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Foreign Labor Trends: Korea

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Foreign Labor Trends

Foreign Labor Trends

Korea



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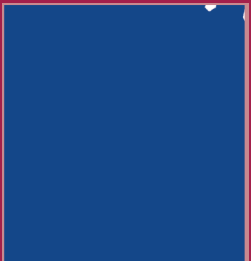
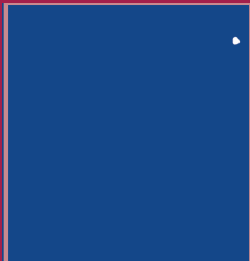
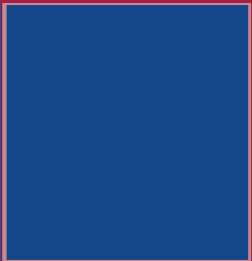
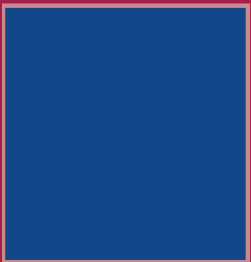
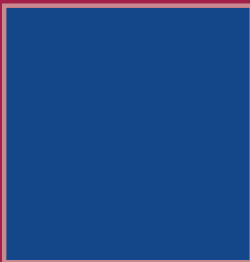


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KEY LABOR INDICATORS

Korea 2003

<u>Indicator</u>		<u>2001</u>	<u>2002</u>	<u>% Change</u>
		<u>2000</u>	<u>2001</u>	
1.	Per capita GDP, current prices (US\$) ¹	9,823	8,926	-9.1
2.	—, in agriculture (%)	5.0	5.6	12.0
3.	—, in industry (%)	45.0	41.4	-8.0
4.	—, in services (%)	50.0	53.0	6.0
5.	—, (won, millions)	11.1	11.5	3.6
6.	Population, total (millions)	47.0	47.3	0.6
7.	—, Korean (%) ²	100	100	0.0
8.	—, in major urban areas (%)	82	82	0.0
9.	Birth rate (per thousand population)	13.4	11.6	-13.4
		<u>1997</u>	<u>1999</u>	
10.	Life expectancy at birth, total	74.4	75.6	1.6
11.	—, male	70.6	71.7	1.6
12.	—, female	78.1	79.2	1.4
		<u>2001</u>	<u>2002</u>	
13.	Adult literacy rate (%)	98	98	0.0
14.	Labor force, civilian, total (millions)	22.18	22.56	1.7
15.	—, male	13.01	13.24	1.8
16.	—, female	9.17	9.33	1.7
17.	—, in informal economy (%)	n/a	n/a	~
18.	Employment, civilian, total (millions)	21.36	21.88	2.4
19.	—, in manufacturing (millions)	4.20	4.16	-1.0
20.	—, in export processing zones	n/a	n/a	~
21.	—, in agriculture, forestry, and fishing (millions)	2.19	2.13	-2.7
22.	—, in social overhead capital and other services (millions)	14.95	15.58	4.2
23.	Unemployment rate (%)	3.7	3.0	-18.9
24.	Underemployment rate (%)	n/a	n/a	~
		<u>2000</u>	<u>2001</u>	
25.	Labor productivity, manufacturing (%)	9.8	4.0	-59.2
26.	Work-related accidents and illnesses (000)	71.4	87.0	21.9
27.	Days lost from industrial disputes (millions)	1.89	1.08	-42.9
		<u>2001</u>	<u>2002</u>	
28.	Minimum wage rate (won, per hour)	1,865 ³	2,100 ⁴	12.6
29.	—, (US\$)	1.44	1.68	16.7

¹ Figures calculated by dividing GDP by total population: (2000) GDP US\$ 461.7 billion and (2001) GDP US\$ 422.2 billion.

² Korea is a homogenous society, except for about 20,000 Chinese.

³ This minimum wage was applied to all industries from September 2000 to August 2001.

⁴ This minimum wage was applied to all industries from September 2001 to August 2002.

Korea 2003

		<u>2001</u>	<u>2002</u>	<u>% Change</u>
<u>Indicators</u>				
		<u>2000</u>	<u>2001</u>	
30.	Average earnings by major industry (US\$, monthly)			
	—, all industries	1,527	1,412	-7.5
	—, construction	1,627	1,420	-12.7
	—, education	1,853	1,655	-10.7
	—, electricity, gas & water supply	2,201	2,226	1.1
	—, financial intermediation	2,165	2,048	-5.4
	—, health & social work	1,478	1,396	-5.5
	—, hotels & restaurants	1,106	1,034	-6.5
	—, manufacturing	1,416	1,318	-6.9
	—, mining	1,505	1,377	-8.5
	—, real estate, renting & business active	1,355	1,236	-8.8
	—, transport, storage & communication	1,566	1,395	-10.9
	—, wholesale & retail trade	1,413	1,414	0.1
		<u>1999</u>	<u>2000</u>	
31.	Hourly compensation costs for production workers in manufacturing (US\$)	7.05	8.13	15.3
32.	—, (won)	8,388	9,194	9.6
33.	Hourly compensation costs for laborers (US\$)	n/a	n/a	~
34.	—, clerical	n/a	n/a	~
35.	—, mechanic	n/a	n/a	~
36.	—, commercial assistant	n/a	n/a	~
37.	Supplementary benefits as % of manufacturing earnings	n/a	n/a	~
		<u>2000</u>	<u>2001</u>	
38.	Average hours worked per week	47.5	47.9	0.8
		<u>1999</u>	<u>2000</u>	
39.	Unionization of labor (%)	11.8	11.6	-1.7
40.	Average personal income per year (US\$)	n/a	n/a	~
41.	Average disposable income after taxes & withholding (US\$)	1,654	1,869	13.0
42.	Percent of population beneath poverty level	4.2	n/a	~
		<u>2000</u>	<u>2001</u>	
43.	Consumer price index (% , year-on-year)	2.3	4.1	78.3

n/a = not available

Exchange rate: US\$ 1 = 1250.31 Korean won (2002); 1292.01 (2001); 1130.90 (2000); 1189.84 (1999).

Sources: Industrial Relations and the Labor Market in Korea, 2001, (Seoul: Korea Employers Federation, 1 Aug 2001); International Comparisons of Manufacturing Productivity and Unit Labor Cost Trends, 2000, (Washington, DC: U.S. Department of Labor, Bureau of Labor Statistics, Aug 2001) (<http://www.bls.gov/news.release/ichcc.toc.htm>); Korea Occupational Safety and Health Agency, (<http://www.kosha.net/english/english.htm>); KOSIS Statistical Database, (Daejeon: Korea National Statistical Office, 1996-2003) (<http://www.nso.go.kr/eng>); "Labor Productivity Grows 10.3 Pct in 4th Quarter of 2001," Korea Net, 08 April 2002, (<http://www.korea.net>); "Labor Productivity Grows 11.9 Percent,"

Korea Now, 27 July 2002

(http://www.kn.koreaheerald.co.kr/SITE/data/html_dir/2002/07/27/200207270012.asp); Latest Report of Major Statistics, (Daejeon: Korea National Statistical Office, 9 Aug 2002); "Major Labor-Related Statistics," Ministry of Labor; Population and Development Indicators for Asia and the Pacific, 2000 and 2001, (Bangkok: United Nations Economic and Social Commission for Asia and the Pacific, 1997-1999) (<http://www.unescap.org/pop/publicat/index.htm>); The World Factbook 2000 and 2001, (Washington, DC: Central Intelligence Agency)(<http://www.cia.gov/cia/publications/factbook>); and 2001 Yearbook of Labor Statistics, (Gwacheon-City: Ministry of Labor, July 2001).

SUMMARY

Korea has a tripartite labor system. The Ministry of Labor formulates labor policy and implements and enforces the labor law. The trade union federations and employers' organizations represent their constituents regarding labor matters by giving advice and guidance, as well as actively participating on government advisory commissions.

In 2001, there were 6,150 unions in Korea, with a membership of 1.57 million. However, the Government continues to receive criticism of its policies regarding freedom of association and the right to organize. These policies include the Government's refusal to register new trade unions in the public sector and the arrest and imprisonment of trade unionists who participate in strikes on the grounds of "obstruction of business." Korea has agreed to accept assistance from the ILO to bring its labor laws into compliance with the principle of freedom of association.

Korea has recovered from the Asian economic and financial crisis of 1997 and experienced a three percent growth in the wake of the global economic slowdown of 2001. The country's industrial output slowed to a growth of 1.8 percent in 2001 but showed a 7.3 percent increase during 2002. The unemployment rate decreased from 3.7 percent in 2001 to 3 percent in 2002.

The country is experiencing a shortage of low-skilled laborers, and as a solution, the Government has allowed the entry of migrant workers for three-year terms under the Industrial Training System. However, the majority of industrial trainees leave their original place of employment in search of better jobs and wages and, by doing so, become undocumented workers. In an attempt to curtail this growing problem, the Government will begin to deport undocumented migrants in August 2003, although those who have been in Korea for less than three years may stay an additional year. Very few undocumented foreign workers have registered for voluntary departure.

In 2001, Koreans worked an average of 47.9 hours per week. The regular workweek in Korea is currently 44 hours. The Government has proposed instituting a 40-hour, 5-day workweek.

About 50 percent of Korean women are economically active. In 1999, the Equal Employment Act was amended to prohibit sexual harassment in the private sector. Additionally, the Gender Discrimination Prevention and Relief Act was enacted, prohibiting gender discrimination and sexual harassment in public institutions. The Ministry of Gender Equality was established in 2001 to administer the Gender Discrimination Prevention and Relief Act.

BACKGROUND

The Republic of Korea was formally established in 1948 and existed under authoritarian rule for four decades. In 1987, Korea embraced multiparty democratic politics and is now governed by a directly elected president and a unicameral legislature selected by direct voting. Korea experienced its first true opposition party victory in a presidential election when Kim Dae-Jung of the Millennium Democratic Party (MDP) was elected President in December 1997. Another MDP candidate, Roh Moo-Hyun, was elected President in 2002 and was inaugurated on February 25, 2003. The Grand National Party (GNP) currently controls the National Assembly with 151 of the 273 seats.

Since the 1960s, Korea's workforce has been mobilized in a campaign to promote export-led development, a strategy that brought rapid increases in the gross national product. For many years, workers were paid relatively low wages for some of the longest hours in the industrialized world. During this time, the Government played a key role in directing the economy. However, Korea's economic structure began to change in the 1990s. There was less state intervention; export growth slowed considerably; and wage hikes after 1987 priced Korea out of labor-intensive exports, such as textiles and footwear. In part due to difficulties in responding to these structural adjustments, the Korean economy began to slow down, and by late 1997, the country was fully engulfed by the Asian financial and economic crisis. Since 1997, the Government has focused on economic recovery and prevention of another such crisis.

DESCRIPTION OF THE LABOR SCENE

Government

The Ministry of Labor is the lead government agency on labor issues. The Ministry is responsible for formulating labor policy, as well as monitoring compliance with and implementation of the Constitution and the labor law, which govern labor management relations, child labor, forced labor, employment equality, wages and hours of work, and occupational safety and health. The Ministry also promotes vocational training. The Honorable Kwon Ki-Hong currently serves as the Minister of Labor.

The Ministry of Labor is an active member of the International Labor Organization (ILO) and has served on its Governing Body since 1996. In June 2003, Ambassador Chung Eui-Yong, Permanent Representative of the Republic of Korea to the United Nations in Geneva, was elected as the Chairman of the ILO Governing Body for 2003-2004. The Ministry also participates in the Organization for Economic Cooperation and Development (OECD) and the Asia Pacific Economic Cooperation (APEC) forum on labor and social issues.

Employers

The Korea Employers Federation (KEF) is the most representative organization of employers. Founded in 1970, the KEF serves as an umbrella organization representing 13 regional employers' associations, 20 economic and trade associations, and roughly 4,000 enterprises in banking and insurance, construction, manufacturing, services, and transportation. Membership is open to foreign enterprises.

The KEF claims industrial peace and national economic development as its primary objectives. To achieve these objectives, the KEF advocates its members' interests to the government, the National Assembly, and the trade unions and participates in national and local bodies concerned with social policy issues, such as the Tripartite Commission, the National Economic and Social Council, the National Labor Relations Commission, the Minimum Wage Council, and the Occupational Safety and Health Policy Council. In addition, the KEF provides advice to its members with regard to the labor law and industrial relations matters and engages in policy study and research. The KEF actively takes part in international activities, including participation in the International Organization of Employers (IOE), the ILO, and the OECD.

Trade Unions

Korean trade unions may be organized by company, by occupation, by region, or by industry. While the majority of unions in Korea are enterprise-based unions, there are 44 industrial federations and 2 national federations: the Federation of Korean Trade Unions (FKTU) and the Korean Confederation of Trade Unions (KCTU).

The FKTU is the largest labor organization in Korea, representing some 950,000 workers in 3,408 unions. Twenty-eight industrial federations are members of the FKTU, including the Federation of Korean Metal Workers' Unions, the Federation of Korean Chemical Workers' Unions, the Korea Federation of Bank and Financial Workers' Unions, the Korea Automobile and Transport Workers' Federation, and the Federation of Korean Taxi Transport Workers' Unions. Its objectives include establishing a labor system under which labor rights are universally recognized and respected, seeking a fairer distribution of resources and a better quality of life, and obtaining an advanced welfare society. The FKTU provides assistance to member unions in their negotiations with management. The FKTU also represents its members in consultations with the Government, the National Assembly, and the KEF and is actively involved in various tripartite bodies, including the Tripartite Commission, the National Economic and Social Council, and the Minimum Wage Council. In addition, the FKTU represents Korea's labor interests at the ILO and is a member of the International Confederation of Free Trade Unions (ICFTU).

The KCTU grew out of an illegal "dissident" union movement and, while established in November 1995, did not gain official status until November 1999. The KCTU represents about 600,000 workers in 16 industrial federations, including the Federation of Korean Metal Workers Unions; the Korean Federation of Transportation, Public and Social Services Workers' Unions; the Korean Federation of Clerical and Financial Labor Unions; and the Korean Teachers and Educational Workers Union. Although it withdrew from the Tripartite Commission, the KCTU sits on the Minimum Wage Review Board, as well as the governing bodies concerning industrial accidents and national pensions. Additionally, the KCTU participates in the ILO and is a member of the ICFTU. The KCTU is committed to employment security, a decent living wage, a reduction in working hours, an improvement in working conditions, and the elimination of all forms of discrimination. The KCTU also is a proponent of combining popular activism and systematic intervention as a means to achieve progress. At the end of 2002, four trade unionists were being held in prison, including KCTU President Dan Byung-Ho; most were arrested for instigating violent strikes or illegally disrupting businesses.

Tripartite Commission

The Tripartite Commission is a consultative body composed of representatives from government, labor, business, and the public interest. The Commission discusses labor policies and related matters and acts as an advisory body to the President of the Republic of Korea. The first Tripartite Commission was established in January 1998 by President Kim Dae-Jung to help overcome Korea's financial and economic crisis of 1997, with an immediate goal of developing a cooperation mechanism in which all social partners would share burdens and profits equitably while recovering from the crisis. The Commission adopted the *Social Agreement for Overcoming the Economic Crisis*, which outlined 90 tasks to be completed and included items on corporate restructuring, unemployment, the consolidation of employment-adjustment related laws, the recognition of the unemployed as eligible for membership in non-enterprise-based unions, and the legalization of teachers' trade unions.

The second Tripartite Commission was set up in June 1998, and under this Commission, bills were created to guarantee political activities by trade unions and to grant teachers the right to

organize. In May 1999, the Tripartite Commission was made a permanent consultative body. The third Tripartite Commission was launched in September 1999, and in October 2000, the Commission adopted the *Agreement on Basic Principles of Reduction of Working Hours*, calling for the establishment of a 40-hour, 5-day workweek and the overall reduction of working hours to no more than 2,000 per year. In February 2001, as a compromise between labor and management, the Tripartite Commission agreed to postpone until 2006 the implementation of legislation concerning both the discontinuance of wage payments of full-time union representatives by employers and the allowance of multiple unions at the enterprise level.

THE ECONOMY AND LABOR

Korea became known during the 1990s as one of the fast-growing Asian "tiger economies," averaging nine percent annual economic growth per year. Korea's economy began to slow in 1996 and was staggered by the 1997 Asian financial and economic crisis. In 1998, the economy contracted by 6.7 percent. Following the Government's commitment to a comprehensive financial and corporate restructuring plan, the gross domestic product (GDP) grew 10.9 percent in 1999 and 9.3 percent in 2000. Economic growth declined to three percent in 2001, due to the worldwide economic slowdown and a resulting drop in exports.

In 2001, Korean industrial output slowed to a 1.8 percent growth but was estimated at 6.2 percent in 2002. The production of semiconductors increased by 21.4 percent during 2002, and output of radio, television, and communications equipment grew by 21.9 percent. Motor vehicle production also went up by 8.1 percent, but the production of textiles declined 6 percent.

In 2001, Korea had an economically active population of 22.2 million and a labor force participation rate of 60.8 percent. The unemployment rate stood at 3.7 percent, with 819,000 citizens jobless. The number of economically active persons increased to 22.6 million in 2002, and the labor force participation rate rose to 61.3 percent. Roughly 676,000 Koreans were unemployed in 2002, resulting in a drop of the unemployment rate to 3 percent.

Since the mid-1980s, Korea has experienced a shortage of low-skilled workers. The Government has dealt with this problem by allowing migrant workers to enter the country. However, the Korean Immigration and Emigration Law does not allow unskilled foreign workers to enter the country as employees; instead, unskilled migrant workers from 14 Asian countries are invited to Korea under the Industrial Training System to work for small and medium-size companies in the manufacturing, construction, and fishing sectors as trainees. Industrial trainees may stay in Korea for only three years. A survey by the Korea Labor Institute showed that trainees received an hourly wage of 2,980 won (US\$ 2.31) and worked an average of 276 hours per month in 2001, while undocumented workers had an hourly wage equaling 3,580 won (US\$ 2.77) and worked on average 240 hours per month. Thus, the majority of trainees leave their designated companies to obtain positions with better pay and fewer working hours and become undocumented workers in the process. Of the 330,000 migrant laborers currently working in Korea, approximately 260,000 (78 percent) are undocumented. In May 2001, migrant workers set a precedent by forming the Equality Trade Union, Migrant Branch (ETU-MB) and affiliating with the KCTU. The ETU-MB is calling for the abolishment of the Industrial Training System and the implementation of a system that would grant visas to skilled and unskilled foreign workers. A moratorium on arrests and deportations was issued from March to May 2002 for undocumented workers to register with the Government, allowing them to remain in Korea until March 23, 2003. Most did not register, and the new government has postponed the deportation of illegal workers until August 2003, pending the adoption of a work permit system by the National Assembly.

FOREIGN INVESTMENT POTENTIAL

Korea is open to foreign direct investment (FDI) in most economic sectors, although radio and television broadcasting are completely closed sectors. In addition, the Foreign Investment Promotion Act (FIPA) has partially restricted 27 other industrial sectors, including farming of cereal and other food crops; cattle farming; inshore and coastal fishing; processing of nuclear fuel; electric power generation; transmission, distribution, and sale of electricity; radioactive waste disposal; telecommunications; and domestic commercial banking.

Under FIPA, foreign investors benefit from reduced rental fees and longer lease durations for government land, as well as expanded tax incentives for high technology FDI. Registration procedures for foreign investment also are simplified. While foreign exchange banks must be notified in advance, approval usually can be received within three hours. All relevant government agencies must review applications for FDI in partially restricted sectors, but most applications are processed within five days. Although rarely done, an application may be dismissed on grounds of national security, international security obligations, public order and morals, or health and environmental concerns. The Korea Trade Promotion Corporation has established a one-stop Investment Promotional Center to assist foreign investors.

Foreign direct investment in Korea totaled US\$ 15.7 billion in 2000 but decreased by 24.4 percent to US\$ 11.87 billion in 2001. The decline in foreign investment was attributed to the weak global economy and the September 11th terrorist attacks on the U.S. In 2002, Korea received US\$ 9.1 billion. The United States was the largest foreign investor in 2002, accounting for US\$ 4.5 billion (32.8 percent) of Korea's total FDI. The European Union ranked second in 2002, contributing US\$ 1.66 billion, and was followed by Japan's commitment of US\$ 1.4 billion.

SOCIAL SAFETY NET

National Pension

The Public Pension Scheme consists of the National Pension Scheme (NPS) for employees of private companies and self-employed persons, the Government Employees Pension Scheme, the Military Personnel Pension Scheme, and the Private School Teachers Pension Scheme. The NPS is administered by the National Pension Corporation under the supervision of the Ministry of Health and Welfare. It covers residents of Korea (including foreigners) aged 18 to 60, although coverage is voluntary for homemakers, students, and the elderly aged 60 and older who have contributed less than 20 years. As of September 2001, roughly 16.11 million were enrolled in the National Pension Scheme: 10.12 million as individually insured, 5.86 million in workplace-based programs, and 138,000 under voluntary coverage.

In workplaces having 5 or more workers, both the employer and employee equally share the burden of contributing 9 percent of the worker's standard monthly income (4.5 percent each) to the NPS. The contribution rate for persons employed in workplaces with fewer than five workers and for the urban self-employed is six percent from July 2002 to June 2003 and is set to increase one percent per year until reaching nine percent in July 2005. The self-employed in rural areas, farmers, and fisherman are required to contribute six percent of their standard monthly income until July 2005, when their contribution rate increases to nine percent. Persons

enrolled voluntarily must contribute nine percent of the median standard monthly income of all insured persons.

Individuals who contribute to the NPS for 20 years qualify to receive a full pension at age 60 if they are no longer engaged in gainful activity. A full pension is comprised of a basic pension amount [the basic pension amount is equal to 1.8 times the sum of (1) the average of the standard monthly incomes of all mandatorily insured persons for the 3 years prior to payment and (2) the average monthly earnings of the insured person over his/her entire contribution period, multiplied by the sum of 1 plus 5 percent of the monthly benefit for each insured year beyond the mandatory 20 years] plus a family allowance that provides 166,270 won (US\$ 136) [as of March 2003, US\$ 1 = 1,220 won] per year for a spouse and 110,850 won (US\$ 91) for each child under 18 or parent over age 60 that the pensioner supports. A reduced pension is given to insured persons who reach age 60 with 10 to 19 years of coverage and are not continuing to work. Reduced pensions equal 47.5 to 92.5 percent of the basic pension amount plus the family allowance. Workers aged 60 to 64 with at least 10 years of coverage are entitled to receive an active old-age pension without leaving employment, and special old-age pensions are given to individuals insured for at least 5 years at the age of 60. Persons between the ages of 55 to 59 who have contributed to the NPS for 10 years or more and are without employment qualify for an early old-age pension. As of September 2001, the NPS had paid 2.1 trillion won (US\$ 1.7 billion) to 583,694 old-age pensioners.

Disability benefits are paid to contributors who become physically or mentally disabled and whose ability to work is impaired. Persons with Grade 1 to 3 disabilities qualify for a disability pension, which equals 60 to 100 percent of the basic pension amount plus the family allowance. Those with Grade 4 and lesser disabilities receive a lump-sum payment equal to 225 percent of the basic pension amount. Some 30,856 persons had received disability pensions by the end of September 2001.

The NPS also provides survivor benefits. Beneficiaries are entitled to a survivor's pension equal to 60 percent of the full old-age pension if the insured contributed to the scheme at least 20 years; 50 percent for 10 to 19 years; and 40 percent for less than 10 years. Beneficiaries qualifying for the survivor's pension include a female spouse, a male spouse who is age 60 or older, children and grandchildren who are under age 18 or who have a disability, and parents and grandparents who are age 60 or older or who have a disability. If there are no beneficiaries eligible to receive a survivor's pension, the Government will give the survivors a lump-sum payment, which should equal the total amount of contributions paid for the insured plus a fixed interest. Survivors entitled to the lump-sum payment include the spouse, children, parents, grandchildren, grandparents, brothers or sisters, and cousins who were supported by the deceased. As of September 2001, there were 141,784 beneficiaries receiving survivor's pensions, while another 15,676 survivors had been given lump-sum payments.

National Health Insurance

Korea has a universal health insurance system, under which both citizens and permanent residents are covered. The Government provides Medical Aid to low-income families and the indigent, equaling 1.5 million (3 percent) of the population. Corporate employees, civil servants, the military, private school teachers, and the self-employed are insured under the National Health Insurance (NHI) System of Korea, operated by the National Health Insurance

Corporation under the supervision of the Ministry of Health and Welfare. As of December 2000, approximately 45.9 million people (97 percent) were covered by this program.

The employer and employee each contribute between one to four percent of the employee's wages to the NHI scheme. The current contribution rate for corporate employees, government workers, and private school teachers is 1.815 percent of their monthly earnings, which is matched by their employers for a total contribution of 3.63 percent. The rate applied to military personnel is 2.9 percent, divided equally between the serviceman (1.45 percent) and the Government (1.45 percent). The contribution rate for the self-employed is calculated based on his/her household income, property, automobile, age, and sex.

Under the NHI program, insured persons and their dependents are entitled to various health care services, including inpatient and outpatient treatment, dental services, traditional oriental medicines, and prescription drugs. The insured pays 20 percent of hospitalization costs and between 30 to 55 percent of the costs for outpatient treatment. Maximum benefits are 500,000 won (US\$ 410) per 30-day period for corporate employees and 1 million won (US\$ 820) per 30 days for civil servants, private school employees, and the self-employed. If a worker's co-payment surpasses 1 million won (US\$ 820) in a 30-day period, he/she is reimbursed 50 percent of the fee exceeding 1 million won (US\$ 820). In the event of death, a funeral allowance of 250,000 won (US\$ 205) is allotted. In July 2000, the duration of health care benefits increased from 330 to 365 days.

Industrial Accident Compensation Insurance

In accordance with the Industrial Accident Compensation Insurance Act, the Government must establish and operate an insurance system and must pay quick and equitable compensation to injured workers with funds collected from employers. The program is administered by the Korea Labor Welfare Corporation (KLWC) and is overseen by the Ministry of Labor.

As of July 1, 2000, coverage is mandatory for all workplaces, with the exception of some small businesses engaged in construction, farming, fisheries, and forestry. Approximately 9.28 million workers in 592,551 workplaces were covered by September 2000. Employers are wholly responsible for payment of the insurance premium, which is calculated by multiplying a pre-set premium rate for each occupation by the total wages of the enterprise during the year. In 2000, the average premium rate was 17.6 percent.

All medical expenses are paid for injured workers for care lasting four days or longer. Temporarily disabled workers receive 70 percent of their average wage while under medical care. The permanently disabled are given, for a period up to 2 years, a pension equal to 257 to 329 days' wages (Grades 1 to 3), a pension equal to 138 to 224 days' wages or a lump-sum payment equal to 616 to 1,012 days' wages (Grades 4 to 7), or a lump-sum payment equal to 55 and 495 days' wages (Grades 8 to 14). If recovery does not occur within 2 years, the more severely disabled continue to receive a compensation annuity equal to 257 to 329 days, depending on the degree of the disability. Disabled workers also qualify for 20,000 won (US\$ 16) per day for nursing care.

Survivor benefits include a pension equal to 47 to 67 percent of the worker's average wage, depending on the number of beneficiaries. If there are no pension beneficiaries, compensation

is given in a lump-sum payment equal to 1,300 days of the worker's wage. Also provided is a funeral benefit of 120 days' wages.

Employment Insurance

Established in 1995, the Employment Insurance System (EIS) is managed by the Ministry of Labor. The system covers all employees (regular, temporary, and hourly), with the exception of workers aged 65 and older, newly employed workers aged 60 years and older, employees who work less than 80 hours per month, public officials, special postal workers, and persons eligible for the Private School Teachers Pension. All businesses employing at least one worker are subject to the EIS. In 1999, 69.8 percent of workers in Korea were covered by the EIS.

Employees are required to contribute 0.5 percent of their salary to the employment insurance system. Employers must pay insurance premiums totaling 0.9 to 1.5 percent of their payroll, of which 0.5 percent is applied directly to unemployment benefits. Another 0.3 percent goes to the employment security program, which provides subsidies for job retention, hiring, and re-employment. The remaining 0.1 to 0.7 percent is utilized in the vocational ability development project that grants subsidies to workers for training and to employers for the costs associated with establishing training centers and obtaining equipment.

To be eligible for benefits, an individual must have been insured for at least 6 months out of the 18-month period prior to becoming unemployed. Unemployed workers receive 50 percent of their previous daily wage or 90 percent of the minimum wage, whichever is greater. The duration of benefits is between 90 to 240 days, depending upon the number of years they have been insured and their age.

Table 1: Duration of Unemployment Benefits

Age	Insured less than 1 year	Insured 1-3 years	Insured 3-5 years	Insured 5-10 years	Insured 10+ years
Under 30	90 days	90 days	120 days	150 days	180 days
30-50	90 days	120 days	150 days	180 days	210 days
Over 50 and the disabled	90 days	150 days	180 days	210 days	240 days

Source: *Labor Administration*, Ministry of Labor Republic of Korea, December 2000.

LABOR LAW AND SYSTEM

Korea is governed by numerous labor laws. The Constitution of the Republic of Korea guarantees freedom of association, the right to bargain collectively, and the right to collective action, prohibits forced labor, and affords special protections to working women and children. Labor relations are covered by five separate laws: the Trade Union and Labor Relations Adjustment Act (TULRAA); the Labor Relations Commission (LRC) Act; the Act concerning the Promotion of Worker Participation and Cooperation; the LRC Act on the Establishment and Operation, among others, of Trade Unions for Teachers; and the Act on the Establishment and Operation of the Tripartite Commission. Labor standards also are addressed in the Labor

Standards Act; the Equal Employment Act; the Gender Discrimination Prevention and Relief Act; the Minimum Wage Act; the Wage Claim Guarantee Act; the Industrial Safety and Health Act; and the Act on the Prevention of Pneumoconiosis and Protection, among others, of Pneumoconiosis Workers.

Korea has ratified 18 ILO Conventions, including 4 of the 8 fundamental conventions. The National Assembly adopted ILO Convention No. 100 on equal remuneration in December 1997 and ILO Convention No. 111 on employment and occupation discrimination in December 1998. ILO Convention No. 138 was ratified by Korea in January 1999, as was ILO Convention No. 182 on the worst forms of child labor in March 2001. Although Korea has not ratified ILO Conventions No. 87 on freedom of association and ILO Convention No. 98 on the right to bargain collectively, the ILO Committee on Freedom of Association has been reviewing an ongoing complaint since 1996 against the Government of Korea concerning the arrest and detention of trade unionists, the Government's refusal to register new labor organizations, and the adoption of labor legislation contrary to freedom of association. For more information on this case, please see the section below on freedom of association.

Individual and collective labor disputes are adjudicated and mediated or arbitrated by the Labor Relations Commission, a tripartite quasi-judicial government body. The Commission is divided into the Special Labor Relations Commissions (SLRC), the Regional Labor Relations Commissions (RLRC), and the National Labor Relations Commission (NLRC). The SLRC, such as the Seamen's Labor Relations Commission, oversee special cases that are specified in legislation. The 12 Regional Labor Relations Commissions handle cases concerning labor disputes occurring in their individual regions. The NLRC reviews the decisions made by the SLRC and the RLRC and also mediates labor disputes which fall under the jurisdiction of two or more of the regional commissions. In addition, the NLRC handles emergency arbitration.

In 2002, a total of 9,121 cases were filed with the LRC. Of these, 8,024 cases were to be adjudicated, while another 1,097 were to be mediated or arbitrated. The LRC reviewed some 6,987 adjudication cases, ruling to grant recognition in 1,367 decisions. Another 1,704 cases were dismissed with prejudice; 987 were dismissed without prejudice; and 2,805 were withdrawn. The remaining 1,307 cases were transferred. Some 867 cases were mediated, 382 of them successfully. Fifteen cases were successfully arbitrated; 92 received administrative guidance; and another 101 were withdrawn.

LABOR STANDARDS AND WORKER RIGHTS

The Right of Association

Workers have the right to form or join trade unions, with the exception of public sector employees not designated by law. Teachers were legislated the right to organize in 1999. Currently, blue-collar workers in such government agencies as the postal service, railways, telecommunications, and the National Medical Center are allowed to unionize, while other public sector employees have only been able to form workplace councils since 1999. In 2001, Korean trade unions numbered 6,150, with a total membership of 1.57 million (equaling 7.3 percent of employed workers).

In February 2002, the Government submitted a proposal to the Tripartite Commission recommending the creation of a new law to establish "public servant organizations" and asserting that the use of term "trade union" is not acceptable to the general public. The Government proposes that managers and public sector employees responsible for maintaining the public well-being and social order (soldiers, policemen, firefighters, and public security personnel) be excluded from participation in the public servant organizations. The Government's proposal would not allow full-time union officials but would permit multiple organizations if collective bargaining is conducted through a single channel. Collective bargaining would be limited to working conditions, and the public servant organizations would be prohibited from concluding a collective agreement or acting collectively. The Tripartite Commission has placed the Government's proposal under discussion and is conducting public hearings and opinion polls to gather feedback from the public.

Only two employees are needed to form a trade union, but the union must register with the proper administrative authorities. In 1997, changes were made to the labor law authorizing the formation of multiple unions at the enterprise level in 2002. However, both trade unions and employers were apprehensive about the repercussions of introducing multiple unions into companies, and therefore, implementation was postponed until 2006 by mutual agreement among the members of the Tripartite Commission. Additionally, the Tripartite Commission delayed implementation of legislation prohibiting employers from paying the salaries of full-time union officials until 2006. While employers argue that such payment must be stopped and that the salaries should be the responsibility of the union, trade unionists state that this issue should be determined by collective bargaining at the enterprise level. According to the FKTU, many enterprise-level unions are not self-sufficient and would encounter hardships paying the salaries of full-time union officials.

Since 1996, the ILO Committee on Freedom of Association has reviewed a complaint filed by the KCTU against the Government of Korea almost on a yearly basis. The case concerns the Government's refusal to register new labor organizations and the adoption of labor legislation contrary to freedom of association, among other issues. The Committee has continuously requested that the Government of Korea extend the right of association and the right to organize to public servants in accordance with freedom of association principles. In contrast to the actions taken by the Tripartite Commission, the Committee on Freedom of Association has asked the Government to speed up the process of legalizing trade union pluralism at the enterprise level and to ensure that the payment of wages to full-time union officials is not subject to legislative interference. In addition, the ILO has requested the Government to amend the TULRAA by repealing the requirement of notification of the identity of third parties in collective bargaining and industrial disputes, as well as the provisions that deny dismissed workers the right to maintain their union membership and that pronounce the ineligibility of non-members of trade unions to stand for office. The Government has agreed to accept technical cooperation from the ILO to bring its labor laws into compliance with regard to freedom of association.

The right to strike is guaranteed by both the Constitution and the TULRAA, although strikes are prohibited in government agencies, state-owned enterprises, and defense industries. The penalty for defense workers participating in a strike is a fine not to exceed 50 million won (US\$ 40,984) or imprisonment for up to 5 years. Public transportation, public utilities, public health, banking, and telecommunications are considered essential public services, and unions in such enterprises can be ordered to submit to government-ordered arbitration in lieu of striking;

however, in practice, the Government rarely imposes arbitration.

A majority of union members must vote in favor of striking by direct, secret, and unsigned balloting, and the union must report the planned strike in advance and in writing to the administrative authorities and the LRC. An employer may conduct a lock out upon a strike occurring at the company if the employer has given advance notice to the administrative authorities and the LRC. No industrial action may be taken until mediation or arbitration has been completed, unless the mediation or arbitration exceeds 10 days for general businesses and 15 days for public services. Strikes may be conducted 15 days from the date that the industrial dispute was referred to arbitration.

Strikes may not be violent or destructive in nature, and strikers are prohibited from occupying the company's facilities. If violence is used during a strike or business is obstructed, strikers face a penalty of a fine up to 30 million won (US\$ 24,590) or imprisonment up to 3 years. In 2001, the KCTU reported to the ILO Committee on Freedom of Association (CFA) that 89 trade unionists had been arrested and imprisoned as of May 29, 2001, with 53 charged with "obstruction of business" under Section 314 of the Penal Code. Of those arrested, 80 were members of the KCTU, while 9 were FKUTU. The ILO's CFA has noted that "obstruction of business" encompasses most activities related to strikes and has requested the Government to bring Section 314 of the Penal Code in line with freedom of association principles. In addition, the ILO has urged the Government to take appropriate measures so that trade unionists detained or on trial as a result of their trade union activities are released or that charges brought against them are dropped. In June 2002, the KCTU reported that 52 trade unionists, including KCTU President Dan Byung-Ho, were still being held in prison because of their union activities. At the end of 2002, four remained in prison.

There were 322 strikes and 16 lockouts during 2002, involving a total of 93,859 workers and a loss of 1,580,404 working days. In 2001, Korea experienced 235 strikes and lockouts, resulting in a loss of 1.08 million working days. Some 88,548 workers were involved in these disputes, with 50 percent occurring in the manufacturing sector. On average, the disputes lasted 31.7 days. One hundred and forty-nine industrial disputes were over collective agreements, while 59 concerned wage increases. The remainder resulted from deferred wages and other issues, such as working conditions, temporary shutdowns, reduction of operations, lay-offs, and dismissals due to the sale of the company. Because of these industrial disputes, Korea experienced a production loss of 2.13 trillion won (US\$1.75 billion) and an export loss of US\$ 767 million.

The Right to Organize and Bargain Collectively

The Constitution and the TULRAA provide for the right of workers to bargain collectively, which is practiced extensively in Korea. In general, collective bargaining takes place at the enterprise level, but a union may delegate negotiation responsibility to the trade union federation with which it is affiliated. Collective bargaining usually covers wages, hours of work, workers' welfare, and other employment conditions. Negotiations also extend to trade union activities during working hours and issues concerning full-time union officers. Parties must supply collective agreements to the administrative authorities within 15 days of the date of conclusion, and if the collective agreement is determined to be unlawful, the administrative authorities, in conjunction with the Labor Relations Commission, can order that the agreement be amended. Collective agreements are valid for up to two years, but if a new collective agreement is not

concluded by the expiration date even though the parties are in the process of collective bargaining, the existing agreement is to remain in effect for another three months. Either party may file with the LRC if there is disagreement on the interpretation or implementation of the collective agreement.

The TULRAA protects workers from dismissal for organizing or joining a union, or attempting to do so, and for participating in union activities. A worker may seek relief for any such unfair labor practices by filing a complaint with the LRC or by bringing a civil suit against the employer. Workers more often choose the LRC, as court cases tend to be lengthy and costly. Employers found guilty of unfair labor practices can be required to reinstate workers and provide back pay.

Prohibition of Forced or Compulsory Labor

The Constitution provides that no person shall be subjected to involuntary labor, except as provided by law and through lawful procedures, and the Labor Standards Act prohibits employers from forcing their employees to work against their will through the use of violence, intimidation, confinement, or by other means. The forced labor of Koreans is not known to occur; however, some illegal foreign workers have alleged beatings, forced detention, withheld wages, and seizure of passports by their employers. Foreign workers have submitted complaints to the National Human Rights Commission that was established in 2001. The Ministry of Justice also has announced the creation of a human rights committee for foreign workers to address such mistreatment and is collaborating with other government agencies to intensify inspections of businesses that employ foreign workers. In April 2002, the Ministry of Labor targeted 580 companies for comprehensive inspection, focusing on delays in payment of wages, illegal overtime, physical and sexual abuse, and confinement. Employers found to abuse foreign workers are subject to criminal charges and will be disadvantaged in the Government's allocation of jobs for overseas workers. Additionally, such businesses will be barred from receiving various types of financial assistance from the Government, including the operation stabilization fund.

Status of Child Labor Practices and Minimum Age for Employment

According to the Labor Standards Act, the minimum age for employment is 15 years, with exceptions given to children obtaining an employment permit from the Ministry of Labor, provided that such employment does not impede the child's compulsory education. Parents or guardians may not enter into a labor contract on behalf of a minor but may terminate a contract if it is disadvantageous to the child. Children under age 18 may not work more than 7 hours per day and 42 hours per week, unless an agreement has been reached between the employer and the child worker for him/her to work 8 hours per day and 48 hours per week. Children are prohibited from engaging in work that is detrimental to their morality or health, and night work also is banned, except in instances in which the minor consents and approval is given by the Ministry of Labor. Children are allowed to perform overtime work up to 2 hours per day, 6 hours per week for a maximum of 150 hours per year.

Child labor is not considered to be a problem in Korea. Some adolescents hold part-time jobs, but few employment permits are issued to children under 15 for full-time employment.

However, trafficking is a concern within the country, as Asian minors continue to be smuggled primarily for sexual exploitation and domestic servitude. In an effort to curb child trafficking, the National Assembly promulgated the Juvenile Sexual Protection Act, which imposes lengthy prison terms for individuals convicted of sexual crimes against persons below the age of 19.

Since 1953, primary education (Grades 1 to 6) in Korea has been compulsory for children between the ages of 6 and 11. In 2002, middle school education also became mandatory for students entering Grade 7 so that all middle school students aged 12 to 14 (Grades 7 to 9) will be covered by 2005. Approximately 4.09 million children out of a total 4.16 million (98.2 percent) were enrolled in elementary school in 2001. Roughly 99.9 percent of elementary school graduates advance to middle school.

Discrimination in Employment

Pursuant to the Act on Employment Promotion and Vocational Rehabilitation for the Disabled, employers are prohibited from discriminating against persons with disabilities concerning recruitment, promotion, transfer, education, and training. According to the Act, at least 2 percent of Government employees must be disabled workers, and firms with over 300 employees also are required to hire the handicapped or pay a fine. A 1999 survey indicated that 9 out of 10 firms with more than 300 employees failed to meet the quota for employment of persons with disabilities. Disabled workers in Korea make up less than one percent of the work force.

The Equal Employment Act mandates equal opportunity and treatment of men and women in private sector employment and requires employers to pay equal wages for work of equal value. Employers are strictly prohibited from discriminating against women workers on the grounds of age, marriage, pregnancy, or child-birth, and such discrimination is punishable by imprisonment for up to 5 years or a fine of 30 million won (US\$ 24,590) or less. Additionally, the Act prohibits sexual harassment in the workplace and commands employers to take disciplinary action against those who have committed sexual harassment. Enterprises also are required to conduct a yearly education program for workers on the prevention of sexual harassment. Employers who are found to be in violation of Korea's sexual harassment laws face fines between 3 to 10 million won (US\$ 2,459 to US\$ 8,197).

The Gender Discrimination Prevention and Relief Act requires both private and public sector employers to guarantee equal opportunity and treatment of men and women in the workplace and prohibits gender discrimination in the recruitment, promotion, transfer, dismissal, and retirement of employees. Sexual harassment in the public sector also is forbidden, and all public institutions must implement measures to prevent sexual harassment, including education programs. Reparations granted under the Act include reinstatement of the victim to his/her original position and/or compensation for damages, publication of the verdict in the daily newspapers, and the development of countermeasures to prevent a recurrence of such discrimination. The Ministry of Gender Equality administers the Act but may not review cases in which the discrimination occurred more than a year before the filing or cases that are already being handled by the Ministry of Labor or the courts. As of August 2001, 500 cases were filed under the Gender Discrimination Prevention and Relief Act alleging sexual harassment (43 percent) and discrimination in regards to pregnancy, promotion, or salary (39 percent).

The Labor Standards Act grants female employees 90 days of maternity leave, of which the first 60 days are with pay, while the Equal Employment Act provides for childcare leave during the infant's first year and guarantees employment upon the parent's return to work. Employers are required to install nursing facilities on site, and nursing mothers are entitled to 2 breaks of at least 30 minutes. The law prohibits pregnant employees from working overtime, and women workers who have given birth less than a year previously may not work more than 2 hours of overtime per day, 6 hours per week, and 150 hours per year. Employers may not require pregnant women to work at night or on holidays, unless the employee requests such work and permission is granted by the Ministry of Labor. Approval by the Ministry of Labor also is required for the night work and holiday work of female employees who gave birth less than a year before. In addition, women workers are entitled to one day's menstruation leave per month.

Acceptable Conditions of Work

Minimum Wage

In 1988, the Government instituted the minimum wage for workers in manufacturing companies with at least 10 full-time workers, and by November 2000, the minimum wage was extended to all workplaces, covering temporary, daily, and part-time employees as well. However, employers can request a waiver from the Ministry of Labor from paying the minimum wage to the handicapped, apprentices, trainees, and security guards. Additionally, child workers under the age of 18 are paid only 90 percent of the minimum wage during their first 6 months of employment.

The minimum wage level is determined annually by the Minimum Wage Council, a tripartite body of representatives from business, labor, and public interest groups. The criteria used for determining the minimum wage include the type of business, the workers' cost of living, the wages of like workers, and labor productivity. The Council has set the minimum wage for September 2002 to August 2003 at 2,275 won (US\$ 1.87) per hour, an 8.3 percent increase.

Individuals earning the minimum wage may have difficulty in providing a decent standard of living for themselves and their families, despite the fringe benefits given by the company to supplement salaries. However, the average blue-collar worker receives a base pay that is more than the minimum wage, and overtime pay and bonuses significantly raise his/her total compensation package. In 2001, blue-collar workers earned an average monthly wage of 813,900 won (US\$ 667), with a base pay of 675,400 won (US\$ 554). In comparison, the monthly minimum wage equaled 421,490 won (US\$ 345) from January to September 2001 and 474,600 won (US\$ 389) from September to December 2001.

Hours of Work

The Labor Standards Act states that working hours are to be no more than 8 hours per day or 44 hours per week, which is interpreted as 5 ½ working days per week. The Act also allows for a biweekly flexible hours working system, under which employers can require their employees to work up to 48 hours during a given week without paying overtime, as long as the average weekly working hours for the 2 week period do not exceed 44. If an agreement is reached

between labor and management, employees can be required to work up to 12 hours on a specific day or 56 hours in a given week on the condition that the average weekly working hours do not exceed 44 during the month. Workers may not work more than 12 hours per day but are allowed to work up to 12 hours of overtime per week. The employer must pay at least 1.5 times the normal wage to employees performing overtime and night work. If overtime work overlaps with night work, the employer is required to pay double time.

Employees are entitled to a 24-hour rest period each week and 1 day of paid leave per month, which may be accumulated. In addition, employers must provide 10 days annual leave to workers who have never been absent from work during the year and 8 days annual leave for those who had an attendance rate of more than 90 percent. Workers also are entitled to one day of annual leave for each year of consecutive employment after two years. Employers are allowed to pay workers their normal wages in exchange for annual leave in excess of 20 days.

In 2001, Koreans worked an average of 47.9 hours per week (2,490 per year), increasing to 49.7 hours per week during the first 6 months of 2002. This growth in working hours comes at a time of discussion among labor, business, and government to reduce the weekly working hours to 40. In 2000, the Tripartite Commission adopted the *Agreement on Basic Principles of Reduction of Working Hours*, which called for a 40-hour, 5-day workweek and an overall reduction of working hours to no more than 2,000 per year. However, members of the Commission were unable to agree on the start date, the length of the transition period, wage levels, and the number of guaranteed holidays and leave days. Korea's trade unions demanded a complete introduction of the system by 2003, with wages and the number of holidays and leave days to be maintained at the current level. The business community asked for a gradual introduction of the 5-day workweek from 2005 to 2012, limiting the hardship on small and medium enterprises. In addition, businesses called for a corresponding wage cut to accompany the reduction of working hours, as well as the abolishment of monthly paid leave. In April 2002, the Government initiated a 5-day workweek pilot program in the public sector, whereby 4,000 civil servants take every fourth Saturday off but must make up the lost hours during the week. The Ministry of Labor has drafted a workweek bill that would reduce the number of national holidays and would stagger the start dates commencing in 2004. President Roh Moo-Hyun has promised that the 5-day workweek legislation will not be introduced until after full consultation with the trade unions and employer organizations.

Occupational Safety and Health

The Occupational Safety and Health Act promotes the protection of workers' health and safety and improves their working conditions by establishing standards and clearly defining the responsibilities of the Government, employers, and workers. The Act is administered by the Ministry of Labor, which establishes and executes industrial safety and health policy, conducts comprehensive safety and health inspections, and provides technical guidance to employers. The Ministry of Labor employed 315 inspectors as of 2001.

Employers are required to educate employees about the Occupational Safety and Health Act and to undertake appropriate measures to prevent safety and health hazards. Employers also must post occupational safety and health rules in their facilities, as well as notices that warn of harmful or dangerous conditions. In addition, the Occupational Safety and Health Act mandates

that employers appoint both a safety and health manager for the workplace and establish an industrial safety and health committee, composed of an equal number of workers and managers. If there is a risk of imminent danger, the employer may not mistreat or dismiss workers because they have suspended work, but employees must report their work stoppage without delay to their immediate supervisors.

In 2001, Korea reported 81,434 industrial injuries and 5,576 industrial illnesses. There were 2,748 fatalities. In comparison, some 68,976 Korea workers were injured in industrial accidents in 2000, while another 2,459 workers developed an occupational illness. Roughly 2,500 work-related deaths were reported in 2000. The accident rate increased from 0.73 percent in 2000 to 0.77 in 2001.

Trafficking in Persons

Korea is a country of origin, transit, and destination for trafficking in women and children for the purposes of domestic servitude and sexual exploitation. Victims from Southeast Asia, China, the Philippines, Russia and other countries of the former Soviet Union are trafficked to work in Korea or transit Korea en route to the United States and Japan. Young female Koreans also are trafficked to the United States and Japan. Pursuant to the Criminal Code, individuals who kidnap persons by force for the purpose of indecent acts, sexual intercourse, or for gain are to be imprisoned for not less than one year. The Juvenile Sexual Protection Act of July 2000 imposes a sentence of over 5 years to life imprisonment for individuals convicted of trafficking persons under the age of 19. The Government prosecuted over 100 trafficking cases in 2001.

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