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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of the Republic of Korea and welcome your constructive engagement and that of your Government during the 28th session of the UPR Working Group in November 2017.

As the final outcome report on the review of the Republic of Korea has been recently adopted by the Human Rights Council at its 37th session, I am writing to follow up on a number of areas raised in two reports that my Office has prepared for the review – the compilation of UN information and the summary of stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying these areas, I have also considered the recommendations made by 95 countries, the presentation and responses of the Republic of Korea, and the action taken by the Government to implement the 42 recommendations it accepted during the second cycle of the UPR. The areas cover a range of issues and are set out in the annex to this letter.

I note with appreciation that the National Human Rights Commission of Korea maintained A-status and that amendments to the National Human Rights Commission Act were adopted in 2016 to enhance legal guarantees of the independence of the Commission, including by providing functional immunity for its members and establishing eligibility criteria for membership. I encourage the Republic of Korea to continue its efforts to improve the selection and appointment of members of the Commission in line with the recommendations made by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions.

I welcome the fact that the Government revised its second National Action Plan on Human Rights for 2012-2016 to incorporate the accepted recommendations from the second UPR. I encourage the Republic of Korea to ensure that the third National Action Plan facilitates the achievement of concrete results in the areas contained in the annex and the preparation for the fourth cycle of the UPR. The preparation and implementation of the plan should include consultations with all stakeholders, in particular the National Human Rights Commission and civil society organisations, and where necessary, with the support of international organisations, including the Office of the United Nations High Commissioner for Human Rights (OHCHR) and other United Nations entities.

H.E. Ms. Kyung-wha Kang
Minister for Foreign Affairs
Republic of Korea

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I encourage the Republic of Korea to strengthen its national mechanism for comprehensive reporting and follow up in relation to international human rights mechanisms and treaty obligations. I strongly recommend the use of the practical guide that my Office released in 2016 on this topic and which is available at: http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf.

Please be advised that I will be sharing my advice with all Member States as they go through the third cycle with a view to assisting them to begin implementing the UPR recommendations early on, following the review. An important measure that can contribute positively to follow up action is voluntary mid-term reporting. I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the outcome report. I welcome the submission by the Republic of Korea of a mid-term report regarding the implementation of the recommendations made during the second cycle of the UPR. I encourage the Republic of Korea to continue this commendable practice and submit a mid-term report, for the third cycle, by 2020.

As the Secretary-General states in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *“The Human Rights Council’s universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council’s recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals.”*

I look forward to discussing with you ways in which my Office may assist the Republic of Korea to take action in the areas I have identified.

Please accept, Excellency, the assurances of my highest consideration.

Zeid Ra'ad Al Hussein
High Commissioner for Human Rights

cc.: Mr. Sangki Park, Minister of Justice

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Rights of Persons with Disabilities, Optional Protocol to Convention on the Rights of the Child on a communications procedure, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Reduction of Statelessness, of 1961, Convention on Discrimination in Education and the Protocol III additional to the Geneva Conventions;
- Ratifying the following conventions of International Labour Organization: Forced Labour Convention (No. 29), Freedom of Association and Protection of the Right to Organise Convention (No. 87), Right to Organise and Collective Bargaining Convention (No. 98), Migration for Employment Convention (Revised), (No. 97), Abolition of Forced Labour Convention (No. 105), Labour Inspection (Agriculture) Convention (No. 129), Migrant Workers (Supplementary Provisions) Convention (No. 143) and Domestic Workers Convention (no 189);
- Withdrawing the reservation to article 22 of the International Covenant on Civil and Political Rights and the reservation to article 25(e) of the Convention on the Rights of Persons with Disabilities;

National human rights framework

- Ensuring a transparent and participatory process for the selection and appointment of members to the National Human Rights Commission of Korea, including through the establishment of an independent selection and appointment committee in order to guarantee the independence and diversity of the members of the Commission, as well as ensuring adequate resources for the effective functioning of the Commission;

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and Non-Discrimination

- Adopting a comprehensive anti-discrimination law that covers all spheres of life and prohibits all forms of discrimination, including based on race, gender, sexual orientation and gender identity through discussions with civil society representatives;
- Strengthening measures to combat discrimination, hate speech and xenophobic discourse against foreigners, migrants and multicultural families as well as amending the legislation in order to include racial discrimination as a criminal offence, to provide for adequate sentences for the gravity of the offence and to make racial discrimination an aggravating circumstance when another offence is committed;
- Countering prejudices regarding lesbian, gay, bisexual, transgender and intersex persons and preventing and combating hate speech of, or discrimination against, persons based on their sexual orientation or gender identity;

- Abolishing the requirement of mandatory HIV/AIDS testing for employment purposes and for entry, stay and residence purposes for foreigners;
- Ensuring that persons with HIV/AIDS enjoy their right to health by accessing health care without discrimination;

Development, the environment, and business and human rights

- Adopting a human rights-based approach to development policies and programs, including by establishing mechanisms for consultation and effective participation of the communities affected by development projects;
- Increasing efforts to prevent harm to communities living near sources of ongoing pollution or contaminated sites, and ensuring that sufficient resources are available for regional and local governments tasked with monitoring and enforcement of laws on pollution control;
- Take measures to develop a national action plan on business and human rights based on multi-stakeholder engagement and the guidance of the Working Group on business and human rights and to establish an obligation in its laws and policies that business enterprises must respect human rights and conduct human rights due diligence in relation to their domestic and international operations;

B. Civil and political rights

Right to life, liberty and security of person

- Taking measures to abolish the death penalty and to commute all death sentences to terms of imprisonment;
- Revising its legislation to incorporate a definition of torture that includes all the elements covered in the CAT and to ensure that acts of torture are punishable by penalties commensurate with the gravity of the crime, that the absolute prohibition against torture is non-derogable, that no exceptional circumstances may be invoked as a justification for torture and that there is no statute of limitations for acts of torture;
- Amending the National Security Act in order to ensure that arrests and detentions under the law do not increase the potential for human rights violations and to ensure the humane treatment of persons arrested under the Act;
- Ensuring that defectors from a neighbouring country are detained for the shortest possible period, that detainees are given access to counsel during the entire length of their detention, and that the duration and methods of interrogation are subject to strict limits that comply with international human rights standard;
- Preventing and eliminating cases of violence and abuse in the military and establishing the office of military ombudsman as an independent entity to monitor military units and conduct investigations into allegations of abuse and violence in the military;
- Strengthening efforts to combat domestic violence and ensuring that victims of domestic violence benefit from protection, including restraining orders and have access to medical and legal service;

Administration of justice, including impunity and the rule of law

- Strengthening efforts to bring the prison system in line with the United Nations Standard Minimum Rules for the Treatment of Prisoners, including by improving the material conditions in correctional facilities and reducing overcrowding, ensuring that restraints are used only as a measure of last resort, for the shortest time possible and only when less intrusive alternatives for control have failed and using non-custodial measures and alternatives to detention;

- Establishing an independent and effective mechanism concerning complaints of torture and ill-treatment in places of deprivation of liberty;

Fundamental freedoms

- Taking measures to introduce alternatives to military service for the conscientious objectors and to release those imprisoned or detained solely on the basis of their conscientious objection to military service;
- Decriminalizing defamation and ensuring that defamation is only punishable under civil law and that compensation provided is proportionate to the damage caused;
- Ensuring that the establishment of associations, including trade unions and political parties, is subject at most to a notification process, and is simple and expeditious;
- Amending the laws and regulations related to the right to freedom of assemblies to ensure that at most a prior notification and not a de facto authorization regime regulates the exercise of the right to peaceful assembly and prevent blanket bans on when and where assemblies can be held;
- Amending the National Security Law, in particular Article 7, to bring it in line with the international human rights standards and ensure that it is not used to restrict the rights to freedom of expression and association;
- Conducting impartial and thorough investigations into all allegations and reports of attacks, violence and harassment against human rights defenders and holding perpetrators of such offences accountable, as well as ensuring that human rights defenders are able to carry out their legitimate activities without fear or undue hindrance, obstruction or harassment;

Prohibition of all forms of slavery

- Taking measures to ensure that the 2015 bilateral agreement on the issue of "comfort women" envisages adequate guarantees that the surviving victims of sexual slavery during the Second World War are provided with redress and settlement meeting their demands and in line with international human rights standards, including the right to truth and assurances of non-repetition.
- Strengthening measures to combat trafficking in human beings by bringing the legal definition of trafficking into compliance with international human rights standards and improving legal and institutional framework to ensure that victims of human trafficking are effectively identified, protected and assisted and that perpetrators of human trafficking-related crimes are prosecuted and adequately punished;

Economic, Social and Cultural Rights

- Strengthening measures to ensure that the right to strike and collective bargaining is effectively exercised without undue restrictions or intimidation, to guarantee the right of all persons to form and join trade unions freely and to prevent arbitrary interference in the functioning of trade unions, as well as conducting independent and effective investigations into allegations of reprisals against trade union activists and workers participating in industrial action;
- Improving laws and policies to ensure labour rights to all categories of workers as well as strengthening efforts to prevent and eliminate abuse of non-regular forms of employment;
- Strengthening the national social security system to ensure that all persons in need receive adequate amount of social security benefits;
- Taking measures to reduce poverty among older persons and to improve the national basic pension scheme so that the amounts of benefits enable older persons to enjoy an adequate standard of living;

C. Rights of specific persons or groups

Women

- Continuing efforts to improve gender equality and to address discrimination against women and in particular, intensifying the efforts to increase the representation of women in decision-making positions, to close the gender pay gap, and to reconcile work and family responsibilities as a means of improving women's participation in employment and of addressing their overrepresentation in part-time employment, due to child-care responsibilities;
- Adopting effective measures to combat violence against women, including by adopting a comprehensive strategy to prevent and address gender-based violence;
- Taking measures to decriminalize women undergoing abortion so as to guarantee women's right to sexual and reproductive health and ensuring that sexual and reproductive health services are made available and accessible to all;

Children

- Establishing a universal birth registration system to ensure that the births of all children, including children of refugees, asylum seekers and stateless persons can be registered, irrespective of their parents' legal status and origin;
- Amending legislation to prohibit corporal punishment in all settings throughout the country;

Persons with disabilities

- Implementing effective deinstitutionalization strategies based on the human rights model of disability in order to increase support services and assistance programs so that persons with disabilities can live independently in the community;
- Ensuring the effective implementation of the mandatory employment quota system for persons with disabilities;
- Implementing effectively the policies on inclusive education throughout national education system;
- Amending the legal provisions, allowing for the deprivation of liberty on the basis of disability to ensure that involuntary psychiatric hospitalization is strictly necessary, proportionate, applied as a measure of last resort and for the shortest period of time, and under the effective supervision and independent monitoring of judicial organs;
- Taking measures to protect persons with disabilities in psychiatric hospitals from violence, abuse and ill-treatment through the establishment of independent monitoring mechanisms;

Migrants, refugees, and asylum seekers

- Strengthening legal protection to migrant workers, in particular those working in agriculture and fisheries against exploitation, ill-treatment, abuse and confiscation of personal documents;
- Ensuring that migrant workers who entered the country legally did not become undocumented as a result of the inflexibility of the Employment Permit System and amending the system, in particular with regard to the complexity and variety of types of visa, discrimination based on country of origin, the limitation of the migrant workers' ability to change their place of work and the maximum employment period allowed;
- Processing asylum claims within a shorter time frame, and ensuring free legal aid to asylum seekers and adequate training on human rights and asylum procedures for law enforcement agents;

- Adopting alternatives to detention for asylum seekers in order to reduce arbitrary and/or prolonged detention of asylum seekers, and ensuring that the detention of asylum seekers, refugees and stateless persons is only used as a measure of last resort and where necessary, and for as short a period as possible;

Stateless persons

- Introducing a statelessness determination procedure and incorporating the rights and standards recognized in the Convention relating to the Status of Stateless Persons, of 1954, into the national legislation.