

**LIST OF ISSUES PRIOR TO REPORTING (LOIPR)**  
**THE REPUBLIC OF KOREA**

NGO SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE

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**Submitted by Truth and Justice Network of South Korean NGOs (8 NGOs)**

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## Background

From Japanese colonial period to military dictatorship, Koreans suffer from various forms of state violence such as forced labour, sexual violence, massacre, torture and detention. This includes under the Japanese colonization, around the Korean War, and military dictatorship. Democracy was achieved by people power during the late 1980s and early 1990s and the Government was tasked to find the truth, end impunity and provide reparation to the victims of past state violence. Realizing justice is a duty of the state while dealing with past state violence. Most state violence mentioned in this report happened before 1991 when the Government ratified the International Covenant on Civil and Political Rights (ICCPR), but we stress in this report that none of these state violence cases was resolved even after the ratification of the ICCPR. The truth was not found, impunity did not end, reparations were not given and no measures were taken to guarantee non-recurrence.

In 2005, the Framework Act on Clearing Up Past Incidents for Truth and Reconciliation (FATR) was enacted and according to this Framework, the Truth and Reconciliation Commission of South Korea (TRC) was first launched as an independent body in 1 December 2015. However, the TRC closed down in 2010 without a proper investigation due to limited power to investigate, short operation period, and interrupt by the conservative groups. Moreover, even for some cases that truth was found by the TRC, official apologies or reparations for victims were not provided and ending impunity, history education to guarantee non-recurrence were not implemented.

South Korean civil society organisations have strongly urged the Government since the TRC closed down to reopen the TRC for additional investigation and to bring justice to the state violence victims.

## General Comments

### Effect of the Convention and the case applied for trials

According to the Constitution of the Republic of Korea, signed and ratified international treaties have the same effect as domestic laws.<sup>1</sup> While the court acknowledges that such treaties are effective as domestic law, the court rarely uses the ratified convention as a criterion for concrete judgment. Furthermore, even if the treaty is used as a criterion for judgment, it is the court's own right to interpret the treaty in detail, and therefore, the validity of the Committee's General Comments or decisions on Individual Complaint are not recognized<sup>2</sup>.

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<sup>1</sup> Constitution Article 6(1) Treaties duly concluded and promulgated under the Constitution and the generally recognized rules of international law shall have the same effect as the domestic laws of the Republic of Korea.

<sup>2</sup> The individual Complaint of Kang Yong-ju(CCPR/C/78/D/878/1999) is an example of the Government's not recognizing the recommendations made by the Committee. Below is part of considerations of the Committee on the Complaint. "In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy. The Committee notes that, although the author has been released (cf. Kang was released in 1999 after being in prison for 14 years as a prisoner of conscience.), the State Party is under an obligation to provide the author with compensation commensurate with the gravity of the breaches in question. The State party is under an obligation to avoid similar violations in the future." However, the Government has never implemented any of the recommendations at any level for the 16 years

## **Article 2. Non-discriminatory guarantee of civil and political rights and measures for remedy**

### **No reparations for human rights victims during the Japanese colonial period**

Korea was colonized by Japanese Imperialism from 1910 to 1945. At the time, human rights of Korean people were violated in various forms of forced mobilization in invasion wars such as soldiers, civilian personnel in the military, volunteer labour corps, Japanese military sexual slavery and forced labourers. The total number of victims reaches about 7.8 million individuals. However, after the liberation of Korea, the South Korean government had not taken appropriate remedial measures for the victims. Rather, Park Chung-hee's military dictatorship (1963-1979) hindered the realization of victims' rights to remedy and reparation. In the process of normalization of diplomatic relations with Japan, he concluded the Korea-Japan basic treaty on reparation without the participation of victims in 1965.

Even so, as a result of the persistent struggle of victims, the Truth Commission on Forced Mobilization under Japanese Imperialism (TCFM) was established as a national organization in 2004. The activities of the TCFM were focused on truth verification, investigation of victims and provide support until 2015. The TCFM's activities achieved some results such as collecting vast amounts of data, providing support fund to the victims, and carrying out a commemoration project. However, since the TCFM was a temporary institution, its operations were terminated in 2015 while investigations and support for victims were insufficient; investigation to explain comprehensively the truth of forced mobilization was insufficient and follow-up measures were not set.

In the case of the Japanese military sexual slavery, despite persistent demand of the aged victims, the Government did not make efforts to urge the Japanese government to conduct investigations of the truth except once in 1993. In 2015, the Korea-Japan Agreement on the issue of "comfort women" victims was announced without victims' participation. Following the announcement of the 2015 agreement, the United Nations,<sup>3</sup> as well as the victims, raised their voices in criticism. The

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after the Complaint was complete. Moreover, Kang became under security surveillance after his release due to his previous charges as the prisoner of conscience, and his fundamental rights including the freedom of expression, privacy and etc. were severely violated. (This report deals with security surveillance on the page 10.) Kang was prosecuted three times due to his disobedience to the reporting obligation under security surveillance. In February 2018, the Court decided that Kang was not guilty, since he could not be punished because a renewal of his security status would be unlawful.

<sup>3</sup> 10 March 2016, CEDAW/C/JPN/CO/7-8, paras. 28 and 29. "...the announcement of the bilateral agreement with the Republic of Korea, which asserts that the "comfort women" issue "is resolved finally and irreversibly" and did not fully adopt a victim-centered approach;..." "To ensure that, in the implementation of the bilateral agreement announced jointly with the Republic of Korea in December 2015, the State party takes due account of the views of the victims/survivors and ensures their rights to truth, justice and reparations;..."

30 May 2017, CAT/C/KOR/CO/3-5, paras. 47 and 48. "The Committee: (a) While welcoming the agreement reached at the meeting of Ministers for Foreign Affairs of Japan and the Republic of Korea held on 28 December 2015 ... is concerned that the agreement does not comply fully with the scope and content of its general comment No. 3 and that it fails to provide redress and reparation (including compensation and the means for as full a rehabilitation as possible) or to ensure the right to truth and assurances of non-repetition;..." "The State party should: .... (d) Revise the agreement of 28 December 2015 between Japan and the Republic of

current Moon Jae-in administration reviewed and assessed the 2015 agreement and following the result of assessment, the Government officially announced that they would take follow-up measures regarding the 2015 agreement according to a victim-centred approach. Accordingly, the procedure of the disbandment of the 'Reconciliation and Healing Foundation' established in 2016 on the ground of the Agreement is currently underway, but no procedures to hold the perpetrator nation's legal responsibility have been implemented until now.

- Does the Government consider that the truth investigation of forced mobilization under the Japanese Colonization sufficient? What efforts are being made and would be needed to provide the truth investigation and remedy measures for victims who have not received reparations yet? Does the Government consider establishing a permanent national organization in order to resolve those issues?
- In regards to the issues relating to the Japanese military sexual slavery, what are the efforts being made by the Government to demand the Japanese government to take legal responsibility according to a victim-centred approach except for the disbandment measure of the Reconciliation and Healing Foundation?

### **Limitations of the Truth and Reconciliation Commission of South Korea**

The Truth & Reconciliation Commission (TRC) of South Korea operated for 5 years from 2005 to 2010. Unfortunately, the TRC did not have a strong investigation power, and therefore, was not able to receive essential materials for investigation due to non-cooperation of the relevant agencies such as by non-submission of materials. Thus, during the investigation process, the TRC had to rely on statements of references and suspected perpetrators. Furthermore, despite that the TRC's activities were not properly promoted, the application period for the truth investigation was only one year. There were victims who were not able to submit their applications within the deadline. Some did not know about the TRC at all, and even if they did know about the TRC's investigation, they did not have enough time to apply with efficient information necessary. For example, in the case of civilian massacres during the Korean War, the number of victims is estimated around one million while the

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Korea in order to ensure that the surviving victims of sexual slavery during the Second World War are provided with redress, including the right to compensation and rehabilitation, and that they are guaranteed the right to truth, reparation and assurances of non-repetition, in keeping with article 14 of the Convention; ...."

Statement/Yearly address by Zeid Ra'ad Al Hussein, the United Nations High Commissioner for Human Rights to the 31<sup>st</sup> session of the Human Rights Council, 10 March 2016, ".... The Agreement has been questioned by various UN Human Rights mechanisms, and most importantly by the survivors themselves. It is fundamentally important that the relevant authorities reach out to these courageous and dignified women; ultimately only they can judge whether they have received genuine redress."

Available at: [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17200&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17200&LangID=E).

Japan/S. Korea: "The long awaited apology to 'comfort women' victims yet to come" – UN Rights experts. 11 March 2016. "We believe the agreement between Japan and South Korea falls short of meeting the demands of survivors. It is the responsibility of States to put an end to impunity by condemning and addressing sexual and other violence against women and girls used as a war weapon, and by upholding women victims' right to redress"

Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17209&LangID=E>.

TRC only recognized 16,000 as victims. This result came out because the TRC investigated mainly based on the applications only. Currently, state violence victims have demanded the inauguration of the second phase of the TRC while urging the amendment of the Framework Act on Clearing Up Past Incidents for Truth and Reconciliation (FATR). As of May 2019, processing of the amendment bill of the FATR is being delayed due to a disagreement between the ruling party and the opposition parties in the National Assembly.

- Moon Jae-in's administration's 100 Policy Tasks contain a 'resolution of past issues in a way that meets the expectations of the people', amendment of the FATR in 2017 and the reopening the TRC during the first half of 2018. What are the efforts being made by the Government for the amendment of the FATR for additional truth investigations and providing reparation?
- What are the remedies for state violence victims who had not been able to apply for the truth investigation at the time of the TRC operation?
- The article 40 of the FATR stipulates that the executive administration may fund the establishment of a research foundation for past incidents and for the foundation to execute support for further investigations. In accordance with article 40, please provide specific plans including a timeline and the budget to establish the foundation.

#### **The Judiciary that ignores the responsibility of remedy measure for human rights victims (Reference to Article 14)**

As of 13 May 2019, the court trial is going on regarding a collusion of the Supreme Court with the administration and ruled to deny the state's responsibility under Park Geun-hye's administration in relation to gross human rights violations of victims in the past. For example, the Supreme Court disapproved the facts that were verified by the TRC as evidence and it decided to shorten the statute of limitations at the compensation trials regarding past state violence from 3 years to 6 months with no legal grounds in spite of that 3 year of statute of limitation being acknowledged based on the civil law article 766. Due to such rulings, numerous state violence victims were not able to receive reparations. In particular, the case of victims of forced labours, the Judiciary in colluding with the Ministry of Foreign Affairs for attempting to reverse the ruling. In the case of the Japanese military sexual slavery, the Judiciary intentionally delayed its ruling.

- What are the specific measures for victims who have not received remedy measures due to judicial corruption including giving an opportunity for a petition for retrial?

#### **Article 4. No derogation in the time of emergency**

The Government has justified violating civil and political rights saying that the country is under specific security circumstances facing a hostile Democratic People's Republic of Korea as the world's

sole divided nation.<sup>4</sup> The Government has not tried to provide reparation for the victims even after it ratified the ICCPR in 1990. The martial law declaration in Jeju at the end of 1948, emergency measures under the military regime in the 1970s, May 18 Gwangju Democratic Uprising in 1980 are those cases that the Government arbitrarily declared martial law and violated people's civil and political rights. Also, the Government have avoided its international obligation by killing around one million civilians during the Korean War in the 1950s. Until 2019, proper investigations to find the truth and reparations for those victims have not been provided for these violations.<sup>5</sup>

In 2010, the Truth and Reconciliation Commission of South Korea recommended that "institutional measures should be made to minimize violations of basic rights such as preventive detention, limitation of residence, and freezing property under the state of emergency."

The military considered martial law if the Constitutional Court rejected Park Geun-hye's impeachment in 2017 which would have seriously violated freedom of expression and freedom of peaceful assembly.<sup>6</sup> The military's considerations in 2017 show that until today, the Government can arbitrarily announce a state of emergency and can justify a violation of civil and political rights.

- In case of civilian killings during the Korean War and the Jeju April 3<sup>rd</sup> Uprising and Massacre, reparations are given to the victims only when they filed individual lawsuits against the government. Does the Government have any plans to provide a comprehensive reparation by enacting or amending a relevant law? Please provide specific plans with a timeline and a budget.
- It is known that the Government has arbitrarily violated people's civil and political rights by announcing martial law under the "special circumstance which is a division of a country". What measures is the Government taking to guarantee non-recurrence?

## **Article 7. Prohibition of torture or to cruel, inhuman or degrading treatment or punishment**

During the past authoritarian regime (before the 1990s), illegal detention and torture were frequently committed against opponents of the regime, human rights defenders, and even ordinary citizens. In the mid-1990s, as the democratic government came in, lawsuits and demanding the truth investigation on past incidents of torture and inhuman treatment were raised. However, the Judiciary responded passively in providing remedial measures for victims on the grounds of the scope of the statute of limitations and it has further come to a ruling denying the state responsibility. In case of state fabrication incidents, although the court had been providing remedial measures for victims by developing certain legal principles, in case of victims of torture, remedy measures have not been provided by applying the scope of the statute of limitations strictly.

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<sup>4</sup> Human Rights Committee, Views Communication Nos. 1321/2004 and 1322/2004, 23 January 2007, CCPR/C/88/D/1321-1322/2004, para. 4.1-4.3

<sup>5</sup> In case of the Jeju April 3<sup>rd</sup> incident, the national investigation report was adopted in 2003 but no one was punished or held responsible.

<sup>6</sup> Hankyoreh, Military considered martial law if constitutional court rejected Park's impeachment in 2017, 6 July 2018, [http://english.hani.co.kr/arti/english\\_edition/e\\_national/852252.html](http://english.hani.co.kr/arti/english_edition/e_national/852252.html)

Such a problem occurred for torture victims of emergency measures in the 1970s. The court apparently acknowledges that torture was committed but on the grounds of the scope of the statute of limitations, such cases are being excluded. In December 2017, the Justice and Prosecution Reform Commission<sup>7</sup> recommended to the Ministry of Justice to not apply the statute of limitations on state liability of reparation on crimes against humanity such as torture and fabrication of evidence committed by the state authority. In addition, the victims' statements are important due to the characteristics of torture incidents, there are many cases where the court arbitrarily excluded the victims' statements without reasonable grounds or a process of re-victimization of the victims' human rights have been committed in the process of the investigations due to lack of human rights sensitivity.

- What are the specific plans to implement the recommendations from the Justice and Prosecution Reform Commission to not to apply the scope of the statute of limitations on state responsibility of reparation on crimes against humanity?
- Considering the characteristics of torture incidents, does the government provide relevant human rights education to judges, prosecutors, law enforcement officials and related personnel? Please provide information for relevant human rights education including the number of times, content, budget and instructors.

<Case or arbitrary application of a statute of limitation>

In order to suppress the opposition against the dictatorship in the 1970s, the court imprisoned people who struggled against the Government without a warrant, on a charge of violating Emergency Measure and martial law. The court inflicted ill-treatment such as torture and convicted those people of Emergency Measures No. 9 violation or sedition. In particular, many people were punished on the grounds of 'emergency measures No. 9' issued in 1975 and of 'decree of martial law' in 1979 in which stipulated prohibition on assembly, demonstration and on spreading a groundless rumour. The supreme court acknowledged the illegality of Emergency Measure No.9 and decree of martial law. However, by applying strictly the statute of limitations, the supreme court is denying the state's responsibility for human rights violation of illegal detention, non-recognition of right to appointed counsel stipulated in the Constitution and criminal act, and ill-treatment such as torture.

## **Article 8. Prohibition of slavery and forced labour**

The Government issued the Ministry of Interior (MOI) Decree No. 410 ("Guidelines on Official Tasks Concerning the Reporting, Control, Accommodation, Custody, Repatriation, and Follow-Up Management of Vagrants") in 1975. This decree provided the Government with legal grounds upon which a number of victims of imprisonment and forced labour at concentration camps were

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<sup>7</sup> The Justice and Prosecution Reform was established under the Ministry of Justice on 9 August 2017. It consists of 17 experts and monitors works of the justice and prosecution to make recommendations to the Minister of Justice.

generated. The victims ranged from children to elderly, and there was no gender preference. The concept of “vagrants” used by the Government was extremely arbitrary, unconstitutional and contrary to human rights. Police officers and civil servants were organized into teams hunting down and carrying individuals to concentration camps for sleeping on the streets, selling gum, shining shoes, begging, or even forgetting to carry their Resident Registration Cards with them. Dozens of these concentration camps for the incarceration of vagrants were set up across the nation with unmistakable state sanction. One of the prime examples of such camps is the Brothers Home which operated between 1975 and 1987, and the estimated number of the inmates at the Brothers Home was 18,000.<sup>8</sup> The inmates at the concentration camp were hopelessly exposed to forced labour, violence, sexual assault, and other forms of human rights violations to children, men, and women. Due to the excessive level of human rights violations at the camp, 513 inmates and more are known to have died at the Brothers Home between 1975 and 1987. In many cases, the bodies were illegally disposed, and some were sold to hospital as cadavers.

The evil of vagrant concentration camps caught public attention for the first time in January 1987, when an inmate died in a beating and 35 others escaped the Brothers Home in groups shortly afterwards. With the media attention, New Democratic Party, then-opposition party, released a special report and the police began to investigate the head of the Brothers Home, Park In-geun. With the report and the investigation, the state had a good understanding that the vagrant policy entailed state-sponsored violence, yet it did not complete investigation about what happened at the Brothers Home and the perpetrators were never held accountable. Park received a prison sentence of 2.5 years only under the charge of embezzling government subsidies, and not on other more serious charges, such as ‘felonious imprisonment’ or ‘crime of violence’. The Brothers Home was shut down in 1987 and the Decree No. 410 was abolished but the policy which could arbitrarily exclude vagrants was continued with only its title changed.

The gross human rights violations at such vagrants concentration camps were forgotten for years after its first momentum passed, yet in 2012 it came to surface when a victim at the Brothers Home, Han Jong-sun, started a one-person protest and spoke out his testimony. This case revealed the fact that most of the victims were not made rehabilitation to the society after the closure of the Brothers while a great number of them were still institutionalized at mental or welfare facilities, suffering from mental and physical traumas.

Since then, the victims of the Brothers Home kept struggling for finding the truth and fighting against impunity by organizing various forms of protests such as hunger strike, a march across the country and so on. With the voice of the victims at the Brothers Home started being heard, other cases of inhumane facilities for vagrants such as Seongam Hagwon, Yangji-won, and etc. were also revealed. As of May this year, a sit-in protest of the Brothers Victims in front of the National Assembly asking for the legislation on the case of the Brothers and other vagrant concentration camps have been

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<sup>8</sup> The number of the victims is only an estimation as the truth of the Brothers and other camps have never been found at any level. For the case of the Brothers Home, the numbers of the inmates and the dead were estimated, based upon ‘Saemaul(New Town)’, the monthly bulletin at the Brothers. The Brothers had to keep the record at a certain level, since the figures determined the amount of the subsidies assigned from the government.

going on over 550 days.

- As the authoritarian government in the 1970s and 1980s enforced the policy of imprisonment and exclusion of the vagrants, the victims were exposed to the gross level of human rights violations such as arbitrary detention, enslavement, violence, and sexual assault. Please provide specific plans with timeline and budget on how the Government is going to investigate these violations.
- In November 2018, the Prosecutor General made an official apology for its failed investigation in 1987 when the horrendous human rights violations committed at the Brothers Home was known to the public for the first time and promised to push for an exceptional appeal to have the Supreme Court reopen the case. However, the investigation or the judicial process have not been implemented in order for the truth, compensation, and rehabilitation for the victims to take place. Please provide specific plans to initiate measures to remedy this situation.

### **Article 9. Right to liberty and security of person**

During the military dictatorship (1960s~1980s), the Social Safety Act was enacted and it allowed 'security custody'. The security custody was an administrative order to re-detain individuals who finished their sentence under security purpose. According to the Social Security Act, the detention period is 2 years but it could be renewed indefinitely under the order of the Minister of Justice without a judicial review. This act seriously violated the right to liberty and security of persons. The Social Safety Act was abolished in 1989 and automatically 'security custody' was abolished, but in the same year, the Security Surveillance Act was enacted with security surveillance measures. The security surveillance measures do not detain individuals like the security custody but it persistently violates the right to privacy and it still exist until today in 2019. (Security Surveillance measure >> Article 17)

In 1987, the Supreme Court ruled that the security custody is not unconstitutional since it was a security measure, not a double punishment. Accordingly, the lower court has refused to provide criminal compensation to the victims even though they were found guilty at the retrial because the court did not consider the security custody as execution of sentence. In 2019, the National Human Rights Commission of Korea (NHRCK) recommended that criminal compensation should be given to the victims of the security custody.

- What is the specific plan to implement the NHRCK's recommendation to provide criminal compensation to the victims of the security custody?

<Case>

Under the Park Chung-hee administration (1963-1979) a fabricated spy case of Korean residents in Japan took place. Some of the Korean residents in Japan came to the Korea as students and the Government wanted to blame university students who opposed the military dictatorship in 1975 as they were ordered by the North Korean regime. Jong-kon Kang who was a Korean resident in

Japan came to Korea to study in 1973 and was illegally detained by the Central Intelligence Agency in 1975, fabricated as 'spy' and sentenced for five years. After he finished his prison term, he was not released and under the Social Security Act, he was detained for another 8 years at Cheongju Security Detention Center.

In 2014, he was found not guilty at the criminal re-trial and requested for a criminal compensation accordingly. Unfortunately, the lower court ruled that he cannot be compensated for those 8 years of detention under the Social Security Act. Therefore, Mr. Kang appealed to the Supreme Court in February 2016, but the court has not yet made any decision for more than 3 years until today.

#### **Article 14. A Fair trial**

On 5 March 2019, the prosecution charged 14 former and current judges including former Supreme Court Chief Justice Yang Seung-tae on a charge of judicial corruption. Through this indictment it is confirmed that at the time of former Supreme Court Chief Justice, the independence and fairness of the Judiciary were compromised as follows: judges' independence was compromised due to a collusion with the administration and trials were used as a dealing tool for the advantage of the Judiciary. The Judiciary ruled denying state responsibility by reason of budget saving while ignoring the mission of ensuring the right to remedy human rights victims for state violence. Former Supreme Court Chief Justice Yang Seung-tae stated in the report that he submitted to President Park Geun-hye that he had reduced the amount of 1.3 trillion won by ruling for limiting the state's responsibility for reparation for civilian massacre victims and exempted the Government from paying 550 billion won<sup>9</sup> by negating the state the responsibility of reparation for the case of emergency measures. In some cases, aged victims died without receiving a remedy measure due to deliberate delays of trials on state violence and past human rights violations.

- What are the Government's specific planned measures for victims who have not received remedy due to judicial corruption?
- What are the specific measures taken to prevent the recurrence of an incident such as judicial corruption to take place again?

#### **Article 17. Right to privacy, communication and family**

Security surveillance was enforced by the Social Safety Act, enacted in 1975. This legislation was abolished in 1989, and replaced by the Security Surveillance Act which was established in 1989 and it has been active ever since. If a person is subject to security surveillance according to the Security Surveillance Act, that person must report major activities to the police chief with jurisdiction over his case every three months, after he/she serves the sentence. This reporting includes a place of

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<sup>9</sup> Calculation method: 9,698 (number of affected) x 136 million won = 1.3 trillion won, 1,140 ((number of affected) x 500 million won = 550 billion won

register, family or cohabitants, occupation, monthly income and the person's financial status, religion and membership in organizations, place or work and contact telephone number, travels, and more.<sup>10</sup> The police in the person's registered area also have a right to make contact with them regularly to check and monitor if the person has not violated the obligations in the Act. The period of disposition is two years to begin but it can be renewed without any limitations. In terms of violating the freedom of privacy to those who already have completed a term of imprisonment, security surveillance completed double punishment. When the primary National Action Plan was designed in 2006, the NHRCK recommended that the abolition of the Security Surveillance Act should be included. The NHRCK stressed that security surveillance caused an excessive number of disadvantages to the person as a double penalty, not by the person's actual repeating his or her offense, but by the risk of repeating such offense, assuming the intention of the person. However, this recommendation has never been included in the final National Action Plan. As of May 2019, the number of persons subject to the security surveillance disposition is 1,670 and the number of persons under security surveillance after his or her review is 42.<sup>11</sup>

- The victims of fabricated cases of espionage were also subject to security surveillance by reason of the risk of repeating their crimes. Their criminality does not exist any longer since it was acquitted due to the illegal investigations of the state, including torture. Please provide specific plans to implement measures of remedy including an apology and compensations to the victims who were under the security surveillance for years after their term was complete and their crimes were acquitted as not guilty.
- Please provide specific plans to abolish the Security Surveillance Act that is an example of double penalties and the excessive violation of the freedom of privacy.

## **Article 19. Freedom of Opinion and Expression**

In 1972, the Park Chung-hee administration illegally revised the Constitution ('Yushin' Constitution)

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<sup>10</sup> Article 18 of the Security Surveillance Act [Matters to be reported] (1) A person who is under security surveillance disposition shall report to the chief of the competent police station via the chief of an area patrol unit or a police substation having jurisdiction over the area of his residence, on the matters falling under the following subparagraphs, within seven days from the date he receives a notice of the decision on security surveillance disposition. 1. Place of register, residence (the place in which he actually resides), name, date of birth, gender, and resident registration number; 2. Family, cohabitants, and associates; 3. Occupation, monthly income, and the financial status of the person subject to security surveillance and his family; 4. Educational, and career background; 5. Religion and membership in organizations; 6. Place of work, and contact telephone number; 7. The competent police station where the report on the person subject to security surveillance disposition is made, and the date of report; and 8. Other matters prescribed by Presidential Decree. (2) A person under security surveillance shall report to the chief of the competent police station via the chief of an area patrol unit or a police substation on the matters falling under the following subparagraphs, on the last day of every third month beginning with the month in which a person received notice of decision on security surveillance disposition: 1. Major activities for a three-month period; 2. Personal details about other persons subject to security surveillance disposition whom the person under security surveillance has communicated with and met, and the date, place and details thereof; 3. Matters relating to trips made during a three-month period (including matters concerning a trip that has been suspended after making a report); and 4. Matters directed by the chief of the competent police station to report on security surveillance.

<sup>11</sup> Inquiry of a MP Keum Tae-seop to the Ministry of Justice in 2017

for a long-term seizure of power. In order to suppress the criticism from the people, 'emergency measures' were established and were implemented from 1975 to 1979. The emergency measures made complete prohibitions to the voice of not only those who criticized the amended Constitution but also of those who only discussed the revision. The violation of this new legislation resulted in arrests without a warrant, detention, search, and seizure, and the trial was proceeded at military courts, not at civil courts. The period of imprisonment could be extended to 15 years.<sup>12</sup> In 2010, the Supreme Court ruled that the emergency measures were set forth without completing the constitutional composition for its enforcement and were used to severely violate the fundamental rights of persons, hence the measures are unconstitutional and void.

However, the Judiciary under the former Supreme Court Chief Justice Yang Seung-tae decided at the compensation appeals where the victims asked the Government to be accountable for such violations that the emergency measures were a political act of the State and were made constitutional and that the accountability of the Government was denied for the compensation. Supreme Court Chief Justice's decision is highly engaged with the judiciary corruption that was mentioned above. (Article 14)

- Please provide specific plans to initiate the measures of remedy to the victims of the emergency measures that were state crimes including an official apology from the Government, steps to ensure the recovery of the victim's' reputation, and the appropriate compensation for victims.

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<sup>12</sup> The number of trials prosecuted of emergency measures was 589. Among those, the largest percentage of the charges, 48%(282 cases) was a conversation over drinks or at class criticizing Park Jung-hee or the Yushin. The 191 cases(32%) were regarding the movement of the student that organized protests or published fliers to express their opposition to Yushin or emergency measures. 85 cases (14.5%) was the political activities including the opposition party's to raise the voice against the Yushin. The 5 cases(5%) was the crime of public officials or shipping property out of the country, and the 2 cases(0.5%) was an espionage. The estimated number of the total victims who are punished under emergency measure is 1,140.