

Recommendation Proposal on National Action Plans for the Promotion and Protection of Human Rights (NAP)

2006



National Human Rights Commission of the Republic of Korea

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Part I. Overview of NAP Recommendation Proposal

1. NAP in General
2. Korea's Approach in Promoting NAP
3. Process of Formulating NAP Recommendation Proposal
4. Structure of NAP Recommendation Proposal

1. NAP in General

1-1. Significance of NAP

- The National Action Plan for the Promotion and Protection of Human Rights (NAP), which serves as a master plan for a country's human rights policies, represents a comprehensive national plans on human rights policies designed to improve legal and institutional mechanisms and practices relating to human rights
- NAP aims to put forward the goals and tasks of human rights policies based on an accurate diagnosis of the status of human rights as well as the conditions necessary for its improvement

1-2. Necessity of NAP

- NAP is formulated to ensure that a State fully performs its obligation of protecting and promoting human rights, the foremost task to guarantee viability and co-development of human beings
- The purpose of establishing NAP is to fulfill international requirements including the recommendations from international human rights organizations.
 - In the Vienna Declaration and Programme of Action unanimously adopted in 1993, the World Conference on Human Rights recommended the establishment of national human rights institutions and the drawing up of a national human rights plan of action
 - On May 21, 2001, the UN Committee on Economic, Social and Cultural Rights recommended the Korean government to provide the information on NAP by June 30, 2006
- Developing NAP is a trend prevalent in all parts of the world. Since Australia established its National Action Plans in 1993 for the first time, more than 20 countries have completed formulating their own NAP as of May 2005. The number of countries mapping out such plan is on the rise year by year

1-3. Goals and Major Tasks of NAP

- Promote the human rights of vulnerable social groups and minorities
 - Conduct an objective survey of those whose human rights are most at risk
 - Enhance the awareness for vulnerable groups and minorities by establishing measures to promote their human rights
- Build a nationwide infrastructure for the protection and promotion of human rights
 - Revamp human rights-related laws and improve institutional mechanism
 - Enhance the activities to redress human rights violations and discriminatory acts
 - Strengthen a link with a country's other comprehensive plans
 - Establish a thorough monitoring and evaluation system
- Create a human rights-friendly culture
 - Build a foundation to spread human rights education at each level of education encompassing regular and non-regular education
 - Reinforce national and local human rights education programs
 - Develop various human rights education materials considering learners
 - Boost human rights education/public relations by fully making use of mass media
- Establish a human rights cooperation system with human rights organizations and international community

1-4. Expected Effects of NAP

- Declare the direction of national human rights policies at home and abroad
- Develop efficient programs designed to enhance the quality of life of vulnerable groups
- Bolster a link among national policies through formulation of comprehensive human rights policies
- Ensure that the ways of thinking and living by respecting the basic freedom and rights of people
- Strengthen the functionality of national institutions for the protection and promotion of human rights

2. Korea's Approach in Promoting NAP

2-1. Principles in Developing NAP

The government should develop its NAP in accordance with the following principles:

- Establish clear policy goals to resolve human rights issues
- Comply with universal human rights standards including international human rights norms
- Consider the reality of human rights violations and the outstanding issues facing human rights violation victims
- Consider interdependence and indivisibility of civil and political rights and economic, social and cultural rights
- Ensure the participation of civil society enhancing public awareness
- Follow phase-by-phase procedures in developing NAP
- Bolster the role of national human rights institutions
- Consider unique characteristics of policy tasks by area

2-2. Division of Duties among Institutions in Developing NAP

- Recommending Institution: In most countries, a formulating institution directly maps out a NAP with no separate recommending institution existing. In the case of the Republic of Korea, however, the National Human Rights Commission (Commission) prepares a NAP recommendation proposal based on consultation with the authorities concerned and then the government formulates its NAP according to such recommendation proposal
- Formulating Institution: When the Commission notifies the government of a NAP recommendation proposal, the government should finalize the procedures of formulating a NAP and create a coordinating body that takes charge of such procedures
- Cooperating Institution: In preparing a NAP recommendation proposal or formulating a NAP, each government agency, human rights organization and expert fully engage in consultation on the details of the NAP

2-3. Phase-by-Phase Procedures Concerning NAP

Stage	Preparation	Development	Implementation	Monitoring and Assessment	
Details by Stage	<ul style="list-style-type: none"> ○ Determine the party that takes charge of preparing a NAP recommendation proposal based on consultation with government agencies ○ Consult with NGOs/related organizations ○ Develop basic principles ○ Establish legal rationale for drafting a recommendation proposal ○ Make a public announcement ○ Organize related groups and initial meetings ○ Set up Human Rights Policy Consultation Committee ○ Conduct surveys and research on the basic situation ○ Analyze human rights issues based on research results ○ Meet with the institutions and organizations concerned ○ Draw up a NAP recommendation proposal → Give notice to the government 	<ul style="list-style-type: none"> ○ Finalize a NAP developing plan ○ Establish an coordinating body ○ Consult with NGOs/related organizations ○ Hold public hearings/ meetings ○ Identify priority/matters of special concerns/needs of vulnerable groups ○ Establish a link with other policies of the government ○ Formulate a NAP ○ Plan a timetable for implementation ○ Establish legal rationale for implementation 	<ul style="list-style-type: none"> ○ Formulate detailed plans of the agencies concerned ○ Maintain cooperation among executive agencies ○ Cause execution of policies by executive agencies ○ Establish a network for consultation and coordination ○ Determine media PR strategies ○ Conduct human rights education 	<ul style="list-style-type: none"> ○ Develop an agreed form of reporting ○ Cause the HR Policy Consultation Committee to perform assessment ○ Collect opinions of civil society ○ Establish a network for consultation and coordination ○ File a special report on monitoring results to the National Assembly or President 	<ul style="list-style-type: none"> ○ Plan an annual report ○ Organize a deliberation committee ○ File a special report to the National Assembly or President ○ Prepare recommendations for the formulation of a follow-up NAP ○ Support formulation of a follow-up NAP and conduct basic research in new fields
Supervisor	Commission	Government	Government	Commission	
Advisor	Government/NGOs	Commission/NGOs	Commission/NGOs	Government/NGOs	

※ The table above represents the procedures by stage set forth in the UN's Handbook on National Human Rights Plans of Action which were modified according to the situation in the Republic of Korea.

※ In the stages of development and implementation, the NAP coordinating body is organized and operated by the government, with the Commission serving as an advisory body. The Human Rights Policy Consultation Committee supervises necessary meetings in the phases of preparation, monitoring, and assessment.

☐ **Preparation Stage**

- This refers to the initial stage where the institution which draws up a NAP recommendation proposal discusses an institutional mechanism with major government agencies, NGOs and so forth
- It was conclusively determined based on consultation by the government agencies concerned that the Commission would draw up a recommendation proposal
- Legal rationale for the preparation of a NAP recommendation proposal is established
- The Human Rights Policy Consultation Committee is formed
- The basic principles and formulation plan are publicly announced
- A survey on the basic situation is conducted including surveys of major areas
- Human rights issues are analyzed according to the findings from relevant researches
- Policy coordination with the institutions and organizations concerned is carried out
- The NAP recommendation proposal prepared by the Commission is submitted to the government
- As part of the effort for formulating a NAP, the Commission takes the following preparatory steps: collects various related data, conducts a survey on the basic human rights situation, operates organizations pertaining to a NAP recommendation proposal, selects core tasks by area, and prepares a NAP recommendation proposal

☐ **Development Stage**

- This refers to the stage where the government finalizes a plan for NAP formulation after the Commission notifies the government (President) of its NAP recommendation proposal. The Office for Government Policy Coordination or another government agency in charge takes the initiative to set up a NAP coordinating body, lay down a draft NAP in accordance with the Commission's recommendation proposal and submit such draft to a Cabinet meeting for its finalizations
- Public hearings are held, along with consultation with related organizations including NGOs
- Policy tasks are prioritized, matters of special concern are selected, and the needs of vulnerable social groups and minorities are identified
- It is ensured that the NAP is in line with the policies employed by each government agency
- A plan for NAP formulation is finalized

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- Legal rationale for implementation of the NAP is established
- A timetable for implementation of the NAP is set up
- The Commission serves as an advisor that sets the direction of human rights policies and provides technical assistance to each government agency in developing NAP

☐ Implementation Stage

- In accordance with the NAP, each government agency executes detailed plans, based on their human and physical infrastructure, that epitomize their determination to implement the NAP
- The NAP is implemented
- Regular meetings of a NAP coordinating body are held
- Cooperation with the executive institutions concerned is maintained
- A network for consultation and coordination is established
- Press public relations strategies are determined
- Related human rights education is carried out
- The Commission plays the role of an advisor in the process of policy execution

☐ Monitoring Stage

- This refers to the stage where the goals of the NAP are modified and related activities are adjusted if necessary by reflecting political and economic circumstances which arise in the course of formulating and implementing the NAP
- An agreed form of reporting is developed
- The Human Rights Policy Consultation Committee performs its regular assessment
- Opinions of civil society are reflected
- A network for consultation and coordination is established
- A special report on monitoring results is filed to the National Assembly and the President
- The Commission examines the formulation and implementation of the NAP

☐ Assessment Stage

- This refers to the stage where the Commission evaluates implementation and effects of the NAP based on monitoring results and explores new areas or conducts a basic survey for formulation of a follow-up NAP
- A separate deliberation committee is organized

- A special report on assessment results is filed to the National Assembly and the President
- Assistance is provided for the formulation of a follow-up NAP and a basic research is conducted in new fields

2-4. Considerations in Developing NAP

- Fitness of a NAP in terms of purpose and enforceability
- Urgency of NAP tasks
- Budget and human resources for implementation of a NAP
- Expected effects and ripple effects of a NAP
- Ability to resolve matters concerning respective jurisdiction of government agencies and possible overlaps in their duties for efficient formulation and implementation of a NAP
- Guarantee of participation by the government agencies concerned, the Commission and human rights organizations in the process of formulating a NAP

3. Process of Formulating NAP Recommendation Proposal

3-1. Significance of NAP Recommendation Proposal

- Present the basic direction and specific methodology of a NAP mapped out by the government
- Ensure that the Commission presents a blueprint for human rights status improvement to the government which formulates and executes policies, by performing guidance for human rights-related policies/researches, investigations/remedies, education/ cooperation, etc
- Set guidelines concerning the laws, systems and policy improvements for the purpose of protecting and promoting human rights
- Specify the role of the Commission as a cooperator and advisor in detail so that the government may efficiently formulate and implement a NAP

3-2. Rationale for NAP Recommendation Proposal

- The Commission became an institution drawing up a NAP recommendation proposal through consultation among the government agencies concerned (Oct. 2003)
- The National Human Rights Commission Act (Subparagraph 1 of Article 19 and Article 25(1)) provides that major duties of the Commission include expressing an opinion and making a recommendation based on investigation of human rights-related laws, policies and practices
- The Enforcement Decree of the National Human Rights Commission Act (Articles 19 through 21) contains provisions on the 'Human Rights Policy Consultation Committee' with regard to drawing up a NAP recommendation proposal
 - When policy coordination or consultation is required in the process of drawing up a NAP recommendation proposal, the Commission and the agency concerned should engage in mutual consultation

3-3. Survey and Research on Basic Situation

- Collection of NAP-related materials
 - Identified overall human rights issues raised in the Korean society and explored relevant alternatives
 - Analyzed theses, government research centers' reports, books, human rights organizations' materials, and newspaper articles
 - Analyzed mid- to long-term fundamental plans and policy plans of each government agency
- Translation and publishing of NAP-related materials
 - Translated and published the Handbook on National Human Rights Plans of Action, National Action Plans of fifteen countries, UN recommendations regarding thirteen countries' reports on six major human rights treaties, etc
- Commissioning of services concerning surveys on the basic situation to ensure an objective and professional NAP recommendation proposal
 - Twenty-six surveys in total: civil and political rights (8), economic and social rights (10), social minorities (7) and human rights education (1)

3-4. Consultation with Human Rights Organizations

- Reflected the opinions of human rights organizations on policy tasks by area
- Improved contentious points by area, examined the direction of policy tasks, and collected opinions on the process of prioritizing policy tasks, etc.
- Collected the opinions of major human rights organizations in writing (Jul.2004)
- Held a total of seventeen meetings by area and by right (Mar.2005)
- Caused human rights organizations to review a draft NAP recommendation proposal in writing and held related meetings (Aug.-Nov.2005)

3-5. Policy Coordination with Government Agencies

- Reflected the opinions of the government agencies concerned by area through the Human Rights Policy Consultation Committee

- Engaged in serious consultation with the government agencies concerned with respect to major details of the NAP recommendation proposal including labor and social welfare

3-6. Composition and Operation of Related Organizations

- Drafting Committee
 - Composition: eighteen members including personnel from the Commission (1 head of the Committee and 1 secretary) and human rights organizations as well as experts from academic and legal circles; organization and operation of subcommittees by area including subcommittees on civil, political, economic and social rights, minorities and human rights education
 - Duties: Discuss the basic direction of forming and preparing a NAP recommendation proposal
- Expert Advisory Team
 - Composition: Experts in over twenty areas
 - Duties: Enhance the objectiveness and professionalism of a NAP recommendation proposal based on research and advisory services regarding the areas concerned
- Human Rights Policy Consultation Committee
 - Composition: Over one hundred members including the secretary-general of the Commission (head of the Committee), head of the Human Rights Policy Bureau, bureau chief-level officials from the central government agencies and local authorities, and external experts appointed by the president of the Commission
 - Duties: Engage in consultation in the process of developing a NAP recommendation proposal
- NAP working-level team
 - Composition: Head of the Human Rights Policy Bureau and eight others
 - Duties: Collect materials and delineate major tasks
- Hold meetings and debates with human rights organizations
- Prepare a draft NAP recommendation proposal

3-7. Progress in Formulating NAP Recommendation Proposal

- Designation of a department of the Commission in charge of NAP (Apr.2002)
- Explanation about NAP to the presidential transition panel (Jan.2003)
- Special report on NAP formulation to the National Assembly (Apr.2003)
- Decision of the Commission as an institution to prepare a NAP recommendation proposal (Oct.2003)
- Survey on the basic situation for the preparation of a NAP recommendation proposal (Dec.2003-Apr.2005)
- Formation and operation of the NAP working-level team (Jan.2004-Dec.2005)
- Organization and operation of the Drafting Committee (Feb.2004-May 2005)
- Establishment of legal rationale for operation of the Human Rights Policy Consultation Committee (Mar. 2004)
- Consultation with human rights organizations (Jun.2004-Oct.2005)
- Policy coordination with government agencies (Jun.-Dec.2005)
- Operation of a special committee on NAP recommendation proposal (Aug.2005-Jan.2006)
- Workshop of commissioners (Sept.-Dec.2005)
- Deliberation by the Commission with all commissioners present (Nov.-Dec.2006)
- Decision by the Commission with all commissioners present (Jan.2006)
- Notification of a NAP recommendation proposal to the government (Feb.2006)

4. Structure of NAP Recommendation Proposal

4-1. Background of NAP Recommendation Proposal

- Although there have been improvements in the human rights conditions of the Korean society, guarantee of basic rights for vulnerable social groups and minorities including the disabled, foreigners, women, children/juveniles, and irregular workers still remains unsatisfactory.
- Since the economic crisis in the late 1990s in particular, the human rights status of vulnerable social groups and minorities has been in a serious condition. Thus, deteriorating social inequality has emerged a structural problem plaguing the society.
- The infrastructure for human rights protection and promotion has dramatically improved in the process of democratization. However, there still exists a gap with international human rights norms in many areas. Certain human rights standards and qualitative improvements are necessary in the field of extended human rights including rights to the protection of personal information and to a clean environment.
- Accordingly, the NAP recommendation proposal puts forward the following as core tasks: placing top priority on protecting the human rights of vulnerable social groups and minorities and improving the legal and institutional infrastructure covering the civil, political, economic and social rights for the promotion of human rights in the Republic of Korea.

4-2. Contents of NAP Recommendation Proposal

- Overall Significance
 - Strategic selection and concentration focused on protecting the human rights of vulnerable social groups and minorities
 - Institutional guarantee of human rights protection through establishment of an infrastructure for human rights protection and promotion
- Part II (Human Rights Protection for Vulnerable Social Groups and Minorities)
 - Human rights protection for vulnerable social groups and minorities on which efforts will be concentrated for the next five years to improve the human rights status in general

- Area where it is difficult for the parties concerned to set an agenda on their own
- Area where urgent remedies are needed for human rights protection
- Part III (Establishment of Infrastructure for Human Rights Promotion)
 - Area where institutional improvements including overhaul of legal mechanisms are required for the protection of human rights
 - Area where promotion of human rights is pursued, going beyond protection of human rights
 - Area where human rights education is stepped up
 - Area where domestic and international cooperation systems are established in connection with human rights

Part II. Human Rights Protection for Vulnerable Social Groups and Minorities

1. Disabled Persons
2. Irregular Workers
3. Migrant Workers • Refugees
4. Women
5. Children • Juveniles
6. Aged Persons
7. Disease Sufferers
8. Soldiers and Riot/Auxiliary Police
9. Persons Living in Social Welfare Facilities
10. Sexual Minorities
11. North Korean Displaced Persons

1. Disabled Persons

1-1. Introduction

- The UN Declaration on the Rights of Mentally Retarded Persons (1971) and the Declaration of the Rights of Disabled Persons (1975) provide for prevention of physical and mental disabilities, support for development of disabled persons' ability and facilitation of their integration into society. The World Programme of Action Concerning Disabled Persons (1982) and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993) set forth guarantee of equality and participation of the disabled, reflection of their perspective in formulating national policies and resolution of their social issues, stressing promotion of their rights and performance of related social obligations
- To date, the Korean government has exerted an effort to improve discrimination against, and protect the rights of, the disabled by enacting the Korea Human Rights Charter for the Disabled (1998) and revamping four major laws related with disabilities (Welfare of Disabled Persons Act, Employment Promotion and Vocational Rehabilitation of Disabled Persons Act, Act on the Promotion of Education for the Handicapped, and the Act on Guarantee to Promote Convenience of the Disabled, Aged, Pregnant, etc.) in line with the international trends and social needs
- Nonetheless, the legal and institutional system of the Korean society related with disabilities still falls short of redressing discrimination in terms of disabled persons' employment, working conditions, social security and so forth. As appropriate services depending on the type of disabilities are not provided, even the basic rights of the disabled in daily life regarding their education, movement, access, etc. are not fully guaranteed
- Accordingly, the central and local governments should execute policies that guarantee the human rights of disabled persons by warranting their basic rights and promoting the effort to develop their ability as well as their integration into society

1-2. Human Rights Protection and Discrimination Correction for Disabled Persons

Goal	Protect human rights of disabled persons by guaranteeing equal opportunities and prohibiting discrimination
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☐ **Current Status and Needs**

- Voting rights of the disabled are being violated because of insufficient consideration for the disabled as demonstrated by lack of convenience facilities at polling stations, lack of braille ballot papers, disregard for voting rights of mentally retarded persons, lack of sign language interpretation concerning speeches by persons with electoral eligibility and so on
- In the process of interrogations and trials, persons with mental retardation, developmental disability and mental disability who can hardly express themselves properly are not guaranteed the right to receive assistance from legal counsel, representatives and assistants
- There exist excessive limitations on mentally disabled persons' access to facilities and obtainment of licenses
- As the laws pertaining to the disabled do not set forth the standards to determine discrimination, it is difficult to seek effective remedies regarding discrimination against the disabled
- Rights of disabled persons to choose the facilities accommodating the disabled remain limited. Besides, the disabled accommodated in such facilities as well as their guardians can hardly participate in operation of such facilities

☐ **Domestic/International Standards and Overseas Practices**

- The UN General Assembly adopted a resolution on the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (1991) to the effect that the legal counsel and personal representative of a mentally disabled person shall be entitled to attend and be heard personally in any hearing
- The European Commission adopted the Proposal for a Framework Decision on Certain Procedural Rights in Criminal Proceedings throughout the European Union (2004) that requires special attention to persons with mental disability for a fair trial

- Countries like United Kingdom, Germany, United States and Australia sternly call for prohibition of disability-based discrimination in a wide range of areas. In particular, the U.K. drew up and applied the legally binding 218-point facility operation standards in 1984

☐ **Desirable Direction of National Policies**

- Define accountability of the government clearly as regards prohibition of discrimination against disabled persons in diverse areas by overhauling applicable law, formulates specific standards to determine whether discrimination was perpetrated, and corrects discriminatory acts based on stringent supervision

☐ **Core Tasks**

- Revamp laws and regulations related with disabled persons including the Welfare of Disabled Persons Act, the Employment Promotion and Vocational Rehabilitation of Disabled Persons Act, and the Act on Guarantee to Promote Convenience of the Disabled, Aged, Pregnant, etc
- Take necessary measures including expansion of convenience facilities, promotion of public relations activities, and development/dissemination of ballot assisting devices (braille ballot papers, etc.) in order to ensure that disabled persons can exercise their voting rights
- Improve criminal justice procedures to ensure that disabled persons, especially those with mental disability are assured of the right to receive assistance from legal counsel, representatives or assistants in the interrogation or trial process
- Bolster education of the persons who operate facilities related with the disabled, makes such facilities smaller, integrates the disabled into local communities, and improves operation of the facilities available for the disabled through expansion of the facilities accessible by the disabled

1-3. Guarantee of Disabled Persons' Right to Education

Goal	Redress discrimination concerning education opportunities, improve educational environment and guarantee the right to education of the disabled
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☐ **Current Status and Needs**

- Since early childhood education of the disabled is heavily dependent upon private institutes, it aggravates a financial burden of financially vulnerable families with disabled children
- There exists a lack of convenience facilities at schools that assure disabled students of their right to move and access, which subsequently leads to a failure to guarantee their right to education

☐ **Domestic/International Standards and Overseas Practices**

- The Commission recommended that the obligations of schools and teachers as well as the details of integrated education should be included in the school regulations so as to guarantee disabled persons' right to learn (Sept. 2002)
- The Individuals with Disabilities Education Act of the U.S. provides for supply of special education services and implementation of early education programs for disabled young children. The Rehabilitation Act of the U.S. stipulates that disability-based discrimination in college education shall be prohibited
- The Human Rights Act of New Zealand grants to disabled persons the equal right to be admitted and benefit from school and provides that they shall be assured of the right to access related services
- Japan's Ministry of Education, Culture, Sports, Science and Technology has the special support education department under the command of its Elementary and Secondary Education Bureau. The department takes charge of expanding the equipment of special educational institutes and conducting training of teachers related with special education in favor of students who are in special classes or need any other special education
- In Australia, each state government has in place an institution providing services for disabled students.

☐ **Desirable Direction of National Policies**

- Assure disabled students of the right to education by increasing educational opportunities, securing convenience facilities for their easier movement and access, and enhancing professionalism concerning educational administration for the disabled

☐ **Core Tasks**

- Prohibit discrimination against disabled persons in terms of education by revamping laws related to the disabled and make it mandatory for educational institutions to proactively assure disabled persons of the right to education
- Create an environment conducive to guaranteeing disabled persons' right to education through expansion of movement/convenience facilities for disabled students at ordinary schools, deployment of staff dedicated to supporting special education, reorganization of the curriculum and schools' performance of the obligation to carry out compensatory education
- Improve expertise of teachers and school inspectors that are in charge of special and integrated education by providing them with a variety of training opportunities
- Promote disabled persons' right to education by developing various teaching methodologies and evaluation indexes according to unique characteristics of each disability

1-4. Guarantee of the Opportunity to Work for Disabled Persons

Goal	Guarantee opportunities to work for the disabled by promoting their employment
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☐ **Current Status and Needs**

- Relevant laws and regulations do not clearly provide for the details of discriminatory acts in employment and punitive measures against violators. Accordingly, such statutes have a low level of legal effectiveness
- Insufficient professional staffs in charge of vocational rehabilitation of the disabled make it impossible to provide adequate vocational rehabilitation services

- Due to job placement which fails to fully reflect the needs or characteristics of disabled workers, both employers and employees have a low level of satisfaction
- Support for disabled persons' business start-ups is not very effective for such reasons as stringent conditions for providing such support, insufficient supply of information and knowledge on opening a business, and quantitative and geographical limitations on the stores and vending machines managed by disabled persons despite the preferential permission system in favor of them.

☐ **Domestic/International Standards and Overseas Practices**

- Countries including the United States, United Kingdom and Australia prohibit discrimination against disabled persons in employment and guarantee preferential treatment of disabled persons in their Disability Discrimination Act
- The U.S. and Japan offer various tax breaks to the businesses employing disabled persons in an attempt to induce employers to voluntarily hire disabled persons
- The U.S. operates rehabilitation programs for the disabled to create and expand opportunities to work for them in a competitive labor market
- The U.K. determines the types of occupation to which the disabled adapt themselves in a stable manner. The country also operates employment rehabilitation and training programs to enhance disabled persons' vocational capabilities necessary for their employment

☐ **Desirable Direction of National Policies**

- Expand employment of the disabled and support their economic stability and independent life by providing incentives in the case of performance of the obligation to hire disabled persons, strengthening their education and training in accordance with the characteristics of disability and boosting support for their business start-ups

☐ **Core Tasks**

- Redress discrimination against disabled persons and cause the government to take the initiative in employing disabled persons by ensuring that statutes related to the disabled explicitly provide for punitive measures to be taken in the event of discriminatory acts and violations regarding employment
- Promote employment of disabled persons by providing diverse incentives such as tax breaks to employers hiring disabled persons

- Stimulate employment of disabled persons through fostering of professional disabled workers, strengthening of appropriate education and training, diversification of disabled persons' job areas and types, and development of rehabilitation engineering devices
- Step up support for disabled persons' business start-ups by providing financial assistance and management consulting services to those disabled persons aspiring to open businesses and establishing a more substantive preferential permission system

1-5. Guarantee of Disabled Persons' Right to Move and Access

Goal	Expand convenience facilities for the disabled, ensure coordination among such facilities, and guarantee their right to move and access
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☐ **Current Status and Needs**

- There is a lack of convenience facilities for the disabled in residential and neighborhood areas. Besides, existing convenience facilities are not properly connected and it is unclear which party is obligated to install convenience facilities
- Facilities for the sake of disabled persons' travel and convenience are not sufficient and different means of transportation are not efficiently connected, placing strains on their independent life and participation in economic activities

☐ **Domestic/International Standards and Overseas Practices**

- The Disabilities Act of the U.S. guarantees accessibility of all disabled persons including wheelchair users to buses and railroads
- Australia requires installation of ramps that can facilitate moving by disabled persons inside and outside all buildings and facilities
- The U.K. has been seeking to assure disabled persons of the means of public transportation and establish a comprehensive transportation system for the sake of convenience concerning their moving

☐ **Desirable Direction of National Policies**

- Guarantee disabled persons' right to move by expanding public transportation facilities available to them and ensuring systematic connection of the inside and

outside of convenience facility buildings frequently accessed by them

☐ **Core Tasks**

- Expand installation of convenience facilities and secures linkage between such facilities
- Formulate complementary measures to guarantee disabled persons' right to move at existing facilities not subject to the Act on Promotion of Convenience for Persons who Have Problems with Moving
- Improve the public transportation system to provide easier access to disabled persons including introduction of more low-floor buses as well as increase of elevators at subway stations and train seats for the exclusive use of the disabled

1-6. Guarantee of Disabled Persons' Rights to Health and Life

Goal	Secure disabled persons' right to health by establishing a medical system for them and bolstering social security
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☐ **Current Status and Needs**

- Since the facilities and professional staffs that can operate rehabilitation programs for the disabled are insufficient and most of the facilities are concentrated on large cities, it is difficult for disabled persons to access the facilities
- With respect to insurance contracts and policy benefit payments, disabled persons are subject to unfavorable conditions by insurance companies on grounds of their disability
- Disabled persons who require long-term treatment and rehabilitation efforts are desperately in need of medical welfare benefits. As the characteristics of households with disabled members are not fully taken into account, some disabled persons are not selected as beneficiaries under the national basic livelihood security system or are subject to unfair treatment in terms of allowance payment even if they are chosen as beneficiaries
- The amount of disability allowance paid to support the livelihood of disabled persons is too small to function as a device to guarantee a certain level of income for their maintenance of reasonable living standards. Besides, payment of such disability allowance is limited to those with serious

disability eligible for benefits under the national basic livelihood security system

☐ **Domestic/International Standards and Overseas Practices**

- The U.S. is implementing a public assistance program named ‘supplementary security income’ with a view to guaranteeing a certain level of income to persons who cannot work due to old age or disability and are not fully protected by the social insurance system alone
- The U.K. provides medical services to disabled persons according to its National Health Service scheme. Persons with serious disability are given nursing services from local health centers and all disabled persons are paid disability allowance without regard to their income level
- As part of its national pension system, Sweden provides disabled persons with universal disability pension and supplementary disability pension in relation to their vocations. It also grants bereaved families both universal and supplementary survivor pensions
- Australia provides mixed or flexible medical services combining free-of-charge medical services and insurance systems and also pays disability pension, mobility allowance, and disabled child allowance to ensure that disabled persons maintain adequate standards of living
- As part of medical services for disabled persons, Japan provides financial assistance to cover their medical expenses as well as medical care for rehabilitation and nursing

☐ **Desirable Direction of National Policies**

- Establish a medical security system for the disabled by improving legal and institutional mechanisms and guarantee their right to health and right to life by ensuring that their national basic livelihood security system or disability allowance reflects reality

☐ **Core Tasks**

- Establish a medical security system for the disabled focusing on rehabilitation medical services by increasing medical institutions that provide rehabilitation services to the disabled and securing professional rehabilitation staff
- Expand supply of rehabilitation engineering devices to the disabled by revamping applicable law
- Amend the Commercial Act and the Insurance Business Act for insurance policy opening for the disabled and improvement in irrational discrimination

against them, amend the Act on the Indemnification for Fire-Caused Loss and the Purchase of Insurance Policies, and provide related financial assistance from the government treasury to make it compulsory for facilities accommodating, and places of business employing, disabled persons to purchase insurance policies

- Set minimum living costs or increase disability allowance to a realistic level in consideration of the characteristics of households with disabled members
- Ensure disabled persons' right to move and access so that they can use public and private cultural/leisure facilities, expand their participation in cultural activities, and promote their cultural right as well as right to life by formulating safety regulations on the use of various amusement facilities by the disabled

2. Irregular Workers

2-1. Introduction

- The Korean government has endeavored to protect irregular workers: the Ministry of Labor's provided protective measures for irregular workers (Sept. 2000), composed the Special Committee on Measures Regarding Irregular Workers by the Tripartite Committee (Jul. 2001), announced the measures concerning irregular workers in public sectors (May 2004), and submitted a bill on irregular workers (Nov. 2004)
- Since the late 1990s, however, the number of irregular workers has risen continuously, with few improvements in discrimination against them concerning wages, working conditions and so forth
- Irregular workers are not guaranteed the right to organize, the right to bargain collectively and the right to strike. Under the circumstances, they cannot effectively tackle employers' arbitrary employment management, with the wage gap between regular and irregular workers widening
- This situation is not in line with the purport of the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights that provide for every individual's rights to equal labor and equal compensation without being subject to any discrimination
- The Commission expressed its opinion as follows: utilization of irregular workers should be reasonably limited; discriminatory treatment against irregular workers in favor of regular workers should be prohibited; and the principle of "providing same wages for labor of the same value" should be established towards that end (Apr. 2005)
- Accordingly, the government should prevent excessive employment of irregular workers and also rectify discrimination against them in favor of regular workers in terms of wages, working conditions and social security, based on betterment of legal and institutional systems
- Application of social insurance for irregular workers must be expanded and the mechanism to impose premiums should be improved in an effort to give a boost to social welfare of irregular workers

- Education and training of irregular workers need to be consolidated through establishment of an infrastructure for their vocational training and offering of incentives to vocational trainees

2-2. Prevention of Excessive Employment of Irregular Workers

Goal	Prevent excessive utilization of irregular workers based on legal and institutional improvements
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☐ **Current Status and Needs**

- Illegal dispatch of workers is prevalent by means of fraudulent contracts in the form of contracted labor/service and in-house subcontract (performance of manufacturing services by the subcontractor at the facilities of the general contractor) or by means of dispatch of temporary labor outside the designated scope of such dispatch. In addition, the number of fixed-term contract workers is soaring

☐ **Domestic/International Standards and Overseas Practices**

- The UN Committee on Economic, Social and Cultural Rights expressed its concern about a sharp rise in the number of irregular workers in the Republic of Korea (2001)
- In its guidelines for workers on fixed-term contracts, the European Union provided that at least one out of the following should be stipulated in domestic laws of its member nations for crackdown on repetitive renewals of fixed-term work contracts: objective restrictions on the causes of contract extension, and restrictions on the total period of fixed-term work and the number of contract renewals
- Major European countries including France, Italy, Spain, Sweden and Portugal limit employment of irregular workers by means of restrictions on the causes of fixed-term employment. Especially, France, Portugal and Spain are restricting dispatch of workers as well

☐ **Desirable Direction of National Policies**

- Prevent excessive utilization of irregular workers by allowing employment of irregular workers only when there exists a justifiable cause

☐ **Core Tasks**

- Acknowledge employment of irregular workers only when there exists a justifiable cause from an objective perspective by limitedly setting forth in applicable law the reasons that allow employment of irregular workers
- Formulate government-wide comprehensive measures to prevent excessive employment of irregular workers

2-3. Correction of Discrimination against Irregular Workers

Goal	Rectify unreasonable discrimination against irregular workers concerning wages, working conditions and social security
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☐ **Current Status and Needs**

- Irregular workers are confronted with severe employment insecurity merely because they are not regular workers. Furthermore, they are subject to serious discrimination in terms of wages, working conditions, social insurance and the ratio of benefiting from corporate welfare
- Since the government's legal and institutional measures to protect irregular workers remain unsatisfactory, discrimination against those workers has become more serious, aggravating polarization of the society
- In the case of persons subject to special employment who can hardly be classified as independent business owners and who virtually remain incorporated into the business organization of specific business proprietors, they are mostly treated as individual business proprietors from a legal standpoint. Thus, they cannot properly benefit from the Social Security Act, which limits their rights to legal protection based on organizing and joining such groups as a labor union
- In the case of indirectly employed workers, they have working relations with both employers and agents. Against the backdrop, their right to organize, right to bargain collectively and the right to strike are being restricted in realistic or legal terms

☐ **Domestic/International Standards and Overseas Practices**

- The UN Committee on Economic, Social and Cultural Rights expressed its concern that irregular workers in the Republic of Korea were subject to

discrimination in terms of wages, pensions, medical benefits and employment stability, albeit they were performing the same duties as regular workers (2001)

- The ILO Convention concerning Freedom of Association and Protection of the Right to Organize (No.87) stipulates that the scope of persons assured of the freedom of association should not be determined on the basis of existence of employment relations
- Germany and Italy introduced the concept of ‘para-workers’ or ‘semi-workers’, granting workers' rights to those workers subject to varying forms of special employment
- France proactively grants the status of workers under its Labor Act to those workers subject to diverse forms of special employment who have independence when it comes to performance of duties

☐ **Desirable Direction of National Policies**

- Correct discrimination against irregular workers and establish the principle that same wages are provided for labor of the same value

☐ **Core Tasks**

- Overhaul the existing legal and institutional mechanisms to ensure that workers engaging in labor of the same value are assured of equal treatment in terms of wages, working hours, employee benefits and other working conditions
- Formulate measures to protect fixed-term contract workers based on execution of labor agreements in writing
- Ensure that the government takes the initiative to eliminate discrimination against irregular workers in public sectors and introduce other supportive actions
- Establish measures to practically guarantee irregular workers’ right to organize, right to bargain collectively and right to strike
- Create various protective actions reflecting the unique characteristics of workers subject to various forms of special employment
- Formulate measures to beef up the responsibilities and obligations of employers concerning general contractors in the case of in-house subcontract workers and business proprietors in the case of dispatched workers

2-4. Expansion of Social Insurance Applicable to Irregular Workers

Goal	Guarantee an adequate quality of life for irregular workers by promoting their right to social security
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☐ **Current Status and Needs**

- Irregular workers, who should be preferentially entitled to social insurance because of low income and unstable employment, are being excluded from the scope of application of such insurance or subject to coverage of social insurance under unfavorable terms and conditions as a result of lack of appropriate institutional systems and problems with operation of social insurance
- As of August 2005, the social security application ratios for irregular workers (36.6% for national income, 37.7% for health insurance and 34.5% for employment insurance) remain far lower than those of regular workers

☐ **Domestic/International Standards and Overseas Practices**

- The ILO Part-Time Work Convention (No. 175) stipulates that part-time workers should be entitled to the conditions of social security equivalent to those applicable to comparable full-time workers
- The ILO Private Employment Agencies Convention (No. 181) provides that the governments must provide the statutory benefits of social security to workers hired by private employment agencies and also indemnify them from industrial disasters or occupational diseases
- France equally provides both part-time and full-time workers with general social security as well as such benefits as unemployment insurance and supplementary severance pay
- The United Kingdom stipulates that employers cannot discriminate against part-time workers without a justifiable and objective cause concerning access to the occupational pension system and industrial disaster/occupational disease allowance
- Regarding social security, there is no discrimination between regular and irregular workers in Spain. In the case of unemployment insurance, the portion of premiums covered by business proprietors in favor of irregular workers is higher than that for regular workers

☐ **Desirable Direction of National Policies**

- Promote irregular workers' right to social security by expanding application of social insurance to those workers and improving the premium imposition system

☐ **Core Tasks**

- Expand application of social insurance for irregular workers and improve the premiums imposition system
- Step up social insurance public relations activities targeting employers and employees and reinforce supervision of the places of business that avert opening of social insurance policies
- Take measures to expand participation of persons representing irregular workers in the decision-making process concerning various social insurance schemes

2-5. Expansion of Education and Training for Irregular Workers

Goal	Promote incorporation of irregular workers into regular workforce by developing their competences through education and training
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☐ **Current Status and Needs**

- There exists a serious lack of education and training for irregular workers as evidenced by the fact that the ratio of irregular workers with the experience of being subject to education and training is just a half of that of regular workers
- Such sluggish education and training for irregular workers serve as a factor preventing irregular workers from being incorporated into regular workforce

☐ **Domestic/International Standards and Overseas Practices**

- The Workers' Vocational Ability Development Act (Article 3) provides for the basic principles of vocational ability development training: workers should be assured of equal opportunity; and vocational ability development training of irregular workers must be regarded most highly

- The ILO Part-Time Work Convention (No.175) stipulates that equal treatment should be provided to part-time and full-time workers in regard to education and training
- The ILO Part-Time Work Recommendation (No. 182) provides that the governments must take all reasonable steps so that part-time workers may clear hurdles when they seek to take advantage of the opportunities of training, career development and job rotation
- The EU guidelines on part-time work (1997) and fixed-term work (1999) provide that business proprietors must take appropriate actions to provide irregular workers with the opportunities of proper vocational training
- In an effort to furnish irregular workers with reasonable education and training opportunities meeting their needs, major European countries guarantee paid and unpaid educational leaves to workers with a certain number of years of service or work, irrespective of the forms of their employment

☐ **Desirable Direction of National Policies**

- Strengthen vocational training for irregular workers by expanding the infrastructure for such vocational training and providing various educational opportunities and incentives

☐ **Core Tasks**

- Enhance equality between regular and irregular workers regarding education and training by placing a high priority on the opportunities to cultivate the ability of irregular workers
- Provide diverse education opportunities satisfying the needs of each target group by considering irregular workers' various needs for education and training
- Raise the ratio of irregular workers' participation in education and training by providing business proprietors and workers participating in vocational ability development with such incentives as financial assistance and reflection in relevant evaluations

3. Migrant Workers • Refugees

3-1. Introduction

- The Constitution of the Republic of Korea (Article 6(2)) provides that the status of foreigners is guaranteed in compliance with international laws and treaties
- The National Human Rights Commission Act (Article 4) provides for the scope of its application by stipulating that it shall be applicable to nationals of the Republic of Korea and foreigners in its territory. The Act stipulates that the government is obligated to protect foreigners residing in the country and also guarantee their rights
- In order to promote the basic rights of sharply increasing migrant workers, the Korean government has improved its legal and institutional systems relevant to foreigners such as implementation of the employment permit system, introduction of the permanent residence system, and revision of the Enforcement Decree of the Elementary and Secondary Education Act
- However, migrant workers, particularly undocumented migrant workers and their family members are still facing limitations on their basic rights
- The government should apply to migrant workers the provisions of international covenants to which it is a signatory so as to assure those workers of the basic rights that every human being is eligible to regardless of nationality. In addition, the government is required to ratify the ILO Convention concerning Equality of Treatment of Nationals and Non-Nationals in Social Security (No. 118) and the ILO Convention concerning the Establishment of an International System for the Maintenance of Rights in Social Security (No. 157)
- In the meantime, the government signed in 1992 the Convention Relating to the Status of Refugees and the Protocol. Since it recognized a refugee status for the first time in 2001, the government has recognized 41 refugees as of November 2005
- Nonetheless, there still exist certain problems as evidenced by the fact that the UN Committee on Economic, Social and Cultural Rights recommended the government to ease its excessively stringent standards on refugee status recognition (2001)

- Therefore, the Korean government should improve its refugee recognition procedures into a fair and rational manner. In certain cases, the government should allow asylum seekers to be employed and provide them social assistance

3-2. Protection of Basic Rights of Migrant Workers

Goal	Prevent human rights violations against migrant workers and guarantee their basic rights by improving the relevant legal and institutional mechanisms
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☐ Current Status and Needs

- Migrant workers who obtained an employment permit in accordance with the Act on Employment of Foreign Workers are legally entitled to the right to organize, the right to bargain collectively and the right to strike. In reality, however, many constraints prevent them from exercising their basic labor rights
- Under the employment permit system, migrant workers' transfer to a new place of business has been sternly restricted. Such transfer is allowed only when performance of duties at the existing place of business is impossible for such reasons as the business proprietor's termination of an employment agreement, business suspension/closure of the company, revocation of an employment permit of migrant workers or restrictions on their employment, bodily injury on migrant workers, etc
- When migrant workers undergo police interrogations and trials, raise objection to the process of crackdown and detention of undocumented workers, or handle affairs related with regional labor offices, their rights are not properly protected because of lack of multilingual written guides and interpretation services
- The human rights of migrant workers are being violated for such reasons as unreasonable crackdown on undocumented migrant workers including excessive use of restraining devices and their long-term detention at a foreigner internment camp under an internment order
- The effort to prevent industrial accident remains at an unsatisfactory level due to lack of safety education/devices for migrant workers. In addition, the protective policy of granting undocumented migrant workers eligibility to stay in the country lawfully until conclusion of their benefit receipt and medical treatment under the industrial accident insurance scheme has not been utilized properly because the scheme is given little publicity
- Even for those lawfully staying in the country including industrial trainees and F-1 visa holders (those who entered the country for the purpose of

visiting their families and relatives) authorized to engage in economic activities, health insurance is not mandatory. Thus, there exist a large number of persons not covered by health insurance. A significant number of industrial trainees from overseas invest companies of domestic firms as well as undocumented migrant workers are being excluded from the scope of health insurance

□ Domestic/International Standards and Overseas Practices

- The Commission recommended phased abolition of the industrial trainee system, improvement of the employment control system, staged conversion of existing illegal aliens into lawful foreign visitors (Aug. 2002), introduction of the employment permit system, formulation of measures to assure undocumented migrant workers of human rights protection including modification of obligation of public officials to report deportable foreigners (Feb. 2003), institutionalized assurances of the right to file an objection for foreigners whose entry into the country was not approved (May 2004), minimized restrictions on the basic rights of foreigners detained in a processing center (Oct. 2004) and so forth
- The Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, etc. provide that migrant workers and their family members should be subject to the same treatment as applicable to nationals of the country where they are staying in when it comes to social security
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Article 18) provides that migrant workers shall be entitled to be informed in a language they understand of the nature and cause of the charge against them and have the free assistance of an interpreter in court
- The ILO Convention concerning Migration for Employment (No. 97), Convention concerning Equality of Treatment of Nationals and Non-Nationals in Social Security (No. 118), Convention concerning the Establishment of an International System for the Maintenance of Rights in Social Security (No. 157), etc. provide for protection of rights of migrant workers and prohibition of discrimination against them in social security
- The ILO Convention concerning Equality of Treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents (No. 19) provides that migrant workers should be granted the same treatment in respect of workmen's compensation as granted to the nationals of the concerned country

☐ **Desirable Direction of National Policies**

- Prevent human rights infringements that might occur in the process of clamping down on and detaining undocumented migrant workers and strengthen migrant workers' right to social security

☐ **Core Tasks**

- Relax the restrictions on workers' transfer between places of business under the employment permit system
- Establish a system to provide language support and counseling services at institutions including police stations, courts, processing centers, regional labor offices, employment security centers and the Korea Labor Welfare Corporation
- Bolster human rights education for government officials who crack down on undocumented migrant workers, and improve regulations pertaining to operation of processing centers including formulation of strict examination procedures regarding extension of the detention period
- Implement appropriate safety education and secure safety devices to prevent industrial accidents, and give further publicity to policies that promote access of migrant workers suffering from an industrial accident to industrial accident insurance and protective measures
- Pursue the conclusion of inter-governmental social security agreements to rectify application of the pension system, etc. in disfavor of migrant workers
- Improve the system that renders it mandatory for government officials to report deportable foreigners, which poses a stumbling block to undocumented migrant workers' collection of back pay as well as pursuit of other remedies

3-3. Guarantee of Human Rights of Migrant Workers' Family Members

Goal	Guarantee the right to raise children, right to health, right to education as well as cultural rights for migrant workers' family members
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☐ **Current Status and Needs**

- Undocumented migrant workers are reluctant to report their childbirth to an immigration office because of their illegal sojourn status. Thus, their children are denied of medical, educational and welfare benefits

- Migrant workers who serve as production workers cannot be accompanied by their family members even if they stay in the country lawfully. Accordingly, it is impossible for them to receive any child care and medical assistance for their family from their employers
- Due to irregularity with regard to the stay of migrant workers and their children, those children often fail to enter school

☐ **Domestic/International Standards and Overseas Practices**

- The UN Convention on the Rights of the Child provides for the right to be cared for by parents (Article 7) and to be educated (Article 28)
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Article 28) stipulates that migrant workers and members of their families shall have the right to receive any urgently required medical care and that such emergency medical care shall not be refused by reason of any irregularity with regard to stay
- The UN Committee on the Rights of the Child recommended that an equal right to education applicable to Korean children be guaranteed for foreign children. (Jan. 2003)

☐ **Desirable Direction of National Policies**

- Assure children of all migrant workers to be cared for by their parents and to be educated regardless of the sojourn status of their parents and establish a social welfare system that grants them financial assistance regarding child care and medical services

☐ **Core Tasks**

- Improve legal and institutional mechanism that restrict registration of the birth of migrant workers' children in order to protect those children's rights
- Take measures to provide improved medical benefits to undocumented migrant workers and their family members who do not have access to national health insurance
- Strengthen the right to education of migrant workers' children by encouraging school attendance by school-age children, simplifying the procedures or documents evidencing their schooling in their native countries, and operating assistant teachers or educational institutions in charge of educating the Korean language

3-4. Guarantee of Migrant Women's Human Rights

Goal	Prevent violence against migrant women and promote protection of their maternity
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☐ **Current Status and Needs**

- There exists a lack of systems to prevent human rights violations against migrant women including trafficking, forced prostitution and detention and to seek remedies for victims
- Female migrant workers at micro-companies with less than 5 employees are often denied of access to statutory maternity protection. Even if they have access to such protection, their employers frequently neglect those female workers' rights to health and maternity protection including limitations on working hours, pre- and post-maternal leave, parental leave and menstruation leave
- Married migrant women, who are leading a poor life below the level of minimum cost of living, cannot benefit from the basic livelihood security system on grounds that they are foreigners
- Migrant women suffer from cultural differences and communication problems. In severe cases, their basic human rights are violated as a result of domestic violence

☐ **Domestic/International Standards and Overseas Practices**

- The UN Committee on the Elimination of Racial Discrimination recommended the Korean government to provide proactive implementation of measures to prohibit discrimination against permanent alien residents, women married to asylum seekers, children of mixed racial origins, etc. (1999) as well as prevention of trafficking in migrant women and remedies for victims (2003)

☐ **Desirable Direction of National Policies**

- Root out international trafficking in women, reinforce remedies and protective measures for the victims, and promote the human rights of migrant women married to Korean nationals

☐ **Core Tasks**

- Block any channel of migrant women's inflow into domestic entertainment

industries under the guise of overseas employment and prohibit any activities by fraudulent international marriage brokers

- Ratify the UN Convention against Transnational Organized Crime and its three protocols, which stipulate minimum standards for punishment of human traffickers and protection of their victims, at the earliest possible date and overhaul related domestic laws
- Beef up employment supervision, ensure sufficient rest and nutrition, support child care and open exclusive shelters for the purpose of female migrant workers' maternity protection
- Apply the social security system including the right to receive basic livelihood benefits to migrant women married to Korean nationals even before their acquisition of Korean nationality by considering the fact that they are a member of a Korean family
- Establish measures to prevent domestic violence against migrant women married to Korean nationals and seek remedies for victims, and acknowledge migrant women's qualifications for admission into maternal and child welfare facilities

3-5. Guarantee of Human Rights of Refugees

Goal	Promote the rights of refugees by improving the procedures of refugee status recognition and expanding social support for refugees and asylum seekers
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☐ Current Status and Needs

- The statutory period to file an appeal against the disapproval or cancellation of refugee status recognition is only seven days from the date on which notice thereof is delivered. Accordingly, it is extremely difficult for asylum seekers to prepare additional explanatory materials for an appeal
- The Refugee Recognition Council consists of government officials who are not experts on refugee issues. The Council places a top priority on national security in the process of refugee status review. In addition, it does not give asylum seekers an opportunity to make direct representations. Besides, it is not equipped with strict and fair review standards
- The institution in charge of the first instance of refugee recognition carries out re-examination based on the same procedures. Therefore, the review of an appeal is not very meaningful virtually
- Asylum seekers are not allowed to be legally employed, nor given economic assistance from the government until they are acknowledged as refugees,

irrespective of whether they are staying in the country lawfully or not. This situation makes it difficult for them to sustain their livelihood.

- It is being criticized that social treatment for those recognized as refugees falls far short of international standards

☐ **Domestic/International Standards and Overseas Practices**

- The Convention Relating to the Status of Refugees (1951) and the Protocol (1967) assure refugees of the right of association and the right to trials, and also provide that refugees are entitled to the same treatment as applicable to nationals of the concerned country with respect to housing, public education, right to work, right to social security, etc

☐ **Desirable Direction of National Policies**

- Improve unprofessional and inefficient aspects in the procedures of refugee status recognition, and permit employment of asylum seekers and support their livelihood so as to guarantee their basic rights

☐ **Core Tasks**

- Establish an independent refugee recognition institution comprising experts on human rights and refugee issues and formulate fair examination standards
- Secure a larger number of government officials with professional knowledge of refugee issues at the earliest possible date
- Extend the period in which an appeal may be raised to the disapproval or cancellation of refugee status recognition so as to give asylum seekers sufficient chances and time to explain the circumstances, and guarantee practical re-examination by improving objection handling procedures
- Grant qualifications for special temporary stay to those believed to qualify as refugees or require special treatment from a humanitarian perspective among asylum seekers to ensure that they have access to proper assistance in terms of employment and medical services, provide legal advisory services to asylum seekers, and set up refugee assistance facilities
- Assure persons recognized as refugees of the same rights to social security as applicable to Korean nationals and provide special assistance concerning vocational training and language education

4. Women

4-1. Introduction

- The government of the Republic of Korea has improved legal and institutional mechanisms to rectify discrimination against women in the society based on the following efforts: enactment of the Sexual Equality Employment Act (Dec. 1987) and the Framework Act on Women's Development (Dec. 1995); creation of the Ministry of Gender Equality (Jan. 2001); the Constitutional Court's ruling that the patriarchal family registration system is incompatible with the Constitution (Feb. 2005); and revision of the Civil Act (Mar. 2005) for abolishment of the patriarchal family registration system (applicable from Jan. 2008)
- As of August 2005, fourteen out of the sixteen laws which explicitly prohibit discrimination, place a ban on sexual discrimination, excluding the Welfare of Disabled Persons Act and the Employment Promotion for the Aged Act
- However, there still exist discriminatory prejudice and practices against women, decadent pleasure-seeking trends sexualizing and ignoring the dignity of women, sexual violence and prostitution
- Such situation runs contrary to the Constitution and other laws as well as international conventions that prohibit discrimination against women
- Women's rights of integrity and sexual self-determination must be guaranteed by preventing and rooting out various forms of violence against women
- Maternity protection needs to be promoted. In addition, it must be ensured that the government and both men and women participate in, or share responsibilities regarding care work including child rearing, household affairs handling and family care
- The government must withdraw its reservations concerning the UN Convention on the Elimination of All Forms of Discrimination against Women (Article 16(1)(g) and ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

4-2. Establishment of Measures to Eradicate Violence against Women

Goal	Protect women's rights of integrity by preventing sexual violence and strengthening measures for victims protection
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☐ **Current Status and Needs**

- Various related laws provide that the central and local governments should carry out education aimed at preventing sexual harassment, sexual violence, domestic violence and prostitution. However, implementation of such education remains at an unsatisfactory level
- Laws relating to sexual harassment, sexual violence, domestic violence and prostitution do not provide sufficient preventive measures and remedies due to unclear concepts and judgment standards
- An act to control prostitution was enforced in 2004. However, sex-for-money trades are increasing stealthily through semi-prostitution businesses and the Internet, and the crackdown and punishment are difficult
- In the trial and investigation process, secondary human rights violations are perpetrated by those who lack in gender sensitivity such as leveling insults at victims

☐ **Domestic/International Standards and Overseas Practices**

- The Framework Act on Women's Development (Articles 17 and 25) sets forth the obligations of the central and local governments with respect to prevention of sexual harassment, sexual violence and domestic violence, protection of victims and correction of wrongdoers
- Matters of sexual harassment are stipulated in the Sexual Equality Employment Act and the National Human Rights Commission Act. The Act on the Punishment of Sexual Crimes and Protection of Victims provides for matters concerning sexual violence. Matters of domestic violence are set forth in the Act on Punishment of Domestic Violence Crimes and the Act on the Prevention of Domestic Violence and Protection of Victims Thereof while matters relating to prostitution are respectively provided in the Act on Punishment of Prostitution Brokerage, etc. and the Act on the Prevention of Prostitution and Protection of Victims Thereof
- The UN Convention on the Elimination of All Forms of Discrimination against Women (Article 6) stipulates that the signatory countries shall take all

appropriate measures including legislation to suppress all forms of traffic in women and exploitation of prostitution of women

- The Declaration on the Elimination of Violence against Women (1993) defines violence against women as a grave problem violating equality between men and women as well as human rights of women
- In its concluding observations on the periodic report of the Korean government, the UN Committee on the Elimination of Discrimination against Women expressed concerns about violence against women rampant in the society and recommended the government to provide comprehensive measures including gender sensitivity training of related government officials, shelters for victims, and utilize non-violence models by the educational circles and the press to root out violence against women (1998)
- In the Beijing Platform for Action (1995) which was to attain gender equality and promote women's power, the UN urged each country to carry out gender-sensitive human rights education for those in charge of investigations and trials so as to guarantee women's rights and prevent violence against them
- The Commission recommended concerning limitation of protectors to persons with parental authority or guardians in the case of disintegration of a family for such reasons as parents' divorce or domestic violence under Article 21(3) of the Enforcement Decree of the Elementary and Secondary Education Act (2003), incurrence of secondary damage to child victims of sexual violence in the investigation process, limitation of the eligibility to enter support facilities for prostitution victims to the victims themselves (2004) and so forth

☐ **Desirable Direction of National Policies**

- Improve legal and institutional mechanisms to prevent sexual violence against women and strengthen policies to seek remedies for and protection of victims

☐ **Core Tasks**

- Step up education on women's human rights and gender equality at each level of schools and enact laws that provide rationale for development and operation of related teaching materials and programs to prevent and eradicate sexual discrimination, sexual harassment, sexual violence, domestic violence and prostitution
- Establish measures to combat new breeds of crimes whose crackdown and punishment are difficult under the existing law such as stalking, cyber sexual violence and semi-prostitution businesses

- Bolster social welfare services for the victims of sexual discrimination, sexual harassment, sexual violence, domestic violence and prostitution including counseling, protection and treatment
- Strengthen occupational capabilities development, employment agency services and medical support for the victims of prostitution and persons who left the sex-for-money business
- Come up with ways to improve the institutional mechanism and procedures to protect victims' rights in the investigation and trial process

4-3. Maternity Protection and Support for Reconciliation of Work and Household Affairs

Goal	Protect working women's maternity and support their reconciliation of work and household affairs by promoting the public nature of childbirth and childcare
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☐ **Current Status and Needs**

- Many women are reluctant to give birth to children because pregnancy and childbirth cause many disadvantages regarding their career.
- Installation of child-care facilities and implementation of the parental leave system stipulated in the existing law are not properly guaranteed. Thus, it is realistically difficult for women to go to work while rearing children. This poses an impediment to women's employment
- In an era of ageing and nuclear families, it is required to formulate family care support measures. However, there exists a lack of such support measures including family care leave for ordinary workers other than government officials
- The amount of parental leave allowance still remains at a low level. Besides, there exists an absolute shortage of child care centers

☐ **Domestic/International Standards and Overseas Practices**

- The Sexual Equality Employment Act provides for maternity protection of female workers as well as parental leave system and workplace child care centers for both male and female workers
- The maternity protection for female workers, female teachers and female government officials are respectively stipulated in the Labor Standards Act,

the Public Educational Officials Act and the State Public Officials Service Regulations

- The Employment Insurance Act provides for pre- and post-maternal leave allowance and parental leave allowance for income security during maternity leave and parental leave. The Act also provides for payment of grants and alternative workers subsidies to business proprietors who implemented the parental leave system
- The Infant Care Act imposes the responsibility of caring for infants not only on their guardians, but also on the central and local governments and all people. It also provides that the head of a city/county/district must secure proper child care centers for nurturing of infants
- The State Public Officials Act acknowledges parental leave and family care leave of government officials for their child rearing and family health management
- The International Covenant on Economic, Social and Cultural Rights provides that extensive protection and support need to be provided to homes to the extent that they take responsibility for bringing up and educating children
- The UN Convention on the Elimination of All Forms of Discrimination against Women emphasizes that both men and women as well as the entire society should share responsibilities as regards rearing of children. It also requires the signatory countries to prevent discrimination against women on grounds of marriage or maternity and take appropriate measures to ensure effective rights regarding women's work
- The UN Convention on the Rights of the Child provides that both parents have common responsibilities for the upbringing and development of the child. It also stipulates that for the purpose of guaranteeing the rights of the child, the government shall render appropriate assistance to parents and legal guardians

☐ **Desirable Direction of National Policies**

- Support female worker's maternity protection and their rights concerning care work by strengthening the public nature of their child birth and rearing and by creating a child care-friendly social atmosphere

☐ **Core Tasks**

- Formulate policies to support child and family care by parents classified as vulnerable groups (family of disabled persons, one-parent family, low-income family and so on)

- Set up guidelines on maternity protection and strengthen supervision to ensure compliance with maternity-related regulations
- Expand child care centers and create a family- and fosterage-friendly social atmosphere
- Encourage men's participation in care work including child rearing, family care and volunteer activities and ratchets up national and social support

4-4. Protection of the Rights of Women in Vulnerable Groups

Goal	Protect the rights of women in vulnerable groups whose human rights are most prone to be violated
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☐ **Current Status and Needs**

- Women in vulnerable groups can hardly assert their rights for themselves and protection of their rights under the existing laws and policies is unsatisfactory.
- The Act on Employment of Foreign Workers was enacted in August 2003. However, the Act contains no provisions on female migrant workers' maternity protection as well as prevention of their sexual discrimination, sexual harassment, sexual violence and prostitution
- Many women are working as irregular workers (temporary, contract, part-time, paid-by-hour, and dispatched workers) or subject to various forms of particular employment (golf course caddies, insurance policy sellers, private learning material instructors, etc.), they are hardly protected under labor-related law
- Only a part of the provisions on special protection of women in the Labor Standards Act as well as the provisions on prohibition of discrimination in the Sexual Equality Employment Act are applicable to micro-companies employing less than 5 full-time workers

☐ **Domestic/International Standards and Overseas Practices**

- The Employment Promotion and Vocational Rehabilitation of Disabled Persons Act (Article 3) provides that special attention be paid to disabled women when the central and local governments design policies promoting vocational rehabilitation and employment of disabled persons
- The Act on Punishment of Prostitution Brokerage, etc. (Article 11) stipulates that migrant women who report any crime set forth in the Act or undergo investigation as prostitution victims shall not be subject to an order for

deportation or placed under supervision under the Immigration Control Act until prosecution or non-prosecution of the relevant cases.

- The Labor Standards Act provides that the same maternity and menstruation leave as applicable to regular workers shall be applied to female part-time workers without regard to working hours
- The UN Committee on the Elimination of Discrimination against Women made a recommendation that women in farming villages should be acknowledged as agricultural workers and thus should be subject to the Labor Standards Act and that measures to cope with an increase in female paid-by-hour workers be formulated (1998)
- In the Beijing Platform for Action (1995), the UN made a recommendation to each country that accessible information and services should be provided to women who are disabled, sexual violence victims or migrant workers.
- The ILO Convention on Homework (Article 4) provides that it constitutes a government's obligation to promote equal treatment of home workers and other waged workers and to protect maternity

☐ **Desirable Direction of National Policies**

- Strengthen policies to guarantee dignity of women in vulnerable groups (irregular workers, female workers at micro-companies, female migrant workers, disabled women, impoverished women, women in farming and fishing villages, female prisoners, etc.) and protect them from and against various forms of discrimination and violence

☐ **Core Tasks**

- Formulate policies concerning protection of the human rights of women in vulnerable groups in establishing any and all policies relating to gender equality
- Support disabled women by conducting vocational training, establishing employment programs including employment counseling and arrangement, providing assistance to their establishment of a business, and dispatching child care and family care helpers
- Stipulate explicitly the principles of 'same wages for the work of same value' as well as prohibition of sexual discrimination in a bill protecting the work of irregular workers and employees subject to various forms of particular employment
- Protect the rights of female home workers by overhauling related law
- Conduct human rights education targeting women in vulnerable groups, set up human rights counseling hot lines, and provide remedial procedures

5. Children • Juveniles

5-1. Introduction

- The Republic of Korea ratified the UN Convention on the Rights of the Child (1991), Optional Protocol to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2004), Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2004), etc. It also enacted the Infant Care Act (1991), Act on Punishment of Domestic Violence Crimes, etc. (1998), Juvenile Protection Act (1997) and so forth, and also amended the Child Welfare Act (1991) in an effort to protect rights of children and juveniles
- However, basic rights of children and juveniles are being violated due to entrance examination- and competition-oriented education, varying educational opportunities and quality determined by the economic affordability of families, school and domestic violence, and ostracizing
- Besides, the Republic of Korea still has a long way to go concerning the recommendation of the UN Committee on the Rights of the Child to attain the intrinsic goals of education and protect the rights not cared for by their parents as well as implementation of withdrawal of the reservations regarding the UN Convention on the Rights of the Child (1996 and 2003)
- Accordingly, the central and local governments must reinforce policies to guarantee the rights of children and juveniles in vulnerable groups (children of low-income families, disabled children, children in farming and fishing villages, etc.) and expand financial resources towards so that the responsibilities and obligations regarding child care and education can be fully performed
- It must be sought to improve the overall human rights landscape of children and juveniles based on realignment of laws including the Child Welfare Act, Civil Act, and Elementary and Secondary Education Act, reinforcement of institutional mechanism including payment of child fostering expenses in the event of divorce of their parents, and normalization of crippled school operation (mandatory self-study hours, pre-school hour lessens, supplementary lessons during vacation and so on)

- Children's rights must be protected through strengthening of systematic human rights education at home and school as well as facilities pertaining to children

5-2. Strengthening of Government's Responsibility for Child Fosterage and Care

Goal	Protect children's rights by guaranteeing their healthy growth
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☐ **Current Status and Needs**

- Children must be cared for by their parents from their birth. However, a significant number of children are not properly cared for as a result of divorce, death, runaway and poverty of their parents
- Currently, civilian institutions are commissioned to manage child abuse prevention centers. Such operation system indicates that the government virtually assumes the least possible responsibility for abused children, failing to satisfactorily protect children from and against violence and abuse
- It is urgently needed to formulate steps to protect children from the risks of various safety incidents, school violence and hazardous environment

☐ **Domestic/International Standards and Overseas Practices**

- The Framework Act on Juveniles (Article 5) stipulates that the basic rights of juveniles must be respected in all areas of juvenile upbringing. The Juvenile Welfare Support Act (Article 3) prohibits discrimination regarding application of law in accordance with race, religion, sex, age, educational background, and physical and other conditions
- The Child Welfare Act, the Act on the Punishment of Sexual Crimes and Protection of Victims Thereof and the Act on Punishment of Domestic Violence Crimes, etc. provide for prohibition and punishment against child abuse and violence. The Framework Act on Juveniles, the Juvenile Protection Act and the Juvenile Sexual Protection Act stipulate protection of children from a hazardous environment as well as control and punishment of child prostitution and sexual exploitation
- The UN Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration (Article 3); appropriate

direction and guidance shall be provided in a manner consistent with the evolving capacities of the child (Article 5); and the system of adoption shall ensure that the best interests of the child shall be the paramount consideration (Article 21)

- The UN Convention on the Rights of the Child provides for prevention of and protection from child abuse and sexual exploitation (Articles 19, 32 through 36, 39, etc.) and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography prohibits trafficking in children
- The UN Convention on the Rights of the Child (Article 31) sets forth the rights of the child to rest and leisure and to engage in play and recreational activities appropriate to the age of the child
- The UN Convention on the Rights of the Child (Articles 40 and 41) provides for protection of the rights of the child in judicial proceedings
- The UN Committee on the Rights of the Child made recommendations to the Korean government to ratify the Hague Convention, improve child abuse, neglect and punishment, and improve the juvenile justice system according to international standards (1996); and expand financial assistance to foster care homes and regular audits of child protection facilities (2003)

☐ **Desirable Direction of National Policies**

- Improve the legal and institutional system to ensure that the government fulfills its obligation to carry out proper care of children

☐ **Core Tasks**

- Beef up protection of children not cared for by their parents by granting legal authority to, and expanding support for, group homes including foster care homes
- Minimize adoption of Korean children by foreigners by promoting domestic adoptions
- Amend the Civil Act, etc. to require that permission of adoption be obtained from the authorities concerned and withdraw those reservations regarding Article 21(a) of the UN Convention on the Rights of the Child
- Promote expansion of and liaison with child abuse prevention centers and prevent child abuse and neglect through introduction of the child list registration system for follow-up care of abused children
- Adopt stricter facility safety inspections for prevention of accidents involving children, improve child protection zones, and engage in proactive public relations activities to strengthen preventive measures against safety incidents at homes, child care centers, kindergartens, schools and local communities

- ▣ Step up protection of children from harmful media, conduct phased reduction of amusement spots in child care/school zones and residential areas and prohibit issuance of new permits to such amusement spots to strengthen child protection from a hazardous environment
- ▣ Improve the system which gives prosecutors the authority to determine whether to handle a juvenile-involving case as a juvenile protection case or an ordinary criminal case as it places a focus on punishment rather than proper guidance, expand treatment-type protection services for juvenile criminals, and improve the judicial procedures for protection of child victims of sexual abuse
- ▣ Implement human rights education for the representatives and employees of the relevant facilities and strengthen actions to prevent human rights violations against children living in child-caring institutions based on supervision by the government and monitoring of local communities

5-3. Strengthening of Children's Basic Health and Welfare Services

Goal	Promote children's right to health and strengthen the social security system for children
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☐ Current Status and Needs

- ▣ There exist dead zones where families in need of basic livelihood security cannot benefit from the social security system because of stringent requirements
- ▣ The characteristics of families comprising disabled persons have not been properly reflected while the status and welfare needs of starving children have yet to be identified accurately
- ▣ Appropriate reproductive health counseling and services are required for juveniles

☐ Domestic/International Standards and Overseas Practices

- ▣ The Child Welfare Act (Article 4) provides for the responsibilities of the central and local governments with respect to promotion of children's health and welfare as well as protection of disabled children's rights
- ▣ The Framework Act on Juveniles (Article 49) sets forth improvement of juvenile welfare while the Juvenile Welfare Support Act which concretizes

said Framework Act provides for juveniles' human rights, health security, welfare improvement, and selection of and support for juveniles subject to special assistance

- The UN Convention on the Rights of the Child (Articles 3 and 24) provides for various measures to protect the health and improve the welfare of children
- The UN Committee on the Rights of the Child recommended to the Korean government the implementation of effective measures to improve the climate of discrimination against disabled children, comprehensive survey of disabled children, and expansion of the actions to grant disabled children easier access to public buildings and areas (1997)

☐ **Desirable Direction of National Policies**

- Enhance welfare services for children in disadvantaged groups (low-income brackets, people just above the poverty line, disabled persons, etc.), secure safety of the school feeding program, and conduct health education suitable for the level of development of children

☐ **Core Tasks**

- Invigorate support for children in vulnerable groups by improving the health and medical care system for impoverished children and implementing basic health services for migrant workers' children
- Ensure safety of the school feeding program by promoting its sanitation and strengthen the school feeding program and nutritious meal assistance system by providing nutritious meals to starving children
- Execute health education commensurate with the level of development of children and juveniles ranging from kindergarteners to high school students

5-4. Expansion of Benefits for Child Care and Education

Goal	Strengthen educational support for infants and guarantee the right to education for disadvantaged children
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☐ **Current Status and Needs**

- Currently, compulsory education is being conducted up to the level of middle schools. However, only school tuitions are exempted while on-site learning expenses as well as aptitude and special talent activity expenses necessary for

education must be borne by students. This situation virtually imposes limitations on compulsory education

- Children's right to learn is not fully guaranteed as a result of entrance exam-oriented school education

☐ **Domestic/International Standards and Overseas Practices**

- The Framework Act on Education provides for equal opportunities for education (Article 4) and sets forth policy formulation and implementation by the central and local governments concerning special education and early childhood education (Articles 18 and 20)
- The Infant Care Act (Article 4) stipulates the responsibilities of the central and local governments for sound nurturing of infants
- The Early Childhood Education Act (Article 3) provides for the responsibilities of the central and local governments to carry out sound education of young children
- The Framework Act on Juveniles (Article 50) provides that the central and local governments shall provide necessary support to prevent juveniles from running away from home or committing juvenile delinquency and to help them be incorporated into society as its sound members
- The UN Convention on the Rights of the Child (Article 18(3)) provides for children's right to benefit from child-care services and facilities
- The UN Convention on the Rights of the Child (Article 28) provides that the countries shall render education available free and provide financial assistance on the basis of equal opportunity
- The UN Committee on the Rights of the Child recommended the Korean government to come up with strategies to enhance the quality of learning and reduce individual's financial burden, in part or entirety, regarding pre-school education and secondary education (2003)

☐ **Desirable Direction of National Policies**

- Step up various supports to children from disadvantaged families to ensure their proper care and education

☐ **Core Tasks**

- Improve support for infant protection and education by expanding public child care centers, increasing free education and child care expense reduction and boosting the parental leave system

- Set up local children's centers for impoverished children, strengthen support for those children and formulate measures to enhance basic scholastic ability of children from low-income families
- Implement education programs targeting parents, establish a professional counseling system pertinent to child development and set up comprehensive child support centers at each city/county/district
- Guarantee disabled children's development rights according to their level and type of disabilities by improving relevant services on the basis of regular surveys on needs for special care and educational services for each type of disability, increasing special and assistant teachers and providing educational methods suitable for children with disabilities
- Seek to give children from low-income family the free access to secondary education in stages in order to provide them with practical assistance
- Establish educational policies aimed at easing overly heated competition for school entrance so as to guarantee children's right to pursue happiness as well as their right to development
- Formulate programs to help runaway juveniles adapt themselves to school life, implement various vocational education and training for them, and provide various shelters to ensure appropriate care and educational services for runaway juveniles

5-5. Guarantee of Children's Right to Participation

Goal	Respect children's intention and promote their participation
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☐ Current Status and Needs

- In the process of formulating various government policies related with children, the procedures to hear children's opinion or guarantee children's participation remain at an unsatisfactory level and thus children's opinions are not being reflected properly
- Students' participation is not guaranteed in determining matters closely related with their education and daily life

☐ **Domestic/International Standards and Overseas Practices**

- The Juvenile Welfare Support Act (Articles 3 and 4) sets forth the rights of juveniles to freely express their opinions, make decisions on their own, and participate in a decision-making process related with them
- The Framework Act on Education (Article 5) guarantees students' right to participate in school management as provided by the law
- The Commission recommended that students, as parties directly related with a school, should be allowed to participate in school management and that the regulations on their school life should be formulated in an easily understandable language based on reflection of opinions from students association, teachers association, parents association and so forth (Sept. 2002)
- The UN Convention on the Rights of the Child (Article 12) provides that the countries shall assure of children the right to express their views freely in all matters affecting them, the views of such children being given due weight in accordance with their age and maturity
- The UN Committee on the Rights of the Child recommended the Korean government that the guidelines of the Ministry of Education and Human Resources Development and the regulations of schools be revised since stringent administrative control of students associations at primary and middle schools and restriction or prohibition of off-campus political activities of students limit their freedom of expression and association (2003)

☐ **Desirable Direction of National Policies**

- Ensure that the intentions of children shall be respected at home, school and society in consideration of their developmental stage and institutionalize the procedures to guarantee children's participation

☐ **Core Tasks**

- Establish the procedures to reflect children's opinion in policy-making related with children and guarantee their involvement in such process
- Overhaul school life regulations to such effect that the right of statement of the students concerned as well as student representatives is substantively guaranteed in meetings of the student disciplinary committee, and guarantee students' involvement in such process
- Improve related law to ensure that parents, who get a divorce by mutual agreement, shall reach an agreement on rearing of their children by reflecting those children's opinions

6. Aged Persons

6-1. Introduction

- As of 2005, the portion of persons aged 65 or more in the total population stands at 9.1%, up 3.2% from 5.9% in 1995. This attests to the fast pace of ageing in society
- It is expected that this trend of ageing will have an enormous effect on not only the social security system encompassing pension, medical care, welfare and housing, but also the economic and social fabric in general
- Accordingly, the Korean government launched the ‘Aged Society Task Force Team’ (2003) and formulated the ‘national strategies to cope with low birthrates and aged society’ (2004). In addition, it has the ‘Committee to Cope with Low Birthrates and Aged Society’ in place. However, there still exist limitations on protection of the rights of aged persons
- The government must formulate proper policies and expand financial resources to enhance the welfare of aged persons. In particular, it has to establish general and comprehensive policies for the elderly in vulnerable groups

6-2. Guarantee of Human Rights of Aged Persons

Goal	Guarantee aged persons' right to housing, right to health and social welfare
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☐ Current Status and Needs

- There exist some aged people who are denied of access to both of the basic livelihood security system and old age pension system in a situation where it is virtually difficult for them to provide against old age
- The Korean government made a political and institutional approach to resolving issues of the elderly with enactment of the Welfare of the Aged Act (1981). However, since ‘protection of families’ is its primary concern and

‘pursuit of social welfare’ is its secondary concern, there exist limitations on protection of the rights of aged persons

- There is a dead zone regarding protection of basic rights of aged persons and guarantee of their right to housing and health remains at an unsatisfactory level. Under the circumstances, education programs and employment opportunities for the elderly are not sufficient at the moment

☐ **Domestic/International Standards and Overseas Practices**

- The Welfare of the Aged Act stipulates that it constitutes central and local governments’ responsibility to devise and pursue policies aimed at promoting health and welfare of the elderly
- The Act on Guarantee to Promote Convenience of the Disabled, Aged, Pregnant, etc. (Article 6) provides that it is an obligation of the central and local governments to formulate various policies to ensure that the elderly, etc. can use facilities and equipment in a safe and convenient manner and have access to necessary information
- The Framework Act on Healthy Family (Article 25) stipulates that it is an obligation of the central and local governments to formulate policies alleviating the burden of supporting aged persons and other family members in need of such support
- The Framework Act on Education (Article 3) sets forth all people’s rights to life-long learning
- The International Plan of Action on Ageing recommends sixty-two policy directions encompassing health and nutrition, housing and environment, family, social welfare, income security, and education
- The UN Principles for Older Persons (1991) puts forward eighteen principles that governments must take into account in the five areas of independence, participation, care, self-fulfillment and dignity
- The Madrid International Plan of Action on Ageing (2002) made ninety-eight recommendations concerning health and nutrition, housing and environment, income security and employment, education, etc

☐ **Desirable Direction of National Policies**

- Establish a human service system meeting the needs of aged persons, provide opportunities to work and guarantee a certain level of income for the disadvantaged elderly in particular, and set up a lifelong education system

☐ **Core Tasks**

- Establish an extensive support system to guarantee proper housing of aged

persons in low-income brackets by granting them priority access to permanent rental housing, assisting their payment of rents and renovating their residential facilities

- Guarantee the right of aged persons to health by expanding elderly care facilities, increasing free-of-charge medical checkups and establishing an effective public medical care system for the aged
- Formulate the methods to ensure public income for low-income aged persons just above the poverty line who are not beneficiaries of the basic livelihood security and national pension systems
- Increase employment opportunities for the aged by establishing an employment agency system and creating jobs for the elderly
- Establish an education system and develop education programs to ensure that the elderly have access to proper education and training

6-3. Prevention of Abuse of Aged Persons

Goal	Prevent any abuse of aged persons and protect abused ones
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☐ Current Status and Needs

- There arise abuse, financial exploitation and abandonment of the aged at home or relevant facilities. However, measures to remedy the situation remain unsatisfactory
- According to the Commission's 2002 survey of free-of-charge or low-cost elderly care facilities, the following problems were reported: lack of counseling (73.6%), violation of the freedom of religion (35.9%), violence and verbal abuse (6.0%), forced labor (3.6%) and creation of a sense of shame when changing clothes (4.8%)

☐ Domestic/International Standards and Overseas Practices

- The Welfare of the Aged Act (Article 39(6)) prevents and prohibits maltreatment of the elderly and provides for relief of the victims
- The UN Principles for Older Persons (1991) stipulates that older persons when residing in any shelter, care or treatment facility should be able to enjoy full respect for their dignity, beliefs, needs and privacy, and be free of exploitation and physical or mental abuse

☐ **Desirable Direction of National Policies**

- Establish a system to prevent human rights violations against the elderly and protect them from abuse at home or elderly care and protection facilities and in daily life

☐ **Core Tasks**

- Cause administrative authority to supervise elderly care facilities including in-home welfare facilities more strictly
- Explore ways to expand professional elderly protection institutions set up in only metropolitan cities/provinces currently
- Develop counseling/medical services and care programs for the aged victims and establish correction/treatment programs for their abusers
- Disseminate human rights education materials and reinforce education for the elderly and personnel working at elderly care facilities

7. Disease Sufferers

7-1. Introduction

- The National Human Rights Commission Act defines as discriminatory acts favorable or unfavorable treatment, exclusion or differentiation of certain persons on grounds of their medical history regarding employment, supply or use of goods, services, transportation means, commercial facilities, land and residential facilities, or use of educational facilities and vocational training institutions. (Subparagraph 4 of Article 2)
- The UN Commission on Human Rights, World Health Organization, International Labor Organization, etc. provide for prohibition of group tests of persons infected with HIV/AIDS as well as their dismissal on grounds of such infection, demanding that their dignity be protected and that they be assured of the right not to be subject to social discrimination
- However, the basic rights of persons infected with HIV/AIDS or suffering from Hansen's disease including the freedom of choice of vocation and freedom of movement and residence have been restricted without rational reasons as a result of social bias. Besides, they have been discriminated against in daily life including access to health and medical facilities
- Accordingly, the Korean government has improved the legal and institutional system in an attempt to rectify human rights abuse and discrimination based on medical history including infection of HIV/AIDS, Hansen's disease and hepatitis B
- Access to medical services should be improved for persons infected with HIV/AIDS and patients of Hansen's disease
- Public relations and education activities targeting the general public must be bolstered so as to rectify human rights violation and discrimination caused by ignorance and bias concerning HIV/AIDS, Hansen's disease and hepatitis B.
- The current status of disease sufferers needs to be closely examined. In addition, relevant laws must be improved to consolidate social security regarding disease sufferers

7-2. Guarantee of Human Rights of Persons Infected with HIV/AIDS

Goal	Remedy human rights violations and discrimination against persons infected with HIV/AIDS through amendment of applicable law and assurances of health and medical services
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☐ Current Status and Needs

- Assurances of the right to medical care for persons infected with HIV/AIDS remain at a very unsatisfactory level due to medical institutions' refusal of medical treatment, discrimination regarding use of medical services and health/medical facilities, and biased designation of professional medical institutions on grounds of HIV infection
- The provisions of the Prevention of Acquired Immune Deficiency Syndrome Act concerning forced medical examination (Article 8), restrictions on employment (Article 18), real-name report system (Article 5), prohibition of the acts as a vehicle of transmission (Article 19) and deportation from the country under the Immigration Control Act (Articles 11 and 46) restrict the basic rights of, or hint at discriminatory treatment against, persons infected with HIV/AIDS on the basis of abstract risks of HIV/AIDS infection. This infringes upon the human rights of persons infected with HIV/AIDS
- In the process where medical institutions notify employers of the results of medical checkup at work, infection of HIV is disclosed. Besides, discrimination regarding employment arises on grounds of such infection
- Because of the government's AIDS control policies emphasizing prevention of HIV/AIDS infection rather than protection of persons infected with HIV/AIDS and a lack of appropriate education and campaigns concerning HIV/AIDS, there exist serious human rights violations and social prejudice against persons infected with HIV/AIDS

☐ Domestic/International Standards and Overseas Practices

- The UN Commission on Human Rights adopted the International Guidelines on HIV/AIDS and Human Rights (1997)
- The recommendation proposal of the UN Office of the High Commissioner for Human Rights on 'HIV/AIDS and human rights in the Asia-Pacific' (2004) provides for prohibition of forced examination and deportation of migrant workers, deletion of a provision on mandatory examination at the time of an application for visa, and involvement of infected persons in AIDS-related policy-making process

- The World Health Organization and the International Labor Organization prohibit group AIDS tests at work and dismissal due to AIDS infection (1998)

☐ **Desirable Direction of National Policies**

- Formulate measures to guarantee the right to medical care, protect privacy and prevent employment discrimination of persons infected with HIV/AIDS and revamp any statutes that have the possibility of violating human rights and committing discrimination

☐ **Core Tasks**

- Assure persons infected with HIV/AIDS of access to health/medical facilities, rectify regionally biased designation of professional medical institutions, and formulate measures to enhance the quality of professional medical care
- Improve applicable laws including the Prevention of Acquired Immune Deficiency Syndrome Act and the Immigration Control Act
- Ensure that infection of HIV detected through a medical checkup at work is notified to the relevant person only in order to protect confidentiality, and prevent HIV infection-based discrimination regarding employment
- Eliminate social bias against persons infected with HIV/AIDS through education and campaigns on HIV/AIDS

7-3. Guarantee of Human Rights of Hansen's Disease Patients

Goal	Redress human rights violations and discrimination against Hansen's disease patients
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☐ **Current Status and Needs**

- Hansen's disease patients who have been completely cured or have no risks of transmitting the disease are segregated from the society and live in the 89 settlements for Hansen's disease patients around the nation
- The value of products manufactured at settlements for Hansen's disease patients is not properly recognized. As a result of discrimination in their distribution process, Hansen's disease patients have difficulties in earning a living

- Serious bias against Hansen's disease patients makes it difficult for them to utilize public service facilities. Besides, children of Hansen's disease patients confront impediments regarding their marriage and education. In the process of public housing redevelopment, cash compensation, not the right to purchase a unit is given to Hansen's disease patients
- Historical human rights abuse against Hansen's disease patients have yet to be closely examined including the 1962-1964 land reclamation project at *Omado* Island involving Hansen's disease patients residing in *Sorokdo* Island, *Bitori* Island incident where 28 Hansen's disease patients were killed by local residents in 1957, slaughter of 84 Hansen's disease patients at *Sorokdo* Island committed by security officers in 1945 immediately after liberation of Korea from Japanese colonial rule, and forceful sterilization operations against Hansen's disease patients

☐ **Domestic/International Standards and Overseas Practices**

- Japan declared that its policy to segregate Hansen's disease patients and the Leprosy Prevention Law which provided legal rationale for such policy were unconstitutional, while acknowledging the government's obligation to make compensation for damages to victims (May 2001)
- Japan enacted a law on payment of monetary compensation to former Hansen's disease patients confined to sanatoriums, etc. in an effort to provide compensation for damages, recovery of honor and promotion of welfare to the victims of its segregation policy

☐ **Desirable Direction of National Policies**

- Conduct public relations activities and education regarding Hansen's disease in an attempt to address discrimination against its patients resulted from ignorance and bias, investigates into historical human rights violations and discrimination against Hansen's disease patients perpetrated by government agencies, and offers an apology and proper compensation to those patients if required according to investigation results

☐ **Core Tasks**

- Step up education on Hansen's disease to redress discrimination and human rights violations against Hansen's disease patients arising from ignorance and prejudice
- Overhaul related laws to promote protection of Hansen's disease patients with physical and psychological disabilities

- Conduct a fact-finding investigation to clearly identify human rights violations against Hansen's disease patients perpetrated by government agencies in the past including land reclamation at *Omado* Island and ensure that the government makes an apology to those patients, restore their honor and establish proper compensation measures
- Improve the living conditions of the economically backward eighty-nine settlements for Hansen's disease patients around the country
- Enact a special law on Hansen's disease patients to eliminate discrimination and human rights abuse against Hansen's disease patients and formulate welfare policies based on the reality of Hansen's disease patients

7-4. Guarantee of Human Rights of Hepatitis B Carriers/Patients

Goal	Correct human rights violations and discrimination against hepatitis B carriers/patients by eliminating misunderstandings and biases and improving the relevant legal and institutional system
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☐ Current Status and Needs

- Hepatitis B virus, which is mostly transmitted by contaminated blood or secretions and sexual intercourse, is hardly transmitted via contact in daily life
- As a result of the government's misleading public relations activities, hepatitis B carriers/patients are recognized as persons who need to be segregated although they are unlikely to have a negative impact on the health of their colleagues. Thus, they face disadvantages in terms of employment
- Discrimination against hepatitis B carriers/patients regarding employment causes frustration and psychological pain to those persons, illegally infringing upon their freedom to choose vocation and to work
- As the results of medical checkups are collectively notified to employers, hepatitis B carriers/patients are subject to employment discrimination, irrespective of relevance to their work

☐ Domestic/International Standards and Overseas Practices

- The Constitution (Article 14) provides for all people's freedom of choice of vocation
- The National Human Rights Commission Act (Subparagraph 4 of Article 2) stipulates that employment discrimination on grounds of medical history

without any reasonable reasons constitutes a discriminatory act violating equality rights

- The Commission made a recommendation that the provisions of the Medical Checkup Regulations for Government Officials Employment setting forth mandatory hepatitis examination and specification of the need for hepatitis vaccination be deleted as they are feared to infringe upon hepatitis B carriers' equality rights and freedom of choice of vocation. (Oct. 2003)
- The Ministry of Health and Welfare recommended in its Guidelines for Hiring and Employment Management of Hepatitis B Patients that hepatitis B should be excluded from the list of diseases subject to temporary restrictions on work and that hepatitis B patients should not be discriminated against before and after employment on grounds of the disease
- Since 2000, the Ministry of Labor has been providing guidance regarding unlawfulness of employment discrimination on grounds of hepatitis B. Since 2002, it has been including the details on prevention of hepatitis B-based employment discrimination in its annual guidance to the places of business conducting workers' medical checkups
- The Industrial Safety and Health Act (Article 43) provides that employers shall implement medical checkups to protect workers' health and take appropriate measures according to the results thereof including change of working places, work transfer, and reduction of working hours in order to maintain workers' health
- The ILO provides for confidentiality of workers' medical checkup results, while requiring that medical checkups for employment be conducted at the final stage of employment in principle

☐ **Desirable Direction of National Policies**

- Correct human rights violations and discrimination against hepatitis B carriers/patients by redressing misunderstandings and prejudices against them and improving the legal and institutional system concerned

☐ **Core Tasks**

- Ensure that medical checkups for employment be separately conducted prior to job placement after completion of the employment process or at the final stage of the employment process so as to prevent application of medical checkup results to human resources management regarding employment
- Redress employment discrimination based on health conditions including hepatitis B virus infection by improving related law

- Ensure that only a disease which has relevance to the work shall be informed to employers in notifying medical checkup results while other outcomes shall be notified to the person concerned only
- Remedy employment discrimination against hepatitis B carriers/patients caused by ignorance and misunderstandings by conducting education and public relations activities to provide accurate information on hepatitis

8. Soldiers and Riot/Auxiliary Police

8-1. Introduction

- Compared to the past, the process of handling abuses and deaths of soldiers and riot/auxiliary policemen is improving as evidenced by information disclosure to victims' family members and guarantee of their participation in said process to certain extent
- The military and police are making a strenuous effort to eliminate any violence and resultant deaths by improving their internal human rights conditions
- Nonetheless, problems are still noted with the expertise and fairness of the process of investigating and handling cruel acts and suspicious deaths involving soldiers and riot/auxiliary policemen
- This situation requires accurate investigation and handling of beating, cruel acts and suspicious deaths involving soldiers and riot/auxiliary policemen as well as formulation of effective improvement measures to tackle structural causes of such problems

8-2. Guarantee of Human Rights of Soldiers and Riot/Auxiliary Police

Goal	Eliminate and prevent cruel acts and suspicious deaths involving low-level soldiers and riot/auxiliary policemen in order to protect their dignity and right to life
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☐ **Current Status and Needs**

- Beating and cruel acts against soldiers and riot/auxiliary policemen not only violate individual human rights and dignity, but also serve as a direct cause of suicides and suspicious deaths
- In the course of ensuring safety and strict discipline of soldiers and riot/auxiliary policemen, excessive disciplinary punishment and violence are committed in an attempt to exact unconditional obedience
- In connection with military service, major forbidden acts among soldiers (arbitrary gathering and directions issuance, infliction of physical pain by

non-violent means, disciplinary training and forced memorization) are set forth in the directives of the Ministry of National Defense as well as the directives or guidelines of each military unit, but not in the Military Criminal Act. Thus, the general public has little knowledge of such prohibited acts, making it difficult to carry out an external examination of their appropriateness and validity

- Suspicious deaths and accidents involving soldiers and riot/auxiliary policemen are often attributed to external, not internal causes in the process of handling and investigating into those cases. Besides, more than a half of the suspicious deaths are declared as suicides, touching off dissatisfaction and distrust
- Sexual violence, which violates victims' right of integrity and hinders their military service by causing a sense of shame and humiliation, has yet to be rooted out
- There exists a lack of systems enabling human rights or distress counseling for soldiers and riot/auxiliary policemen. Failure to redress their grievances and anguish often results in cruel acts and deaths
- Under the military service regulations, it is not permitted for soldiers to lodge a complaint about their distress including human rights violations to an external organization. This situation renders it difficult to ensure that their human rights are protected by a fair external organization. In addition, the National Human Rights Commission Act does not grant the Commission the authority to visit barracks for investigation, posing limitations on the Commission's activities to prevent and remedy human rights abuse

☐ **Domestic/International Standards and Overseas Practices**

- The National Human Rights Commission Act grants the Commission the authority to investigate and remedy human rights violations against soldiers and riot/auxiliary policemen, propose policies aimed at protecting and promoting human rights, and conduct military human rights education.
- The German Constitution (Article 45(b)) provides that the federal parliament, in exercising its control authority, shall appoint a military ombudsman known as 'Wehrbeauftragter' as an auxiliary apparatus for the protection of basic rights

☐ **Desirable Direction of National Policies**

- Set the legal status of soldiers, guarantee the right to freely file a complaint to an external organization, and improve training and living conditions to protect human rights of soldiers and riot/auxiliary policemen

□ **Core Tasks**

- Formulate fundamental measures to stop beating and cruel acts against soldiers and riot/auxiliary policemen and bolsters irregular inspections of the human rights status within the military
- Enhance the binding power and clearness of prohibited acts concerning military service by setting forth major prohibited acts in applicable law
- Raise the human rights awareness of commanders/colleagues of soldiers and riot/auxiliary policemen through systematic development of human rights education programs and teaching materials as well as consistent human rights education
- Amend the Protection of Military Installations Act and the Act on Special Measures for the Crimes Involved with Military Supplies, etc. to ensure civic organizations' participation in the process of investigating into suspected cruel acts and suspicious deaths within the military and promotes transparency and objectiveness of military investigations based on thorough compliance with military investigative regulations
- Boost human rights education and establish an institutional mechanism to prevent any sexual violence in the military and seek a remedy for victims
- Establish a system enabling human rights or distress counseling within the military, ensure protection of the confidentiality of counseling details, and set up a mechanism to take actions when necessary in handling relevant matters while pursuing maximum protection of those persons who sought counseling services
- Reorganize riot/auxiliary police organizations into security police organizations consisting of regular police officers who engage in counter-terrorism and national disaster control activities from a mid- to long-term perspective
- Guarantee soldiers unrestricted right to file complaints to outside human rights organizations including the Commission and grant the Commission the authority to visit barracks for investigations
- Push for enactment of the Soldiers Human Rights Protection Act (tentative name) that promotes the human rights of men in uniform for an improvement in the overall human rights landscape of the military

9. Persons Living in Social Welfare Facilities

9-1. Introduction

- The Korean government has pressed ahead with policies to increase residential social welfare facilities by relaxing their establishment standards and expanding assistance to them
- The government's policy to legalize non-reported social welfare facilities increases its responsibility for residential social welfare facilities. Based on such legalization, the government intends to improve the human rights status of persons living in social welfare facilities
- However, assurances of human rights protection for persons living in social welfare facilities based on their integration into local communities and shift from institutional care still remain at an unsatisfactory level
- In addition, many problems still persist at residential social welfare facilities such as violation of the human rights and privacy of residents, privatization and accounting irregularities

9-2. Guarantee of Human Rights of Persons Living in Social Welfare Facilities

Goal	Protect the human rights of persons living in social welfare facilities by improving relevant laws concerning those facilities as well as their operation
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☐ Current Status and Needs

- According to the statistics of the Ministry of Health and Welfare, approximately 110,000 persons reside in social welfare facilities as of January 2005; 86,116 persons at 1,231 reported institutions and 21,896 persons at 1,209 non-reported institutions. Facilities for disabled or aged persons account for 82% of the entire facilities
- As a result of lack of laws and regulations governing residential social welfare facilities, the relevant persons' right of choice in the process of being admitted to and discharged from those facilities as well as their basic

freedom after admission including personal freedom, freedom of correspondence and freedom of religion are not guaranteed properly

- Most residential social welfare facilities are of a large scale. Besides, there exist insufficient professional staff and equipment for the purpose of socialization and scale reduction of those facilities. Thus, it is difficult to attain the ultimate goal of normalizing the life of persons living in social welfare facilities
- Since social welfare facilities are focused on accommodation and fail to provide easy access in geographical terms, persons living in those facilities remain segregated from society
- Due to wrongful perception by some operators of residential social welfare facilities that those facilities are their private property, there still exist such problems as nepotism, hereditary management, window dressing and closed operation

☐ **Domestic/International Standards and Overseas Practices**

- The Korea Human Rights Charter for the Disabled (Article 8) stipulates that disabled persons are entitled to live with their family members. According to the Charter, the life of disabled persons who reside in professional social welfare institutions shall be similar to that of other persons of the same age to the utmost possible extent
- The National Human Rights Commission Act provides that protective facilities for many persons shall be subject to investigations by the Commission, explicitly stipulating that it is an obligation of the state to protect human rights of persons living in residential social welfare facilities
- When human rights abuse arising from separate accommodation of persons living in social welfare facilities from larger-scale facilities emerged as a serious social issue in the 1970s, industrialized Western countries including Sweden, the United Kingdom and Germany shifted from accommodation-oriented institutional care to community protection-centered non-institutional care
- The U.K. enacted the National Health & Social Service Community Care Act (1990), managing institutional care and in-home care under a single channel and shifting to a user-centered policy
- The United States enacted the Nursing Home Reform Act (1987) to specifically set forth and guarantee the rights of persons living in social welfare facilities

☐ **Desirable Direction of National Policies**

- Protect the human rights of persons living in social welfare facilities by making those facilities smaller, consolidating them into society, promoting their public nature and migrating from institutional care

☐ **Core Tasks**

- Formulate measures to guarantee the human rights of persons living in social welfare facilities by revamping law related with social welfare facilities
- Pursue migration from institutional care and reduction in size regarding social welfare facilities by expanding centers for independent living and mid-to long-term protection centers in local communities and galvanizing small-scale group homes
- Seek opening and socialization of residential social welfare facilities to ensure that residential social welfare facilities are easily accessible and that persons living in social welfare facilities can be provided various services from communities
- Improve the applicable institutional system to enhance the operational transparency and public nature of residential social welfare facilities

10. Sexual Minorities

10-1. Introduction

- In Korean society, sexual minorities are subject to discrimination because of misunderstanding and prejudice against them. The Criminal Act and the Military Criminal Act contain provisions discriminating against sexual minorities
- The country fails to meet international standards prohibiting discrimination based on sexual orientation as stipulated by the European Union's Amsterdam Treaty (1997) and its resolution (2000)
- Accordingly, it is required to conduct a general review of the current situation concerning discrimination against sexual minorities
- In order to rectify discrimination against sexual minorities, it is necessary to overhaul laws and regulations that contain provisions discriminating against them
- In addition, human rights education must be stepped up to thwart discrimination against sexual minorities

10-2. Protection of Basic Rights of Sexual Minorities

Goal	Prevent and rectify human rights violations and discrimination against sexual minorities by revamping statutes relating to them and improving an environment not conducive to redressing discrimination against them
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☐ Current Status and Needs

- Discrimination against sexual minorities has reached serious proportions in the following terms: use of facilities (it is difficult to secure facilities to hold an event for sexual minorities); participation in events or meetings hosted by government agencies or social groups; and electronic communication and Internet services that block access to the sites pertaining to sexual minorities by defining them as hazardous sites
- As regards elements of rape, the Criminal Act defines its subject as women and the act of crime as sexual intercourse. Under the circumstances, it is

impossible to protect transsexuals and same-sex sexual violence victims from and against rapes

- The Military Criminal Act (Article 92) shows prejudice against homosexuality by using such derogative expression as sodomy
- When it is revealed that a person is homosexual, such person is dismissed from work in most cases. Besides, transsexuals have very limited employment opportunities. In a nutshell, sexual minorities suffer from serious discrimination against them in the process of employment
- There exists a lack of even minimum human and material resources that can provide counseling, shelters, education, research services, group support, and monitoring to sexual minorities in a systematic manner

☐ **Domestic/International Standards and Overseas Practices**

- As regards the obligations of its member nations, the European Union's Amsterdam Treaty (1997) contains provisions against discrimination on grounds of sexual orientation
- The European Community Treaty (Article 13) provides for an obligation of its member nations to take appropriate action to combat discrimination based on sexual orientation
- The Parliamentary Assembly of the Council of Europe requested each European country to prohibit discrimination against homosexuals, conduct education which can address homophobia at schools, medical institutions, and military/police units, and enact a law legalizing same-sex couples (2000)
- The Amnesty International made a recommendation that discrimination against or excessive regulation of homosexual culture should be prohibited (2002)
- In the United States, the State of New York enacted the Sexual Orientation Non-Discrimination Act (2002) and the State of Hawaii enacted the Act on the Aggravated Punishment of Hate Crimes introducing much stricter punishment towards hate crimes against sexual minorities (2001)
- France enacted a bill that strictly bans hate crimes and sexual discrimination against homosexuality (2004)
- The U.K. and the U.S. revised their laws to include vaginal, oral or anal sex in the scope of rape. Germany also amended its Criminal Act to include non-vaginal sexual acts in the scope of rape and defined males and spouses as being included in the potential objects of rape
- The European Court of Human Rights judged that the U.K. Air Force's refusal to appoint a homosexual person as an officer constituted an act of not respecting the privacy of homosexuals (2003). Since then, the U.K. Air Force has authorized appointment of homosexual persons as officers

☐ **Desirable Direction of National Policies**

- Improve the relevant legal and institutional mechanism and conduct human rights education so as to protect sexual minorities from discrimination and basic rights violations by respecting the rights to sexual privacy and sexual autonomy

☐ **Core Tasks**

- Assure sexual minorities of the right to existence, right to safety, right to work, and the right to be free from prejudice and discrimination
- Rectify discrimination against sexual minorities regarding goods, services, use of facilities, and access to information
- Overhaul related laws that contain provisions biased or discriminating against homosexuality including the Military Criminal Act, the Registration, etc. of Periodicals Act, and the Enforcement Regulation of the Military Personnel Management Act
- Amend the Criminal Act (Article 297) to render the objects and acts of a rape more comprehensive with a view to protecting transsexuals and same-sex sexual violence victims from and against rapes
- Conduct human rights education related to sexual minorities and correct any hate or prejudice against certain sexual orientation expressed in educational materials
- Establish a system to prevent employment discrimination on grounds of sexual orientation
- Expand support for the installation and operation of counseling centers and shelters accessible by sexual minorities

10-3. Guarantee of Human Rights of Transsexuals

Goal	Protect confidentiality of sex change, guarantee basic rights of trans-genders and prevent their human rights violations
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☐ **Current Status and Needs**

- There exist ambiguities surrounding the decision-making process regarding sex change in the family register. Thus, different decisions are made,

depending on judges. Besides, leakage of information on sex change leads to violation of transsexuals' human rights

- Pursuant to the Rules on National Health Insurance Benefit Payment Standards, health insurance is not applicable to sex change operations though such operations incur a significant amount of costs
- Steady treatment is required after sex change operations. However, transsexuals face many difficulties in using medical institutions due to their appearance. Some medical practitioners even refuse to treat them on grounds of their aversion to transsexuals

☐ **Domestic/International Standards and Overseas Practices**

- With enactment of the Act on Change of Name and on Gender Assignment in Particular Cases (1980), Germany permits sex change at the request of an applicant and prohibits opening or investigation of the applicant's name prior to such change without the consent of the applicant
- Most states in the United States grant legal status to transsexuals according to their sex after sex change operations (2002)
- With enactment of the Stamp Act (2004), the United Kingdom enabled issuance of a new birth certificate according to the current gender of a transsexual
- The Netherlands adopted legislation on transsexual issues, offering medical insurance benefits at the time of a sex change operation (1985)
- The municipal authority of San Francisco in the U.S. passed a proposed municipal ordinance providing for financial assistance to cover medical expenses of sex change operation and hormone treatment of its employees (2001)

☐ **Desirable Direction of National Policies**

- Protect the confidentiality of sex change and prevent human rights abuse against transsexuals by improving applicable law

☐ **Core Tasks**

- Formulate judgment standards regarding sex change and establish the principle of not opening sex change information of transsexuals to the public
- Review phased application of the national health insurance scheme to sex change-related operations
- Carry out supervisory activities and preventive education to protect confidentiality and human rights in the process of medical treatment

11. North Korean Displaced Persons

11-1. Introduction

- Since the mid 1990s, the number of North Korean displaced persons (*Saeteomins*, referring to North Koreans living in South Korea after fleeing North Korea) has been on the increase each year. As of September 2005, there exist more than 7,000 North Korean displaced persons
- Special attention and care from the central and local governments as well as civil society are needed to help North Korean displaced persons, who had lived in North Korea and other foreign countries for an extended period of time, accustom themselves to South Korean society
- Pursuant to the Act on the Protection and Settlement Support of Residents Escaping from North Korea, the government of the Republic of Korea has supported smooth settlement of North Korean displaced persons by providing resettlement funds, shelters and education
- However, North Korean displaced persons still face hardship in many aspects ranging from education, employment, psychological stability to integration into local communities

11-2. Guarantee of Human Rights of North Korean Displaced Persons

Goal	Protect the human rights of North Korean displaced persons and prevent discrimination against them by overhauling legal and institutional systems
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☐ Current Status and Needs

- Sometimes, North Korean displaced persons are subject to human rights violations by government officials in the process of investigation upon their entry into South Korea, adaptation to the society and vocational training
- The jobless rate among North Korean displaced persons is as high as 40%. Even if they are employed, most of them serve as unskilled workers
- Juveniles who were displaced from North Korea are confronted with serious difficulties in adjusting themselves to a new environment as evidenced by the fact that their dropout ratio is about 10 times higher than that of South

Korean students as a result of ostracizing at school and disparity in curriculums

- Concerning employment, medical care and education, satisfactory protective measures in favor of disadvantaged North Korean displaced persons (juveniles with no relatives, disabled persons, single-mother families, aged persons, etc.) have yet to be formulated
- Family-related laws fail to reflect the unique characteristics of North Korean displaced persons. Accordingly, North Korean displaced persons who have left family members including a spouse in their native country face hardship when they seek to form new families in South Korea
- Lack of public understanding and consideration for the North Korean displaced persons serve as a factor that triggers discrimination against them at work and in communities

☐ **Domestic/International Standards and Overseas Practices**

- The Act on the Protection and Settlement Support of Residents Escaping from North Korea provides for protection and support necessary for the settlement of North Korean displaced persons
- In the past, the federal government of West Germany implemented a settlement policy for East German displaced persons, under which it acknowledged their qualifications and careers in East Germany in cooperation with each state government

☐ **Desirable Direction of National Policies**

- Assist North Korean displaced persons in their efforts to successfully adapt themselves to South Korean society by safeguarding their human rights and preventing any discrimination against them

☐ **Core Tasks**

- Conduct human rights education targeting government officials who deal with affairs related with North Korean displaced persons and remove human rights abuse and discrimination in the course of their performance of duties
- Give a boost to employment of North Korean displaced persons by promoting vocational training and employment agency services for them and providing incentives to businesses hiring them
- Formulate necessary measures including educational support programs to ensure that juveniles from North Korea may smoothly settle into the South Korean society

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- Establish necessary protective measures in favor of disadvantaged North Korean displaced persons (juveniles with no relatives, disabled persons, single-mother families, aged persons and so on)
- Improve family-related laws to support the resettlement of North Korean displaced persons
- Promote education for enhancing understanding of North Korean displaced persons

Part III. Establishment of Infrastructure for Human Rights Promotion

1. Protection of Civil and Political Rights
2. Promotion of Economic, Social and Cultural Rights
3. Strengthening of Human Rights Education
4. Establishment of Domestic and International Cooperation

1. Protection of Civil and Political Rights

1-1. Introduction

- The International Covenant on Civil and Political Rights recognizes the inherent dignity and the equal and inalienable rights of all members of the human family
- The Korean government has endeavored to promote civil and political rights by enacting laws aimed at restoring honor of, and finding the truth regarding, those persons subject to human rights violations by public power (Act on Restoration of Honor and Compensation to Activists of the Democratization Movement, Special Act to Find the Truth on Suspicious Deaths, etc.), removing the Korea Public Performance Ethics Committee and abolishing the Social Protection Act
- In addition, the government made some modifications in the criminal justice procedures: amendment of the Criminal Procedure Act; introduction of the substantive warrant examination system; adoption of a more transparent investigation process based on recording of the investigation time of suspects; notification of the right to silence to suspects prior to writing interrogatories; and attorneys' involvement in the investigation process
- Nonetheless, the UN Human Rights Committee recommended examination of potential withdrawal of reservations, abolishment of the National Security Act, reduction of the list of crimes punishable by death penalty, reduction of limitations on the freedom of assembly, and execution of prompt actions to implement the views of the Human Rights Committee on the individual complaints (1992 and 1999)
- The Korean society still has a legacy of the legal and institutional system established in its historical era of authoritarianism. In addition, the right to freedom is excessively restricted due to a low level of awareness of the respect for human rights. Furthermore, implementation of international human rights standards in the country still remains at an unsatisfactory level
- Under this situation, the Korean government must promote civil and political rights by innovating any abusive or discriminatory practices and systems, ensuring that all members of the Korean society are assured of the rights commensurate with international standards

1-2. Human Rights Protection under Criminal Justice Procedures

Goal	Protect human rights in criminal justice procedures encompassing investigation, prosecution, trial and penalty execution
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☐ Current Status and Needs

- There do not exist generalized principles of ‘investigation without detainment’ and ‘trials without detainment’ regarding suspects or defendants. In addition, arrest without warrant is often abused owing to lack of its control by courts. While applicable law permits a long arrest period for the investigative authorities, the conditions allowing release of suspects are limited relatively
- Most suspect interrogations are carried out without any attorney present. In some cases, it is impossible to designate even court-appointed attorneys. Even when an attorney is appointed, the right to assistance of counsel including the right to inspect and copy investigation records is not properly guaranteed
- Due to the principles of indictment-monopolism and discretionary prosecution as well as the narrow scope of applications for adjudication, public requests for proper exercise of the government’s punitive authority are blocked. In some cases, prosecution prescription prevents punishment against crimes against humanity or national institutions’ crimes against human rights
- There exists a lack of protective measures for women, children, disabled persons and foreigners who need special protection in the investigation and trial process
- The public cannot participate in trial proceedings. Besides, as court proceedings are centered on documentary examination, the principle of oral proceedings remains in tatters.
- Victims who sustained losses as a result of crime are treated as an object of investigations and trials. In such process, they sometimes suffer from secondary damage to their honor or privacy. In addition, they are not given appropriate opportunities to participate in criminal justice procedures because of lack of notice about progress in legal proceedings. Furthermore, protective measures for victims lag behind international standards
- Public trust and respect of court rulings are not at a high level because the decisions of criminal courts are often inconsistent with people’s feelings towards the law or there sometimes exists a wide gap in case-by-case offense examinations of similar cases depending on different courts

- Despite the government's actions to improve treatment of prisoners, their freedom is sometimes repressed excessively for the purpose of maintaining order or for budgetary reasons. Furthermore, there still exist inhumane factors
- Since independence and fairness of courts-martial and military investigation agencies have yet to be secured, the human rights of men in uniform are not fully guaranteed
- Some fact-finding surveys are underway as regards organized human rights violations committed by national institutions in the past. However, those surveys are deemed to fail to satisfy the principle of finding the truth, confronting the past and creating the future

☐ **Domestic/International Standards and Overseas Practices**

- The Constitution provides for the principle of due process, prohibition of tortures, privilege against self-incrimination, warrant system, right to assistance of counsel (Article 12) as well as the right to trials and criminal victim's right of statement in trial proceedings (Article 27)
- The International Covenant on Civil and Political Rights provides for assurances of human rights protection regarding detention, trials and execution of sentences. (Articles 7, 9, 10 and 14)
- The Commission expressed its opinion on the proposed amendment to the Criminal Procedure Act (Jan. 2005) and recommended an improvement in the existing legal mechanism so as to prevent secondary damage from occurring in the process of investigations and trials of sexual violence cases against children (May 2004)
- The Commission made a recommendation that various human rights abuse at detention facilities be rectified
- The UN Minimum Standard and Rules for the Treatment of Prisoners provides for the minimum standards for the protection of detainees' human rights
- In the principles on impunity, the UN Sub-Commission on the Promotion and Protection of Human Rights recommend that in the case of grave human rights violations, the tasks to close a chapter of the past should be selected and that the state should make extensive efforts to find the truth, seek compensation to victims, and prevent recurrence of such violations

☐ **Desirable Direction of National Policies**

- Establish the order of law respecting human rights by setting up fair and transparent criminal justice procedures

□ **Core Tasks**

- Improve the existing institutional mechanism by taking the following measures: issuance of an arrest warrant immediately after arrest without warrant; introduction of the substantive warrant examination system according to needs; adoption of the conditional release system at the stage of warrant issuance and establishment of various release conditions; reduction of the number of days of detention before prosecution; and separation of detection facilities from those of the investigation authorities in the phase of police investigation
- Guarantee attorneys the right to participate in suspects' interrogation, acknowledge attorney's right to inspect and copy investigation records, and expand the court-appointed attorney system for designating court-appointed attorneys to arrested/detained suspects and defendants
- Seek full-scale expansion of the adjudication application system, and exclude or suspend application of prosecution prescription concerning crimes against humanity or crimes against human rights perpetrated by government agencies
- Introduce 'the public participation in court proceedings system', establish systems and procedures to give court trials a more prominent role (pretrial discovery system, arraignment proceedings, concentrated evidence inspection system, etc.), adopt the offense examination data investigation system, and formulate reasonable offense examination standards
- Establish protective measures for women, children and disabled persons (assistants' involvement, accompaniment by trustworthy persons, closed trial, etc.), notify progress in investigation and court proceedings to crime victims, and reduce the factors that may restrict victims' right of statement in court proceedings
- Improve protection of crime victims to a level satisfying international standard by raising the state's maximum compensation limit for crime victims, expanding the scope of such compensation and devising measures to protect victims from and against offenders
- Treat detainees according to law (legalization), place the focus of the details and purpose of detainee treatment on facilitating their return to society (socialization), and perform detainee treatment in compliance with international standards (internationalization)
- Enhance the fairness of punitive procedures, employ stricter requirements for the use of restraining devices, guarantee detainees' right to write to the fullest possible extent, prohibit censorship of correspondence in principle, and improve medical treatment, education, work, overpopulation and the conditions at detainment facilities

- Improve detainee treatment regarding the right to freedom as soon as possible and set mid- to long-term goals concerning matters expected to require financial resources
- Install an independent military prosecution at each military unit, ensure that personnel management authority regarding military judges remains independent of the command of each military service, and limit operation of the trial examiner system at courts-martial as well as the punishment mitigation system by commanders
- Seek ways to find the truth of crimes perpetrated by government apparatus in the past and to restore the honor of victims

1-3. Right to Participation in Politics

Goal	Expand public participation in the political decision-making and policy-making process by guaranteeing the public's right to vote to the utmost possible extent
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☐ Current Status and Needs

- The State Public Officials Act (Article 65(1)) and the Act on the Election of Public Officials and the Prevention of Election Malpractices (Article 9) impose comprehensive limitations on political activities by government officials
- Although college professors are allowed to engage in political activities, political activities by primary and secondary school teachers remain limited.
- The principle of free voting and people's right to know are being overly restricted in a situation where excessive limitations are imposed on election campaigns on grounds of thwarting any unlawful election campaigns
- Women's political representation stands at a very low level. Besides, women's participation is still excluded or limited in the decision-making process of civilian organizations, labor unions, families of the same clan and so on
- Korean nationals living abroad such as diplomats, employees of trading companies and overseas branches of domestic firms, and students studying abroad are not fully assured of the right to vote

☐ **Domestic/International Standards and Overseas Practices**

- In light of equilibrium with international standards and other domestic statutes as well as the country's economic, educational and cultural stature, the Commission recommended lowering the minimum voting age, granting expanded campaign opportunities to election candidates, granting opportunities to make a right choice to voters based on sufficient information supply, permitting preliminary candidates to have a sponsor group in place for a certain period of time, and minimizing the amount of deposits to increase access to public service (Feb. 2004)
- In accordance with such laws as the Framework Act on Women's Development, National Human Rights Commission Act, Political Parties Act, Government Official Appointment Test Regulations, Act on Fostering and Support of Women Engineers and Scientists and the Public Educational Officials Act, the following systems are being implemented currently: party nomination allotment system for women, targeted gender-equal employment of government officials, targeted women's participation in governmental committees, targeted employment of female engineers and scientists, and targeted employment of female professors at national and public universities
- The UN Committee on the Elimination of Discrimination against Women made a recommendation to raise the ratio of female representatives in a political party to 30% at least and formulate policies to enhance women's participation in judicial and civilian areas (1998)
- The International Covenant on Civil and Political Rights (Article 25) provides for the rights, without any distinctions and without unreasonable restrictions, to take part in the conduct of public affairs, directly or through freely chosen representatives; to vote and to be elected at genuine periodic elections; and to have access, on general terms of equality, to public service in his country
- The ILO Committee on Freedom of Association recommended that teaching should not be included in the concept of public or essential services regarding which the right to strike may be limited (1997 and 2001)

☐ **Desirable Direction of National Policies**

- Guarantee the right to vote in consideration of the country's political, economic, educational and cultural standards as well as international standards so that public opinions may be reflected to the fullest possible extent

☐ Core Tasks

- Increase the scope of political activities by government officials and teachers to some extent by revamping law that excessively restricts their political activities
- Expand the freedom of election campaigns by candidates and preliminary candidates by setting forth only those limitations necessary for a fair election
- Come up with various institutional actions including an allotment system in order to promote access to public service of vulnerable social groups and minorities
- Promote women's right to vote by expanding the party nomination allotment system for women under the Political Parties Act to candidate nomination for all elections regarding which nomination by political parties is permitted, strengthening policies aimed at enhancing women's right to participate in public service, and increasing women's involvement in civilian organizations' decision-making process and activities
- Guarantee equal access to public service by redressing inequality in disfavor of candidates with no political party affiliations
- Grant voting rights to Korean nationals living abroad such as diplomats, employees of trading companies and domestic firms' overseas branches, and students studying abroad by setting certain standards

1-4. Freedom of Speech and Press

Goal	Promote freedom of expression by expanding freedom of speech
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☐ Current Status and Needs

- Freedom of speech encompasses not only the freedom of press organizations and their employees, but also the public's right to know and right of access to mass media
- The public's right to know is restricted because legal provisions on non-public information on grounds of the state's confidentiality are unclear

☐ Domestic/International Standards and Overseas Practices

- The Constitution (Article 21) guarantees freedom of speech and press, and bans licensing or censorship of speech and the press

- The Constitution (Article 21(4)) provides that freedom of speech and press is not unlimited and stipulates the rule of comparing the costs and benefits in the case of a conflict with other basic rights
- The International Covenant on Civil and Political Rights (Subparagraph 2 of Article 19) stipulates that everyone shall have the freedom to seek, receive and impart information and ideas of all kinds

☐ **Desirable Direction of National Policies**

- Protect the right of integrity while promoting people's right to know and right of access to mass media

☐ **Core Tasks**

- Protect people's right to know by fine-tuning statutes related to non-public information classified as state secrets
- Expand the right of access to mass media based on which one's own opinions, ideas and information can be published to the press

1-5. Right to Privacy (Protection of Personal Information)

Goal	Prevent human rights violations and promote the right to the protection of personal information in the process of 'informatization' by improving the legal and institutional system pertaining to the right to privacy
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☐ **Current Status and Needs**

- In line with advancement of 'informatization', personal information databases are on the increase. Besides, automatic personal data collection techniques including RFID (radio frequency identification) as well as biometric technology using fingerprint or iris are developing rapidly. Thus, there exists a growing possibility that the right of privacy might be violated
- The existing legislation system where individual statutes are enacted by area inevitably faces limitations regarding protection of personal information. In addition, personal information-related regulations fail to reflect progress in information and telecommunication as well as science and technology. In sum, the existing legal and institutional system for protection of personal information remains unsatisfactory

- It is difficult to appropriately protect personal information and to grapple with its infringements as a result of non-existence of an independent and professional personal information protection apparatus
- Public institutions and civilian organizations collect an excessive amount of personal information including resident registration numbers. Under the circumstances, there arise growing damages resulted from leakage of resident registration numbers
- It is worried that freedom of expression on the Internet may be restricted because of the government's virtual control of Internet contents and its planned introduction of an extensive Internet real-name use system
- Most web sites do not properly take into account accessibility by disabled persons, aged persons, foreigners living in the country, and Koreans living abroad. This situation is aggravating information inequality
- CCTVs are set up and operated for the purpose of crime prevention and investigation at the discretion of the heads of local governments or police stations, not regulated by relevant statutes. Thus, it is feared that people's right of privacy may be violated
- Copyrights apply to even public information produced to serve public interests, limiting people's access to information and right to know

☐ **Domestic/International Standards and Overseas Practices**

- The Constitution provides for guarantee of the right of privacy (Article 17) and privacy of correspondence (Article 18)
- The Commission pointed out that the provisions of the Act on the Protection of Personal Information Maintained by Public Agencies setting forth exceptions concerning limitations on information provision (Article 10(2)) are overly ambiguous and may invite arbitrary interpretation, recommending that said provisions be improved. In addition, the Commission made a recommendation that an independent and professional personal information protection committee be organized (July 2002)
- The Commission recommended establishment of legal standards on installation and operation of unmanned surveillance devices including CCTVs, compliance with the requirements for restricting basic rights and the principles of minimizing basic rights violations (Apr. 2004) and formulation of measures to protect educational information collected by schools for the purpose of education (May 2003)
- The Universal Declaration of Human Rights stipulates that everyone has the right to freedom of opinion and expression (Article 19). It also provides that everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its

benefits and that everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author (Article 27)

- In its guidelines, the OECD put forward the following eight principles applicable to protection of personal data: collection limitation principle, data quality principle, purpose specification principle, use limitation principle, security safeguards principle, openness principle, individual participation principle, and accountability principle
- The ILO Code on Protection of Workers' Personal Data (1995) declares the principles to protect workers' privacy

☐ **Desirable Direction of National Policies**

- Lay the social and cultural foundation of the 'informatization society' where human rights are fully protected based on improvement of the existing legal and institutional system and guarantee of the freedom of expression

☐ **Core Tasks**

- Establish the principle of personal information protection by enacting the Framework Act on Personal Information Protection and revamping related statutes
- Formulate personal information protection policies, perform routine supervision of personal information collectors, and set up an independent and professional personal information protection agency in charge of remedying personal information infringements
- Make it compulsory to examine possible alternatives with no risks of violating privacy when public and/or civilian projects fraught with the risks of violating privacy are pursued and grant individuals the right to choose an alternative that does not infringe upon their privacy
- Restrict public and civilian organizations' collection of resident registration numbers, prevent their abuse and improve the resident registration system towards guaranteeing people's right to control their personal information
- Minimize the government's monolithic control of the Internet and apply the principle of autonomous regulations
- Promote accessibility to Internet services for disabled persons, aged persons, foreigners and so forth in an effort to alleviate information inequality
- Formulate standards for CCTV installation and data handling from the perspective of privacy protection and enhance managerial efficiency by designating an institution in charge

- Revise applicable law to grant anyone free access to works produced by public organizations

1-6. Freedom of Assembly and Demonstration

Goal	Improve the legal and institutional system to guarantee to the utmost possible extent the freedom of assembly and demonstration provided by the Constitution
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☐ Current Status and Needs

- Freedom of assembly and demonstration, which is required to criticize state power, form public opinions and deliver such opinions to the government, is restricted because of some problematic provisions in the Assembly and Demonstration Act, arbitrary law enforcement by the police, and practices for the sake of administrative convenience
- The Assembly and Demonstration Act contains the provisions virtually limiting the freedom of assembly by prohibiting multiple assemblies/demonstrations, banning assemblies on major roads and regulating noise from assemblies excessively

☐ Domestic/International Standards and Overseas Practices

- The Constitution guarantees freedom of assembly and association (Article 21(1)) and prohibits a licensing system regarding assembly and association (Article 21(2))
- The Commission expressed an opinion that the freedom of assembly should not be restricted excessively in disregard of the general requirements for limiting basic rights as well as the rule of clear and present danger (Nov. 2003)
- The International Covenant on Civil and Political Rights (Article 21) stipulates that the right of peaceful assembly shall be recognized. It also provides that no restrictions may be placed on the exercise of this right other than those which are necessary in a democratic society in the interests of national security or public security or public safety, public order, the protection of public health or morals, or the protection of rights and freedoms of others

- The UN Human Rights Committee pointed out that the government of the Republic of Korea imposed excessive restrictions on the places of assembly (1992 and 1999)

☐ **Desirable Direction of National Policies**

- Relax provisions of the Assembly and Demonstration Act limiting the freedom of assembly and demonstration and collects various opinions from the public

☐ **Core Tasks**

- Improve the provisions of the Assembly and Demonstration Act regulating the time, place and method of assembly and demonstration
- Relax excessive administrative procedural regulations concerning assembly and demonstration including the extensive scope of assembly reports required

1-7. Freedom of Conscience and Religion

Goal	Protect personal faith in conscience and religion
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☐ **Current Status and Needs**

- The National Security Act contains abstract and comprehensive provisions that infringe upon the freedom of conscience
- Conscientious objection to military service is not acknowledged. As of July 11, 2005, 1,053 conscientious objectors remain behind bars
- In a situation where students' right to choose a school is not fully guaranteed, students attending religious schools are forcefully subject to religious education by specific religious denominations. In addition, certain religious rituals are forced upon them in the course of general education and specific events, which constitutes violation of students' freedom of religion and right to education

☐ **Domestic/International Standards and Overseas Practices**

- The International Covenant on Civil and Political Rights (Article 18) provides that everyone shall have the right to freedom of thought and conscience and that no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice
- The UN Commission on Human Rights adopted several resolutions to acknowledge the right to conscientious objection to military service since 1987
 - In particular, the UN Commission on Human Rights Resolution 1998/77 stipulates that states with a system of compulsory military service shall provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature

☐ **Desirable Direction of National Policies**

- Improve the legal and institutional system concerned to guarantee the right not to be subject to coercion regarding religion and to prevent discrimination or human rights violations caused by religion

☐ **Core Tasks**

- Abolish the National Security Act infringing upon the freedom of conscience and resolve the problems associated with offenders of the National Security Act
- Acknowledge conscientious objection to military service and introduce a reasonable alternative service system
- Pursue improvements towards protecting students' right to choose a school and grant students the right to choose religious curriculum or religious events at school
- Expand the freedom of religion in the military by substantively guaranteeing soldiers' right to choose religious activities and increasing the religious denominations entitled to chaplain appointments, currently limited to the three major denominations

1-8. Academic and Artistic Freedom

Goal	Guarantee academic and artistic freedom by easing the government's regulations on creative activities
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☐ **Current Status and Needs**

- Artistic freedom may be restricted by law to the minimum extent, only when necessary. The government's excessive restrictions on artistic works are a problem that must be redressed

☐ **Domestic/International Standards and Overseas Practices**

- The Constitution (Article 22) guarantees all people's academic and artistic freedom
- The International Covenant on Civil and Political Rights (Article 19(2)) provides that everyone shall have the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice

☐ **Desirable Direction of National Policies**

- Minimize the state's intervention in artistic activities and strengthen governmental support for promotion and dissemination of art

☐ **Core Tasks**

- Seek artistic autonomy of the public by minimizing the government's intervention in artistic activities
- Bolster the government's support to increase art-related publications and academic research papers purchased by and kept available at public libraries

1-9. Freedom of Residence and Movement

Goal	Guarantee the freedom of residence and movement by improving applicable law
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☐ Current Status and Needs

- A security surveillance measure imposes a disadvantage against persons, who were already punished due to a tort, in consideration of the risks of a second offence, not as a penalty for an actual second offense. Not subject to judicial proceedings by court, such measure is determined by the Minister of Justice based on decision-making by the Security Measure Examination Committee under the Ministry upon the request of a prosecutor.
- Due to ambiguous provisions in the Passport Act (Article 8(1)) and the Immigration Control Act (Article 11(1)), administrative officers may reject passport issuance to certain persons on grounds of their past involvement in anti-state activities based on their arbitrary judgment or block entry of foreigners into the Republic of Korea on grounds that they may engage in acts prejudicial to the interests of the country or public safety.
- In some cases, physical freedom of persons living in social welfare facilities is restricted excessively.

☐ Domestic/International Standards and Overseas Practices

- The Constitution (Article 14) guarantees all Korean nationals' freedom of stay and movement inside and outside the country.
- The International Covenant on Civil and Political Rights (Article 12(1)) provides that everyone lawfully within the territory of a state shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

☐ Desirable Direction of National Policies

- Redress restrictions on entry into and departure from the country based on arbitrary decisions by administrative officers by abolishing the Security Surveillance Act and clearly providing for immigration-related regulations

☐ **Core Tasks**

- Abolish the security surveillance system which is highly likely to be abused due to potential arbitrary judgment on the risk of a second offense and decision in the form of an administrative measure
- Ease excessive limitations on the freedom of movement in the process of immigration by clarifying the standards to reject passport issuance and disapprove foreigners' entry into the country
- Prohibit any restrictions on the personal freedom of persons living in social welfare facilities

1-10. Right to Life

Goal	Protect human dignity by protecting people's right to life
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☐ **Current Status and Needs**

- As regards matters pertaining to the right to life (death penalty, induced abortion, euthanasia, embryonic cloning, etc.), there exist sharply conflicting interests in the face of no clear judgment standards. Under these circumstances, a social controversy is going on persistently
- With respect to embryonic cloning and research in particular, the value of treating hardly curable disease patients and generating economic effects remains in confrontation with the value of protecting the right to life
- Although there exists a social controversy concerning egg donation and the right to life, there exists a lack of effective ethical and legal judgment standards as well as a political and institutional foundation supporting those standards
- An increasing number of countries around the world are abolishing capital punishment from a humanitarian perspective and in consideration of the possibility of misjudgment

☐ **Domestic/International Standards and Overseas Practices**

- The Constitution provides a comprehensive guarantee of the right to life by setting out human dignity and value (Article 10) and personal freedom (Article 12(1))

- The Commission recommended abolishment of the capital punishment system according to the purport of the Constitution (Articles 10 and 37(2)) and the Second Optional Protocol to the International Covenant on Civil and Political Rights calling for removal of death penalty (Apr. 2005)
- The Universal Declaration of Human Rights (Article 3) and the International Covenant on Civil and Political Rights (Article 6) explicitly provide that everyone has the right to life and that no one shall be arbitrarily deprived of his life
- In an effort to protect the right to life, the UN adopted the Second Optional Protocol to the International Covenant on Civil and Political Rights and the Universal Declaration on the Human Genome and Human Rights
- The UN Human Rights Committee expressed concerns about the fact that the death penalty was still being rendered. Particularly noting that it constituted an evident breach of the International Covenant on Civil and Political Rights (Article 6) to include thefts in offenses possibly subject to the death sentence, the Committee recommended reduction of crimes punishable by the death penalty (1992)

☐ **Desirable Direction of National Policies**

- Prevent government organs' violations of the right to life by revamping applicable law and formulates concrete judgment standards regarding bio-ethics

☐ **Core Tasks**

- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights and improve applicable laws including the abolishment of death penalty
- Overhaul the legal and institutional system for the protection of the right to life and bio-ethics

2. Promotion of Economic, Social and Cultural Rights

2-1. Introduction

- Protection of economic, social and cultural rights (right to social security, right to work, right to health, right to housing, right to education, etc.), together with civil and political rights, is integral to guaranteeing human rights in general. Based on these rights, people are entitled to various forms of social benefits and services aimed at materializing human potential of individuals or groups
- To date, the Korean government has taken measures to promote economic, social and cultural rights including expansion of the scope of social security, improvement of the legal and institutional system for more realistic basic livelihood security, creation of jobs and promotion of the right to work, and establishment of shelters for the homeless after the economic crisis which culminated in IMF bailout
- As demonstrated by the recommendations of the ILO, UN Committee on Economic, Social and Cultural Rights, UN Committee on the Rights of the Child and so forth to the government of the Republic of Korea, however, the country's protection for economic, social and cultural rights still remains unsatisfactory
 - The UN Committee on Economic, Social and Cultural Rights recommended revision of domestic laws to guarantee the right to organize and the right to strike, guarantee of the right to unionize and the right to strike for teachers and government officials (1995), guarantee of the rights of irregular workers, and suspension of prosecution against strikes by a labor union (2001)
 - The ILO recommended easing of limitations on the lines of business where a strike is allowed and alleviation of punishment against strikes, together with expansion of labor union membership (1997, 2001 and 2002)
 - The UN Committee on Economic, Social and Cultural Rights recommended suspension of demolition works lacking in measures to provide new shelters (1995), establishment of departments dedicated to guaranteeing the right to housing, supply of temporary shelters to forcefully evicted persons, and guarantee of proper housing to vulnerable groups (2001)

- The UN Committee on the Rights of the Child recommended implementation of education serving the original purpose, withdrawal of reservations, protection of the rights of children not cared for by their parents, protection of the rights of children with disabilities, and guarantee of children's proactive involvement (1996 and 2003)
- Accordingly, the government has to guarantee people's right to existence by improving the basic livelihood security system and four major social insurance systems in a bid to fulfill its responsibility and duty of protecting people's social rights
- The government must provide substantive assurances regarding the right to organize, right to bargain collectively and right to strike, guarantee the right to work under favorable working conditions, and strengthens the right to work by reinforcing administrative remedies concerning damages to the right to work
- The government should establish a medical service infrastructure and create a pleasant environment to allow people to lead a healthy life
- The original purpose of education must be attained. In addition, public nature and diversity of culture should be strengthened

2-2. Right to Social Security

2-2-1. Basic Livelihood Security

Goal	Guarantee the right to survival by improving the national basic livelihood security system and by raising minimum living costs to a realistic level
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☐ Current Status and Needs

- Low-income families are excluded from the basic livelihood security system, or benefit payments to them are reduced due to excessively stringent beneficiary selection standards, overly optimistic standards to determine the family supporting ability of obligatory supporters, high property-income conversion ratio, and the minimum living cost standards and calculation methods failing to fully reflect the reality

- Assistance to the people just above the poverty line remains insignificant in a situation where there exist persons with the risk of impoverishment who are not selected as basic livelihood security beneficiaries owing to their income which is within 120% of the minimum living costs as well as non-beneficiaries in need who are not chosen as such beneficiaries according to the private property standards although their income is less than minimum living costs
- In calculating minimum living costs, difference by household and region is not reflected. Thus, it is difficult to provide appropriate livelihood assistance to families with disabled persons and low-income families residing in large cities
- As regards benefits under the basic livelihood system, the scope of daily necessities that cannot be seized is very narrow. Thus, daily necessities for survival may be placed under attachment. In addition, those who have national pension insurance premiums in arrears are subject to attachment of property. Failures to pay utility bills including electricity, water and gas charges often lead to discontinued supply of electricity, water and gas. Persons who fail to pay public rental housing rents and resultant high-rate negligence fines are forcefully evicted. This situation breaches the right to existence of the persons in low-income brackets
- Effective social welfare administration is hampered by ineffective manpower control arising from a shortfall of dedicated social welfare staff and the total limit system under the ordinance on the fixed number of local public servants

☐ **Domestic/International Standards and Overseas Practices**

- The UN Committee on Economic, Social and Cultural Rights pointed out problems with the benefit payment standards and the national pension system under the National Basic Living Security Act and recommended expansion of the social security system as well as the welfare system for destitute persons, homeless persons, disabled persons and so forth (1995)
- Only some countries (Australia, Germany, Switzerland, Japan, etc.) apply the obligatory supporter standards while most OECD countries do not apply such standards
- In the case of an income investigation, most countries exclude from income calculation the income under attachment and other income not included in real income. They also guarantee a minimum standard of living for indebted families
- Most countries adjust the level of benefits in line with minimum wages, pensions and living expenses. In calculating minimum living costs, they reflect the difference in living expenses by type of households

- Germany prohibits wages from being subject to attachment above a certain amount determined according to the number of family members. The United Kingdom bans a forced eviction against those who failed to pay the rent of public housing

☐ **Desirable Direction of National Policies**

- Expand the scope of basic livelihood security beneficiaries and guarantee people's right to survival by raising the amount of minimum living costs to a realistic level

☐ **Core Tasks**

- Guarantee basic livelihood of low-income families by reasonably improving the national basic livelihood security system through such measures as easing of the standards for designation as basic livelihood security beneficiaries, reduction of the scope of obligatory supporters, practical implementation of the basic livelihood security number system, increase of the standard minimum living costs, and improvement of the resident registration cancellation/re-registration system
- Expand individual benefits including housing, education and self-support benefits to people just above the poverty line in various forms of households
- Guarantee low-income debtors' right to existence by improving applicable law including the Civil Execution Act and the National Pension Act and ameliorating the resident registration system
- Improve the efficiency of social welfare administration by gradually increasing dedicated social welfare staff, enhancing the autonomy and accountability of local welfare administration, and subsequently overhauling the delivery system concerning basic livelihood security services

2-2-2. Four Major Social Insurance Schemes

Goal	Eliminate the dead zone of social insurance by expanding the scope of application of national pension, industrial accident insurance, employment insurance and health insurance
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☐ Current Status and Needs

- Narrow scope of applications, small amount of pension payments, insecurity concerning pension fund management and inequality regarding premiums imposition are restricting disadvantaged groups' right to existence and livelihood security
- Regarding national pension, there arise 'dead zones' as a result of low-waged irregular workers' reluctance to make contributions to the national pension fund and employment insurance, exclusion from the potential beneficiaries of old age pension, excessively stern requirements for receipt of disability pension, decisions to suspend or reduce survivors' pension payments under inappropriate standards, and unreasonable grade adjustment regarding survivors' pension and old age pension
- Workers suffering from an industrial accident face enormous difficulties for the following reasons: irregular workers, workers at the places of business not covered by industrial accident insurance as well as workers subject to special forms of employment are excluded from industrial accident insurance or the ratio of said workers covered by industrial accident insurance is very low; employers apply pressure on and take unfair measures against workers applying for industrial accident benefits; the so-called 'security after approval' system and the principle of causality regarding acknowledgment of industrial disasters are adopted; and there exist practices where designated industrial disaster medical institutions charge medical expenses to the workers subject to an industrial accident prior to its official approval and acknowledgment as an industrial accident
- There exist group that are originally denied of access to unemployment benefits due to age and type of the place of business, such as workers aged below 18 or above 65, employees of a non-corporate business engaging in agriculture, forestry, fishery and hunting with less than 5 workers, and providers of home care services. In addition, there are groups technically inaccessible to those benefits as a result of non-subscription by the employer or employee. In the cases where an employee is forced to leave the company in the face of pressure, the employee is often disguised as having left the

company voluntarily, which deprives the person of access to unemployment benefits. Besides, the period of unemployment benefit payment under the employment insurance scheme is too short. As a result, those who fail to find a new job cannot receive necessary financial assistance from the government.

- Article 45 of the National Health Insurance Act provides that sickness benefits may be paid at discretion. Its Enforcement Decree confines discretionary benefits to only two types of benefits, i.e. funeral benefits and benefits to cover 50% of the medical expenses paid by the person if such expenses exceed 1.2 million Korean Won for 30 days. This virtually limits payment of sickness benefits

☐ **Domestic/International Standards and Overseas Practices**

- The ILO puts forward the scope of population eligible to public pension in its Convention concerning Minimum Standards of Social Security (No.102), Convention concerning Invalidity, Old-Age and Survivors' Benefits (No.128) and the Recommendation concerning Invalidity, Old-Age and Survivors' Benefits (No.131)
- In its social security-related conventions, the ILO presents the standards for determining the level of disability pension benefits: complete loss of income-earning ability or substantial loss of physical functions
- In its social security-related conventions, the ILO defines 15 years' records or at least 5 years' contributions as required qualifications to receive survivors' pension
- In the Convention concerning Benefits in the Case of Employment Injury (No.121; 1964), the ILO included commuting accidents in the scope of the industrial accident acknowledgement standards
- The ILO Convention concerning Employment Promotion and Protection against Unemployment (No.168; 1988) provides that even when it has been determined by the competent authority that the person concerned has left employment voluntarily without just cause, benefit payment to the person shall not be refused or suspended unconditionally and rather, the amount of benefits shall be reduced after limiting his eligibility to receive those benefits for a certain period of time

☐ **Desirable Direction of National Policies**

- Improve the four major social insurance systems and thus guarantee the right to survival of disadvantaged groups

☐ **Core Tasks**

- Protect disadvantaged groups' right to survival by expanding social insurance, setting the amount of benefit payments at a reasonable level and stabilizing pension fund management
- Ameliorate the national pension system by incorporating irregular workers into the national pension scheme and improving the regulations on suspension of survivors' pension payment
- Improve the industrial accident insurance system by expanding application of the system to workers at the places of business not covered by industrial accident insurance as well as workers subject to special forms of employment, prohibiting employers from applying pressure on and taking unfair measures against workers who applied for industrial accident benefits, expanding the scope of the industrial accident acknowledgement standards regarding sickness benefits, and introducing the 'approval after security' system and the principle of finality
- Improve the employment insurance system by increasing the places of business subject to the employment insurance program, applying more efficiency to administrative management of employment insurance, relaxing unemployment benefit payment standards applicable to those who voluntarily leave a company, and extending the period of unemployment benefit payment
- Improve the health insurance system by rendering sickness benefits payment mandatory

2-3. Right to Work

2-3-1. Collective Labor-Management Relations

Goal	Promote the right to work by substantively guaranteeing the right to organize, right to bargain collectively and right to strike
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☐ **Current Status and Needs**

- Workers' right to organize and their autonomous union management are restricted for such reasons as the administrative authorities' virtual screening of the qualifications for union membership, restrictions on unemployed and dismissed persons' union membership, and excessive administrative supervision of union officials

- The right to bargain collectively is restricted as a result of exclusion of matters related to union activities and rights disputes from the subjects of bargaining and labor disputes, and limitations on the freedom of labor unions to receive external assistance imposed by the regulations limiting assistance regarding labor relations
- The right to strike is limited due to the regulations providing for excessive criminal punishment, claims for compensation for damage and filings for preliminary attachment against those involved in labor disputes
- The right to strike is limited because of the narrow scope of dispute arbitration by the Labor Relations Commission confined to interest disputes, and the forced arbitration system regarding places of business providing essential public services

□ Domestic/International Standards and Overseas Practices

- The UN Committee on Economic, Social and Cultural Rights recommended revision of domestic law to guarantee the right to organize and strike (1995), guarantee of irregular workers' rights, suspension of prosecution against labor unions exercising the right to strike, and guarantee of the right to bargain collectively and right to strike for teachers and government officials (2001)
- The ILO Convention concerning Freedom of Association and Protection of the Right to Organize (No.87) acknowledges the right to organize for government officials excluding members of the armed forces and police, high-level workers generally believed to be involved in policy making or management, and workers performing duties classified as state secrets
- The ILO Committee on Freedom of Association recommended that teaching should not be included in the concept of public or essential services regarding which the right to strike may be limited (1997 and 2001)
- The ILO recommended elimination of the provisions not acknowledging dismissed and unemployed workers' right to maintain their status as union members as well as non-union members' qualifications as executive officers (2002)
- The ILO recommended that limitations on the right to strike should be confined to strictly stipulated essential public services. The International Confederation of Free Trade Unions (ICFTU) filed a complaint to the ILO against the Korean government in connection with the forced arbitration system

☐ **Desirable Direction of National Policies**

- Minimize the government's intervention in labor-management relations on the basis of the principle of autonomy and promotes the right to work

☐ **Core Tasks**

- Overhaul related regulations to strengthen autonomy regarding labor union organization and operation
- Promote autonomous collective bargaining between the labor and management by expanding the subjects of collective bargaining and labor disputes
- Relax regulations on labor disputes to a moderate level by easing criminal punishment regulations and civil liability imposition
- Promote the right to strike with expansion of the scope of labor dispute arbitration, abolishment of the forced arbitration system towards places of business providing essential public services (on condition that the minimum service maintenance system will be introduced) or reduction of the scope of places of business providing essential public services, clarification of the requirements for the emergency mediation system and improvements of its procedures, and strengthening of related institutions for substantive dispute arbitration
- Ratify the ILO Convention concerning Freedom of Association and Protection of the Right to Organize (No.87), Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively (No.98), Convention concerning Forced or Compulsory Labor (No.29) and the Convention concerning the Abolition of Forced Labor (No.105)

2-3-2. Individual Labor-Management Relations

Goal	Promote the right to work by guaranteeing the right to work and fair working conditions and by strengthening administrative remedies
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☐ **Current Status and Needs**

- Unclear dismissal standards often lead to disputes. Besides, there still exist discriminatory practices on such grounds as sex, disability, status as an

irregular worker and age in the case of discharge for managerial purposes

- Major provisions of the Labor Standards Act pertaining to illegal dismissal, working hours and women's protection are not applicable to the place of business with less than five employees. In addition, the provisions on working hours of said Act are not applied to workers engaging in farming, forestry, fishery, livestock raising, or surveillance/intermittent work
- The level of minimum wages is not high enough to guarantee low-wage workers' livelihood. Persons with disabilities are not subject to the minimum wage system on the premise that their employers obtained the approval thereof from the Minister of Labor. From the year of 2007, employees who engage in surveillance or intermittent work will be subject to a minimum wage scheme independent of the existing minimum wage system. Under these circumstances, it is difficult to accomplish the original goals of the minimum wage system including addressing low-wage classes, bridging a wage gap and improving the structure of income distribution
- The function of severance pay to guarantee income in the later years of life is being weakened as application of the severance benefit system to workers at a place of business that has less than five employees has been deferred; workers associated with a company for less than a year are not subject to the severance benefit system; the concept of life-time employment is lacking luster; there arise frequent changes of work; and the annual pay system and interim severance pay settlement system are spreading
- Protective measures for workers who underwent an industrial accident are far from being satisfactory as evidenced by weak punishment against employers who failed to perform the obligation of preventing industrial accidents, low effectiveness of industrial accident prevention since easing of the safety and health management regulations, complicated procedures to obtain approval of the workers' compensation program, lack of rehabilitation programs after approval of insurance benefit payment, and return to work without an improvement in the working environment
- The number of work supervisors is too small despite their huge workload. This situation makes it difficult for them to perform fast and proper supervisory activities. Besides, the existing focus on responding to incidents after their occurrence hampers appropriate protection of the right to work that places a stress on preventive measures
- It takes too much time to seek administrative remedies to violations of the right to work. In the meantime, judicial remedies to such violations are not very effective because of huge costs and complicated procedures
- Many state-of-the-art technologies introduced to places of business for the purpose of enhancing productivity, preventing safety incidents and thwarting

leakage of confidential information are used for surveillance and control within those places, resulting in violations of workers' dignity and privacy

- As of 2004, female employment ratios at public and private companies remain at less than 20.9% and 38% respectively. Besides, female workers' average wages stand at only two thirds of those of their male counterparts. This shows that there still exists sexual discrimination against women in terms of employment and working conditions

☐ **Domestic/International Standards and Overseas Practices**

- The UN Human Rights Committee recommended that workers' right to safety should be guaranteed by furthering the obligations of the state and employer for the sake of industrial safety (Apr. 2003)
- The UN Committee on Economic, Social and Cultural Rights recommended expanded application of industrial safety regulations and minimum wage system as well as discontinued discrimination against migrant workers (1995)
- The Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights and the ILO Convention concerning Employment Policy define the right to work as a major right
- All OECD countries except the Republic of Korea subject workers engaging in surveillance/intermittent work to the minimum wage system

☐ **Desirable Direction of National Policies**

- Guarantee the right to work under fair working conditions by reflecting international standards and considering the spirit of the Constitution

☐ **Core Tasks**

- Stipulate clearly substantive requirements for layoffs so as to prevent unfair dismissals and minimize disputes surrounding dismissals and improve the legal and institutional mechanism that prevents employment discrimination on grounds of age, disability or service as irregular workers
- Expand the application of the Labor Standards Act to those workers working at the place of business with less than five employees and improve the working standards of workers engaging in farming, forestry, fishery, livestock- raising, or surveillance/intermittent work
- Improve the methodology to determine minimum wages, raise the level of statutory minimum wages, and apply minimum wages with no reductions to workers with disabilities and workers engaging in surveillance/ intermittent work

- Advance the timing of introduction of the severance benefit system at a place of business that has less than five employees and seek ways to apply the system to irregular workers by ameliorating statutes guaranteeing payment of severance benefits to employees
- Implement measures that ensure employers' performance of the obligation, in good faith, to prevent industrial accidents, simplify the procedures to obtain approval of industrial disaster benefits and improve the existing institutional mechanism including establishment of rehabilitation programs for victims of an industrial accident
- Beef up appropriate work supervision by increasing work supervisors, strengthening education and training, and implementing supervisory work administration centered on disaster prevention
- Formulate measures to ensure appropriateness and efficacy of administrative and judicial remedies concerning violation cases of the right to work
- Disclose accurate information on introduction and operation of monitoring techniques that might be used for surveillance of workers and make it compulsory to engage in prior consultation with workers in the event of installation of monitoring devices
- Prevent discrimination against and bolster remedies for victims by setting up a female employment promotion program, formulating standards to determine direct and indirect discrimination regarding women's employment and working conditions, employing stricter labor supervision, and resolving disputes swiftly

2-4. Right to Health

Goal	Promote the right to healthy life by establishing a reasonable medical service infrastructure
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☐ Current Status and Needs

- Patients have to bear more than half of their medical expenses. It means that a heavy financial burden is placed on disadvantaged patients and their family members. There still exist misuse and abuse of medical services. It is difficult for patients to take rare kinds of medicine whose demand is relatively small because of supply shortage and high prices
- There exists serious discrimination concerning the use of and access to medical services owing to increasingly privatized medical services and growing gap between the rich and the poor

- The overall medical infrastructure remains weak as evidenced by concentration of health and medical service facilities in the Seoul metropolitan area, lack of home medical services, low level of medical centers' accessibility and services, lack of mental medical institutions and human rights violations in the treatment process at those institutions, etc
- Health damages are increasing because of environmental factors including water and air pollution as well as wastes generation
- There exists a lack of mechanism to guarantee the right to health as demonstrated by limitations on patients' right to know concerning the procedures and details of medical services, increasing risks of leakage of information on private medical service utilization owing to computerization of medical records and payment data, and limitations on civil participation in the process of policy/technology development and evaluation regarding health and medical services

☐ **Domestic/International Standards and Overseas Practices**

- The Constitution provides that the State shall have the duty to endeavor to promote social welfare (Article 34) and that the health of all citizens shall be protected by the state (Article 36)
- In the case of countries that have the same social insurance scheme as that of the Republic of Korea, the portion of public expenditures in total medical costs tends to remain high: Germany (75.0%), France (75.8%) and Japan (78.3%)
- Germany and France where income levels are identified in a transparent manner relatively apply separate insurance premiums calculation standards to farmers, independent of self-employed persons. France imposes fixed premiums according to the grades determined in line with the size of farming land while Germany assesses non-fixed premiums according to the income standards calculated based on the scale of farming
- To guarantee the right to health, the UN provides that everyone must be assured of access to health and medical services
- The UN Committee on Economic, Social and Cultural Rights expressed concerns that the ratio of the Republic of Korea's health budget was going down to less than 1% of its entire budget, noting that this would mean negative results concerning poor people's access to health and medical services (2001)
- Based on the Patients' Bill of Rights, the United States guarantees patients' privacy and right to self-determination by protecting their medical information

- Australia guarantees involvement of patients and local communities in planning and assessment of health and medical services as well as in decision-making relevant to health and medical service management

☐ **Desirable Direction of National Policies**

- Minimize the financial burden of patients by strengthening the public nature of medical care systems and protect people's right to a healthy life by providing various appropriate medical services

☐ **Core Tasks**

- Enhance equality concerning insurance premium assessment by strengthening differential premium imposition according to the level of income and property and improve equality regarding health and medical services by solidifying the public nature of medical services
- Ensure equal allocation of health and medical resources to different regions and prevent human rights abuses against patients in the treatment process
- Implement comprehensive environment protection policies by identifying the impact that the environment has on health
- Guarantee patients' rights to know regarding medical services, formulate measures to prevent any leakage of information on individuals' use of medical services, and guarantee people's participation rights concerning policy-making on health and medical services

2-5. Right to Housing

Goal	Promote the right to housing by guaranteeing reasonable housing standards
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☐ **Current Status and Needs**

- Due to a lack of awareness of the right to housing, forced evacuations and evictions frequently lead to violations of the right to housing
- Forced evacuations frequently accompanying violence destroy the living ground of evictees, inflicting proprietary damages as well as mental shock and pain on them

- Exposed to the risks of fire and crimes, beehive-like cells, greenhouse residential villages and underground housing fall short of the minimum housing standards
- The level of prior consultation between redevelopers and local residents as well as the procedures to obtain consent from those residents to a redevelopment plan are not satisfactory
- Welfare facilities and shelters created for the homeless do not function properly for such reasons as lack of necessary equipment, large size and dilapidation

☐ **Domestic/International Standards and Overseas Practices**

- The Constitution (Article 35(3)) provides that the state is obligated to endeavor to provide pleasant housing to its people through housing development policies
- The Vancouver Declaration on Human Settlements (1976) adopted in the first Conference on Human Settlements provides that ideologies of a state should not be used in taking housing and land from people or limiting their rights or usage
- In its General Comment 4 on the right to adequate housing (1990), the UN Committee on Economic, Social and Cultural Rights stressed accessibility to housing, guarantee of stable housing, and guarantee of an adequate quality of housing. In particular, it stipulated that forced evictions, which are against the requirements of the International Covenant on Economic, Social and Cultural Rights, can be justified only under exceptional circumstances and only to the extent related provisions of international laws are complied with.
- The Rio Declaration on Environment and Development (1992) provides that all human beings must be protected by law not to be illegally evicted from their housing or land
- The resolution on forced evictions by the UN Commission on Human Rights states that forced evictions constitute a gross violation of the right to adequate housing. It recommended each country to take prompt actions against forced evictions, grant people being threatened with evictions the right to live stably and provide forced evictees appropriate compensation, alternative shelters or land (1993)
- The HABITAT II Agenda of the UN Conference on Human Settlements (1995) signed by the government of the Republic of Korea adopts prohibition of forced evacuation and eviction as well as guarantee of the right to housing
- In its General Comment 7 on forced evictions (1997), the UN Committee on Economic, Social and Cultural Rights provides that the state parties to the International Covenant on Economic, Social and Cultural Rights must avert use of brutal force before demolition and devise all reasonable alternative

measures to minimize such use based on agreement with the persons who sustain resultant damages

- The UN General Assembly adopted a resolution on the Global Strategy for Shelter to the Year 2000 (1998), providing that all people have the right to expect that their government acknowledges the obligation to take interest in their needs for housing and to protect and improve their housing and neighborhoods, not destructing or damaging them
- The UN Committee on Economic, Social and Cultural Rights recommended discontinuation of demolition without providing shelters (1995), provision of compensation and temporary shelters to forced evictees, and guarantee of adequate housing for vulnerable groups (2001)

☐ **Desirable Direction of National Policies**

- Guarantee the right to housing by banning forced evacuation with no protective measures and providing appropriate compensation and alternative shelters to evictees

☐ **Core Tasks**

- Prohibit forced evacuations and evictions lacking in measures to provide shelters by establishing a legal control of demolition requirements and formulating a legal protection mechanism regarding demolitions and evictions caused by civilian development
- Promote supply of rental housing and thus raise the housing supply ratio for low-income brackets
- Make it compulsory for redevelopers to go through prior consultation with and obtain the consent from actual residents and establish proper measures to provide shelters to evacuated/evicted lessees
- Redress housing below the minimum housing standards including beehive-like cells, greenhouse residential villages and underground rental housing and formulate a mechanism to guarantee adequate housing for local residents
- Improve the housing support system for the homeless based on supply of more diverse and professional assistance programs

2-6. Right to Education

Goal	Guarantee the right to education by offering equal educational opportunities and high-quality education
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☐ Current Status and Needs

- The right to education of disadvantaged students (low-income brackets, disabled persons, North Korean defectors, migrant workers, farming and fishing villagers, etc.) is not fully guaranteed
- Overly heated competition to enter prestigious higher educational institutes distorts school education, limiting students' opportunities to enjoy various cultural activities
- In the details of school education, there still exist prejudice and discrimination against women, sexual minorities and persons with disabilities.
- Provisions in statutes pertaining to disciplinary actions and physical punishment against students acknowledge physical punishment for educational purposes. Besides, detailed matters concerning disciplinary actions and physical punishment are delegated to municipal and provincial educational offices and schools
- In the face of a lack of effective measures connecting the school, home and society, violence and ostracizing at schools are deteriorating, leading to human rights abuses against children
- Students' right to be educated in a good environment is violated because of lack of control and inspection concerning the environment and food hygiene in schools and reckless establishment of harmful businesses in the surroundings of schools
- There exists a lack of legislation to safeguard students' right to the protection of personal information. Their right to the protection of personal information is often violated as a result of a lack of regulations that provide rationale for operation and management of the educational administrative information system
- It is presumed that about 200,000 school-age persons (aged 15 to 19) are not attending school. Despite the situation, there exists a lack of various forms of educational services including alternative schools, and full- and part-time education systems and remote education
- Trainees from commercial high schools are often subject to human rights violations including labor exploitation, contrary to the purport of on-site training

- Social education and lifelong education are not vitalized due to practical restrictions on acknowledgment of self-educated diploma earners, weak linkage between the self-educated diploma earner system and credit bank system and lack of systematic support from lifelong education support organizations

☐ **Domestic/International Standards and Overseas Practices**

- The Constitution stipulates citizens' right to be educated (Article 31(1)) and the state's obligation to educate citizens and provide compulsory education free of charge (Article 31(2) and below)
- The International Covenant on Economic, Social and Cultural Rights (Article 13(1)) provides for the right of everyone to education
- The UN Convention on the Rights of the Child (Article 28(1)) recognizes the right of children to education and provides for equal opportunity
- The UN Committee on Economic, Social and Cultural Rights recommended expansion of education opportunities for disadvantaged groups, expansion of higher education, and implementation of human rights education (1995) as well as formulation of a plan to strengthen public education (2001)
- UN Committee on the Rights of the Child pointed out problems associated with the overly competitive education system and recommended execution of measures pursuant to Article 29 of the UN Convention on the Rights of the Child (1996 and 2003)

☐ **Desirable Direction of National Policies**

- Increase the opportunities to receive various forms of education including formal education, non-formal education and lifelong education and guarantee the right to education in an environment related with education

☐ **Core Tasks**

- Expand the education opportunities of disadvantaged students (low-income brackets, disabled persons, North Korean displaced persons, migrant workers, farming and fishing villagers, etc.)
- Eradicate bias and discrimination against women, sexual minorities, disabled persons, etc. by improving the details of education and creating an equal educational environment
- Revamp statutes relevant to disciplinary actions and physical punishment against students including the Elementary and Secondary Education Act

- Operate various programs to end school violence and forge well-organized cooperative ties with the Ministry of Education and Human Resources Development, related organizations and local communities
- Prevent violations of the right to learn by formulating measures to strengthen the efficacy of legal provisions against creation of a harmful environment near schools
- Seek legislation for the protection of students' right to the protection of personal information concerning collecting, keeping available and correcting student information and guarantee students' right of privacy by formulating provisions against human rights abuses in operating and controlling the educational administrative information system
- Offer children/juveniles and grown-up dropouts various opportunities of education other than formal schooling such as alternative schools, remote education and part-time education
- Formulate measures to combat human rights violations against on-the-job trainees from commercial high schools
- Increase opportunities of life-long education by eradicating discrimination against self-educated diploma earners and seeking to integrate the self-educated diploma earner system and credit bank system

2-7. Right to Culture

Goal	Promote cultural rights by setting the basic principles of cultural rights and developing the public nature and diversity of culture
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☐ Current Status and Needs

- The concept of cultural rights has yet to be firmly established, making it difficult to guarantee cultural rights. In addition, there exists a lack of clear guidelines concerning cultural right violations and related discrimination
- Cultural facilities remain concentrated on large cities. Thus, it is difficult to ensure equality of cultural rights among different regions
- Creative activities are undermined because of the unequal opportunities for cultural and artistic creative activities and the problems associated with the distribution structure of creative works
- Not only juvenile children of poor families and migrant workers, but ordinary juveniles can hardly enjoy their cultural rights because of entrance examination-oriented education

- Poor understanding of migrant workers' culture and difficulties associated with their maintenance of culture and cultural identity touch off human rights violations and discrimination against them
- Civil participation in the planning and execution of cultural policies remains limited and unorganized
- Reckless development, development oriented-ness and cultural opening have marred cultural heritage, weakening cultural identity of the country and its people
- It is a prevailing view within Korean society that satisfaction of economic needs takes precedence over fulfillment of cultural needs. In the course of land development, natural greens and residential neighborhood parks are reduced, shrinking basic rights pertaining to cultural spaces

□ Domestic/International Standards and Overseas Practices

- As a principle or direction of national activities, the Constitution stipulates that the state shall strive to sustain and develop the cultural heritage and to enhance national culture (Article 9)
- The Universal Declaration of Human Rights provides for the right to enjoy cultural life (Article 27) and the International Covenant on Civil and Political Rights sets forth the freedom of expression (Article 19)
- The International Covenant on Economic, Social and Cultural Rights (Article 15) stipulates that everyone shall have the right to take part in cultural life and to benefit from the protection of the copyrights resulting from any literary or artistic production of which he is the author
- The Amnesty International made a recommendation that discrimination against or excessive regulation of homosexual culture should be prohibited (2002)
- The UNESCO Draft Declaration on Cultural Rights (Article 8) stipulates that everyone is entitled to participate in the formulation, implementation and assessment of cultural policies which affect him or her, and in leading their own cultural development
- The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) provides that the purpose of the Convention is to protect and promote the diversity of cultural expressions in each country and that the state parties need to take appropriate domestic actions towards that end as well as special measures to protect the diversity of cultural expressions especially in situations where cultural expressions may be threatened by the possibility of extinction

☐ **Desirable Direction of National Policies**

- Establish a cultural infrastructure to pursue diversity and public nature of cultural policies and strengthen cultural equality

☐ **Core Tasks**

- Redress regional gaps and discrimination in terms of cultural rights by expanding a local cultural infrastructure in respect of the life of people
- Strengthen the rights of vulnerable social groups and minorities in the cultural and artistic circles and expand the cultural diversity throughout the society based on active support for non-mainstream culture and art
- Formulate measures to help promote cultural rights of the children of vulnerable social groups and minorities and improve related laws and institutional systems to give a boost to cultural education and promote juvenile culture
- Give migrant workers opportunities to enjoy their cultural identity and cultural rights and pave the way for migrant workers' enjoyment of their own culture
- Pursue proper cultural heritage-related policies to preserve the cultural identity of the country and its people
- Expand and institutionalize civil participation and monitoring in the process of planning and executing cultural policies
- Establish an institutional system and infrastructure where cultural effects are considered in various policy-making processes

2-8. Right to Environment

Goal	Promote the right to a clean environment through protection of people's life and right to health and sustainable development
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☐ **Current Status and Needs**

- Deteriorating air pollution makes it difficult to maintain good health, violating the right to a pleasant environment
- Due to flood prevention-oriented water control policies, it is difficult to use water resources properly. In addition, comprehensive water control policies

can be hardly formulated as a result of less organized division of works among different agencies

- Physical and mental damages are increasing due to noise and vibration generated by the means of transportation, plant operation and construction works in the course of urbanization and industrialization
- The government's comprehensive measures regarding the UN Framework Convention on Climate Change fail to put forward concrete objectives of reducing domestic greenhouse gas emissions
- Development policies that put economic efficiency before sustainable development are resulting in destruction of the natural environment and posing threats to people's rights to existence and health
- State-led development projects and large-scale government projects are highly likely to cause damage to the ecological system. Even in ecologically important areas, those projects may be exempted from application of the environmental impact assessment system on grounds that they are major state projects
- Civil participation and procedural transparency remain at an unsatisfactory level with regard to pursuit of government projects, which often splits public opinions and causes budgetary wastes and far-reaching damages

☐ **Domestic/International Standards and Overseas Practices**

- The Constitution (Article 35) provides that all citizens shall have the right to a healthy and pleasant environment and that the state shall endeavor to protect the environment
- The International Covenant on Environment and Development (1995) provides that exercise of the right to development shall require performance of an obligation to meet the human race's developmental and environmental needs in a sustainable and fair manner
- The Rio Declaration (1992) puts forward the principles applicable to the states, governments and people for sustainable development. In particular, Principle 3 of the Declaration states that the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations
- The Kyoto Protocol (1992) requires reduction of greenhouse gas emissions as part of comprehensive actions against climate change
- Many countries regulate noise and vibration-generating facilities from the stage of machinery production

☐ **Desirable Direction of National Policies**

- Seek to protect people's life and health and to expedite sustainable development by adopting environmental-friendly policies that put top priority on preservation of the ecological system and environment

☐ **Core Tasks**

- Pursue well-coordinated inter-departmental policies to improve the air condition, expand the scope of environmental substance control and introduce stricter standards
- Guarantee adequate use of water resources and commission an integrated organization to take charge of water control
- Minimize mental and physical damages caused by noise and vibration by revising the Framework Act on Environmental Policy and complementing the environmental standards under the Noise and Vibration Control Act
- Cope with climate changes appropriately and pursue environmental-friendly energy control policies by putting forward specific CO₂ emission targets
- Reflect the results of an environmental impact assessment regarding state-led projects fully and improve the legal and institutional system to prevent any damage to the ecological system
- Provide accurate information to prevent any dispute and environmental issue related with government projects and guarantee the procedural rights of local residents who are affected by such development projects
- Strengthen education that the right to a clean environment is a basic right of human beings and also constitute an obligation for the protection of the rights of future generations

3. Strengthening of Human Rights Education

3-1. Introduction

- People can exercise their human rights only when they have the knowledge of such rights. Therefore, human rights education that improves the public perception towards human rights constitutes a basic right itself
- Human rights education comprises any and all educational efforts that seek to promote understanding of basic and universal rights of human beings, create behavioral patterns and techniques promoting respect for and protection of human rights, and form an attitude respecting human rights
- The UN Plan of Action for the United Nations Decade for Human Rights Education, related UN guidelines and the World Program for Human Rights Education emphasize establishment of comprehensive human rights education
- Human rights education must be built on the belief that we need to develop a society where all people are respected and not discriminated against on grounds of sex, religion, disabilities, age, social status, place of origin, country of origin, ethnic background, appearance and other physical conditions, marital status, pregnancy or childbirth, type or status of family, race, skin color, ideology or political opinion, criminal records where lapse of sentence, sexual orientation, education, medical history and so forth
- Accordingly, human rights education makes a great contribution to realizing human rights and basic freedom and enhancing equality. It is also essential to the prevention of conflicts and human rights violations and to the promotion of participation and democratic procedures
- There exist only a few opportunities to receive human rights education in each area of the society. However, most people forge a consensus on the need of human rights education
 - In the Commission's 2005 survey on increases in the public perception towards human rights, only 5.3% of ordinary people replied that they had received human rights education
 - However, a majority of the respondents agreed on the necessity of human rights education: 92.4% in favor of education of public officials, 91.8% for formal education at schools and 91.5% in favor of

companies' employee training. Therefore, it is required to undertake a full-fledged human rights education program for dissemination of a human rights-friendly climate

- It is necessary to place high priority on human rights education for groups that may influence promotion of the human rights of vulnerable social groups and minorities

3-2. Human Rights Education at Schools

Goal	Enhance people's human rights sensitivity by boosting human rights education at schools
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☐ Current Status and Needs

- Systematic human rights education is almost non-existent in the Republic of Korea despite the seriousness of human rights issues
- In order to overcome a discriminative and repressive social climate and create a human rights-friendly culture to ensure healthy and sound life of human beings, an emphasis must be put on early human rights education starting from children

☐ Domestic/International Standards and Overseas Practices

- From the perspective of national policies, 17 major domestic human rights organizations proposed human rights policy tasks for the Participatory Government that included the following: an action plan on human rights education be formulated; human rights education be included in regular educational curriculums; human rights education be conducted for the groups that are in a special position affecting realization of human rights; non-regular human rights education programs be developed and executed in the society across the board (2004)
- The 'World Program for Human Rights Education' (2005~2007) places a focus on implementing human rights education at elementary and middle schools
- Pointing out that human rights education was not included in the mandatory educational curriculums for human rights workers, the UN Committee on Economic, Social and Cultural Rights recommended that curriculums be reassessed for the promotion of human rights and basic freedom and that

large-scale campaigns be undertaken to increase public perception towards human rights (2001)

☐ **Desirable Direction of National Policies**

- Promote respect for human rights and basic freedom as well as understanding of and sensitivity to human dignity in regular educational curriculums ranging from kindergartens to universities

☐ **Core Tasks**

- Develop school curriculums on human rights education and incorporate human rights issues into regular education courses and curriculums covering kindergartens to universities
- Strengthen human rights education by means of development and dissemination of various teaching/learning methodologies and materials
- Include human rights education in teachers' fostering or training courses to improve their human rights education competences
- Create a human rights-friendly educational environment through realignment of school regulations
- Create the basis for performing researches into human rights education

3-3. Human Rights Education for Public Servants

Goal	Prevent human rights abuses and discrimination and promote human rights sensitivity by strengthening human rights education of public servants
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☐ **Current Status and Needs**

- Compared with an era of authoritarianism, the country is witnessing a reduction in human rights violations committed by public servants. However, there still exist controversies surrounding alleged human rights abuses by public officials. This situation requires strengthening of human rights education for public officials
- It is needed to implement human rights education for public servants who affect realization of human rights including those who are in charge of formulating and executing statutes and policies

- To ensure that public servants will respect the human rights of disadvantaged groups, it is required to seek an increase in their perception towards human rights
- It is necessary to set up a legal and institutional mechanism that enables consistent human rights education for public servants

☐ **Domestic/International Standards and Overseas Practices**

- The UN Human Rights Committee made a recommendation that not only public servants, but human rights experts including employees of public organizations and medical practitioners should be compulsorily subject to human rights education in a consistent manner (1999)
- The UN Committee against Torture recommended implementation of human rights education for law enforcement officers including police officers and prosecutor's officers as well as medical practitioners (1996). The UN Committee on the Elimination of Discrimination against Women recommended formulation of comprehensive measures including gender-sensitive training for jurists, medical practitioners, law enforcement officers, etc., prohibition of sexual harassment at work, and implementation of education and public relations to raise awareness of the need to report any violations (1998)

☐ **Desirable Direction of National Policies**

- Establish an institutional mechanism to strengthen human rights education for public officials who perform affairs closely related with human rights in order to enhance their human rights sensitivity

☐ **Core Tasks**

- Render human rights education mandatory by opening human rights curriculums or courses at public servants' education and training centers
- Strengthen human rights education in the process of fostering law enforcement officers including prosecutors and police officers, jurists, medical practitioners and social workers and include human rights-related matters in their selection examinations
- Establish a system to support human rights education for public servants by developing and disseminating effective human rights education programs and teaching materials

- Conduct mandatory human rights education at military education and training institutes and boost human rights education at military units and paramilitary organizations

3-4. Human Rights Education for Civil Society

Goal	Enhance people's human rights sensitivity by promoting human rights education to civil society
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☐ Current Status and Needs

- It is required to pay attention to non-school education in order to guarantee the right to human rights education in every area of society
- As the essence of human rights education for vulnerable social groups and minorities including children and disabled persons lies in strengthening their own capabilities, human rights education for civil society as well as assistance therefore are required
- It is needed to install or strengthen comprehensive human rights education institutions to ensure civil society's voluntary support for human rights education

☐ Domestic/International Standards and Overseas Practices

- The Plan of Action for the UN Decade for Human Rights Education and its Guidelines (Articles 10 and 26) recommends the strengthening of the role and capacity of the mass media and Internet in the furtherance of human rights education and public relations
- The UN Committee on the Rights of the Child recommended development of public education campaigns to eradicate discrimination against female children, disabled children and children born out of wedlock, undertaking of awareness-raising public campaigns concerning children's rights, and implementation of systematic education for professional groups related with children (teachers, social workers, judges, law enforcement officers, psychologists, health workers and so forth) (2003)
- The Global Compact (2000) presents the principle that business should support and respect the protection of internationally proclaimed human rights within their sphere of influence and make sure they are not complicit in human rights abuses

☐ **Desirable Direction of National Policies**

- Strengthen public relations activities targeting the general public and galvanizes human rights education at businesses, civic groups, local communities and mass media so that human rights can be established as a core value

☐ **Core Tasks**

- Conduct human rights education for vulnerable social groups and minorities (disabled persons, irregular workers, foreigners, women, children and juveniles, aged persons, sexual minorities, disease sufferers, etc.) and strengthen support for human rights education of civil society
- Support human rights education targeting companies, devises measures to give a boost to such education, and pursue joint programs in cooperation with local human rights education institutions in the case of domestic companies that advanced to a foreign country
- Establish cooperative ties with human rights organizations and lifelong education institutions for strengthening of human rights education
- Formulate measure to support and invigorate human rights education so as to boost human rights-related public relations activities by means of the mass media and Internet and to raise journalists' awareness of human rights

4. Establishment of Domestic and International Cooperation

4-1. Introduction

- The Korean government needs to strengthen cooperation with civil society to stimulate the society and has to devise measures to enhance the capacity of non-governmental organizations (NGOs)
- The government has improved the domestic human rights conditions by concluding major international human rights treaties and revamping its legal and institutional system according to recommendations from international human rights organizations
- However, there exist international human rights treaties to which the country is not a signatory. Besides, there are some reservations regarding the treaties concluded by the country. In sum, the domestic legal system must be improved further for implementation of the international human rights conventions concluded by the country
- The government must step up its international activities and cooperation to play a central role in establishing international human rights norms as a responsible member of the international community

4-2. Strengthening of Cooperation with Civic Society

Goal	Promote civil society by stepping up cooperation with civil society
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☐ Current Status and Needs

- It is difficult for the government to independently resolve various social issues ranging from environment, human rights, education, and hygiene to consumption. In addition, the government can hardly satisfy people's divergent needs concerning welfare and public services
- A lack of material and human resources poses strains on the activities by civic groups
- Civic groups' activities remain stagnant because of a low level of volunteer services and donations

☐ **Domestic/International Standards and Overseas Practices**

- Many countries strictly regulate NGOs for their transparent operation. However, they seek to give a boost to NGOs' activities by relaxing regulations on their donation collection process
- Most countries including the United States, United Kingdom and Japan have no separate provisions on the provisioning ratios regarding the costs of donation collection

☐ **Desirable Direction of National Policies**

- Strengthen the capacity of civil society through legal and institutional support

☐ **Core Tasks**

- Expand indirect assistance (tax breaks, postal charge reduction, etc.) and direct assistance (expansion of government-civilian public projects, etc.) to NGOs serving public interests
- Support establishment of local NGO centers and human resources development by civic groups
- Establish the principle of civic society's participation in organization of government committees and revitalizes consignment of public projects to civilians for their efficient implementation
- Lay the institutional basis for boosting the culture of donations by revising applicable law including the Act on the Regulation of Donations Collection

4-3. Strengthening of International Activities and Cooperation

Goal	Contribute to universal human rights enhancement by consolidating international solidarity
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☐ **Current Status and Needs**

- The Republic of Korea is responsible for contributing to universal human rights development as a responsible member of the international community
- Currently, the Republic of Korea applies 0.06% of its gross national income to Official Development Assistance (ODA). Such figure is only a fourth of the average of twenty two countries of the OECD Development Assistance Committee (0.25%). As of 2003, approximately a third of the country's

bilateral ODA that accounts for 67% of its entire ODA is assistance under non-concessional term. It is feared that this situation might plunge underdeveloped countries into a vicious circle of poverty due to interest expenses

- Asia making up more than a half of the world population is fraught with various factors that may cause human rights violations such as historic, cultural and racial diversity. Therefore, it is strongly required to establish a regional human rights protection system as seen in the American, European and African continents

☐ **Domestic/International Standards and Overseas Practices**

- The Constitution (Article 5) provides that the State shall endeavor to maintain international peace
- The UN General Assembly resolution (No.1522; 1970), the UN Conference on Environment and Development (1992) and the UN Millennium Development Goals (MDGs; 2000) recommended industrialized countries to apply not less than 0.7% of their gross domestic product to foreign assistance. As of 2003, five countries including Norway and Denmark are complying with the agreement

☐ **Desirable Direction of National Policies**

- Lay the legal and institutional groundwork to protect and enhance universal human rights

☐ **Core Tasks**

- Streamline the existing legal system to enable performance of external assistance policies aimed at advancing universal human rights
- Expand the Official Development Assistance and especially the ratio of grants to contribute to international human rights enhancement
- Give a boost to personnel/material support to underdeveloped countries through various channels including both public and private channels for improvements in their human rights landscape and ensure systematic support and management of related activities
- Establish a mechanism to promote cooperation with international/regional human rights organizations

4-4. Domestic Implementation of International Human Rights Norms

Goal	Step up domestic implementation of the international human rights treaties to which the country is a signatory as well as international human rights norms
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☐ **Current Status and Needs**

- The Republic of Korea is a signatory to all of the six major human rights treaties including the International Covenant on Civil and Political Rights. Accordingly, domestic implementation of those treaties constitutes an international obligation and forms the basis of its domestic human rights policies
- According to the recommendations from the UN human rights machinery, the Republic of Korea set up the Commission in 2001 with a view to facilitating domestic implementation of international human rights norms. The country also ratified the Rome Statute of the International Criminal Court in 2002, actively participating in international activities relevant to human rights
- However, there exists a lack of domestic procedures to ensure compliance with the conventions that the country ratified or implementation of the decisions and recommendations made by convention monitoring committees. This situation places limits on effective domestic implementation of the treaties. Furthermore, domestic education of international human rights law remains at a rudimentary level
- The country needs to additionally ratify human rights treaties recently created by the international community (for instance, Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) to reflect international human rights standards in its domestic human rights scene

☐ **Domestic/International Standards and Overseas Practices**

- The Constitution (Article 6(1)) stipulates that the treaties duly concluded and promulgated under the Constitution and the generally recognized rules of international law have the same force and effect as domestic law
- The National Human Rights Commission Act (Subparagraph 1 of Article 2) defines human rights as “human dignity and value as well as freedom and rights acknowledged by the international human rights treaties that the Republic of Korea signed and ratified and by customary international law”,

specifying that the purpose of its establishment is to protect human rights under international human rights law

- UN's major human rights covenants and conventions provide that the state parties should submit their periodic reports to on the implementation status and fully guarantee the rights of people
- The Commission published decisions by UN treaty monitoring bodies in its official gazette according to the individual complaint system and recommended enactment of special acts enabling implementation of such decisions (Dec. 2003)
- The Commission recommended ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Optional Protocol to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, etc. (Dec. 2003) as well as implementation and reservations withdrawal regarding Article 21 of the UN Convention on the Rights of the Child (Apr. 2005)

☐ **Desirable Direction of National Policies**

- Establish an organized cooperation system with international human rights organizations in order to improve domestic statutes for implementation of international human rights law and to protect human rights in accordance with international standards

☐ **Core Tasks**

- Improve domestic statutes to attain the human rights standards guaranteed by human rights treaties
- Formulate the procedures to domestically implement recommendations in connection with concluding observations on the government's reports by treaty monitoring bodies as well as views on the individual complaints
- Sign and ratify human rights treaties including the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and so forth
- Withdraw reservations regarding the International Covenant on Civil and Political Rights and accept the individual complaint system under the

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

- Cooperate with NGOs and human rights organizations in preparing government reports to be submitted to each treaty monitoring body
- Pursue domestic implementing legislation at the earliest possible date according to ratification of the Rome Statute of the International Criminal Court
- Strengthen education on international human rights law for law enforcement officers