The Republic of Korea (Korea or ROK) is a constitutional democracy governed by a president and a unicameral legislature. The country has a population of approximately 48 million. In April the Grand National Party obtained a majority of National Assembly seats in a free and fair election. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, there were problems in some areas. Women, persons with disabilities, and minorities continued to face societal discrimination. Rape, domestic violence, child abuse, and trafficking in persons remained serious problems.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

Official figures indicated that hazing was a factor in many of the 321 suicides by military personnel since 2004.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits mistreatment of suspects, and officials generally observed this prohibition in practice.

The government continued to investigate incidents of possible abuse under the country's former military regimes. As of November the Commission for the Restoration of Honor and Compensation to Activists of the Democratization Movement had reviewed 11,241 of the 13,348 cases reported since its creation in 2000 and determined that compensation was due in 8,908 of them.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers.

d. Arbitrary Arrest or Detention
The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. However, the National Security Law (NSL) grants the authorities broad powers to detain, arrest, and imprison persons who commit acts the government views as intended to endanger the "security of the state." Critics continued to call for reform or abolition of the law, contending that its provisions did not define prohibited activity clearly. The Ministry of Justice (MOJ) maintained that the courts had established legal precedents for strict interpretation of the law that preclude arbitrary application. The number of NSL investigations and arrests has dropped significantly in recent years.

During the year authorities arrested 16 persons and prosecuted another 27 persons for alleged NSL violations. Of those prosecuted, four were found guilty; the remaining 23 were on trial as of year's end. In August authorities indicted a secondary school teacher on charges of violating the NSL for distributing materials related to the May 1980 Kwangju uprising. At the end of the year he was awaiting trial without physical detention. In another case four members of a nongovernmental organization (NGO) were detained and charged in September with illegal contact with Democratic People's Republic of Korea (DPRK or North Korea) agents and distribution of North Korean press material for the purpose of exalting DPRK leader Kim Jong-il. The NGO claimed the government used falsehoods against the four and filed a defamation claim for damages. At year's end the four were in detention awaiting trial, and the defamation claim had not been settled.

In November 2007 a university professor found guilty of violating the NSL and sentenced in 2006 to two years in prison lost his final appeal.

An Amnesty International (AI) report alleged there were arbitrary arrests of bystanders on at least three occasions during demonstrations against President Lee Myung-bak in Seoul between May and September. Those arrested were detained and released. The Korean National Police Agency (KNPA) stated that police followed the requirements of the law in responding to the demonstrations. The MOJ reported that official investigations had not confirmed any instances of arbitrary arrest as of year's end.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the KNPA, and the government has effective mechanisms to investigate and punish abuse and corruption.

AI reported that some riot police dispatched to demonstrations in Seoul between May and September had hidden their name badges or not worn them. The National Human Rights Commission (NHRC) also reported that some riot police had covered their nametags with black tape and recommended that the KNPA ensure that police nametags are easily visible.

Arrest and Detention

The law requires warrants in cases of arrest, detention, seizure, or search, except if a person is apprehended while committing a criminal act or if a judge is not available and the authorities believe that a suspect may destroy evidence or escape capture if not quickly arrested. In such cases a public prosecutor or judicial police officer must prepare an affidavit of emergency arrest immediately upon apprehension of the suspect. Police may not question for more than six hours persons who voluntarily submit to questioning at police stations. Authorities generally must release an arrested suspect within
20 days unless an indictment is issued. An additional 10 days of detention is allowed in exceptional circumstances.

There is a bail system, but human rights lawyers stated that bail generally was not granted for detainees who were charged with committing serious offenses, might attempt to flee or harm a previous victim, or had no fixed address.

The law provides for the right to representation by an attorney, including during police interrogation. There are no restrictions on access to a lawyer, but the authorities can limit a lawyer's participation in an interrogation if the lawyer obstructs the interrogation or divulges information that impedes an investigation. The courts generally observed a defendant's right to a lawyer. During both detention and arrest periods, an indigent detainee may request that the government provide a lawyer.

Access to family members during detention varies according to the level of crime being investigated. There were no reports of access to legal counsel being denied.

Amnesty

In August the government granted a special amnesty to approximately 342,000 persons. Most were government officials due to receive disciplinary action. Approximately 1,900 of the pardons involved Election Act violations and another 10,000 involved commutation of sentences or probation for persons convicted of other crimes.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The law provides defendants with a number of rights in criminal trials, including the presumption of innocence, protection against self-incrimination, the right to a speedy trial, the right of appeal, and freedom from retroactive laws and double jeopardy. Trials are open to the public, but judges may restrict attendance if they believe spectators might disrupt the proceedings. There is a public jury system, but the verdict of the jury is not legally binding. Court-appointed lawyers are provided by the government (at government expense) in cases where defendants cannot afford to provide their own legal counsel. When a person is detained, the initial trial must be completed within six months of arrest. Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Defendants have the right to be present and to consult with an attorney, can confront or question witnesses against them, and can present witnesses and evidence on their behalf. Defendants have access to government-held evidence relevant to their cases. The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Political Prisoners and Detainees

It was difficult to estimate the number of political prisoners, because it was sometimes unclear whether persons were arrested for exercising the rights of free speech and association or for committing acts of
violence or espionage. The NGO Mingahyup reported that as of December, the government had imprisoned 74 persons for their political beliefs and convicted 399 conscientious objectors who failed to report for military service. However, the MOJ stated that there were no cases of incarceration for political beliefs and that the law does not distinguish conscientious objectors from others who do not report for military service.

Civil Judicial Procedures and Remedies

There was an independent and impartial judiciary in civil matters, and there were no problems enforcing domestic court orders. Citizens had access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice. Some human rights groups raised concerns about possible government wiretapping abuse. The law establishes broad conditions under which the government may monitor telephone calls, mail, and other forms of communication for up to two months in criminal investigations and four months in national security cases. According to the National Assembly parliamentary audit, there were 1,149 instances of wiretapping in 2007. The National Intelligence Service conducted 87.9 percent of these. Telecommunications companies provided customer information to investigation agencies on 426,453 occasions in 2007.

The government continued to require some released prisoners to report regularly to police in accordance with the Security Surveillance Act. While the Ministry of Unification (MOU) designated precinct-level officers to handle issues brought forth by resettled DPRK refugees, the ministry claimed that there were no reporting requirements for the resettled citizens.

The NSL forbids citizens from listening to North Korean radio in their homes or reading books published in the DPRK if the government determines that the action endangers national security or the basic order of democracy in the country. However, this prohibition was rarely enforced, and the viewing of DPRK satellite telecasts in private homes is legal.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press. The independent media were active and expressed a wide variety of views generally without restriction. However, under the NSL the government may limit the expression of ideas that authorities consider Communist or pro-DPRK.

Internet Freedom

The government blocked violent, sexually explicit, and gambling-oriented Web sites and required site operators to rate their site as harmful or not harmful to youth, based on telecommunications laws that
ban Internet service providers from offering information considered harmful to youth. The government also continued to block DPRK Web sites.

The law requires identity verification in order to post messages to Web sites with more than 300,000 visitors per day.

According to 2007 Organization for Economic Cooperation and Development data, 94.1 percent of households had access to the Internet through broadband connections. In addition to Internet access from home, public Internet rooms were widely available and inexpensive.

Academic Freedom and Cultural Events

There were generally no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice. The law prohibits assemblies that are considered likely to undermine public order and requires police to be notified in advance of demonstrations of all types, including political rallies. The police must notify organizers if they consider an event impermissible under this law; however, police routinely approved demonstrations. The police reportedly banned some protests by groups that had not properly registered or that had been responsible for violent protests in the past.

The KNPA reported that 26 riot police were accused of abuses during the period of the "Candlelight Demonstrations" in Seoul against the administration of President Lee Myung-bak between May and September. An AI report on the demonstrations noted that protesters were mostly peaceful and the police showed "organization and restraint," but it criticized riot police for misusing water cannons and fire extinguishers; exercising excessive and unnecessary force; and kicking and beating protesters, journalists, observers, and medical volunteers with shields and batons. The report also stated that riot police were insufficiently trained in crowd control and dispersion. The NHRC also reported that police occasionally had suppressed demonstrations in an excessive manner, injuring protesters. The KNPA stated that police responded to violent and illegal demonstrations in accordance with the law. Official investigations of allegations of police abuse were ongoing at year's end.

Freedom of Association

The law provides for freedom of association, and the government generally respected this right in practice. Associations operated freely, except those deemed by the government to be seeking to overthrow the government. In December 2007, for example, Jang Min-ho, a foreign citizen and former reporter for the newspaper Joongang Daily, was sentenced to seven years and fined 19 million won (approximately $14,300) for allegedly meeting with DPRK spies. He was serving his sentence as of year's end.

c. Freedom of Religion
The law provides for freedom of religion, and the government generally respected this right in practice.

In August tens of thousands of Buddhists protested alleged discrimination by the government. Buddhist leaders denounced a police search of a temple vehicle for fugitive anti-Lee Myung-bak demonstrators and demanded the dismissal of the KNPA commissioner general, who had appeared in a poster promoting a Christian police event. In September President Lee Myung-bak expressed regret that any actions of civil servants had "caused concern within the Buddhist community." The head of the Buddhist Jogye Order accepted an apology from the police commissioner general in November.

Societal Abuses and Discrimination

The small Jewish population consists almost entirely of expatriates. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2008 International Religious Freedom Report at www.state.gov/g/drl/irf/rpt.


Most citizens could move freely throughout the country; however, government officials restricted the movement of certain DPRK defectors by denying them passports. In January the Supreme Court ruled that the denial of a passport to one defector was "unjust." While foreign travel generally was unrestricted, the government must approve travel to the DPRK. In many cases travelers going to the DPRK must receive a briefing from the Ministry of Unification prior to departure. They must demonstrate also that their trip does not have a political purpose and is not undertaken to praise the DPRK or criticize the government. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in assisting refugees and asylum seekers.

The law does not include provisions for forced exile of its citizens, and the government did not employ it.

Protection of Refugees

The laws provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. However, the government routinely did not grant refugee status or asylum. In practice the government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened.

Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers and an alternative form of protection--a renewable, short-term permit--to those who meet a broader definition of "refugee." During the year the government recognized 36 asylum applicants as refugees, many more than in past years. However, a complex procedure and long delays in refugee status decision making continued to be problems. At year's end approximately 1,500 applications were pending decisions. Asylum seekers who were recognized as refugees received basic documentation but frequently encountered problems in exercising their rights. Like other foreigners, refugees frequently were subjected to various forms of informal discrimination.
The government continued its longstanding policy of accepting refugees from the DPRK, who are entitled to ROK citizenship. The government resettled 2,809 North Koreans during the year, resulting in 15,057 North Koreans resettled in the country.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 20 years of age or older.

Elections and Political Participation

National Assembly elections held in April were free and fair.

Both the majority and the various minority political parties operated without restriction or outside interference.

In general elections, 50 percent of each party's candidates on the proportional ballot must be women, and 30 percent of each party's geographical candidates are recommended to be women. There were 41 female lawmakers in the 299-seat National Assembly, with three of 18 National Assembly committees chaired by women. Two of 13 Supreme Court justices and two of 15 cabinet ministers were women.

There were no minorities in the National Assembly.

Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. The Korea Independent Commission Against Corruption stated that the overall "cleanliness level" of the government for 2007 was 8.89 out of 10 points, an improvement from 8.77 in 2006. There were reports of officials receiving bribes and violating election laws. Several National Assembly members were found guilty of taking bribes in exchange for fixing candidate lists for proportional representation seats up for election in April. In November the prosecutor's office announced corruption indictments against 250 officials at state-backed companies, primarily for taking bribes.

By law public servants above a certain rank must register their assets, including how they were accumulated, thereby making their holdings public. Among the anticorruption agencies are the Board of Audit & Inspection and the Public Servants Ethics Committee. In February the Korea Independent Commission Against Corruption, Ombudsman of Korea, and Administrative Appeals Commission were integrated to form the Anti-Corruption and Civil Rights Commission.

The country has a Freedom of Information Act; in practice the government granted access for citizens and noncitizens alike, including foreign media.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights
A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

The NHRC is an independent government body established to protect and promote human rights; however, it has no enforcement powers and its decisions are not binding. The NHRC investigates complaints, issues policy recommendations, and conducts education campaigns. The NHRC largely has enjoyed the government’s cooperation, received adequate resources, and been considered effective.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law forbids discrimination on the basis of gender, religion, disability, social status, and race, and the government generally respected these provisions. However, traditional attitudes limited opportunities for women, persons with disabilities, and ethnic minorities. While courts have jurisdiction to decide discrimination claims, many of these cases were instead handled by the NHRC. During the year 1,380 such cases were brought before the NHRC.

Women

Rape remained a serious problem. Although there is no specific statute that defines spousal rape as illegal, the courts have established a precedent by prosecuting spouses in such cases. The MOJ stated that there were 7,532 reports of rape and 3,581 prosecutions during the year. In 2007 there were 15,325 registered cases of sexual violence, including rape, sexual harassment, and other sexual crimes, according to the Ministry of Gender Equality (MOGE). A study by the Korea Institute for Health and Social Affairs and the Korean Institute of Criminology found that annually 17.9 of every 1,000 women were victims of sexual harassment, rape, or other sexual crimes, but the reporting rate for rape was only 7.1 percent. The penalty for rape is at least three years' limited imprisonment; if a weapon is used or two or more persons commit the rape, punishment ranges from a minimum of five years' to life imprisonment.

Violence against women remained a problem. During the year the MOJ registered 11,048 cases of domestic violence and prosecuted 1,747 cases. According to an MOGE survey, approximately 30 percent of all married women were victims of domestic violence. The law defines domestic violence as a serious crime and enables authorities to order offenders to stay away from victims for up to six months. Offenders can be sentenced to a maximum five years' imprisonment or fined up to seven million won ($5,300). Offenders also may be placed on probation or ordered to see court designated counselors. The law also requires police to respond immediately to reports of domestic violence, and the police generally were responsive.

Prostitution is illegal but widespread. In July police began a crackdown on alleged prostitution-related establishments in multiple areas of Seoul, closing 61 businesses in one district and prosecuting approximately 350 persons without physical detention. The government allows for the prosecution of citizens who pay for sex or commit acts of child sexual exploitation in other countries. The Act on the Prevention of the Sex Trade and Protection of Victims Thereof, which entered into effect in September, further stipulates that the MOGE complete a report every three years on the status of domestic prostitution in addition to the involvement of citizens in sex tourism and the sex trade abroad. NGOs
continued to express concern that sex tourism to China and Southeast Asia was becoming more prevalent.

The law obligates companies and organizations to take preventive measures against sexual harassment, but it continued to be a problem. The NHRC received 152 cases of sexual harassment during the year. According to the NHRC, remedies included issuance of a recommendation for redress, conciliation, mutual settlement, and resolution during investigation. The NHRC lacks the authority to impose punitive measures, which must be pursued through the court system.

The family law permits a woman to head a household, recognizes a wife's right to a portion of a couple's property, and allows a woman to maintain contact with her children after a divorce. The law also allows remarried women to change their children's family name to their new husband's name. Women enjoy the same legal rights under the constitution as men.

Women continued to experience economic discrimination in pay for substantially similar work. According to the Korea Institute of Finance, a survey of financial services companies revealed that almost 60 percent of newly created jobs in this sector were filled by women. The portion of entry-level civil service positions that women filled increased from 3.2 percent in 1992 to 49 percent in 2007. The Ministry of Foreign Affairs and Trade reported that 67.7 percent of new diplomats were women. The Ministry of Labor (MOL) stated that the employment rate of females between the ages of 15 and 64 had risen approximately 10 percentage points since 1996, from 43.6 percent to 53.1 percent. Nevertheless, relatively few women worked in managerial positions or earned more than a median income, and gender discrimination in the workplace remained a problem. An MOL survey released in April found that 53.9 percent of respondents believed that sexual discrimination within the workplace was a serious problem.

The law penalizes companies found to discriminate against women in hiring and promotions. A company found guilty of practicing sexual discrimination could be fined up to approximately five million won ($3,800) and have its name published in the newspaper. The law also provides for a public fund to support victims in seeking legal redress. Some government agencies' preferential hiring of applicants with military service (nearly always men) reinforced barriers against women, despite a Constitutional Court ruling that such preferential hiring was unconstitutional.

Children

The government demonstrated its commitment to children's rights and welfare through free public education. High quality health care was widely available to children.

From January through June, a total of 2,733 child abuse cases were reported to the Ministry of Health and Welfare (MOHW). The MOGE maintained four centers that provided counseling, treatment, and legal assistance to child victims of sexual violence. In February the government revised the Acts on the Prevention of School Violence and Countermeasures to make sexual violence perpetrated at school subject to criminal prosecution.

The law establishes a maximum sentence of 25 years' imprisonment for the brokerage and sale of the sexual services of persons younger than 19 years of age. It also establishes prison terms for persons convicted of the purchase of sexual services of youth under age 19. The Commission on Youth
Protection publicizes the names of those who commit sex offenses against minors. The law provides for prison terms of up to three years or a fine of up to 20 million won ($15,000) for owners of entertainment establishments who hire persons under age 19. The commission's definition of "entertainment establishment" includes facilities such as restaurants and cafes where children are hired illegally as prostitutes.

In July the Constitutional Court overturned a 1987 ban on prenatal gender tests, ruling that a parent's right to know outweighed the risk of male-preference abortion, a practice that the court stated was in decline.

Trafficking in Persons

The law prohibits all forms of trafficking in persons; however, there were reports that persons were trafficked to, from, through, and within the country. Women from Russia, other countries of the former Soviet Union, China, Mongolia, the Philippines, and other Southeast Asian countries were trafficked to the country for sexual exploitation and domestic servitude. They were recruited personally or answered advertisements and were flown to Korea, often with entertainer or tourist visas. In some instances, once these visa recipients arrived in the country, employers illegally held victims' passports. In addition some foreign women recruited for legal and brokered marriages with Korean men ended up in situations of sexual exploitation, debt bondage, and involuntary servitude once married. Korean women were trafficked primarily for sexual exploitation to the United States, sometimes through Canada and Mexico, as well as to other countries, such as Australia and Japan. Relatively small numbers of migrants seeking opportunities in the country were believed to have become victims of trafficking as well, although the MOL Employment Permit System reduced the number of workers trafficked into the country. There were reports that human traffickers exploited ROK passports for the purpose of human trafficking. There was no credible evidence that officials were involved in trafficking.

The law prohibits trafficking for the purpose of commercial sexual exploitation, including debt bondage, and prescribes up to 10 years' imprisonment. Trafficking for forced labor is criminalized and carries penalties of up to five years' imprisonment. February revisions to the Passport Act allow for restricted issuance or confiscation of passports of persons engaging in illegal activity overseas, including sex trafficking. However, some NGOs believed the laws against sex trafficking were not being enforced to their fullest potential. During the year authorities conducted 220 trafficking investigations and prosecuted in 31 cases, all for sex trafficking. There were no reported prosecutions or convictions of labor trafficking offenses.

The Marriage Brokerage Management Act, which entered into effect in June, regulates both domestic and international marriage brokers and prescribes penalties for dishonest brokers, including sentences of up to three years' imprisonment or fines. There also are laws to protect "foreign brides" in the country and punish fraudulent marriage brokers, but NGOs claimed the laws needed to be strengthened.

The KNPA and the MOJ were principally responsible for enforcing antitrafficking laws. The government worked with the international community on investigations related to trafficking.

The government maintained a network of shelters and programs to assist victims of abuse, including trafficking victims. Victims were also eligible for medical, legal, vocational, and social support services. NGOs with funding from the government provided many of these services. NGOs reported that there
was only one counseling center and two shelters in the country dedicated to foreign victims of sex trafficking. The MOJ continued to educate male clients of prostitution to correct distorted views of prostitution. During the year 17,956 individuals participated in the program.

The State Department’s annual Trafficking in Persons Report can be found at www.state.gov/g/tip.

Persons with Disabilities

In April the Anti-Discrimination Against and Remedies for Persons with Disabilities Act (DDA) took effect. The DDA adopts a definition of discrimination encompassing direct discrimination, indirect discrimination, and denial of due conveniences, and it establishes penalties for deliberate discrimination of up to three years in prison and 30 million won ($22,600). The government, through the MOHW, initiated a five-year plan to implement a comprehensive set of policies, took measures to make homes barrier free, provided part-time employment, established a task force to introduce a long-term medical care system, and opened a national rehabilitation research center to increase opportunities and access for persons with disabilities. During the year the NHRC received 635 cases of alleged discrimination in areas such as employment, property ownership, and access to educational facilities.

Firms with more than 100 employees are required by law either to hire persons with disabilities or contribute to funds used to promote the employment of persons with disabilities. Nevertheless, the hiring of persons with disabilities remained significantly below target levels.

National/Racial/Ethnic Minorities

The country is racially homogeneous, with no sizable populations of ethnic minorities. Citizenship is based on parentage, not place of birth, and persons must demonstrate their family genealogy as proof of citizenship. Naturalization is a difficult process requiring detailed applications, a long waiting period, and a series of investigations and examinations. Because of the difficulty of establishing Korean citizenship, those not ethnically Korean remained "foreign." Many foreign workers continued to report difficult working conditions.

Other Societal Abuses and Discrimination

Despite cultural respect for the elderly, there were reports of age discrimination in the workplace. In March the government enacted the Age Discrimination in Employment Act to address age discrimination in hiring and employment.

Some observers claimed that persons with HIV/AIDS suffered from severe societal discrimination and social stigma. The law ensures the confidentiality of persons with HIV/AIDS and protects individuals from discrimination. The government supported rehabilitation programs and shelters run by private groups and subsidized medical expenses from the initial diagnosis. The government operated a Web site with HIV/AIDS information and a telephone counseling service.

The law prohibits discrimination on the basis of sexual orientation, but societal discrimination persisted. In November a military court asked the Constitutional Court to rule on the constitutionality of rules prohibiting sexual activity between male military personnel. An opinion had not been rendered by year's end.
Section 6 Worker Rights

a. The Right of Association

The law provides workers with the right to associate freely and allows public servants to organize unions. The government continued to postpone the implementation of the 1997 law that authorizes union pluralism.

The ratio of organized labor in the entire population of wage earners in 2007 was approximately 11 percent, or 1.5 million unionists from a total of 14.7 million workers. The country has two national labor federations—the Korean Confederation of Trade Unions (KCTU) and the Federation of Korean Trade Unions (FKTU)—and an estimated 1,600 labor unions. The KCTU and the FKTU were affiliated with the International Trade Union Confederation (ITUC). Most of the FKTU's constituent unions maintained affiliations with global union federations.

The government recognized a range of other labor federations, including independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and government research institutes. Labor federations not formally recognized by the MOL generally operated without government interference. AI criticized the MOL for continuing to deny legal recognition to the Seoul-Gyeonggi-Incheon Migrants Trade Union (MTU), even after a high court ruled that the law protecting the right of association applied to migrant laborers. In May the government arrested and deported MTU's President Torna Limbu and Vice President Abdus Sabur for being in "irregular or undocumented status." The ITUC criticized the May arrest and deportation of the two under immigration charges as governmental antiunion repression. Previous MTU leaders also previously were arrested and deported.

By law unions must submit a request for mediation to the Labor Relations Commission before a strike; otherwise, the strike is considered illegal. In most cases the mediation must be completed within 10 days; in the case of essential services, within 15 days. Strikes initiated following this period without majority support from union membership are illegal. Striking is also prohibited in cases in which a dispute has been referred to binding arbitration. Workers employed at major defense corporations subject to the Special Act on the Defense Industry and those working in the areas of electricity generation, water supply, or production of defense products are not allowed to strike. In addition, if striking employees resort to violence, unlawful occupation of premises, or infliction of damage to facilities, their actions are deemed illegal. Strikes not specifically pertaining to labor conditions, including wages, benefits, and working hours, are also illegal. Under the penal code for "obstruction of business," arrest warrants can be issued against union leaders during an illegal strike. Striking workers can be removed by police from the premises and, along with union leaders, prosecuted and sentenced.

On December 5, authorities arrested KCTU President Lee Suk-haeng and charged him with "obstruction of business" in connection with his role organizing a general strike on July 2 to protest plans to resume foreign beef imports. Authorities also charged him with organizing solidarity action in 2007 against a retail company that allegedly subjected its workers to precarious and exploitative employment arrangements. The ITUC criticized his arrest, on warrants issued against him and 10 other KCTU and Korean Metal Workers' Union officials, as violating the government's legal obligations to respect freedom of association.
The law prohibits retribution against workers who conduct a legal strike and allows workers to file complaints of unfair labor practices against employers.

By law unions in enterprises determined to be of "essential public interest"--including railways, utilities, public health, the Bank of Korea, and telecommunications--can be ordered to submit to government-ordered arbitration. Strikes are prohibited for both central and local government officials.

b. The Right to Organize and Bargain Collectively

The law provides for the workers' right to collective bargaining and collective action, and workers exercised these rights in practice. The law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or who discriminate against union members. Employers found guilty of unfair practices can be required to reinstate workers fired for union activities. However, forced reinstatement was used infrequently because employers took extra precautions when firing union members. According to the ITUC, employers in some cases levied "obstruction of business" charges against union leaders who were seeking to bargain collectively or engage in regular union activities.

The law permits public servants to organize trade unions and bargain collectively, although it restricts the public service unions from collective bargaining on topics such as policy-making issues and budgetary matters.

The government designated enterprises in the two export processing zones (EPZs) as public interest enterprises. Workers in these enterprises have the rights enjoyed by workers in other sectors, and labor organizations are permitted in the EPZs. However, foreign companies operating in the EPZs are exempt from some labor regulations. For example, foreign-invested enterprises are exempt from provisions that mandate monthly leave, paid holidays, and menstruation leave for women; give preferential treatment to patriots, veterans, and their families; oblige companies with more than 300 persons to recruit persons with disabilities for at least 2 percent of their workforce; encourage companies to reserve 3 percent of their workforce for workers over 55 years of age; and restrict large companies from participating in certain business categories.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The law protects children from exploitation in the workplace and prohibits forced or compulsory labor, and the government effectively enforced these laws through regular inspections. Child labor was not considered a problem.

The labor standards law prohibits the employment of persons under age 15 without a special employment certificate from the MOL. Because education is compulsory through middle school (approximately age 15), few special employment certificates were issued for full-time employment. To obtain employment, children under age 18 must obtain written approval from either parents or
guardians. Employers must limit minors' overtime hours and are prohibited from employing minors at night without special permission from the MOL.

e. Acceptable Conditions of Work

The minimum wage is reviewed annually. During the year the minimum wage was 3,770 won (approximately $2.80) per hour. The FKTU and other labor organizations asserted that the existing minimum wage did not meet the basic requirements of urban workers.

Employees of large conglomerates, publicly owned companies, banks, insurance companies with 1,000 or more registered workers, and companies with more than 50 employees work a five-day, 40-hour workweek. Labor laws mandate a 24-hour rest period each week and provide for a flexible hours system, under which employers can require laborers to work up to 48 hours during certain weeks without paying overtime (and 52 with approval from the relevant labor union), so long as average weekly hours for any given two-week period do not exceed 40 hours. If a union agrees to a further loosening of the rules, management may ask employees to work up to 56 regular hours in a given week. Workers may not be required to work more than 12 hours per working day. The labor standards law also provides for a 50 percent higher wage for overtime.

The Korea Occupational Safety and Health Agency (KOSHA) is responsible for implementing industrial accident prevention activities. The government set health and safety standards, but the accident rate was high by international standards. During the year there were 2,422 fatalities related to industrial accidents. According to KOSHA, approximately 60 percent of work-related injuries occurred in workplaces with 50 workers or less. During the year KOSHA provided funds and technical support to improve safety and health facilities at manufacturing workplaces employing fewer than 50 employees, awareness of occupational health problems in the workplace, and safety education for migrant workers. Foreign workers reportedly were more likely to be victims of work-related injuries but were often discouraged from seeking compensation. By law an employer may not dismiss or otherwise disadvantage an employee who interrupts work and takes shelter because of an urgent hazard that could lead to an industrial accident.

Contract and other "nonregular" workers accounted for a substantial portion of the workforce. According to the government, there were approximately 5.4 million nonregular workers, comprising approximately 34 percent of the total workforce. In general nonregular workers performed work similar to regular workers but received approximately 67 percent of the wages of regular workers; 53 percent of nonregular workers were ineligible for national health and unemployment insurance and other benefits, compared with 6 percent of regular workers. In July application of the 2006 Non-Regular Workers Act was expanded to cover businesses with 100 or more employees. The vast majority of contract and other nonregular workers were not foreign workers.

The law on nonregular workers allows companies with more than 300 workers to use temporary worker contracts valid for a maximum of two years. However, labor groups alleged that employers used a loophole in the law to avoid their obligation to hire part-time workers as regular workers after the two-year time limit.
The MOJ reported that the total number of foreigners with legal working status was 494,035 as of year’s end. The total number of foreign workers in illegal status was 54,518. The government continued its crackdown on illegal foreign labor.

The government continued to use the Employment Permit System (EPS) to increase protections and controls on foreign workers while easing the labor shortage in the manufacturing, construction, and agricultural sectors. Through the EPS, permit holders may work in certain industries only and have limited job mobility but generally enjoy the same rights and privileges, including the right to organize. Foreign workers were limited in their freedom to change jobs. Before changing jobs the employee’s place of work must close down or the worker must have proof of physical abuse at the hand of the employer. Unless MOJ guidelines allow for an extension on humanitarian grounds, workers lose their legal status if they do not find a new employer within two months.

During the year 75,024 foreigners entered Korea under the EPS. They often encountered difficult working conditions. AI and local media reported that foreign laborers often faced physical abuse and exploitation from employers. The NGO Korea Migrant Center received reports of abuse of female entertainment visa holders. The MOJ reported that foreign workers filed 8,074 complaints related to unpaid wages during the year.

Foreign workers employed as language teachers continued to complain that the institutes for which they worked frequently violated employment contracts, but employers reported there were a large number of foreign teachers who did not fully honor their work contracts.