate in settlement of complaints and shortened the complaint handling cycle. Nonetheless, a number of tasks remain for the Commission to handle to firmly establish itself as an effective organization for investigation and remedy of complaints, including the development of remedial measures with practical effects, ensuring the practical effects of recommendations, and preparation of guidelines for judgments of human rights violations. The Commission will carry out the following projects to complete these tasks:

- (1) The Commission will initiate *ex officio* investigations more proactively. Under mid- and long-term plan, the Commission will carry out *ex officio* investigations starting with the cases where human rights are most at risk. The Commission will strengthen its preventive functions by improving legal systems.
- (2) The Commission will prepare measures to improve legal system with more practical effects by visiting human rights dead zones such as protective facilities and the army to conduct surveys, and take action as needed to protect human rights.
- (3) The Commission will endeavor to ensure that its recommendations are fully observed by monitoring their implementation, conducting analyses, and more closely following up measures on a regular basis.
- (4) The Commission will develop a new model for conciliation by conducting researches and analysis on settlements by compromise and implementing them.
- (5) It is important to prepare standards for judgment by type of human rights violation in order to standardize the procedures for investigation and remedy. To this end, the Commission will collect and analyze the decisions and precedents made by the

Commission to date, and these analyses will be fully applied to future decisions.

3. Expansion and Strengthening of Discrimination Correction Functions

In 2005, operations of the Commission will expand as it assumes responsibility for all the discrimination correction duties previously assigned to the Ministry of Labor and Ministry of Gender Equality. The Commission is expected to receive an increasing number of cases of employment discrimination, sexual harassment, and gender discrimination, among others. The Commission will need to increase its capacity to handle the greater caseload and fulfill its role as the nation's single agency responsible for handling discrimination.

The greatest need at the present time is to prepare standards for judgment of discrimination and discrimination prevention guidelines. There is a great deal of debate on the concept of many forms of discrimination, including for example, social status discrimination. No clear standards for the concept social status have yet been determined. There are relatively clear standards for discrimination in employment and the use of educational facilities, but the standards and scope of discrimination in the use of goods and services is still very controversial.

As the Commission has concentrated on handling complaints, it has not made sufficient efforts in advance investigation and *ex officio* investigation in the areas where discrimination is widespread but complaints have not been filed. In the future, the Commission will be more active in identifying the issues of advance investigation and *ex officio* investigation in the areas where discrimination is widespread by conducting on-site investigations and consultation meetings with NGOs.

Some respondent organizations do not accept the Commission's recommendations to correct discriminatory actions, even after the Commission had declared the respondents responsible for discrimination. The Commission will make efforts to solve this situation. It is expected that complaints against private companies about employment discrimination will



increase. Private sector companies are less likely to accept recommendations than public organizations. The Commission needs to find effective means to deal with the lower acceptance rate in the private sector.



Strengthening Education and PR for Human Rights Awareness

1. Facilitating Human Rights Education in schools

The Commission will concentrate on facilitating human rights education in schools in compliance with the resolution of the human rights educational program of the United Nations. The Commission will step up its consultations with the Ministry of Education and Human Resources Development and municipal and provincial educational offices to ensure that human rights classes are included in the curricula of elementary, middle, and high schools and training courses for teachers. The Commission developed a human rights educational program for elementary schools in 2004. In 2005, the Commission will develop educational programs for middle and high schools. The Commission will provide training courses for teachers at schools where students with disabilities and without disability study together in the same class. These courses are intended to raise the human rights awareness of teachers.

The Commission will conduct programs developed at schools designated as human rights education schools at other schools nationwide, and it will help universities open human rights courses. In order for these universities to maintain the classes effectively, the Commission will provide consulting, support for the classes and monitor them. It will redouble its efforts to encourage law schools and teachers' colleges open human rights classes so that future leaders of law will become more familiar with human rights.

2. Expansion of Human Rights Education for Employees at Public Organizations

In order to improve human rights classes at police training institutes and the Legal Research and Training Institute, the Commission will continue to provide consulting and monitor the classes. It will consult with related organizations to upgrade and expand the



human rights classes into complete human rights curricula at these institutes. Meanwhile, the Commission will independently develop an educational program to raise the human rights awareness of public officials and offer human rights courses independently. In particular, the Commission will endeavor to expand human rights education in sectors where human rights education is most seriously needed, such as military organizations and protective facilities for many persons.

3. Laying Legal Foundation for Systematic Human Rights Education

The Commission will spread human rights education to all levels of society through policy coordination with related ministries in order to lay the legal framework for human rights education.

The Commission will establish the concept of human rights education by hearing different viewpoints and opinions and work out guidelines for human rights education by analyzing applicable laws and systems of other countries.

The Commission will provide internet human rights education at the Cyber Human Rights Learning Site and upgrade its contents.

4. Stepping up PR on Human Rights Culture

The Commission will continue to develop human rights culture contents which are effective in raising awareness of human rights, such as films, comics, and photos, and help prevent discrimination and create a new human rights culture. ‘If I Were You’, a human rights film and ‘So Many Stories’, a human rights animation produced in 2004, will be shown at theaters and be entered into overseas film festivals. They will also be produced as a video and DVD, and they will even be shown on mobile phones, the internet, and national television. In order to increase the benefits of the educational programs, the Commission plans to show the films at schools at different levels. Since 2002, the Commission has developed human rights cultural contents in order to increase human rights

awareness. The Commission is preparing an internet human rights culture website in order to distribute the contents more efficiently on the internet.

The Commission will increase the contents and improve the quality of 'Human Rights', a monthly magazine which includes reports on on-site human rights conditions, analysis of human rights issues, human rights information, and human rights news around the world. It will increase its web magazine service and will provide Braille and voice services for persons with disabilities.

'Recognize Difference, You Will See a World without Discrimination', the television campaign to prevent discrimination developed in 2004, will be aired again in 2005. In order to maximize the effects of the television campaign, the Commission will stage it on 120 outdoor electric bulletin boards assigned for promotion of government policies nationwide.

The Commission will be very aggressive in its public relations with the press so that its opinions on important issues will be clearly understood. Among these issues are the establishment of regional branch offices of the Commission, revision of the National Human Rights Commission Act, and the consolidation of discrimination correction functions within the Commission. It will formulate a PR program that addresses the specific forms of discrimination in order to make major human rights issues social agenda in Korea.



Strengthening Cooperation with Non-governmental Human Rights Organizations at Home and Abroad

1. Joint Projects with Non-governmental Human Rights Organizations Reinforced

NGO Support Projects that started in 2003 were made substantial programs in 2004 through revisions to applicable laws and rectifying shortcomings revealed in the program in 2003. The Commissioned Project for Voluntary Programs for Citizens, which is meant to raise human rights awareness and spread human rights culture in everyday living, has similarly become a practical joint cooperation project with human rights organizations.

The two programs have been conducted separately due to their differences, but given the fact that they are both intended to protect and promote human rights and share many similarities with regard to projects, the Commission will seriously consider the possibility of integrating the two programs into one.

The Commission has facilitated human rights educational classes in order to improve the expertise of human rights activities in business. The Commission will expand the scope of the classes and increase their content. It will upgrade the quality of the classes by focusing on presentations of case studies and discussions among students.

2. Establishment of Cooperative System with Non-governmental Human Rights Organizations

In order to strengthen cooperative ties with human rights NGOs, the Commission must establish a system of cooperation that functions at all times. The Commission will build partnerships with human rights NGOs through regular meetings and hold policy discussion meetings with relevant NGOs on a regular basis to discuss important issues. It will establish cooperative ties with human rights NGOs concerned in particular with economic and social



rights, in addition to civil liberties.

High priority projects of the Commission in which human rights NGOs can participate from the initial stage of planning will be selected as model projects. The Commission will then work on these projects from planning to execution and to evaluation jointly with NGOs. By doing so, the Commission will form a strategic partnership with NGOs on specific projects.


3. Promoting International Cooperation

The Commission has steadily laid ground for international cooperation in terms of both human resources and material resources. In order to carry out more effective international cooperation projects in the future, the Commission will concentrate on surveys, analysis, and research on international human rights issues and collect of case studies and information from other countries.

The Commission will collect materials on current international human rights issues and analyze them systematically, and periodically publish the findings of the analysis. In order to implement international human rights treaties in Korea, the Commission will collect and analyze case studies in other countries and hold workshops and seminars with the participation of experts from Korea and overseas. It will continually monitor current international human rights issues and will forward letters on human rights violations throughout the world in solidarity with human rights institutions and NGOs in other countries. The Commission expects that the experience gained in such projects will allow the Commission to assume one day a leading role in protecting and promoting human rights in the international community.

4. Diversification of International Cooperation Projects

Since its establishment three years ago, the Commission has participated in and monitored various meetings, including those of the UN Commission on Human Rights, the UN Sub-



Commission on Human Rights, treaty monitoring bodies, and thematic working groups. In the future, the Commission will actively participate in the meetings of important themes such as the right to development, right to a clean environment, information and human rights, and rights of the child and persons with disabilities. It will step up the collection and analysis of related materials.

The Commission will fully support countries that may establish national human rights institutions in Asia, especially in Northeast Asia. It will facilitate cooperation projects, such as a joint survey on the human rights situation in each region. Finally, the Commission will help establish a regional human rights mechanism by leading cooperation for protection and promotion of human rights among the countries in Asia, the only region in the world still without a regional mechanism for human rights protection.



Appendices

1. Commissioners and Secretary-General

2. Organizational Structure

3. Budget

4. Seventh International Conference for National Institutions for
the Promotion and Protection of Human Rights Seoul,
Republic of Korea, 14-17 September 2004

1. Commissioners and Secretary-General (As of December 31, 2004)

Young - do Choi	Mr. Choi passed the Korean bar examination in 1961, served as a judge from 1965 to 1973, and since 1973 has worked as a human rights lawyer. Over the last few years, he was co - chairperson of the People's Solidarity for Participatory Democracy (PSPD), and between 1996 and 2000, he was head of Lawyers for a Democratic Society (Minbyun), a prominent Korean human rights NGO. Working as a standing co - chair with the NGO's Network for Joint Action toward the establishment of a properly functioning national human rights institution, he significantly contributed to the establishment of the current National Human Rights Commission.	
Young - ae Choi	Ms. Young - ae Choi assumed the post of Secretary General of the National Human Rights Commission of Korea from 2002 to 2004. Instrumental in the development of the NHRC, Ms. Choi served as Co - Chairperson on the Joint Committee of NGOs for Realization of Right National Human Rights Institution (1999 - 2000). She was also President of the Korea Sexual Violence Relief Center for a decade from 1991 to 2001.	Chairperson, Subcommittee 1
Ho - Joon Kim	Mr. Ho - Joon Kim was a guest professor in the department of communication at Chungnam National University from 2002 to 2004. From 1988 - 1998, he was a correspondent in Washington, D.C., managing editor and chief editorial writer at Seoul Daily News. He was also an editor and managing director of Munwha Daily Newspaper. Mr. Kim is currently a director of the Northeast Asia Peace Movement and has been a steering member of the Association of Commemorative Service of Jang Jun - ha since 2001.	Chairperson, Subcommittee 2
Kang - ja Jung	Ms. Kang - ja Jung served as a Non - standing Commissioner for NHRC from 2001 to 2004. She was also the Co - Representative for the NGO, Korean Womenlink from 1993 - 2004. She earlier served as a Non - standing Commissioner on the Minimum Wage Council in the Ministry of Labor (2000 - 2003) and on the Presidential Commission on Women's Affairs (1999 - 2000). Mrs. Jung was also President of the Labour Committee of Korea Women's Association United (1995 - 2000).	Chairperson, Subcommittee 3
Duk - Hyun Kim	President of the Women Lawyers Chair person of the Women's Affairs Research Director of the Korean AIDS Suppression League	
Heung - Rok Lee member	Saegil Patent & Law Firm Member of Busan District Bar Association Vice Chairman of Busan District Labor Relations Commission	Subcommittee 3
Man - Heum Kim Member	Mr. Man - Heum Kim has been a professor at the Institute for Asia - Pacific Studies in the School of International Studies at the Catholic University of Korea. He also continues to serve as the Executive Commissioner and Consultant to the NGO, People's Solidarity for Participatory Democracy. Mr. Kim also served as a Standing Councilor for the Korean Political Science Association.	Subcommittee 3
Cheon - Soo Ra	Mr. Cheon - Soo Ra's has been a member of Bae, Kim and Lee Law Firm since 1999. He also continues to serve as Commissioner of the Prime Minister Administrative Appeals Commission which he has done since 2002. Since 2000, he has been an Adjunct Professor at Young San University School of Law. Earlier, Mr. Ra was a Senior Judge in the Seoul District Court (1999). In 1996, he was a professor at the Judicial Research and Training Institute.	Member, Subcommittee 2



Hae - hak Lee	Mr. Hae - hak Lee has served as Joint President of the Campaign for North Korea Help. He has also served as Joint President of the National Council for Self - Reliant and Peaceful Unification since 1998. In 1999, Mr. Lee was Joint President of the People's Union for Democratic Reform. In 1990, he was President of the National Coalition Movement for Nationalism and Democracy. He was also President of the Seong nam Migrant Workers Center.	Member, Subcommittee 2
In - seop Chung	Mr. In - seop Chung has been a professor at the School of Law at Seoul National University. He also continues to be the Director of Seoul International Law Institute (as of 1999). Mr. Chung served as a consultant to the Prime Minister in Policy Relating to Overseas Koreans. He was also a policy consultant to the Ministry of Foreign Affairs and Trade.	Member, Subcommittee 1
Keum - sook Choi	Ms. Keum - sook Choi has been a professor in the Department of Law at Ewha Womans University. She is also currently a member of the National Tax Examination Committee (as of 1999). She has served as a Councilor for the Asia Women's Law Institute and Commissioner on the Committee on Special Legislation of North and South Korea in the Ministry of Justice. She has also served as commissioner on many other commissions including the Copyright Commission for Deliberation and Conciliation, Central Commission for Real Estate Assessment, and Commission for the Reform of Family and Juvenile Regulations	Member, Subcommittee 1
No - hyun Kwak	Full - time Lecture, Assistant Professor, Associate Professor, Korea National Open University (KNCU) Editor - in - Chief, Democratic Association of Professors for Democratic Society (membership: about 1,500 university professors of progressive inclination) Commissioner, National Human Rights Commission of Korea Member, The Presidential Commission on Policy Planning	Secretary - General
Chang - Kuk Kim	President President of Korean Bar Association President of Seoul Bar Association Co - Representative of People's Solidarity for Participatory Democracy	Commissioners retired in 2004
Kyung - Seo Park	Senior Commissioner Former Chairman of the WCC Asian Policy Commission in Geneva, Swiss Chairman of the East Asian Peace Commission First Human Rights Ambassador of Korea	
Hyun Yoo	Senior Commissioner Assistant Judge of Supreme Court Professor at the Judicial Research and Training Institute Senior Judge of Seoul High Court Lawyer	
See - Chun Rhyu	Senior Commissioner Commissioner for the People's Movement for the Democratic Constitution Headquarters Director at the Korean People's Artists Federation Novelist	
Mi - Kyung Cho	Commissioner Professor of Law, Ajou University, President of the Korean Society of Family Law Vice President of the Korean Civil Law Association	
O - Sup Kim	Commissioner Chief Judge at the Seoul High Court, Lawyer	
Dong - Woon Shin	Commissioner 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	

□ Commissioners retired in 2004

Chang - Kuk Kim	President President of Korean Bar Association President of Seoul Bar Association Co - Representative of People's Solidarity for Participatory Democracy	Commissioners retired in 2004
Kyung - Seo Park	Senior Commissioner Former Chairman of the WCC Asian Policy Commission in Geneva, Swiss Chairman of the East Asian Peace Commission First Human Rights Ambassador of Korea	
Hyun Yoo	Senior Commissioner Assistant Judge of Supreme Court Professor at the Judicial Research and Training Institute Senior Judge of Seoul High Court Lawyer	
See - Chun Rhyu	Senior Commissioner Commissioner for the People's Movement for the Democratic Constitution Headquarters Director at the Korean People's Artists Federation Novelist	
Mi - Kyung Cho	Commissioner Professor of Law, Ajou University, President of the Korean Society of Family Law Vice President of the Korean Civil Law Association	
O - Sup Kim	Commissioner Chief Judge at the Seoul High Court, Lawyer	
Dong - Woon Shin	Commissioner 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	

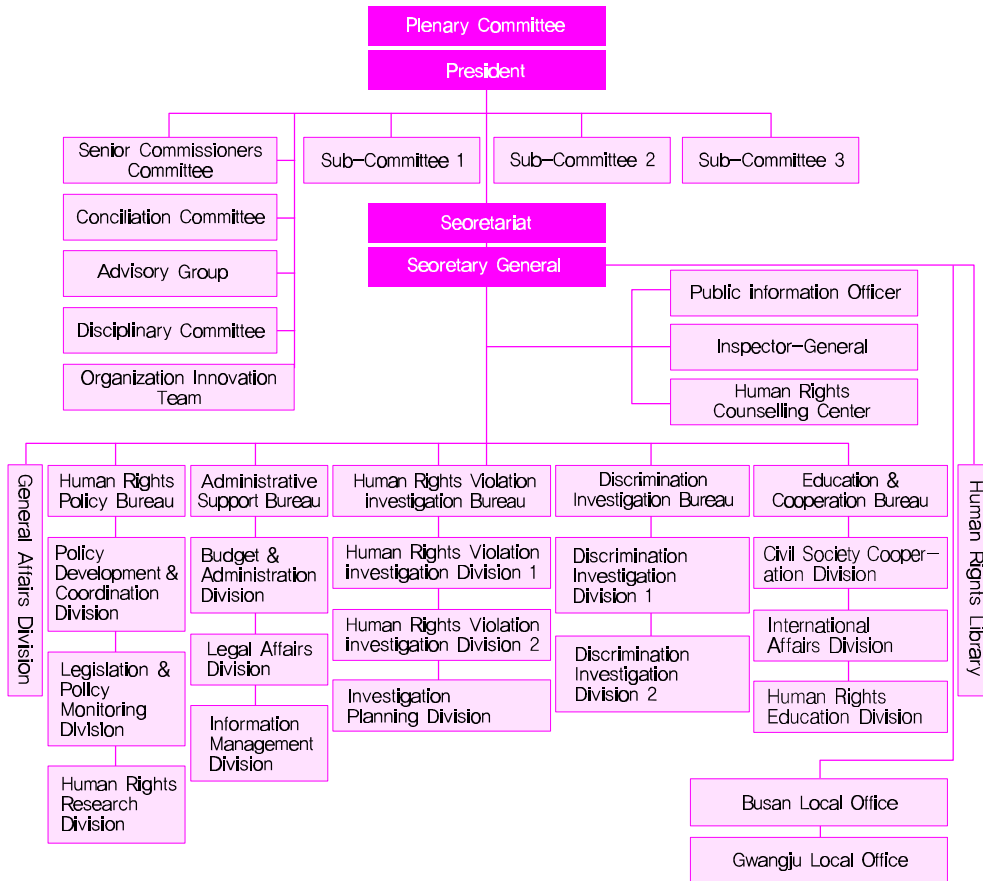
□ Newly Appointed President and Commissioner in 2005

Young - Hoang Cho	Mr. Cho headed the Office of the Ombudsman of Korea as Chief Ombudsman. From 2000 to 2004, he sat as a judge at the Goheung Country Court of the Gwangju District Court in Jeolla Province. He headed and served in a variety of civic groups and citizen movements including the Citizens' Alliance for Consumer Protection of Korea, the Chairman of the Anti-Corruption Center at the Citizens' Coalition for Economic Justice, the Legal Defense against Press Defamation Committee at the People's Coalition for Media reform and many others. He was Executive Director of the Korean Bar Association from 1987 to 1989.	Appointed President on April 4, 2005
Hei - soo Shin	Heisoo Shin, a visiting professor at the School of NGO at Kyung Hee University, was. Mrs. Shin became a member of the UN Committee on the Elimination of Discrimination Against Women (CEDAW) in 2001 and served as Vice - Chairperson from 2003 to 2004. Mrs. Shin currently co - chairs the executive committee of the Korean Council for Women	Appointed Commissioner on March 15, 2005



2. Organizational Structure

- Commissioner : 11 (President 1, 3 Full-time Commissioners, 7 Commissioners)
- Office : 5 Bureaus, 18 Divisions, 1 institution
- Total head count : 180



3. Budget

	2003 Budget	2004 Budget	Increase (amount)	Increase(%)	
Total	18,919	19,667	748	3.9	
Payroll expenses (wage)	7,199	7,670	471	6.5	
Project expenses	11,720	11,997	277	2.4	
- Basic project expenses	6,355	6,591	236	3.7	
- Major project expenses	5,365	5,406	41	0.8	

(1) Payroll expense (wage): KRW 7.7 billion

- Payroll expense for: Total head count (180), Dispatch (8), Policeman (1), Civil service worker (13)
- Post applying improvement of welfare for public worker (4.8%)

(2) Basic project expenses: KRW 6.6 billion

- Building leasehold and maintenance: KRW 3.3 billion
- General expense for basic administration: KRW 3.2 billion

(3) Major project expenses: KRW 5.4 billion

- Establishment of infrastructure for human rights protection and promotion: KRW 2 billion for 4 projects
- Receipt of complaints about human rights violation and discriminatory acts and investigation and remedy: KRW 300 million for 3 projects
- Education and PR activities to expand human rights culture / strengthening of international and domestic cooperation: KRW 3.1 billion for 10 projects



4. Seventh International Conference for National Institutions for the Promotion and Protection of Human Rights Seoul, Republic of Korea, 14-17 September 2004

| The Seoul Declaration |

The Seventh International Conference for National Institutions for the Promotion and Protection of Human Rights was devoted to the theme of upholding human rights during conflict and while countering terrorism. The Conference was organized by the National Human Rights Commission of the Republic of Korea from 14 to 17 September 2004 and arranged in consultation with the Chairperson of the International Coordinating Committee (ICC) of National Human Rights Institutions (NHRIs) with the support of and in cooperation with the Office of the United Nations High Commissioner for Human Rights, and with financial contributions from the Asia Pacific Forum of NHRIs and Agence Intergouvernementale de la Francophonie. NHRIs express their gratitude to the National Human Rights Commission of the Republic of Korea for its excellent organization of the conference and acknowledge the stimulating presentations by the keynote speakers as well as the fruitful discussions and deliberations. Observers from nongovernmental organizations (NGO) made a valuable contribution at a pre-conference forum and by actively participating in the conference itself. The conference was further enriched by the participation of the President of the Republic of Korea and the United Nations High Commissioner for Human Rights. The Seventh International Conference for NHRIs hereby adopts the following Declaration:

The Seventh International Conference for NHRIs, Recalling the universal instruments agreed upon by States to safeguard human rights and fundamental freedoms, particularly the Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights, the International Covenant on Civil and Political Rights, and the Rome Statute of the International Criminal Court, and underlining the contribution they can make to international peace and security, alongside the Charter of the United Nations, as well as the relevant regional instruments, *Recognizing* that these instruments make provisions for and require States to undertake measures to protect the security of their populations, including from threats of an exceptional nature, but that this must be within the framework of respect for human rights, fundamental freedoms and the rule of law, *Reflecting* on the severe and unprecedented human rights challenges posed to the international community

and to individual States and their inhabitants by the threats of conflict, terrorism and counter-terrorism measures,

Recalling the United Nations International Convention for the Suppression of the Financing of Terrorism as well as the many relevant resolutions and declarations of United Nations organs relating to conflict and to the threat of terrorism, including, inter alia, the United Nations Millennium Declaration (General Assembly resolution 55/2), Security Council resolutions 1269(1999), 1325(2000), 1373(2001) and 1456(2003), General Assembly resolutions 49/60 containing the Declaration on Measures to Eliminate International Terrorism, 58/187 on the protection of human rights and fundamental freedoms while countering terrorism, and 58/174 on human rights and terrorism, and resolutions of the Commission on Human Rights as well as those of regional bodies, Expressing solidarity with these bodies in calling upon States to ensure that any measure they take to combat terrorism fully complies with their obligations under international law, in particular international human rights law, refugee law, and humanitarian law,

Welcoming the guidance and jurisprudence on these issues provided by the human rights treaty bodies and special procedures, including the United Nations Human Rights Committee, especially its General Comment N° 29 (2001) on states of emergency, as well as the judgments and findings of regional organizations and mechanisms, *Stressing* the particular role played by NHRIs as expressed in the Copenhagen Declaration adopted by the Sixth International Conference of NHRIs, regarding the provision of early warning of situations which risk escalating into genocide, ethnic cleansing or armed conflict, *Recognizing* the unique role played by NHRIs in applying international human rights standards at the national level, thereby ensuring sustainability of human rights protection. Furthermore, the unique legislative foundation and pluralistic composition of NHRIs, in accordance with the Paris Principles, enable them to contribute to conflict resolution, including through dialogue between public authorities and civil society groups at national level, *Urging* therefore the enhancement of the role and participation of NHRIs in the international human rights system,

| Declares that |

1. Terrorism has a devastating impact on the full range of human rights, most directly the right to life and personal security. Respect for human rights and the rule of law are essential tools to combat terrorism. National security and the protection of the



rights of the individual must be seen as interdependent and interrelated. Counter-terrorism measures adopted by States should therefore be in accordance with international human rights law, refugee law, and humanitarian law.

2. NHRIs have the mandate to protect and promote human rights in conflict situations as well as in countering terrorism. There is a need to strengthen the effective implementation of this mandate especially in light of the increased pressures against fundamental rights.
3. There is a need for increased cooperation and sharing of information and best practices, including the development of specific tools, among NHRIs at regional and international levels.

| General principles |

4. NHRIs play a vital role in reviewing and commenting on the human rights aspects of security legislation and in emphasizing the importance of adopting long-term measures and policies to rectify inequity, injustice, inequality and insecurity, so as to reduce the potential for terrorism and violent conflict.
5. NHRIs should develop early warning mechanisms and related operational guidelines. This should be linked to encouraging States to put in place mechanisms for early warning and action to address intra-State and intra-community conflicts that could lead to grave violations of human rights.
6. NHRIs should examine violations of human rights committed by the State during violent conflict and advocate against the establishment of national ad hoc tribunals and decision-making bodies. They should also examine violations of rights by non-State actors in the context of violent conflict and identify potential areas of conflict in a timely and accurate manner.
7. Subsequently, NHRIs should provide advice on human rights and humanitarian law to conflicting parties, or otherwise apply, facilitate and support the utilization of alternative as well as traditional methods of dispute resolution, including mediation.
8. NHRIs and States should integrate these conflict resolution tools into plans, strategies and mechanisms for the peaceful and negotiated resolution of conflict. These strategies should include elements of truth and reconciliation processes and define the role that NHRIs should play in this respect. Particular attention should be paid to the establishment of a victim's fund and payment of appropriate compensation.

9. NHRIs should act in a proactive way by placing human rights concerns in a broader societal context so as to focus not only on the manifestations of violent conflict but also on their underlying causes.
10. In time of conflict and in countering terrorism, NHRIs play an important role in promoting a human rights culture, equal opportunities and diversity. NHRIs should reflect these principles by having a fair and equitable representation of women.

| Economic, social and cultural rights |

11. NHRIs should focus on inequities in society, including their socio-economic dimensions. The realization of economic, social and cultural rights can play a key role in preventing conflict and terrorism. There is a need to promote justifiability of these rights and to monitor discriminatory effects of counter-terrorism measures on the economic, social and cultural rights of vulnerable groups.
12. NHRIs should promote and protect economic, social and cultural rights as an indivisible part of the full spectrum of universal human rights, including a reinforced capacity to better guarantee the State's respect for its obligations under the International Covenant on Economic, Cultural and Social Rights.
13. NHRIs should call upon States to pay proper attention to issues of corruption endangering the enjoyment of human rights. NHRIs should encourage States to ensure basic needs, including food and shelter, thereby preventing the development of conditions that give rise to terrorism and conflicts.
14. NHRIs should call upon States to enforce the mechanism for fighting poverty according to United Nations General Assembly resolution (A/57/265) establishing the World Solidarity Fund.
15. NHRIs should call upon States to fulfill their obligations under the International Covenant on Economic, Social and Cultural Rights. NHRIs encourage states to ratify the Optional Protocol to the International Covenant on Economic, Cultural and Social Rights.

| Civil and political rights and the rule of law |

16. NHRIs underline that States have the responsibility, and the duty under international law, to protect their inhabitants from all forms of terrorism. In this relation, States



should be encouraged to ratify the Optional Protocol to the International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. NHRIs urge States to ratify the Rome Statute of the International Criminal Court and to adopt domestic legislation in line with the Statute.

17. NHRIs play an important role in strengthening and promoting the efficient protection of civil and political rights before a conflict breaks out as well as during and after conflict.
18. NHRIs should pay special attention to signs of xenophobia and discrimination and disproportionate limitations of human rights so as to anticipate conflict.
19. During conflict and in countering terrorism, any measures that may have an impact on the enjoyment of civil and political rights must be both necessary and proportionate. It is important for NHRIs to monitor the limited and justifiable application of such measures. NHRIs should demand of the State that counter-terrorism legislation is neither enacted in haste nor without prior public scrutiny. Furthermore, NHRIs should take the necessary measures to prevent violations of derogable and especially non-derogable rights, such as the fundamental requirements of due process and fair trial, respect for human dignity, freedom from torture and ill-treatment, and arbitrary detention.
20. In post-conflict settlements, NHRIs play a key role in investigating violations and protecting against impunity, as well as preventing the retroactive application of criminal laws.
21. In order to avoid abuse by authorities, NHRIs underline the importance of the principle of legality and precise legal definitions of terrorism and terrorism-related crime. Furthermore, NHRIs stress the need for remedies and judicial review in cases of alleged violation of human rights in counter-terrorism measures.
22. NHRIs should engage in preventive activities, leading public interventions and debate, and raising awareness about both the origins of terrorism and the most effective and comprehensive responses by including human rights education for the judiciary, the public administration and security forces. Furthermore, NHRIs should stress the media's right to freedom of expression.
23. NHRIs must monitor violations of human rights in the implementation of counter-terrorism measures through periodic review, including their impact on minority communities and human rights defenders.

| Migration in the context of conflict and terrorism |

24. Terrorism and situations of conflict have affected efforts to ensure protection of migrant workers and other persons who are outside their country of origin as well as those displaced within the borders of their country of origin.
25. International standards exist on the protection of migrant workers. Nevertheless, a majority of migrant workers are received in States that have not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
26. NHRIs should promote and ensure the national implementation of international standards on migrant workers, refugees, asylum-seekers, internally displaced persons (IDPs) and victims of trafficking.
27. NHRIs should advocate the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, in particular among receiving countries, and engage more actively in the monitoring process by the treaty bodies when they consider issues relating to migrant workers and the particular issues facing migrant women and children. NHRIs encourage States to ratify the additional protocol to the International Convention of the Rights of the Child on children in armed conflict.
28. It is recommended that NHRIs from sending, transit and receiving countries should establish bilateral and regional cooperation among themselves to better address the issues of irregular migrants.
29. NHRIs should actively monitor the economic, social and political rights of refugees, asylum seekers, migrant workers and IDPs, including fair procedures, treatment by police and immigration authorities, conditions of detention, access to services, employment conditions and family reunification, in cooperation with the Office of the United Nations High Commissioner for Refugees and other United Nations and regional bodies, and NGOs.
30. NHRIs should promote programmes of human rights awareness for migrant workers, refugees, asylum-seekers, IDPs and victims of trafficking, and programmes of integration and reintegration, where applicable, especially for returning women migrants.

| Women's rights in the context of conflict |

31. NHRIs should play an important role in highlighting invisible and unacknowledged



- violence against women in the context of conflict. This violence is closely linked to violence against women in everyday life, such as domestic and sexual violence. NHRIs should facilitate counseling for women suffering violence.
32. NHRIs should provide education and raise awareness on women's rights to further their economic self-sufficiency and independence.
 33. NHRIs should have an important role in collecting data, investigating allegations and receiving complaints of violence against women during conflict.
 34. There is a special need for NHRIs to protect and promote the rights of women refugees and internally displaced women. This should include providing a complaint mechanism, inspection of refugee and IDP camps and monitoring complaints from women in detention centres of other States waiting to receive refugee status, and from forcibly repatriation of women. NHRIs should take measures to protect women refugees and IDPs from being trafficked. NHRIs should contribute to the formulation and implementation of reconstruction and rehabilitation programmes with the participation of women.
 35. Any commission of inquiry, truth or reconciliation commission set up as part of a peace process should address past widespread and systematic violence against women, and should have a fair representation of women.
 36. During the negotiations for a political settlement of a conflict, States should enact constitutional provisions providing for equality and affirmative action.

| The Seoul commitment |

37. In order to implement this declaration, NHRIs hereby agree:
 - (a) To take all necessary action at the national level as prescribed by the declaration;
 - (b) To promote, where relevant, regional cooperation among NHRIs;
 - (c) To encourage their States to support the establishment of an effective mechanism to monitor the compliance of counter-terrorism measures with human rights standards in the United Nations;
 - (d) To report to the annual meeting of the ICC in April 2005 on national and regional actions taken;
 - (e) To request the ICC to identify ways in which it can further the implementation of this declaration.

