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تقرير المقرر الخاص المعني بحقوق الإنسان للمهاجرين

البعثة التي قام بها إلى جمهورية كوريا **

(5-12 كانون الأول/ديسمبر 2006)

* يُعمم موجز ملخص هذه الوثيقة بجميع اللغات الرسمية. أما التقرير نفسه فيرد في مرفق هذا الموجز ويُعمم باللغة التي قُدم بها فقط.

** تأخر تقديم هذه الوثيقة لكي تتضمن أحدث ما يمكن من معلومات. وعليه لم تدخل على هذه الوثيقة أية تنقيحات سوى ترقيم الفقرات وقائمة المحتويات. واستنسخت هذه الوثيقة، بما في ذلك المرفقات، بالصورة التي وردت بها.

موجز

يُقدّم هذا التقرير وفقاً للقرار 2001/52 للجنة حقوق الإنسان، عقب الزيارة التي قام بها المقرر الخاص المعني بحقوق الإنسان للمهاجرين، إلى جمهورية كوريا في الفترة من 5 إلى 11 كانون الأول/ديسمبر 2006. ويغتنم المقرر الخاص هذه الفرصة ليعرب عن شكره لحكومة جمهورية كوريا على دعوتها إياه إلى زيارة البلد، وعلى ما لمسه من مساعدة وتعاون قيّمين، قبل البعثة وخلالها.

ويلاحظ المقرر الخاص أن المجتمع المدني في جمهورية كوريا بلغ درجة رفيعة من التنظيم، بما في ذلك جمعيات العمال المهاجرين، لمواجهة ظاهرة الهجرة. ويشير المقرر الخاص إلى أن الخطوات التي تتبناها مختلف الجمعيات المعنية بالهجرة، بالإضافة إلى المنظمات النسائية، في مفاوضاتها جميعاً مع السلطات، قد أفضت إلى التزامات هامة من جانب الحكومة، في سياق الحوار من أجل تحسين وضع المهاجرين، وخاصة الزوجات الأجنبيات.

ويشمل التقرير دراسة لمختلف الجوانب المتعلقة بحالة المهاجرين الذين يعيشون في جمهورية كوريا. ويُقيم المقرر الخاص استنتاجه هذا على أساس تحليل قوانين العمل، وعلى المعلومات التي جمعها أثناء المقابلات التي أجراها، والاجتماعات التي عقدها، مع طائفة واسعة من المصادر، بما في ذلك المسؤولين الحكوميين، والمنظمات غير الحكومية، والمحامون، والمهاجرون، وأيضاً من خلال زيارته إلى دور إيواء المهاجرات.

وبناءً عليه، يوصي المقرر الخاص بأن تعتمد الحكومة عدداً من التدابير، من أجل الوفاء بالتزامها بمعايير العمل الدولية التي تكفل حقوق الإنسان بما في ذلك:

- التصديق على الاتفاقية الدولية لحماية حقوق جميع العمال المهاجرين وأفراد أسرهم، لعام 1990؛
- استعراض قوانين العمل، خاصة القانون المتعلق بترخيص العمل للعمال المهاجرين (قانون نظام ترخيص العمل)؛
- والتدابير الكفيلة بحماية النساء وخصوصاً المرتبطات بزيارات دولية.

وفي هذا التقرير، يسلط المقرر الخاص الضوء على ضعف وضع المهاجرين من العمال غير المهرة، الذي يبقى غير نظامي في جمهورية كوريا، على الرغم من الجهود التي تُبذل لتنظيمه، وذلك بسبب افتقار نسبة كبيرة منهم لفرص البقاء في البلد لفترة أطول من المدة المحددة بثلاث سنوات التي تنص عليها قوانين العمل الحالية.

Annex

REPORT OF THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS MISSION TO THE REPUBLIC OF KOREA (5-12 DECEMBER 2006)

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I. INTRODUCTION

1. The Special Rapporteur on the human rights of migrants visited the Republic of Korea (RoK) from 5 to 11 December 2006 at the invitation of the Government of the Republic of Korea. The Special Rapporteur takes this opportunity to thank the Government of the Republic of Korea for inviting him to visit the country and for the valuable assistance and cooperation afforded to him prior to and during the visit. The Special Rapporteur wishes to express his sincere appreciation for the assistance provided by the United Nations Development Programme (UNDP) in Seoul and by the many non-governmental organizations and individuals whom he had an opportunity to meet during his stay in the Republic of Korea.

2. The main purposes of the visit were to assess the prevailing situation of migrants living in the Republic of Korea and to promote the ratification of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).

3. In this report, the Special Rapporteur has paid special attention to the circumstances and impact of new labour systems implemented in order to regulate unskilled migrant workers living in the Republic of Korea namely the Industrial Trainee System (ITS) and the Employment Permit System (EPS) and the situation of female migrants.

Programme of the visit

4. During his visit, the Special Rapporteur held meetings with government officials and the relevant representatives of civil society, trade unions and employers. The Special Rapporteur also had the opportunity to spend a day in a women shelter administered by the Ministry of Gender Equality and Family outside Seoul. The following report is based on the meetings the Special Rapporteur held with the authorities, the representatives of the civil society and the migrants themselves.

II. THE GENERAL SITUATION OF MIGRANT WORKERS IN THE REPUBLIC OF KOREA

international standards

5. The Republic of Korea has ratified the main international human rights treaties. In particular, the country acceded to the ICCPR and the ICESCR in April 1990; the CERD in December 1978; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) in January 1995 the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in December 1984; and the Convention on the Rights of the Child (CRC) in November 1991. However the Republic of Korea has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).

Koreans living abroad

6. The Republic of Korea is both a labour sending and a receiving country. In mid-sixties, South Koreans began migrating to the United States to study or to find a higher quality of life. In the 1970s and 1980s, millions of construction workers went to the

Middle East as employees of South Korean contractors.^[1] Most of these workers returned home after a few years with substantial savings. Although prosperity has brought higher living standards to the Republic of Korea, a number of middle-class South Koreans still continue to immigrate to Asian and Anglophone countries such as Canada and the United States in search for a better quality of life for themselves and their children. In 2003, some 8,300 Koreans went abroad to permanently settle in a foreign country.^[2] According to government surveys of emigrants, the most popular destination countries are the United States (28.4 per cent), followed by China (16.8 per cent), Japan (12.6 per cent), Canada (10.0 per cent), and Australia (5.1 per cent). Family reunification provisions are the main reason for the flow to the United States, where, according to the United States Census Bureau, in 2000 there were 860,000 Koreans living in the United States. The number of South Koreans who went abroad in 2003 for education reasons - largely to the United States and China - numbered around 500,000.

A. Migrant workers in the Republic of Korea

7. Migrant workers in the Republic of Korea began to arrive in late 1980s when workers from neighbouring Asian countries were attracted to the country as the rapid economic growth earned attention from the international media.

8. In the early 1990s, with labour shortages exacerbated in small and medium businesses and the presence of thousands of irregular migrant workers the Republic of Korea officially opened its doors to migrant workers. As of August 2006, at least 420,000 migrant workers - or approximately 1.5 per cent of the workforce - were believed to be working in the Republic of Korea, based on government and NGO figures.^[3] These workers come from China, Viet Nam, Bangladesh, Nepal, the Philippines and Indonesia among other countries.

9. Korea's employment system for foreign workers can be divided largely into three categories, namely, the employment system for unskilled foreign workers, the employment system for highly-skilled foreign workers and the other status of sojourn with employment rights. In relation to unskilled foreign workers, the Republic of Korea is introducing the minimum number of migrant workers needed according to strict procedures to protect the employment opportunity of Korean workers and minimize distortion of the labour market. The employment programmes for unskilled foreign workers can be classified into two legal systems, the Employment Permit System (EPS) and the Industrial Trainee System (ITS).

Industrial Trainee System (ITS)

10. In 1992 in order to respond to labour shortages and to reduce the number of undocumented migrants, the RoK introduced ITS. The ITS programme was initially aimed to provide training to foreign workers recruited by Korean companies to acquire improved skills and enhance their performance. However, most of the jobs performed in the framework of the ITS were considered to be "dirty", "difficult", and "dangerous"; so called 3D.

11. The status of the migrant workers following ITS programme was very much dependent on his/her employer, leaving them in a vulnerable situation. Despite their status as trainees, they were mobilized as unskilled labour for work - which was mostly avoided by Korean nationals - and they were paid stipends which were a fraction of the actual wage. They had neither the right to change their workplace nor did the labour laws protect them as regards minimum wage, security guarantees and working hours.

12. Industrial trainees endured human rights violations such as the confiscation and retention by employers of their passports, visa papers and identity cards, delays and non-payment of stipendiary wages, instances of verbal and occasional physical violence.

13. In addition the recruitment and the management of trainees were seriously distorted. Controlled by the Korean Federation of Small and Medium Business (KFSB), trainees had to bear a huge financial burden to apply for traineeships and paying long-term debts on a monthly basis while working in Korea. KFSB monopolized the ITS programme in the Republic of Korea by non-transparent linkages with recruitment agencies in labour exporting countries. While KFSB reportedly earned a portion of the recruitment fees, they were also culpable in allowing such an exploitative system to operate. This in turn further worsened the vulnerability of migrant trainees under ITS. This process institutionalized a system which had not resolved the high levels of indebtedness faced by the industrial trainees leading to de facto conditions of debt bondage and which had also significantly worsened their vulnerability.

14. Running away from difficult working conditions, many trainees left their designated workplaces and sought employment outside the ITS. As their legal status was strictly bound to their traineeship, trainees became irregular migrants as soon as they left their companies with no legal rights and therefore in many instances, subjected to further exploitation.

15. However, the number of undocumented migrant workers continued to surpass the number of documented industrial trainees. Statistics in 1997 collected by the Ministry of Labour demonstrated that the Republic of Korea had hosted slightly over 16,000 industrial trainees while the number of irregular workers reached around 130,000. In 2001, the Government revised the System to allow an industrial trainee, two years of employment after a one year traineeship and a guarantee of a minimum wage. However the changes did not help in reducing the number of undocumented migrant workers. Although the trainee quota had been expanded up to 130,000 in 2002, nearly 80 per cent of the 290,000 migrants were irregular migrant workers. Problems such as excessive recruitment fees and low wages remained subjects of concern. This led the Government in drafting a new labour law for migrants, the EPS Act in 2003.

The Employment Permit System (EPS)

16. After eight years of debate, the National Assembly passed the Employment Permit for Migrant Workers Bill in August 2003, establishing the Employment Permit System (EPS). Initially the EPS was meant to replace the ITS, however, confronted by

objections from the employers unions, the authorities decided to operate both the ITS and the EPS. The EPS was introduced in July 2004 in the following sectors, manufacturing, construction, agriculture, fishing and service industries.

17. The EPS began to be implemented through bilateral Memoranda of Understanding (MOUs), signed between the Republic of Korea and sending countries setting out the rights and duties of Governments and the status and benefits for the workers. The procedure involves Labour Ministries of the two countries and excludes intervention of the private sector. By December 2006, nine countries had signed MOU with the Republic of Korea under the EPS including Cambodia, Indonesia, Mongolia, Pakistan, Philippines, Sri Lanka, Thailand, Uzbekistan and Viet Nam.

18. Overall the EPS offers better status to migrant workers than the ITS: the recruitment process is more transparent and statistics show that around 75 per cent of the EPS workers spent US\$ 1,100 or less to come to the Republic of Korea.

19. It has also offered an opportunity for a number of irregular migrants to obtain a legal status. In 2003, the number of irregular migrant workers registered by the Ministry of Labour exceeded 227,000 and 80 per cent of them were afforded legal status under the Employment Permit System.

20. EPS workers receive benefits including industrial accident compensation insurance, employment insurance and national health insurance and the national pension based on reciprocity between the parties of the MOU. They are entitled the same legal status as native workers as stipulated in labour related laws and thus guaranteed a minimum wage, the rights to form trade unions, collective actions and collective bargaining. Nevertheless, the EPS fails to provide a judicial mechanism for holding accountable those who violate this provision.

21. The fact that the EPS requires migrant workers to annually renew employment contracts with their employers for a period not exceeding three years places them in a vulnerable situation. The annual extension of contracts depends upon their employers, therefore very few dare to lodge complaints if their working conditions are inadequate, fearing the non-extension of their contracts. Moreover, it also impedes their freedom of movement of work because they are bound to remain within their first employment company throughout the three-year period. Those workers who would like to extend their stay over the three-year period have to leave the country for at least a year before returning.

22. The sum required to join the programme is disproportionately high as most of these workers come from poor or lower middle class families from countries where this sum is about one to two years' per capita income. It forces migrant workers to borrow money at very high rates of interest or by mortgaging their land or houses. This high indebtedness is an important and the fundamental reason many migrant workers stay on in the Republic of Korea beyond the three years' limits as it takes most of the three years just paying up their debts.

23. The EPS programme does not apply to migrant workers employed for domestic services and family reunification is not allowed. The family reunification for over 10,000 workers has been a pending issue over years.

24. According to the Ministry of Labour, all migrant workers are eligible to benefit from the industrial accident compensation scheme. However the Special Rapporteur was told that migrant workers are largely unaware of their rights and, according to information received, the employers do not report work-related accidents as they have not taken the necessary measures to provide insurance to their migrant workers. The reluctance from employers to comply with their obligation to adopt safety environment at work, to insure their migrant employees and report work-related accidents is linked to their fear of investigations by insurance companies and adoption of safety measures which would affect their profitability.

25. In August 2007, the three-year cycle of implementation of the EPS will come to an end and the Government has committed itself to revise it in order to, inter alia, address the plight of undocumented migrants. Many irregular migrant workers in RoK are hoping for legalization under the new revision of the EPS Act in 2007, however, the Ministry of Justice (MoJ) and the Immigration Department are reportedly not favouring the regularization of undocumented migrant workers.

B. Situation of undocumented migrant workers

26. With the adoption of the EPS in August 2003, the Government set the regularization process of undocumented migrant workers as follows:

Undocumented migrants who had been in the Republic of Korea as of March 2003:

- For less than 3 years: eligible to sojourn status;
- Between 3 years and 4 years: eligible for visa issuance certificate but must first leave the country until 15 November (2003). After that they should return to the RoK within three months to be employed legally;
- For more than 4 years: no possibility to legalize their status and must leave the RoK by 15 November (2003) or will be deported.

27. Under the Immigration Control Act (ICA), immigration officers were given the authority to search, detain irregular workers and issue deportation orders. The issue of detention orders by immigration officers appears to bypass the constitutional provision requiring detention orders to be issued by a judge. In June 2005, the National Human Rights Commission recommended that the Ministry of Justice, under whom the immigration authorities work, revise the current Immigration Law, arguing that ministry officials had been violating the basic rights of undocumented migrants, including their right to liberty and security of person, during operations by police and immigration officials.

28. The authorities increased the control and expulsion of irregular migrants and engaged in a series of operations to arrest,

detain often in very poor conditions and deport all irregular migrant workers who remain in the Republic of Korea. In addition, it was reported that in many cases, irregular migrant workers who have suffered long-term or permanent injuries as a result of industrial accidents have reportedly been forced to leave the Republic of Korea immediately after medical treatment without compensation.

29. By October 2005, more than 30,000 irregular migrant workers had reportedly been deported. Regular documented migrant workers have also been detained and interrogated by immigration officials in an effort to get them to reveal the whereabouts of irregular undocumented migrant workers.

30. As of December 2006 there were at least 189,000 undocumented migrants workers, more than half of the migrant worker population in the Republic of Korea.[4] A number of them, the irregular migrant workers, had overstayed their visas, some migrants interviewed by the Special Rapporteur had been living in the Republic of Korea for more than 10 years without any document under a constant threat of deportation. However, as there was still a high demand for labour, particularly in small and medium enterprises, and because they were long term migrant workers with a good knowledge of the Korean language and better work skills their presence was tolerated.

31. The deportation of irregular migrants' children is also an issue of particular concern. On 21 August 2006 the Ministry of Justice released a new policy regarding undocumented migrants' children. Undocumented migrants' children who are enrolled in elementary school are required to report their irregular status within the reporting period from 1 September 2006 to 30 November 2006 and will be given special stay permission. Those who reported their irregular status are allowed to stay until the end of February 2008. However, those who are supposed to graduate in February 2007 may stay until 30 days following the graduation date of the elementary school. This special permission will not be given to those who do not report and will therefore be deported. Under the current Nationality Act which is based on *jus sanguinis*, the children of foreigners residing as workers in the Republic of Korea are prohibited from obtaining Korean nationality even if the children were born in the Republic of Korea.

III. WOMEN MIGRANTS IN THE REPUBLIC OF KOREA

Female migrant workers

32. Female migrant workers now constitute approximately one third of migrant workers in the Republic of Korea. They are frequently under threat of sexual harassment and abuses in the workplace and their average income is lower than that of male co-workers. Undocumented female migrant workers do not report violence perpetrated against them out of fear of arrest and deportation.

The entertainer E-6 visa

33. For example the E-6, or "entertainer visa", is available to "foreigners who, for the good of profit-making, wish to be engaged in activities such as music, art, literature, entertainment, performance, plays, sports, advertising, fashion modelling, and other occupations that correspond to those above". Female migrant workers coming to the Republic of Korea under an "entertainer visa" are increasingly being lured into sexual activities. This visa category, established in 1994 has met an increasing demand for foreign female entertainers and requests doubled since 1997.

34. Prostitution is illegal in the Republic of Korea, though numerous brothels operate in major cities and around United States military bases. Sex workers, especially female migrant workers, often suffer from grave abuses, including arbitrary detention and verbal or physical abuse by their employers. For migrant sex workers, language and cultural barriers exacerbate their vulnerable legal status. Most of them are irregular migrant workers who have overstayed their "entertainer" visas which makes it even more difficult for them to report abuse or seek redress from government authorities.

35. One of the Vietnamese female migrant workers interviewed by the Special Rapporteur reported long hours of domestic work and non-payment of her wages by her employer for the last 16 months. She was forced to perform several tasks for 12 hours on a daily basis from 5 a.m. to 5 p.m. She would then perform as an entertainer in an elephant show; besides, she was forced to engage in prostitution with her employer's clients. She finally ran away and was staying in a shelter when she met the Special Rapporteur.

36. In September 2004 the Republic of Korea enacted a law that included a provision stipulating a prison term of up to 10 years for people who forced their employees to sell sex, and as a means to repaying the debts the employees incurred in the course of such employment. The new law also paved the way for trafficking victims to pursue cases against brothel owners. However, the law does not protect those that either want to stay in the sex industry or cannot prove that they were coerced. Critics argue that police crackdowns pursuant to the law have driven many sex workers further underground, putting them in an even more vulnerable situation.

Marriages

37. Over the past few years, the number of international marriages has sharply increased. In particular, as legal immigration routes are limited due to the implementation of new employment schemes, international marriages are becoming more popular than ever because it guarantees a long term and stable resident status. The number of marriages between Korean men and their foreign female spouses stands at around 30,000 in 2006, more than three times higher than marriages between Korean women and foreign male spouses. In 2006, mixed marriages represented 13.6 per cent of the total number of marriages in the Republic of Korea but in

the rural areas they represent 36.9 per cent of the marriages.

38. Statistics by nationality reveal that 66.2 per cent of foreign female spouses are from China and 18.7 per cent are from Viet Nam. Japanese nationals constitute 4 per cent; Filipino nationals 3.2 per cent; and the rest of the women are from other countries including Thailand, Mongolia, and Russia.

39. In accordance with Article 333 of the Amended Guidelines on the Resident Status of Foreign National Spouse married with Korean Nationals (1 October 1999), foreign spouses married to Korean nationals - whether male or female - shall obtain approval regarding the resident status.

40. As of May 2006, according to the Korean Nationality Act, foreign wives are eligible to apply for Korean nationality after two years instead of five years of married life with a Korean spouse. However, the male spouse's support is required for the application, which is another inequality in favour of Korean male spouses.

41. One of the most fundamental problems for the authorities is the integration of foreign spouses into the Korean society and very few surveys are carried out through provincial authorities and governors to understand the phenomena and provide assistance.

42. The federal government believes that this is an area under the jurisdiction of provincial authorities. But provinces are not allocated sufficient budgets from the federal government for language classes and cultural integration. Provincial authorities' guidelines are not legally binding. Each province has its own system of running agencies, regulations and education programmes. The provincial authorities can also contact the Government of a foreign spouse directly.

43. A number of the international marriages are prearranged and constitute mail ordered brides. In 2005 it was estimated that there were more than 1,000 wedding agencies operating in the Republic of Korea.[5] These matchmaking agencies are registered as business companies without specific qualifications. The procedures of international marriage agencies are diverse - photo, interview, post-mail order, video file, travel packages through marriage agencies and group marriages through religious groups. The agencies reportedly charge excessive fees from both sides. International marriage agencies offer various marriage packages for South Korean men, which cost approximately US\$ 10,000. During the application process to RoK, foreign wives often suffer from lack of information about the country, its traditions and social life. They often do not speak the language and no adequate interpretation facilities are provided to them upon arrival to RoK.

44. Matchmaking agencies are reported to confiscate the passports and the immigration visas of foreign spouses and prevent female foreign spouses from contacting those who have the same nationality. If they divorce, in some cases they are sent back to their countries through the agencies.

45. Foreign female spouses interviewed by the Special Rapporteur expressed their distress due to varying reasons. In many cases their husbands did not have a stable job and they had to work to pay their husband's expenses. Since they are not allowed to work legally, they automatically belong to a marginal labour market. Without any formal language training, foreign wives are sometimes put to work soon after entering RoK along with other migrant workers as part of the

cheap labour force. Another disturbing factor in these marriages lies with the fact that the legal resident status of a female migrant spouse depends entirely on her Korean husband and this subjects them to all sorts of domestic abuse.

46. In the case of divorce or separation, difficulties still exist. Foreign female spouses have to personally prove the faults and liabilities of their male spouses. Women's organizations have been concerned about the many cases of fraud and deliberate misinformation by marriage agencies and marriage brokers that occur during the international marriage process.

47. Although the problems regarding the need to regulate international marriage agencies and private brokers have been raised for years, no concrete proposals have been discussed until April 2006 when the Government publicly announced a comprehensive plan called the social integration programme for migrant women through international marriages and their family members.

48. The programme would mainly focus on the following issues:

- (a) Unlawful international marriages through brokers;
- (b) Legal status of foreign spouses;
- (c) Support for children's education;
- (d) Support for adjustment and integration.

49. Also since 2003, the Korean Government has established two shelters nationwide for foreign women to provide them with assistance for return to their country of origin and free legal advice from the Korean Legal Aid Corporation.

IV. RATIFICATION OF THE INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT

WORKERS AND MEMBERS OF THEIR FAMILIES

50. According to its draft National Action Plan for the promotion and protection of human rights (NAP), the Government of the Republic of Korea has a plan to ratify the Convention. Nevertheless, it has not yet done so. The Government informed the Special Rapporteur that it is still discussing internally the provisions of the Convention prior to its ratification.

51. In the meantime, faced with a surge of xenophobia and racism against migrant workers, the Government is also looking for alternative plans to promote the social integration of migrant workers in Korea and enhance their legal and protection framework.

52. Although numerous organizations are lobbying for the necessity of ratifying the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, it seems that the efforts deployed so far did not succeed in involving government officials in the debate and did not manage to persuade government policymakers for the need to ratify the Convention. One of the most contentious issues is family reunification.

V. CONCLUSIONS

53. Historically, the Republic of Korea saw itself as a mono-ethnic society, with a small Chinese minority that has blended into the wider society very smoothly over the years. With the economic growth, and globalization, the Republic of Korea has become as of the eighties an attractive country for migrants. The Koreans authorities, started to initiate programmes to organize the migration flow without necessarily giving the required attention to the protection of the human rights of migrants.

54. It is only recently that the Government of the Republic of Korea has recognized the vulnerability of unskilled migrant workers and has engaged in addressing their situation by drafting and enacting the ITS and the Act Concerning the Employment Permit for Migrant Workers (EPS Act). However, both ITS and EPS have serious pitfalls as they maintain the residence status of migrant workers as tied to their position with their initial employers, thus exposing them to greater vulnerability.

55. Migrant women are also particularly vulnerable to multiple violations based on their gender and their status. They may become victims of violence at home, within their families, in their hosting communities and as foreign migrant workers at the workplace.

56. The situation of undocumented children of migrants is another matter of concern. Children's rights to education are not addressed appropriately in accordance with relevant human rights standards, including the Convention on the Rights of the Child.

VI. RECOMMENDATIONS

57. **The Special Rapporteur calls on the Republic of Korea to ratify as a matter of priority the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as it is the foremost international instrument for the promotion and the protection of the rights of all migrant workers and their families.**

58. **The Special Rapporteur encourages incentives for voluntary return rather than expulsion in accordance with procedural guarantees against forced return provided for in the International Convention on Civil and Political Rights (ICCPR), Article 13.**

59. **The Special Rapporteur encourages the Korean Government to revise the implementation of the new EPS Act in accordance with international human rights treaties that the Government of the Republic of Korea has signed or ratified. In this regard special attention should be given to the need to provide unskilled migrant workers with the possibility of lodging complaints to the competent authorities from his employer in case of violations of his human rights.**

60. **The RoK should consider providing migrant workers with the possibility of family reunification.**

61. **The Special Rapporteur recommends that every employer who is responsible for violating the human rights of migrant workers is brought promptly to justice, including through criminal prosecutions.**

With regard to female migrants

62. **The Korean Government should mitigate the requirements to apply for naturalization for the victims of domestic violence. Migrant women who have a child with Korean men should be entitled to residency rights regardless of their marriage status.**

63. **The Government should create systematic arrangements to provide foreign spouses with Korean-language training and cultural integration programmes upon their arrival in the Republic of Korea. The Government should provide health-related information to foreign wives in a language they understand.**

64. **In the case of domestic violence, the Government should provide a legal system to protect the foreign spouse. Foreign victims must have access to adequate interpretation facilities in police stations and the courts. The Korean Government must expand translation services through the Women's Emergency Hotline.**

65. **The Government must regulate marriage agencies and brokers. Victims of international marriage agencies and private marriage brokers must be registered classified after a screening process to be victims of human trafficking.**

With regard to migrant children

66. **As foreseen in the CRC, the best interests of the child should govern all regulations or decisions taken to govern their status. In particular, all efforts should be made to allow them to enjoy all their human rights notably with regard to access to education and health services.**

[1] www.migrationinformation.org/Profiles.

[2] www.ieem.org.mo/nesca/.

[3] www.csr-asia.com/upload.

[4] Around 360,000 migrant workers - or 1.5 per cent of the workforce - were believed to be working in South Korea as of June 2006, based on government and NGO figures.

[5] www.semoonchang.com.