

INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN REPUBLIC OF KOREA

**REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE
TRADE POLICIES OF REPUBLIC OF KOREA
(Geneva, 19 and 21 September, 2012)**

EXECUTIVE SUMMARY

The Republic of Korea has ratified the four core ILO labour Conventions covering discrimination and child labour, but not the four covering freedom of association or forced labour. In view of restrictions on the trade union rights of workers and discrimination, in particular, determined measures are needed to comply with the commitments Korea accepted at Singapore, Geneva and Doha in the WTO Ministerial Declarations over 1996-2001, and in the ILO's Declaration on Fundamental Principles and Rights at Work and its 2008 Social Justice Declaration.

The national law does not meet international core labour standards. The authorities have repeatedly interfered with trade union activities and routinely arrest and convict union members who organise or participate in collective action. The government has also sought the deportation of migrant workers who organise in unions. Employers make use of anti-union practices including intimidation, threats, lock-outs and workplace damage claims. Violence against protestors by company-hired private security as well as by police remains a problem.

Discrimination in employment and occupation is prohibited by law. However in practice discrimination against women and foreign workers is frequent. Women in particular face a considerable wage gap, and they tend to be concentrated in low-skilled and low-paid positions. The current employment permit system puts foreign workers in a vulnerable situation, rendering them easy victims of abuse and exploitation.

Child labour is not widespread in Korea. Education is compulsory up to the age of 15, the minimum age to enter work. Work performed by minors younger than 18 is regulated.

Forced labour is prohibited by law but the country does not have a comprehensive anti-trafficking law. The migration system makes migrant workers vulnerable to several forms of exploitation and forced labour. Practices such as withholding of wages and travel documents, which indicate forced labour, are reported.

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN REPUBLIC OF KOREA

Introduction

This report on the respect of internationally recognised core labour standards in South Korea is one of the series the ITUC is producing in accordance with the Ministerial Declaration adopted at the first Ministerial Conference of the World Trade Organisation (WTO) (Singapore, 9-13 December 1996) in which Ministers stated: "We renew our commitment to the observance of internationally recognised core labour standards." The fourth Ministerial Conference (Doha, 9-14 November 2001) reaffirmed this commitment. These standards were further upheld in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998 and in the Declaration on Social Justice for a Fair Globalisation adopted unanimously by the ILO in 2008.

The ITUC affiliates in South Korea are the Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU) which have a membership of over 1,500,000 persons covering various areas of employment in South Korea.

I. Freedom of Association and the Right to Collective Bargaining

The Republic of Korea has not ratified ILO Convention No. 87 on the Freedom of Association and Protection of the Right to Organise, or Convention No. 98 on the Right to Organise and Collective Bargaining.

The Right to Form and Join a Trade Union

The law provides workers with the right to organise. However there are many restrictions and limitations to that right.

In the private sector, the 1997 Trade Union and Labour Relations Adjustment Act (TULRAA) allows for immediate trade union pluralism at industrial and national level. However since 1997 the implementation of this provision at the company level has been repeatedly delayed. Originally, the formation of competing unions at the workplace was to be allowed by 2002, but then the ban was extended until the end of 2006. In 2006, it was again decided to push back the implementation of this provision until 2009. The government passed a new amendment in 2010 that eventually put the law into force. In a context where pluralism at the plant level was prohibited for a long time, many employers resorted to creating management-controlled unions, known as "paper unions". As those unions are impossible to democratise from within, owing to management's hostility and control, such workers were left with few, if any, rights and could not engage in genuine collective bargaining.

The amended TULRAA also reduced the number of full time union officials and instead of wages, union officials are now given paid time-off for their union activities with an exception for a certain amount of time that may be compensated by the employer. The law also limited the type of activities these officials could conduct to those in which *“labour and management have common interests”*. The number of full-time unionists in workplaces with less than 300 workers has decreased by 25 per cent. The ILO Committee on Freedom of Association (CFA) has asked the government *“to expedite the resolution of the payment of wages by employers to full-time union officials so that this matter is not subject to legislative interference, thus enabling workers and employers to conduct free and voluntary negotiations in this regard”*.

In the public sector, the law on the Establishment and Operation of Public Officials’ Trade Unions that went into effect in January 2006 gives civil servants the right to organise within administrative units predefined by the law. However, there are numerous categories of public officials who are still denied their trade union rights, including managers, human resources personnel, personnel dealing with trade unions or industrial relations, and special public servants such as military, police, fire-fighters, politically-appointed officials, and high level public officials. When public sector trade unions are allowed, they are not permitted to get involved in political activities. The law also prohibits public sector unionists from engaging in *“acts in contravention of their duties prescribed in other laws and regulations when doing union activities”*. This very broadly worded provision leaves the door open for abuses.

The 363rd Report of the Committee on Freedom of Association with regard to the Act on the Establishment and Operation of Public Officials’ Trade Unions requested the government to ensure that *“public servants at all grades, regardless of their tasks or functions, including firefighters, prison guards, those working in education-related offices, local public service employees and labour inspectors, have the right to form their own associations to defend their interests”* as well as ensure *“that any restrictions of the right to strike may only be applicable in respect of public servants exercising authority in the name of the State and essential services in the strict sense of the term”*.

The government has been repeatedly interfering with the activities of the Korean Government Employees Union (KGEU). KGEU has filled for a registration three times and it has been turned down. There have been numerous closures of branch offices as well as seizure and search of KGEU’s headquarters. Moreover, when public officials’ unions participated in a 2010 rally for *“Restoring Democracy and Improving People’s Livelihood”* and published a newspaper advertisement under the title *“We want to become civil servants of the people”*, the union officials were persecuted with discipline measures and 18 dismissals. Another 29 union officials were punished with disciplines measures when they advertised a union ballot on the integration of the three public services’ unions. The government also heavily interfered in the inaugural assembly of KGEU and ordered the removal of all KGEU’s signboards, banners and posters; blocking the access to the KGEU’s website, intranet and external networks; prohibition of all union activities in the name of the KGEU, including issuing newsletters, elections, retreats, meetings; and the refusal of requests for events in the name of the KGEU. The

government also prevented delegates from Public Services International, Asia–Pacific (PSI–AP) from entering Korea, in order to hinder KGEU’s inauguration rally on 20 March 2010. The authorities also conducted investigations based on information that was acquired by illegal means (hacking), the results of which it used in order to press charges on 293 labour union officials of the KGEU and the Korean Teachers and Education Workers Union (KTU) which resulted in 273 charges. The authorities had used illegal methods to acquire information on KGEU’s officials that resulted in 90 persons being charged for being affiliated to the opposition Democratic Labour Party.

In January 2011, the Ministry of Labour rejected a 2010 recommendation from the National Human Rights Commission of Korea (NHRCK) to reduce its interference in labour union establishment procedures, as well as membership criteria and fees. The Ministry also ignored demands to allow temporarily unemployed workers into unions. The law prohibits dismissed workers from remaining members of a union, and states that non-union members are not eligible for trade union office. However under ILO standards, such matters should be left to the discretion of the trade unions’ statutes. The Committee on Freedom of Association called on the government to *“repeal the provisions prohibiting dismissed and unemployed workers from keeping their union membership and making non-union members ineligible to stand for trade union office”*.

Migrant Workers’ Right to Organise

Although the law does not discriminate against migrants’ workers and these workers enjoy the right to organise, the government has been routinely refusing to recognise the Migrants’ Trade Union (MTU) as a legal union. The government has arrested six and deported five of MTU’s officers since 2005 regardless of a 2006 decision of the Seoul Higher Court that recognised MTU. The government has appealed this decision. In February 2007 the Seoul High Court ruled that all migrant workers have the right to form and join unions, regardless of their residence status in Korea. The Ministry of Labour appealed this decision too. In November 2010 the Immigration Office summoned Michael Catuira, the President of MTU for conducting forbidden political activity. After exerting pressure on his employer, the authorities cancelled the employment permit of his employer and then summoned Michael Catuira for breaching the immigration law in December 2010. In February 2011 the Ministry cancelled his work and sojourn permits and ordered his deportation. In September a court cancelled the deportation order for Michael Catuira was not falsely employed, as the authorities claimed, and decided that the acts taken against him were due to his association with the MTU. In November, the ILO also recommended that the government refrain from taking any measures which might risk interference with trade union activities. The Committee on Freedom of Association also recalled that *“measures of deportation of trade union leaders, while legal appeals are pending, may involve a risk of serious interference with trade union activities”*.

The Right to Bargain Collectively and Strike

The law provides for workers' right to collective bargaining and collective action. However there are important restrictions. The rights to bargain collectively and strike are limited by the abusive use of Article 314 of the Korean Criminal Code on "Obstruction of Business". Employers often rely on this article to harass and seek the incarceration of union leaders especially in cases of collective action. Indeed the charge of "Obstruction of Business" can lead to imprisonment of up to five years and/or exorbitant fines. The CFA has repeatedly urged the government *"to consider all possible measures, in consultation with the social partners concerned, so as to revert to a general practice of investigation without detention of workers and of refraining from making arrests, even in the case of an illegal strike, if the latter does not entail any violence"* and *"to amend section 314 of the Criminal Code concerning obstruction of business to bring it into line with freedom of association principles."*

The TULRAA now permits multiple unions in an enterprise; however, collective bargaining is now to be undertaken through a single bargaining channel which can threaten the rights of minority unions. In practice, employers rarely negotiate with all unions and unions often have to determine a representative trade union to conduct bargaining with the employer. If they fail to agree on a single bargaining agent on their own, the majority union, including a union delegated authority by an alliance with smaller unions, would be declared the bargaining agent. If there is no majority union, the multiple unions need to create a joint bargaining team. In this arrangement, the participation of any union whose members constitute less than 10% of the total membership of the trade unions participating in the arrangement is excluded, and the existence of management-controlled unions greatly impedes genuine collective bargaining.

In the public sector, civil servants have the right to collective bargaining, but the subjects of negotiation are limited to matters concerning trade unions, members' pay and welfare and other working conditions. Trade unions are not allowed to address other economic and social issues.

Strikes are illegal if they are not specifically called for labour conditions, such as wages, welfare and working hours. In addition, given the complicated legal procedures for organising a strike, collective actions on labour conditions often become "illegal" for breach of procedure. Unauthorised strikers often are punished with imprisonment for one year or/and heavy fines. Workers face immense difficulties in calling legal strikes due to a series of complex legal procedures on declaring strikes. As a result, most strikes are declared illegal. Also, the interpretation from the courts is that restructuring, privatisation and layoffs fall under the category of management rights and therefore strikes to prevent them are not permitted. Concerns also remain over courts favouring management during lawsuits.

Moreover, emergency arbitration that outlaws collective action in public services and large enterprises remains in place. Such emergency arbitration goes beyond the

ILO's definition of essential services and applies multiple restrictions on the right to strike and excessively limits workers' rights to collective action. The government has issued a long list of essential services that includes railways, utilities, military industry, public health, the Bank of Korea, and telecommunications for which the right to strike is heavily restricted. The CFA has asked the government to limit the restrictions on the right to strike to those services "*the interruption of which would endanger the life, personal safety or health of the whole or part of the population*". The CFA has asked the government to "*amend the emergency arbitration provisions of TULRAA (sections 76–80) so that it can be imposed only by an independent body which has the confidence of all parties concerned and only in cases in which strikes can be restricted in conformity with freedom of association principles*".

Furthermore, a 1999 law on the Establishment and Operation of Trade Unions for Teachers bars members of this profession from the right to strike.

The government has enacted a ban on striker replacements, although it has been relaxed to some degree for essential public services. The law also establishes that in the case of a strike in essential services the employer and the union have to indicate the ratio of members of each union to guarantee a minimum service. This provision has been abused by the government. The CFA has repeatedly asked that in issuing decisions, the Labour Relations Commission should take "*due account of the principle according to which a minimum service should be confined to operations that are strictly necessary to avoid endangering the life or normal living conditions of the whole or part of the population*".

The law also allows employers and trade unions to unilaterally cancel collective bargaining agreements following a six month notice period. Such terminations increased by four times in public institutions. By July 2011, the number of unilaterally terminated agreements was 459, more than the entire total of 451 received in 2010. In virtually all these cases the cancelation was initiated by employers.

In practice, employers often make use of anti-union tactics in order to impede the formation of free unions. For instance, Samsung employees have alleged that the company's management use counter-incentives, intimidation and even abductions against employees who attempt to establish unions.

The most commonly used technique is to sue trade unions under the Article 314 "Obstruction of Business" provisions, asking for imprisonment terms and unrealistic fines to be imposed upon strikers or workers who take part in collective action. An investigation by independent newspaper Hankyoreh in five large enterprises with labour disputes found a total amount of compensation claims of 75 billion won (approximately USD64 million). KEC for example claimed 30.1 billion won (USD26 million) and Hanjin Heavy Industries 5.3 billion won (USD4.5 million) including a 96 million won (USD83,200) fine against union member Kim Jin-suk who staged alone a protest on the top of a crane for 309 days in 2011. These companies claimed that they suffered losses of income due to illegal collective action and that they follow procedures enshrined in laws

to request compensation. This practice is used notwithstanding a 2004 agreement between labour and management restricting large indemnification suits after a series of workers' suicides that had resulted from large lawsuits. Many union members lost assets and property in order to pay the astronomical amounts in compensations. Several trade unionists are in jail for organising or participating in unauthorised strike. Workplace damage claims are on the rise and are primarily being used to suppress the right to strike and to crack down on unions. The Hanjin Heavy Industry Co. Ltd exports ships and belongs to the conglomerate, Hanjin Group. KEC is an electronics company producing among others semiconductors, in which category Korea is one of the world's leading exporters.

About ten workers of Vietnamese origin working for Taehung Construction, a subcontractor for Hyundai in Incheon, were arrested in March and April 2011 for organising a strike that obstructed business operations. The workers were complaining because they were forced to work 12 hours a day, seven days a week for 4,110 won (USD3.5) even though their employment contract stipulated a five-day work week. Since July 2010, the management decided to deduct 240,000 won (USD210) from their monthly wages for breakfast and dinner, while lunch was provided for free. At the first trial which took place on 26 May, the prosecution sought prison sentences ranging from one to three years for the workers. Hyundai Engineering and Construction Co., is a major construction company in South Korea which has carried out projects in Korea and around the world.

When workers organise demonstrations it is most probable that they will be met with police force. Usually prosecutors move quickly to arrest the demonstration organisers and union leaders and police uses disproportionate violence to disperse protesting crowds. Unionists have alleged that sometimes security agencies have put their families and offices under surveillance. In April 2011, the newspaper Hankyoreh revealed that prosecutors were collecting DNA samples from workers who took part in the Ssangyong Motor strike and the occupation of Daelim Motor. Daelim Motor is a producer of motorcycles and exports its products to many countries. Ssangyong Motor is Korea's fourth largest automobile producer and since 2011 almost 70 per cent of its shares belong to the Indian company, Mahindra.

Furthermore, there is increasing violence by employer-hired private security agents. On one occasion, the car parts manufacturer SJM is reported to have ordered personnel from the private security firm Contactus to violently break-up a sit-down strike at its factory in Ansan, Gyeonggi province on July 27, 2012.

New Laws Eroding Protection

According to the Government, contract workers and other non-regular workers account for more than 50 per cent of the workforce. Precarious workers in this category face particularly great obstacles to union membership. Furthermore there is concern that the "National Employment Strategy 2020", a government initiative to generate jobs by deregulating the labour market, will empower employment agencies and increase

precarious employment. These workers performed work similar to regular workers but receive approximately 60 per cent of the wage of a regular worker for the same work. Moreover, non-regular and contract workers are not entitled to national health and unemployment insurance and other benefits.

The economics, finance and investment on-line service “*Economy Watch*” finds “*an imbalance of work protection and benefits between the regular and irregular workers [that] have led to strikes and protests by the irregular workers. This irregular labour force is the driving factor behind South Korea's economic recovery from the 2008 financial crisis and experts say that though the unemployment rate of 3.725 percent reflects on the growth of labor market, it does not reflect well on the fact that more than half of its workers are irregular workers receiving poverty wages.*” Most of these workers are employed in manufacturing of semiconductors, wireless telecommunications equipment, motor vehicles, computers, shipbuilding, petrochemicals and other leading sectors of the Korean exports.

A 2006 law allows companies with more than 300 workers to expand the length of temporary contracts for up to two years. Trade unions argue that this law might be used as a way of evading employers’ obligation to grant permanent contracts to their workers. The law multiplied the number temporary contracts. In addition, in most cases unionised workers do not have their contract renewed when they expire.

Workers have been trying to be granted regular worker status through courts. In January 2011, the Seoul High Court ruled that an in-house subcontracted worker of Hyundai Motor who worked for more than two years must be recognised as a full-time worker directly employed by Hyundai. In February 2012 the decision was upheld by the Supreme Court. Yet after initially saying it would respect the Supreme Court’s decision that such workers needed to be converted to full-time status, Hyundai announced in August 2012 that it would not accept the ruling or negotiate any conversions. In the meantime, the Korean Metal Workers’ Union and its non-regular workers’ union in Hyundai initiated industrial action for the conversion of all in-house contract workers into regular workers. In opposition, the company filed 15 suits requesting damages amounting to 16.2 billion won (USD14.4 million) from workers who occupied the Ulsan, Asan, and Jeonju plants for their regularisation. The police arrested several of the workers who organised the strike and sit-ins and around 1,000 workers were punished for taking part, including 104 firings and 659 suspensions. Only one fourth of Hyundai’s workers are regular employees. Hyundai is one of the biggest South Korean conglomerates and lead exporter of cars.

Export Processing Zones

The 2003 law on Special Economic Zones (SEZs) contains preferential provisions in relation to foreign companies investing in Korea’s 29 SEZs. It exempts them from many national regulations on the protection of the environment and labour standards. For example, foreign invested enterprises located in the zones are exempt from otherwise mandatory monthly leave (paid menstrual leave) for women. They are also exempt from

recruiting persons with disabilities for at least 2 per cent of their workforce, an obligation which applies to Korean companies with more than 300 workers.

Summary

The national law does not meet international core labour standards. The authorities have repeatedly interfered with trade union activities and routinely arrest and convict union members who organise or participate in collective action. The government has also sought the deportation of migrant workers who organise in unions. Employers make use of anti-union practices including intimidation, threats and workplace damage claims. Police violence against protestors remains a problem.

II. Discrimination and Equal Remuneration

The Republic of Korea ratified Convention No. 100 on Equal Remuneration in 1997 and Convention No. 111 on Discrimination (Employment and Occupation) in 1998.

By law discrimination is prohibited on the basis of gender, religion, disability, age, social status, regional origin, national origin, ethnic origin, physical condition or appearance, marital status, pregnancy and child delivery, family status, race, skin colour, thought or political opinion, record of any crime for which the sentence has been completed, sexual orientation or medical history.

Women

The Equal Employment Act prohibits discrimination against women in hiring and promotion with fines up to the equivalent of USD4,300 and publication of the incident in newspapers. The law also provides for a public fund to support victims in seeking legal redress. The 2006 amendments to the Equal Opportunities Act aimed at extending the scope of affirmative action programmes to both public and private sectors. However, only workplaces with more than 500 employees are covered.

The Equal Treatment Regulation was revised in June 2010 in order to add non-discrimination in wages and other money and valuable goods, education, assignment, retirement age, retirement and dismissal. However, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) warned that the Equal Treatment Regulation's "*prohibition of sex-based discrimination in wages will normally not be sufficient because it does not include the concept of "equal pay for work of equal value"*".

Although, the principle of equal pay for work of equal value is enshrined in another law, the Equal Employment Act, this principle is applied only on the workplace level. Yet the ILO Convention No. 100 extends the application of this principle beyond the same establishment or business, and makes it possible to address discriminatory effects of horizontal occupational segregation based on sex. The Committee noted that,

“according to the FKTU, no progress has been made with respect to measures taken or envisaged in this regard and that it is necessary to institutionalize the application of equal remuneration for work of equal value at industry as well as enterprise level” and asked the government to indicate any steps taken.

The law prohibits sexual harassment at the workplace and obliges employers to take preventive measures. The law also prescribes civil and administrative remedies for complaints of sexual harassment at the workplace.

According to 2009 government-provided statistics, the average monthly wage of female permanent workers was 33.5 per cent lower than men's. In particular, women between 40 and 60 years of age face a gender wage gap of 45 per cent. The wage gap also differs depending on the occupation: in health, social and religion related occupations where women represent the vast majority of workers, female permanent workers receive 46 per cent less than men; in education, professional and related occupations the gender pay gap is 40 per cent; in manufacturing, 36.8 per cent; in human health and social work activities 42 per cent and; in education 43 per cent. Female non-regular workers earn 70.7 per cent of male non-regular workers and 48.6 per cent of male regular workers. Moreover, 70 per cent of the non-regular workers are women. The Korean labour market is segregated along gender lines and women are underrepresented in senior and manager positions as only 8.2 per cent of such positions are occupied by women.

Migrant Workers

The laws protect migrant workers from discrimination. However, the amended Act on the Employment of Foreign Workers allows a maximum of three workplace changes without counting times where a change of workplace is requested due to *“a reason not attributable to the foreign worker”*, including when the worker has been treated unfairly by the employer including violations of the working conditions. The KCTU expressed its concerns to the CEACR *“that in practice migrant workers are still dependent on the employer notifying a change in workplace (notification of change of workplace), and workers who wish to change workplaces due to labour law or rights violations face severe difficulties because of their employers' refusal to make the proper notification”*. The government has paid insufficient attention to workplaces that employ foreign workers as only 5 to 6 per cent of roughly 75,000 such workplaces were inspected by labour inspectors. Reportedly, in such workplaces there are numerous cases of sexual harassment of migrant women workers and differences in pay.

There are approximately 700,000 migrant workers in South Korea mainly in textiles and manufacturing. Reports show it is more probable that a migrant worker is paid less, work long hours and sometimes have their wages withheld. Nearly 80 per cent of migrant workers reported having experienced verbal abuse at their workplaces and over 25 per cent reported physical abuse.

Persons with Disabilities

The Act on the Prohibition of Discrimination against Disabled and Remedy for Violation of their Rights prohibits discrimination against persons with disabilities in employment and services provision under penalties of three years' imprisonment and fines for deliberate discrimination against disabled persons. The law also mandates accessibility to buildings. The government has taken measures to improve disabled persons' access to employment through affirmative action programmes: since April 2009, enterprises that employ between 100 and 299 workers are required to provide proper facilities for disabled workers and as of April 2013 this requirement will enter into force for workplaces with 30–99 workers. Enterprises with more than 50 employees are required to hire persons with disabilities up to a 2 or 3 per cent quota depending on the type of the enterprise, except when the enterprise operates in an Export Processing Zone or other Special Economic Zone. The law stipulates that companies that do not comply with these requirements pay fines and the name of the company is published in an official list. A complaints mechanism of the National Human Rights Commission (NHCR) is also in place.

Lesbian, gay, bisexual, and transgender (LGBT) persons

Discrimination based on sexual orientation is prohibited by an NHRC decision. However, there are no laws that prescribe penalties for discriminating against LGBT persons. Reports show that such persons face discrimination in employment and other aspects of life.

Persons living with HIV/AIDS

There is no law to protect persons living with HIV/AIDS from discrimination and such persons are discriminated against. The NHRC received complaints of discrimination in employment and recommended remedies in two of the cases. The Korean immigration law prohibits the entry of industrial trainees and foreign workers who are HIV/AIDS positive. These categories of persons need a test in order to enter South Korea. When a foreigner becomes infected while staying in Korea, the person is deported. There is limited information on HIV/AIDS workplace programmes.

Summary

Discrimination in employment and occupation is prohibited by law. However in practice discrimination against women and foreign workers is frequent. Women in particular face a considerable wage gap and tend to be concentrated in low-skilled and low-paid positions. The current employment permit system puts foreign workers in a vulnerable situation, rendering them easy victims of abuse and exploitation.

III. Child Labour

The Republic of Korea ratified Convention No. 138 the Minimum Age Convention in 1999, and Convention No. 182, the Worst Forms of Child Labour Convention, in 2001.

Employment of children under the age of 15 is prohibited without a special employment certificate from the Ministry of Labour. Children aged 16 and 17 must have written approval from parents or guardians to be able to work. Parents or guardians may not enter into a labour contract on behalf of a minor but they may terminate a contract if it is disadvantageous to the child. Children may not work more than 7 hours per day and 42 hours per week. Children are prohibited from engaging in work that is detrimental to their morality or health. Night work is also prohibited. Employers can require minors to work only a limited number of overtime hours.

Education is compulsory from the age of 6 to 14. Primary school begins at the age of 6 and lasts 6 years. Virtually all students who enrol in primary school reach the last grade. Secondary education begins at the age of 12 and lasts 6 years.

In practice child labour is not considered to be widespread in Korea. A 2010 survey found that 4 per cent of youth in general and 17.4 per cent of youth at risk surveyed were employed in harmful establishments including karaoke rooms and video/DVD rooms. There were 21,546 violation cases which resulted in 506 persons facing public trials and 10,645 persons in summary trials. The number of convictions achieved is unknown.

The authorities enforce the laws protecting children from exploitation at the workplace through regular inspections.

Summary

Child labour is not widespread in Korea. Education is compulsory up to the age of 15, the minimum age to enter work. Work performed by minors younger than 18 is regulated.

IV. Forced Labour

The Republic of Korea has not ratified Convention No. 29, the Forced Labour Convention nor Convention No. 105, the Abolition of Forced Labour Convention.

The Constitution provides that no person shall be subjected to involuntary labour. The Labour Standards Act prohibits employers from forcing their employees to work against their will through the use of violence, intimidation, confinement, or by other means. Employers found to abuse workers are subject to criminal charges. Korea has not enacted a comprehensive anti-trafficking law and the authorities use the 2004 Act on the

Punishment of Acts of Arranging Sexual Traffic and its Labor Standards Act and other statutes to process trafficking cases.

Reports show that women from other Asian countries are coerced into prostitutes. These women usually enter the country with entertainment visas or are married to Korean husbands, or have run away from them.

Many migrant workers have accumulated huge debts in order to pay high recruitment fees for jobs in Korea. Once in Korea, some of them find that the jobs are very different from those they were promised and are more dangerous or more poorly paid than they had expected. The Korean Employment Permit System (EPS) provides few rights to negotiate a change of job and migrants are largely unaware of these rights. Consequently, migrant workers may either accept working conditions below national standards, or give up their legal employment and go on working as undocumented migrant workers with a particularly high risk of being exploited and abused. The lack of legal status makes it extremely difficult for migrants to assert their rights or to seek redress for abuses. Practices such as withholding of wages and travel documents which indicate forced labour are also reported.

In 2011, the authorities investigated 53 sex-trafficking cases, which resulted in a total of 11 convictions. The government trained prosecutors in investigating sex-trafficking cases, it provided funding for NGO-run shelters and it operated 18 shelters that could provide services among others to victims of sex trafficking.

Summary

Forced labour is prohibited by law but the country does not have a comprehensive anti-trafficking law. The migration system makes migrant workers vulnerable to several forms of exploitation and forced labour. Practices like withholding of wages and travel documents which indicate forced labour are reported.

Recommendations

1. The government must ratify ILO Convention No. 87 on the Freedom of Association and Protection of the Right to Organise, Convention No. 98 on the Right to Organise and Collective Bargaining, Convention No. 29, the Forced Labour Convention and Convention No. 105, the Abolition of Forced Labour Convention.
2. Article 314 of the Korean Criminal Code on “Obstruction of Business” must be urgently repealed.
3. The government should prosecute employers who make use of anti-union tactics and discriminate against unionised employees.
4. The requirement of establishing a single bargaining channel on the enterprise level must be abolished.
5. The subjects of collective bargaining should be left to genuine negotiations between the state and the trade unions of public employees.
6. Strikes for reasons other than labour conditions should be legalised. The procedure of calling for a strike needs to be simplified.
7. No workers who took part in peaceful, even if unauthorised, collective action should be punished or prosecuted. The authorities should not disperse or provoke protesters in such events.
8. Emergency arbitration in public services and large enterprises should be abolished.
9. The government needs to amend the list of essential services so as to limit them to those the interruption of which would endanger the life, personal safety or health of the whole or part of the population.
10. The law on the Establishment and Operation of Trade Unions for Teachers should be repealed.
11. The government should identify and dissolve all employer-controlled “unions”.
12. TULRAA should be amended so as to allow the payment of full time union officials and increase the scope of their activities.
13. Public officials who are still denied their trade union rights, including managers, human resources personnel, personnel dealing with trade unions or industrial relations, police, fire-fighters and other categories of public workers that do not exercising authority in the name of the State should have their right to organise respected.
14. Public sector trade unions should be permitted to be involved in political activities. The provision that prohibits “*acts in contravention of their duties prescribed in other laws and regulations when doing union activities*” should be repealed.
15. The government must recognise the Korean Government Employees’ Union (KGEU) and stop all activities, including illegal activities, aiming at opposing the

- union. Agents and political persons involved in illegal action against members of the union should be prosecuted and convicted under the power of the laws that prohibit such activities.
16. Likewise, the government must recognise the Migrants' Trade Union (MTU) and stop all activities, including deportations and illegal false accusations, against members and leaders of this union.
 17. The authorities should enable temporarily unemployed workers and dismissed workers to join unions. They must take further measures to assist the regularisation of non-regular workers.
 18. Any exceptions from laws in Special Economic Zones (SEZs) and Export Processing Zones (EPZs) should be abolished.
 19. The Equal Treatment Regulation should be amended so as to give full expression to the principle of equal pay for work of equal value.
 20. The government should take measures to address the gender pay gap and women's overrepresentation in low skilled and low paid jobs.
 21. The migration system of Korea should be reformed so that it provides migrant workers with equal rights, especially in changing employment without losing their work and sojourn permits.
 22. The government should enact laws in order to protect LGBT persons and persons living with HIV/AIDS against discrimination in employment and other aspects of life.
 23. The government should enact a comprehensive anti-trafficking law.
 24. The WTO should draw the attention of the authorities of the Republic of Korea to the commitments they undertook to observe core labour standards at the Singapore and Doha Ministerial Conferences. It should request that the ILO intensify its work with the government of Korea in these areas and provide a report to the WTO General Council on the occasion of the next trade policy review.

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