

Joint NGO Submission to the Committee on the Elimination of Discrimination against Women for the Adoption of the List of Issues

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Durebang, Korea Cyber Sexual Violence Response Center, Korea Differently Abled Women United, Korea Sexual Violence Relief Center, Korea Women Workers Association, Korea Women's Hot-Line, Korea Women's Political Solidarity, Korea Women's Associations United, Korean Network of Gender Budgeting, MINBYUN - Lawyers for a Democratic Society, National Solidarity Against Sexual Exploitation of Women, Rainbow Action Against Sexual-Minority Discrimination of Korea, Saewoomtuh, Solidarity for USAFIK Camptown Women's Human Rights, The Korean Council for Justice and Remembrance for the Issues of Military Sexual Slavery by Japan, Women Making Peace, Women Migrants Human Rights Center, Women's Human Rights Defenders, Womenlink

Contact Details

- Korea Women's Associations United, kwau@women21.or.kr
- MINBYUN - Lawyers for a Democratic Society, admin@minbyun.or.kr

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Introduction

According to the 2022 Gender Gap Report (World Economic Forum), the Republic of Korea (RoK) ranked 99th out of 146 countries on the gender equality scale¹. Gender wage gap stood at 31.12 percent as of last year. The RoK has retained the top position in terms of gender pay inequality among the OECD countries for 26 consecutive years since joining the group in 1996. Gender inequality still persists in society, and women experience diverse forms of gender-based discrimination and violence in daily lives.

While the RoK government has declared overseas that it firmly upholds and prioritizes the value of human rights, the current president Yoon Suk-yeol, who took office in May 2022, keeps denying the rights of women and vulnerable groups and continuously tries to capitalize on backlash against feminist movements in Korean society for his own political interest. He made abolishing the Ministry of Gender Equality and Family (MOGEF), a national machinery for gender equality, a central pledge of his presidential campaign, saying that “systemic “structural discrimination based on gender” doesn’t exist in the RoK”². In October 2022, a government organization reform bill to abolish the MOGEF was proposed to the National Assembly with the support of the entire MPs of the ruling party. The Yoon administration and the ruling party are still pushing for the abolition plan for the MOGEF, continuously denying the existence of gender-based discrimination and instead describing it as a “personal matter” or “an issue that incites conflict between men and women”. Women and CSOs are now deeply concerned about the risks of great regression in women’s rights in Korea, which have been gradually advanced over the past 30 years through women’s long struggles³.

Legal Status of the Convention and Legislative and Institutional Framework

1. Enactment of a comprehensive Anti- discrimination Act

15 years after the first attempt to legislate the bill in 2007, the comprehensive Anti-discrimination Act has not yet been enacted. Currently, four bills have been proposed in the National Assembly (NA). In addition, a public petition, signed by 100,000 people, demanding the enactment of the bill has also been submitted to the NA. Nevertheless, the NA continues to delay the legislative process on the bill. Even though the two activists fought a hunger strike for 46 days to urge the enactment,

¹ The RoK ranked 115th out of 146 countries on the economic participation and opportunity sub index; 97th on the educational attainment; 52nd on the health and survival; and 72nd on the political empowerment.

https://www3.weforum.org/docs/WEF_GGGR_2022.pdf

² Time, “How South Korea’s Yoon Suk-yeol Capitalized on Anti-Feminist Backlash to Win the Presidency”, May 10, 2022, https://time.com/6156537/south-korea-president-yoon-suk-yeol-sexism/?fbclid=IwAR346wZK3II4IQuj1S-zF4v4lMEGG5AmiUZI_EmjBUOo8I-EdYwKiOydzBs

The Guardian, “‘Devastated’: gender equality hopes on hold as ‘anti-feminist’ voted South Korea’s president”, March 11, 2022

<https://www.theguardian.com/world/2022/mar/11/south-korea-gender-equality-anti-feminist-president-yoon-suk-yeol>

³ 116 global CSOs, Joint Statement to South Korean president-elect Yoon Seok-yeol on Women’s Rights, April 3, 2022, <https://www.hrw.org/news/2022/04/04/joint-statement-south-korean-president-elect-yoon-seok-yeol-womens-rights>

the NA has not started any specific legislative process except for one public hearing at the Legislation and Judiciary Committee at the NA in May 2022.

Suggested questions

- Submit information on measures to enact a comprehensive Anti-discrimination Act that prohibits all forms of discrimination, including sexual orientation and gender identity.

2. Withdrawal of reservation to Article 16.1(g) of the Convention

In its periodic report, the government mentioned that there was a policy task focusing on abolishing the patrilineal surname principle and revising Article 781(1) of the Civil Act in the Fourth Basic Plan for Healthy Families (2021) and the Fourth Basic Plan for Low Fertility and Aging Society (2020), reflecting the survey result⁴ that 73.1 percent of respondents agreed on determination of a child's surname based on agreement between parents at the time of registering the birth of the child. The report also included provision for a reform bill to abolish the patrilineal surname principle (introduced by a member of the NA and currently under discussion). However, implementation of the task for revising the Act has virtually halted under the current administration. The Ministry of Justice (MOJ) in charge will reportedly take steps to revise the Act only after a national consensus has been reached⁵. In October 2022, the MOJ also submitted a written answer to the NA⁶ at the Parliamentary Inspection of State Administration, stating that abolition of the patrilineal surname principle must be conducted in a deliberate manner based on a national consensus.

Suggested questions

- Explain the government's clear position on the policy task of abolishing the patrilineal surname principle, which was included in the Fourth Basic Plan for Healthy Families and the Fourth Basic Plan for Low Fertility and Aging Society, and provide information on the concrete plans to revise Article 781(1) of the Civil Act, including steps taken by the Ministry in charge to consult with diverse stakeholders.

3. National machinery for the advancement of women

The Ministry of Gender Equality and Family (MOGEF), the national machinery for gender equality policy, has existed as a form of government ministry for more than two decades, since its establishment in 2001. While gender-based discrimination and violence are still prevalent in diverse areas, the MOGEF operates with an extremely inadequate budget (0.24% of the nation's annual budget) and human resources (279 officials, 2021), which makes it difficult to effectively carry out its mandates. Various CSOs and citizens have been strongly calling for strengthening of the capacity of

⁴ Ministry of Gender Equality and Family (2020), National Survey on Family Diversity, http://www.mogef.go.kr/mp/pcd/mp_pcd_s001d.do?mid=plc503&bbtSn=704886

⁵ The Hankyoreh, "The government's policy task of abolishing the patrilineal surname principle has halted just a year after it was planned", May 11, 2022 (in Korean), <https://www.hani.co.kr/arti/society/women/1042235.htm>

⁶ MP Park Joo-min, 2022, Written answer submitted by the MOJ at the 2022 Parliamentary Inspection of State Administration

the MOGEF by allocating sufficient financial and human resources to enable it to play an effective role in coordinating gender policies in all ministries.

However, President Yoon pledged to abolish the MOGEF during his presidential campaign, claiming that there is no systemic gender discrimination in society and therefore no longer a need for the MOGEF⁷. On October 7, 2022, a government organization reform bill, including abolition of the MOGEF and establishment of the Office of Population, Family and Gender Equality, under the Ministry of Health and Welfare (MOHW), was proposed with the support of all parliamentarians in the ruling party. If the MOGEF is abolished and the existing women's policies are allocated to different ministries, such as the MOHW and the MOJ, the coordination and integration mechanism for gender equality policies among ministries and local authorities will shrink or even disappear completely. The mandates given to the head of the ministry, including the mandates to 1) deliberate and decide on important policies as a member of the State Council and 2) propose the bill and issue ordinances concerning matters that are within its jurisdiction, will be lost. The legal and policy frameworks for women's rights will become fragmented and lose priority, leading to worsening of the human rights of women and vulnerable groups. However, the government and the ruling party keep trying to mislead citizens by claiming that abolition of the MOGEF will do good in terms of advancing gender equality.

Recently, the terms "women" and "gender equality" have started being deleted from the existing institutional mechanisms and policies on gender equality⁸. The local execution structure for gender equality policies is being severely impacted by the government's abolition plan for the MOGEF.

Suggested questions

- Explain the government's clear position on the question of whether structural gender-based discrimination against women exists in Korean society, and whether it will stick to its plan to abolish the MOGEF despite the deep concerns of Korean CSOs and international communities.
- Submit information on the government's concrete plans to fulfill its obligations to eliminate structural gender-based discrimination and achieve gender equality.

4. Gender Impact Assessment and Gender-responsive Budgeting

The periodic report mentions that Gender Impact Assessment (GIA) implementation rates became a part of government performance evaluation indicators in 2019. However, it was excluded again as of 2022 when the idea of abolishing the MOGEF was put on the table. It can be assumed that the government's decisions regarding the utilization of the GIA outcomes were affected by the

⁷ 116 global CSOs, Joint Statement to South Korean president-elect Yoon Seok-yeol on Women's Rights, April 3, 2022, <https://www.hrw.org/news/2022/04/04/joint-statement-south-korean-president-elect-yoon-seok-yeol-womens-rights>

⁸ The name of the annual statistical report published by the MOGEF has been changed this year – from "Women's Lives as Seen Through Statistics" to the "Lives of Men and Women as Seen Through Statistics". The names of divisions dedicated to women and gender equality policies in local governments have been changing, with the term "women" being deleted (Division of Women, Youth and Families -> Division of Population and Families, Division of Welfare and Women -> Division of Social Welfare, Division of Women and Families -> Division of Family Policy), The Hankyoreh, "1 year passed since the RoK president had pledged to abolish the MOGEF. The term "women" is being deleted, and only "families" and "population" are left", January 6, 2023 (In Korean), https://h21.hani.co.kr/arti/politics/politics_general/53180.html

controversy over the existence of the MOGEF. In addition, precarious employment conditions and high turnover of professional staffs of the 16 Local Gender Impact Assessment Center (LGIAC) is an obstacle to the support of the local governments' implementation of GIA; This problem becomes more worrisome in the current situation where there is a possibility that the national machinery for gender equality might be weakened, as the MOGEF's mandate includes designation of and budget allocation to the LGIAC⁹.

The gender-responsive budgeting (GRB) system in RoK has several limitations: there are no meta-analysis mechanisms on the GRB statements and procedures to revise the resource allocation structure, and therefore adding or adjusting budget is not possible; the gender mainstreaming strategies of the budgeting process lacks policy tools to promote citizen participation. Since the government didn't provide sufficient information to the public on the characteristics of the GRB system except for its budget size, it has been often misunderstood as the "budget only for women beneficiaries" even among experts and domestic journalists. However, the government has so far not taken any action to set the record straight on such misconceptions about and raise public awareness on the GRB system after it began in full force in 2010. Recently, there have been anti-feminist groups' attempts to block the adoption of GRB ordinances in the local councils, such as occupying the meeting rooms and collectively sending text messages to politicians.

Suggested questions

- The government announced that it will maintain and strengthen the existing policy tasks and programs under the MOGEF, even if the MOGEF is abolished. Provide information on plans to improve the effectiveness of GIA at both central and local administrations, including expanding human and financial resources of the GIA division of the MOGEF and ensuring job security of staff of the LGIAC.
- Provide information on concrete plans to enhance effectiveness of the GRB system, including plans to establish a meta-analysis mechanism on GRB statements; to include the result of meta-analysis in the government performance evaluation framework; and to promote citizen (women) participation and engagement.
- Provide information on measures taken to raise public awareness on the GRB system, including its operation and impact.

Temporary Special Measures

5. Participation in public sectors

Under the Plan to Improve Women's Representation in the Public Sector (2018-2022) prepared in 2017, the MOGEF has been monitoring its implementation progress every year. While the percentage of women in senior positions is steadily increasing, as of 2021, the rate of women at senior managerial levels in central administrative bodies is still 10%; those at Level 4 or higher is 24.2%; women executives in public institutions is 22.5%; women senior managers in local public

⁹ Gender Impact Analysis and Assessment Act (Article 17)

https://elaw.klri.re.kr/eng_mobile/ganadaDetail.do?hseq=33723&type=abc&key=GENDER%20IMPACT%20ANALYSIS%20AND%20ASSESSMENT%20ACT¶m=G

enterprises is 11.8%; women professors in national universities is 18.9%; women police officers is 14.2%; and women senior military officers in the army, navy and air force is 8.2%. The rates of women in government committees are less than 30%, except for the committees under the central administrative bodies that have a mandatory 40% gender quota for women. As of November 2022, the number of female heads of central administrative bodies is only 6 (15%), and there are only 4 women high-level public officials (Level 3 or higher) in the Office of the President (7.7%).

Suggested questions

- Provide information on concrete steps taken and plans to address women's low representation in public sectors, including specific measures to enhance women's representation at high-level positions in governmental bodies, such as ministers and public officials with Level 3 or higher.

Violence against Women

6. Solution to domestic violence and punishment on the perpetrator

The government's perspective on domestic violence remains to be centered on "the maintenance and recovery of the family." Comprehensive Countermeasures on Domestic Violence Prevention, announced by the government in 2018, still includes suspending indictment on condition of counseling (suspension of indictment on condition of counseling) and newly added "perpetrator counseling" as one of the temporary measures, with no mentioning of the amendment of the purpose clause of the Act on Special Cases Concerning the Punishment, Etc. of Crimes of Domestic Violence focusing on the maintenance and restoration of family. Meanwhile, only 20% of the 221,824 cases reported as domestic violence in 2020 were arrested, and about 35% of these cases were transferred to family court instead of criminal court as 'Family Protection Cases' which focuses on counseling and education.¹⁰ Even among those cases reported as criminal cases, only about 10% were indicted and only 0.5% of the perpetrators were arrested and charged. The government should abolish alternative proceedings which incapacitates punishment on the domestic violence perpetrator and take necessary measures to ensure victims' rights through practical and functioning law.

Suggested questions

- Describe concrete steps taken to amend article 1 (purpose clause) of the Act on Special Cases Concerning the Punishment, Etc. of Crimes of Domestic Violence to ensure victims' safety and human rights as its purpose.

¹⁰MP Jeong Chun-sook (2021), material submitted by the Prosecution Service and the Korean National Policy Service Agency at the Parliamentary Inspection of the State Administration

- Provide information on measures taken to enhance the report rate and arrest rate of the domestic violence cases and to prevent inappropriate transfer of cases to Home Protection Cases.

7. Online sexual exploitation industry and victim support system

Digital sexual violence is still occurring on various online platforms, including the Telegram sexual exploitation incident in 2020. It is difficult to criminally punish those who design and operate the sexual violence industry by distributing sexual exploitation videos as they do not directly commit acts of abuse, such as illegal filming and distribution of non-consented images. In addition, despite legal grounds that require Internet platform operators to implement "technical measures" to prevent digital sexual violence on their platforms and criminally charge them if they neglect or bypass it, in reality, such platform operators have rarely been held accountable since it is difficult to prove that they bypassed it.

In 2018, the MOGEF started operating the Digital Sex Crime Victim Support Center, and currently, 10 of the sexual violence counseling centers across the country are commissioned to operate the Specialized Counseling Center on Digital Sex Crime. In addition, local governments in Seoul, Incheon, Gyeonggi, and Busan also operate digital sex crime support centers. As there is no centralized nationwide blueprint for the victim support system at the central government-level policy, support systems were formed sporadically from one center to another. The scope, content, and case management system of each project are not comprehensively implemented, and their roles are unclear due to overlapping functions or are treated in a way separate from existing sexual violence cases.

Suggested questions

- Provide government-level measures against the ever-changing industrialization of digital sex crimes in a situation where it is difficult to properly punish those who run the sexual exploitation industry.
- Provide concrete plan(s) to improve a nationwide digital sex crime victim support system that is in line with the existing sexual violence support system, considering particular characteristics of digital sex crimes as well as various concerns raised due to the segmented supports from each center and absence of a comprehensive support system.

8. Amendment of Article 297 of the Criminal Act and criminalization of marital rape

The #Metoo movement in 2018 showed the Korean society that sexual violence can occur from an exercise of power and status without physical assault and explicit threat on the part of the perpetrator. Among the 1,030 cases of rape and imitative rape reported to 66 Sexual Violence Relief Centers nationwide from January to March 2019, 71.4% (735) of the cases involved no assault or threat.¹¹ However, the government still has not implemented Article 5 of the CEDAW Convention despite the long-standing demands of women's rights organizations and the CEDAW Committee's

¹¹ Report released by the Korean CSO coalition for the revision of the legal definition of rape, Jul.9, 2019

two previous recommendations (CEDAW/C/KOR/CO/7, para. 21 and CEDAW/C/KOR/CO/8, para. 23). The current Article 297 of the Criminal Act creates a vacuum in the punishment of rape without consent, such as marital rape. It also causes negative side effects such as secondary victimization during the investigation and trial proceedings and abuse of criminal proceedings in the form of retaliatory counterclaim. Even when the bill was proposed, it would be politically used and either remained pending for a long time or eventually discarded. Ten related bills were proposed at the 20th NA, but they were all discarded due to the expiration of the session, and three related bills have been proposed and pending at the current 21st NA for more than a year now¹².

The 3rd Basic Plan for Gender Equality Policy (2023-2027), released on Jan.26, 2023, included a policy task to take steps to revise the Criminal Act (Article 297) to define rape based on the lack of consent, but the MOJ and the MOGEF suddenly withdrew this amendment plan on the very same day it was announced¹³. It has received harsh criticism from women's rights groups and citizens.

Suggested questions

- Explain concrete reasons for the government's sudden decision to withdraw the plan to take steps to amend Article 297 of the Criminal Act to define rape on the basis of consent, despite the CEDAW Committee's previous recommendations.
- Provide the government's concrete steps taken to criminalize marital rape in legislation.
- Explain the government's position on the current perpetrator-centered sentencing standards.

9. Rights of sexual violence victims

According to the Korean Women's Development Institute, the majority (84.1%) of false claims made against victims of sexual violence by perpetrators in 2017-2018 were not prosecuted, and of those cases prosecuted, 15.5% of cases were acquitted and only 6.4% of cases were found guilty.¹⁴ This shows that counterclaims such as false charges and defamation are abusively made by perpetrators. As the number of counterclaims made against not only victims but also supporters is increasing, it is necessary to develop a system that guarantees the rights of both victims and supporters.

In the course of a sexual violence trial, the perpetrator would demand re-evaluation of the medical records and physical assessment submitted by victims¹⁵ and the court would accept the victims' sexual history unrelated to the case as evidence of the trial and doubt the victims' credibility. All these acts prolong the trial and make the victim shrink. In addition, perpetrators request investigation of fact and deliberately leak the victims' personal information through the media,

¹² Kyunghyang News "Is this law disappearing again?" 1 year has passed since the amendment bills to change the legal definition of rape based on the lack of consent of the victim were proposed at the NA, but they are still pending." (in Korean,)https://www.khan.co.kr/kh_storytelling/2021/lawrevision/

¹³ The Korea Herald, "Ministry blasted over rape law U-turn", Jan.26, 2023, <https://www.koreaherald.com/view.php?ud=20230127000672>

¹⁴ Korean Women's Development Institute Press release, 117th Policy Forum on Gender Equality, Jul.19, 2019

¹⁵ The Hankyoreh, "Perpetrators of sexual violence often demand re-evaluation of the medical records and physical assessment of victims. Is this okay?", Jan.18, 2022 (in Korean), <https://www.hani.co.kr/arti/society/women/1027727.html>

social network services, etc. in the name of exercising the defendant's right to defend. This causes secondary victimization.¹⁶

Suggested questions

- Provide concrete plans to guarantee the rights of victims of sexual violence against retaliatory counterclaims made by perpetrators.
- Provide information on the government's efforts to prevent the court's recognition of victims' medical records and sexual history unrelated to the case as evidence of the trial.
- Provide concrete steps taken by the government to prevent the perpetrators' indiscriminate requests of investigation of fact and secondary victimization.

10. Prevention of sexual harassment in workplace

In September 2022, a female worker was killed by a co-worker's crime of stalking. Gender-based violence at work, including sexual harassment in the workplace, is directly related to workers' right to work safely, and thus the employer should be held accountable more heavily than now. In particular, 36.6% of all female workers work at workplaces with less than five employees.¹⁷ Despite difficulties to take victim protection measures (such as separation of space of victim/perpetrator, paid leave order, etc.) In the case of small businesses, workplaces with less than 10 employees can exceptionally replace sexual harassment prevention education with distribution of educational materials or promotional materials. Considering that the implementation of sexual harassment prevention education affects the perception and reporting rate of sexual harassment, the government should abolish the exception clause and thoroughly conduct sexual harassment prevention education as well as management and supervision for all small businesses.

Suggested questions

- Are there plans to abolish the exception clause for sexual harassment prevention education? Provide information on the present condition of sexual harassment in the small business workplaces and the specific measures taken by the government to improve this situation.
- Suggest government-level measures such as legal amendments and policy proposals to strengthen employers' responsibility for gender-based violence in the workplace.

11. Elimination of sexual violence in public institutions

In 2022, the seriousness of sexual violence in public institutions became recognized due to the "illegal filming of prostitutes by the police" in July and the "Sindang Metro Station stalking murder"¹⁸

¹⁶ Korea Sexual Violence Relief Center & Law Public Interest and Legal Clinic Center of Seoul National University (2021), 1st legal workshop, "Overcoming backlash and resolving sexual violence through effective legal measures"

¹⁷ Jang Jin-hee (2022), Federation of Korean Trade Unions (FKTU) Research Center

¹⁸The Korea Times, "Public outraged by yet another stalking murder", Sep.15, 2022, https://www.koreatimes.co.kr/www/nation/2023/01/113_336180.html

in September. The National Police Agency and the Seoul Metro respectively reported that 77.25%¹⁹ and 100%²⁰ of their members completed sex crime prevention training, but above-mentioned cases show the problem of the current sexual violence prevention education which judges the effectiveness of education based on the completion rate.

Lack of gender sensitivity in public institutions is more evident when sexual violence cases are handled by the military which has a strong hierarchical order and tends to be closed. Only 17% of female soldiers and 54.7% of male soldiers said they trusted the military's measures for sexual violence incidents.²¹ Due to the low level of punishment for perpetrators of sexual violence and insufficient protection of victims in the process of handling the cases, the trust of the victims is low, which causes the victims to remain silent about their bad experience. According to a survey by the National Human Rights Commission of Korea (NHRCK) in 2021, 32.1% of female soldiers and 8% of male soldiers admitted that they had experienced sexual harassment. The survey also showed that 2.2% of female soldiers and 0.3% of male soldiers had experienced sexual violence.²²

Suggested questions

- Explain in detail what efforts the state is making to develop an effective violence prevention education system that reflects the differences in the characteristics of public institutions (schools, universities, military), as well as in the demographics (age, position, etc.) of the members
- Explain what efforts the state is making to encourage reporting of sexual violence cases in the military and to improve system for secondary victimization prevention

12. Human rights of women defectors from DPRK

According to the 2017 National Survey on Violence Against Women Defectors from the Democratic People's Republic of Korea (DPRK) and Policies for Support (MOGEF), the majority of women defectors from the DPRK are exposed to diverse forms of gender-based violence (GBV): 18.7 percent of respondents said that they had experienced sexual violence or human trafficking in the DPRK, and 26.8 percent of these individuals had experienced this in China or a third country before entering the RoK; 25.2 percent of respondents had also experienced sexual violence after entering the RoK; 42.3 percent of respondents experienced domestic violence in the RoK in their 30s; 30.8 percent in their 40s; 15.4 percent in their 50s; and 7.7 percent in their 20s. However, the MOGEF operates only 10 counseling and psychological therapy centers for women defectors from the DPRK in the country: low accessibility to centers is a big obstacle for victims trying to access services in a timely manner.

¹⁹ Korea Safety Union News, "Sexual violence crimes are on the rise, but sexual violence prevention education completion rates of members of Korean National Police Agency and Ministry of justice are lowest.", Sep.23, 2022 (in Korean), <http://www.csbn.co.kr/mobile/article.html?no=238127>

²⁰ MOGEF, Performance of Violence Prevention Education in Public Institutions

²¹ Ministry of National Defense (2019), Survey on sexual violence in military

²² Chosun News, "32% of female soldiers have experienced sexual harassment... four times as many men as men ", May. 9, 2022 (in Korean), https://www.chosun.com/national/national_general/2022/05/09/MEVWC5HTEJDFZPE6LK3CVFZ554/

Suggested questions

- Provide information on concrete plans to effectively provide support for women defectors from the DPRK who have suffered a trauma caused by sexual violence, etc., including early intervention, the provision of effective support measures in specialized GBV counseling institutions, and the expansion of resources for and programs in counseling and psychological therapy centers for women defectors from the DPRK.

13. Protection of migrant women victims of sexual exploitation and human trafficking

While E-6-2 visa policy has been partially improved since 2020, there are still limitations. When applying for extension of stay, E-6-2 visa holders must complete a checklist at the Immigration office that aims to screen for victims of human trafficking, but the checklist is available in Korean and English only. Even when a migrant worker checks items that suggest the worker is a potential victim, the immigration officers simply send the potential victim back home with their club owner or promoter, without any safety measures in place. Afterwards the Immigration office would forward the potential victim's phone number to a victim-support organization, yet the phone number is typically invalid. There are reportedly zero cases of the immigration authorities neither effectively reporting exploitative establishments and promotion companies nor successfully referring potential victims to victim support organizations through this screening process for E-6-2-visa holders. Under the supervision of the MOGEF, four Ministries conduct joint inspections of foreigner-exclusive adult entertainment establishments to identify sexual exploitation cases of E-6-2 visa holders. However, the inspections are ineffective as the establishment owners can easily pass the inspections by covering up the illegal aspects of the establishments and forcing women workers to memorize scripted answers to pass the inspection interviews.

Undocumented migrant women and migrant women who enter Korea on other visas such as tourist visas or student visas, are experiencing forced prostitution or sexual exploitation in massage parlors, clubs, etc. When they are caught in raids, authorities simply deport them as criminals of sex trade, without conducting proper victim identification screenings. Currently, only victims undergoing legal proceedings (claim, investigation or trial) for human trafficking, sexual violence or sexual exploitation are granted the G-1-11 visa. Victims who do not undergo such legal proceedings and instead seek only shelter, medical, psychological and/or other support are ineligible to apply for the G-1-11 visa.

Suggested questions

- Explain reasons for the lack of victim assistance and lack of reporting potentially exploitative establishments in the process of screening for E-6-2-visa-holding human trafficking victims.
- Provide information on procedures/standards that the police and immigration authorities have in place to identify victims of sexual exploitation and trafficking, and concrete steps taken to effectively provide proper protection and the right to a remedy for human rights violations for migrant women, including undocumented women and other visa holders such as tourist visas or student visas, who are victims of sexual exploitation and human trafficking.

- Clarify whether the government has alternative plans to effectively monitor and investigate foreigner-exclusive adult entertainment establishments other than inspections and raids, considering that the inter-ministerial joint inspections have reportedly not led to any actual police investigations of traffickers.
- Clarify whether the government plans to amend the G-1-11 visa regime so that all victims can receive the visa for recuperation purposes, regardless of their participation in legal proceedings.

14. Human trafficking and Exploitation of prostitution

The government amended the Criminal Code in 2013 to add a penal provision for human trafficking. The following year, the Act on Prevention of Traffic in Persons and Protection of Victims (Hereafter the anti-trafficking law) was legislated. However, the current clause in the Criminal Code does not follow the UN protocol for human trafficking, and the anti-trafficking law lacks penal provisions. The MOJ has put little effort into prosecuting the offenders. Based on these findings, the US State Department demoted South Korea from tier 1 to 2 in its 2022 Trafficking in Persons Report. While the anti-trafficking law is to take effect in 2023, a specific enforcement plan, including facilities to protect the victims, has not progressed due to the government's recent project to abolish the MOGEF.

The government's aid system for victims of prostitution is organized and enforced effectively. Victims of human trafficking for sexual purposes can receive assistance based on the said system. However, those unable to prove "coercion into prostitution" are penalized, and international sex-trafficking victims are subjected to either penalization or deportation. The penal provision for prostituted women has hindered the victims from accessing aid services and exiting the sex trade.

Suggested questions

- The state must amend the anti-trafficking law or the Criminal Code to modify the definition of human trafficking in line with the UN protocol and add penal provisions. How does the government plan to take these steps?
- The government has not shown interest in intra-government, inter-municipal, and international negotiation and cooperation necessary for the effective enforcement of the anti-trafficking law. There is a discussion about abolishing the MOGEF that should play an essential role in this process. Various government departments have also expressed negative attitudes toward the law. What are the government's measures to securely enforce the anti-trafficking law?
- Has the government built a comprehensive system to prepare for the anti-trafficking law which will take effect in 2023? What are the specifics regarding human trafficking prevention, cultivating experts, early identification, assistance for victims, and protection of victims' rights during juridical proceedings?
- Is the government interested in removing the penal provision for prostituted women, which penalizes the victims of the sex trade and hinders the prevention of human trafficking? What are the measures to stop the victims from being penalized if not?

15. Military Sexual Slavery by Japan

On November 4, 2022, the UN Human Rights Committee expressed strong regret to the Japanese government for not making any progress regarding the issue of the Military Sexual Slavery by Japan. It reiterated its previous concluding observation (2014) and urged the Japanese government to take immediate measures to ensure punishment of perpetrators; full reparations to victims, and officially apologize to victims²³. However, the Japanese government is refusing to accept the obligation to make reparations for victims.

In July 2022, the RoK foreign minister Park Jin even announced that the “2015 Korea-Japan Agreement” should be respected as an official agreement between two governments²⁴, although the Agreement had a significant deficiency as it was against the principle of truth and justice and excluded the voices of survivors.

In the meantime, the victims of the Military Sexual Slavery by Japan are experiencing serious human rights violations amidst the obstruction of Wednesday demonstrations, denial of history and sexist verbal abuses/insults against them by far-right history denialists²⁵. Activists and participants of demonstrations are also exposed to various sexual harassment and misogynistic behaviors²⁶. In January 2022, the NHRCK recommended the active intervention of the police to control the far-right activists through issuing an emergency relief decision, but the government and police do nothing but to keep ignoring this situation.

Suggested questions

- Indicate whether the Korean government’s position of “compliance with the spirit of the 2015 Korea-Japan Agreement” means that it agrees with the Japanese government’s claim that the issue of the Military Sexual Slavery by Japan was resolved through the Agreement. Provide information on concrete plans to resolve the issue of Military Sexual Slavery by Japan, protect victims and restore human rights and dignity of them.
- The amendment bill on Protection, Support, and Commemorative Projects for the Victims of Military Sexual Slavery by Japan under Japanese Occupation was recently proposed at the NA to establish a legal basis for punishing history denialists for defamation of victims. Provide information on the government’s specific plans to pass the amendment bill and protect victims from defamation.

²³ UN Human Rights Committee, Concluding observations UN on the seventh periodic report of Japan, 30 November 2022, CCPR/C/JPN/CO/7, para.29

²⁴ The Korea Herald, “Yoon makes economic diplomacy a top priority”, July 21, 2022, <https://www.koreaherald.com/view.php?ud=20220721000922>

²⁵ The Hankyoreh, “ “Comfort women” protest obstructed by far right despite call for safeguarding”, Jan.20,2022 https://english.hani.co.kr/arti/english_edition/e_national/1028191.html

²⁶ Newstapa, “Hatred in streets, people sabotaging Wednesday demonstrations”, <https://www.youtube.com/watch?v=bHhWCJk8z0>

16. Violence against U.S. Military Camptown “Comfort Women”

On September 29th 2022, the Supreme Court ruled in favor of 122 plaintiffs, who had filed the “Compensation Lawsuit for Former Camptown “Comfort Women” for US Troops” against the RoK government on June 25, 2014²⁷. The plaintiffs are survivors of the camptown sex industry. The Supreme Court declares that by operating and managing the camptowns, the government agencies and officials are responsible for the justification and promotion of the illegal camptown sex industry. In doing so, the government violated the comfort women’s human rights and human dignity, consequently subjecting all of the plaintiffs to psychological damage. This is a historic court ruling, as it is the first time the RoK’s Judiciary—over seventy years since the division of the Korean peninsula and the US Armed Forces being stationed in RoK—declared the government’s responsibility in the various illegal acts and human rights violations that the government and US Armed Forces carried out against Korean camptown comfort women. This ruling is the culmination of Korean camptown comfort women’s brave acts of telling their stories of experiencing state violence and human rights violations in the camptowns.

Currently the Special Act on the Investigation of Human Rights Violations Against US Military Camptown “Comfort Women” and Support for Survivors has been proposed at the NA, but it has yet to be properly reviewed. The Gyeonggi Provincial Assembly passed the Ordinance on Support for Camptown Women in Gyeonggi Province on April 29, 2020, but the provincial government claims that it cannot take steps to provide any actual support without the enactment of a higher law at the national level.

Suggested questions

- Indicate whether the government plans to formally apologize to US military camptown “comfort women”, in accordance with the recent Supreme Court ruling.
- Provide information on specific plans to investigate the human rights violations against US military camptown “comfort women”, create measures to prevent recurrence, and provide specific support measures for victims and survivors.
- Indicate whether the government plans to include that the RoK, where US Armed Forces has been stationed for over seventy years, is a country still currently affected by ongoing war and wartime sexual violence, and add the issue of U.S. military camptown “comfort women” alongside the issue of Japanese military sexual slavery in the National Action Plan for the UN Resolution 1325 on Women, Peace and Security and propose solutions.

17. Rights of women with disabilities

In 2021, 9,200 victims of sexual violence and 267 victims of domestic violence were women with disabilities, accounting for 77.9% of the total 12,147 women victims of violence. The types of violence include rape and imitative rape (63.8%), Indecent act by compulsion (29.3%), Obscene Acts

²⁷ The Hankyoreh, After 40 years in US camptown sex trade, S. Korean woman rejoices in court victory, Sep.30, 2022, https://english.hani.co.kr/arti/english_edition/e_national/1060900.html

by Using Means of Communication (5.8%), and others (1.1%)²⁸. As for the type of disability of victims of violence, 13.2% were women with physical disabilities, 83.5% were women with mental disabilities, and 3.3% of women with multiple disabilities,²⁹ resulting that violence against women with psychological disabilities is the most severe of all. Despite the widespread damage of violence against women with disabilities, integrated and specialized national statistics are insufficient to identify the status of sexual violence, domestic violence, and digital sex crime against women with disabilities.

In addition, protection facilities are highly lacking as there is only one mid- to long-term shelter (protection facility) for disabled women victims of violence in the country despite it being one of the quintessential conditions to support the sexual violence victims with disabilities. Furthermore, there are only three living facilities for self-reliance support (in Busan, Chungcheongbuk-do, Gyeongsangnam-do) and one transitional housing(in Jeollanam-do). Because of this situation, women victims with disabilities cannot find support institutions due to disabilities and eventually had to return to their homes where violence occurred, or may enter homeless facilities or institutions for persons with disabilities that allow persons with disabilities to enter, not facilities that support women victims of violence.

Suggested questions

- Provide concrete plans to build integrated and professional statistics to identify the actual conditions of violence against women with disabilities.
- Provide concrete plans to expand shelters dedicated to protecting women victims with disabilities and to support self-reliance after discharge from the shelters.

Participation in political and public life

18. Women's Political representation

The proportion of seats held by women in the NA is 57 out of 300 (19%) as of December 2022, which ranks 126th out of 190 countries (IPU 2022). The NA is composed of 300 members, 253 elected by votes from the single-member districts (SMDs) and 47 through the proportional representation (PR) system. The current number of female members elected on the basis of the PR system is 27. The Public Official Election Act stipulates that when nominating candidates for the PR seats, political parties shall nominate not less than 50% of the female candidates falling under every odd number in order of the candidate list. It also has a provision on gender quotas to recommend female candidates to be nominated in 30 % of SMDs, but there are no enforcement measures or punitive provisions.

In the 2022 local election, the number of women elected as local governors was 7 (3%); 115 for the SMD seats in municipal councils (14.8%); 650 for the SMD seats in local councils (25%); 58 for the PR

²⁸ Internal statistics of Korea Differently Abled Women United

²⁹ Korea Differently Abled Women United

seats in municipal councils (62.4%); and 348 for the PR seats in local councils (90.2%). There were no women elected as municipal governors. Also, the Act stipulates that political parties shall nominate at least one woman candidate for municipal or local councils in every electoral district. In reality, political parties tend to nominate female candidates at the level of local councils. Furthermore, the ratio of the PR seats to the SMD seats is merely 10%.

The Subsidies for Fielding Female Candidates, which encourages political parties to nominate women at least 30% of the total candidates for the SMD seats, was revised (April 2022) to allow any parties to be granted subsidies if they nominate women at least 10 percent of the total candidates for the SMD seats. The revised law enables major parties to take subsidies without an effort to increase women's representation. The NHRCK recommended that the government reform relevant laws to reduce gender imbalance in politics (May 2022) but no law has been revised yet.

Suggested questions

- Explain why the government takes passive attitudes on the advancement of women's political participation, such as not taking any actions to revise relevant laws (to make gender quotas in SMDs compulsory, etc.).

Women, peace and security

19. Implementation of UN Resolution 1325 on women, peace and security

In 2022, military tensions escalated in the Korean Peninsula and Northeast Asia due to North Korea's missile launches and joint military exercises between RoK, the U.S., and Japan³⁰. Among the rising military tensions on the Korean Peninsula, the increase in armaments by neighboring countries in Northeast Asia, and the intensifying competition between the U.S. and China, residents on the Korean Peninsula are concerned about their safety. In particular, the concerns of women and girls who are disproportionately affected by conflicts and disasters are bound to be great.

As the RoK's new president is fundamentally shaking the gender equality policies of the MOGEF, it is very worrisome whether the MOGEF, responsible for the coordination and integration of the implementation of the National Action Plan for the UN Resolution 1325 on Women, Peace and Security (1325 NAP), will be able to carry out its roles properly due to the weakening role of the ministry. During the COVID-19 period, the implementation monitoring of the 1325 NAP on the responsible ministries was conducted only in writing, which was a mere formality. While 10 ministries submit the implementation report on the 1325 NAP, a lack of a comprehensive Monitoring and Evaluation system makes it difficult to evaluate how the basic goal of the 1325 NAP, the advancement of women's human security, has been achieved.

³⁰ North Korea has fired missiles more than 80 times, including short, medium, long, SLBM, and ICBM in 2022. In response, the RoK-US military authorities conducted joint military exercises on the ground, sea, and air to strengthen the 'extended deterrence'. At the same time, the joint anti-submarine exercise involving South Korea, the U.S., and Japan was conducted for the first time in the East Sea; CNN, "North Korea fired the highest number of short-range missiles in a day, says South Korea", Nov. 2, 2022, <https://edition.cnn.com/2022/11/01/asia/north-korea-missiles-wednesday-intl-hnk/index.html>

Suggested questions

- Provide information on concrete plans for establishing a legal basis for the comprehensive Monitoring and Evaluation system on the implementation of the 1325 NAP, including by revising the Article 41(3) of the Framework Act on Gender Equality and building a constructive collaboration system between the government and women CSOs, with a view to effectively implementing the 1325 NAP.

Nationality

20. Human rights of marriage migrant women

Marriage migrants must stay in Korea for at least 2 years on a marriage migrant visa (F6) to be eligible to apply for naturalization. As of December 2022, the period required for the naturalization examination after applying for naturalization is 21 months. This period may be shortened to 10 months as an exception by comprehensively considering the period of marriage, family type, and whether the woman is raising a child, etc. Procedurally, marriage migrants are in an unstable state of stay for at least 4 years, considering the required period of 2 years and the review period of about 2 years. In particular, it is difficult for marriage migrants to stay and naturalize in a stable manner without their spouses' help. Although the identity guarantee letter by their Korean spouse has recently been omitted from the list of required documents, the assistance of a Korean spouse is still crucial in the naturalization process of marriage migrants. Marriage migrants who do not have a spouse due to divorce or bereavement have to go through a different, more difficult, process, which is clearly discriminatory. The rejection rate for naturalization applications is also high. The number of people who were rejected their naturalization application after marriage was 3,121 in 2019, 3,158 in 2020, and 2,789 in 2021 respectively. During the same period, the number of applicants for naturalization were 9,881 in 2019, 9,617 in 2020, and 10,489 in 2021 respectively. The high rate of refusal to naturalization applications from marriage migrants who are already based in Korea and are living with their Korean families makes their stay unstable and may lead to uneasiness in family relationships.

Suggested questions

- Differentiating the status of stay and naturalization process based on marriage status such as divorce or bereavement is discriminatory against migrant women without a Korean spouse. Provide information on the government's plan to abolish such discriminatory policy.
- Marriage migrants become more dependent on their Korean spouses during the marriage naturalization examination period. Provide information on the concrete steps by the government to shorten the naturalization examination period.
- What can be done to increase the naturalization rate so that marriage migrants who have already settled in Korea through marriage can live a stable life through naturalization? Suggest a plan for stable naturalization for those who are raising children and also who have entered the country prior to the marriage visa strengthening policy.

Education

21. Comprehensive sexuality education

The government continues to deal with the sexual and reproductive health and rights (SRHR) only as a matter of fertility and health. In the government's policy framework, women's bodies have been objectified as a means of population control and the SRHR has been narrowly interpreted as issues of pregnancy, childbirth and maternal health of married couples. In particular, the 2022 Curriculum Amendment bill announced by the government in November 2022 intentionally deleted the term "sexual minority" from school textbooks among examples of social minorities "because of worries about terminologies related to LGBTI+," and also deleted the terms "gender equality" and "sexual and reproductive health and rights" due to the "persistent concerns raised by the national public regarding gender-related expressions." Despite strong criticism and a number of submissions of opinions from various fields such as the NHRCK, teachers' trade unions, parents' organizations and women's rights organizations during the administrative notice period, the Ministry of Education confirmed and announced the 2022 Curriculum Amendment that is gravely retrogressive in terms of human rights and education. The 2022 Curriculum Amendment will be gradually applied to all elementary, middle and high school curriculums from 2024. The government must immediately abolish the 2022 Curriculum Amendment and implement a comprehensive sexuality education as a part of regular school curriculum within the public education system. It should be in line with the 2014 ICPD Beyond, CEDAW, other universal human rights standards and gender-related principles, and encompasses social structural issues of gender discrimination and SRHR including gender diversity.

Suggested questions

- Provide information on the 2022 Curriculum Amendment, introduced by the Ministry of Education in 2022, including its objective, content, as well as on how it addresses issues of gender stereotypes, sexual diversity, among others.
- Provide information on how the government will address the social structural issue of gender discrimination, SRHR, and human rights of LGBTI+ students as a part of regular school curriculum within the public education system.

Employment

22. Gender wage gap

Non-regular workers: As of 2021, the proportion of non-regular workers among female workers is close to 52.3%.³¹ Among female workers, non-regular workers were on the decline, but in 2021, it increased by 1.9%p compared to the previous year. As of 2021, the wage of non-regular female workers is only 37.8% of the average wage of regular male workers. The average monthly wage of

³¹ Kim Yoo-sun (2021), Study on size and situations of non-regular employment, Korea Labor & Society Institute

non-regular female workers in 2021 was 1.45 million Korean Won (about 1,173 USD), 460,000 Korean Won lower than the monthly minimum wage of 1.91 million Korean Won (about 1,544 USD) in the same year. The average monthly wage of non-regular female workers began to be lower than the minimum wage in 2016, and the trend has continued to this day. The proportion of part-time workers among female workers is 26.4%, and the proportion of female workers among part-time workers is 71.2%. The proportion of part-time workers among all workers continues to increase. As of 2020, nearly 8% of female workers are ultra-short-time workers (less than 15 hours a week). Ultra-short-time workers are not subject to major labor law provisions such as weekly holiday allowances, severance pay, and annual leave, and are not obligated to subscribe to the four major insurance policies. Ultra-short-time workers are in extreme blind spots of labor rights protection.

Wage Disclosure System: The AA (affirmative action) system applies only to workplaces with 300 or more employees, and there is no classification of employment types, absolute comparison criteria, etc., and the reported results are not disclosed. AA's effectiveness has constantly been questioned but not improved. Despite recommendations to introduce the Wage Disclosure System, it still has not been implemented.

Gender discrimination in employment: In 2018, it was revealed that a large number of women were eliminated due to systematic interview scores manipulation by public institutions and the financial sector. The women workers demanded the reinforcement of ridiculously weak punishment (a fine of less than 5 million won or 4,038 USD), disclosure of the gender ratio of successful applicants to total applicants, and introduction of statistical criteria for discrimination determination, but none has been accepted. During interviews, women are continued to be asked sexist questions about marriage, boyfriends/partners, and childbirth, but the government does not sanction them.

Suggested questions

- Provide information on why the government is not limiting the reasons for using non-regular workers when it is absolutely necessary to reduce the proportion of female non-regular workers.
- Explain why the government is not taking any measures to fully implement labor laws to all workers in order to resolve the blind spots of labor rights where ultra-short-time workers are placed.
- Provide concrete plans to introduce a system including the wage disclosure system which include compulsory disclosure and follow-up measures to improve the gap revealed as found effective in cases of European countries' experiences.
- Provide a detailed plan to improve the employment system, work environment and culture, including clear standards, to eradicate gender discrimination in employment.

23. work-life balance

Career interruption of women: The number of marriages in 2021 decreased by 9.8% compared to the previous year,³² and the total fertility rate in 2021 was 0.81, the lowest ever respectively. This is

³² Statistics Korea, Marriage and Divorce Statistics

because women are choosing to work instead of marriage and childbirth as strategies to survive in the sexist world of work. The Act on Promotion of Economic Activities of Career-interrupted Women was replaced by the Act on Promotion of Economic Activities and Prevention of Career Interruption of Women (promulgated on December 7, 2021, and enforced from June 8, 2022). The policy targets were expanded from "career-interrupted women" to "all women" and entered into force in 2022. This means a shift from a policy targeting women in a career-interrupted state to a policy that prioritizes prevention. There is a need for a new policy that fits the newly amended law, but the government has not announced any related policy.

Male parental leave: Male parental leave usage is increasing, but it is polarizing depending on the size and sector of the workplace. In 2021, the usage rate of male parental leave was 26.3%, and 56.7% among them were from workplaces with 300 or more employees. Also, the rate is concentrated in the public sector. There is no government policy to resolve the polarization of male parental leave.

Suggested questions

- Explain why the government has not developed policies in accordance with the Act on Promotion of Economic Activities and Prevention of Career Interruption of Women.
- What is the government's policy to resolve the polarization of male parental leave, which is concentrated toward large corporations and the public sector, so that the use of male parental leave can become a universal right?

Health

24. Women's SRHR in relation to termination of pregnancy

Although the "crimes of abortion" provisions of the Criminal Code ceased to be in effect in January 2021, there is still a lack of legal and policy frameworks for women who have an abortion, including a lack of alternative legislation and extremely limited health insurance coverage for abortion. Although the government health agencies initially announced their plan to push ahead with approval of the abortion pill, the Ministry of Food and Drug Safety (MFDS) kept delaying its approval, asking the pharmaceutical company to submit supplementary data during the product license application process³³, despite the pill being registered on the WHO Model List of Essential Medicines and approved as a safe and effective medicine in many countries. As the company eventually withdrew the application, the MFDS made the excuse that it had done so voluntarily, without acknowledging the government's responsibility for this. Women's rights groups have long demanded for the establishment of legal and policy frameworks to guarantee women's sexual and reproductive health and rights, including the right to safe termination of pregnancy, health insurance coverage of medical services for abortion, prompt approval of an abortion pill, and provision of comprehensive pre-/post-abortion care.

³³ Korea Herald, "Abortion pill in review for over a year", Oct. 10, 2022, <https://www.koreaherald.com/view.php?ud=20221010000100>

Suggested questions

- Submit information on concrete measures and plans to address women's SRHR, which have been violated due to a lack of legal and policy frameworks that guarantee quality care for the safe termination of pregnancy, including failure of the domestic sales plan for an abortion pill.

25.LBTI women and persons and the rights to health

Legal recognition for trans persons is limitedly available through judicial procedures. Only unmarried adults, without legally minor children, who have been diagnosed with 'transsexualism.', received psychiatric/hormone therapy and undergone sterilization surgeries, are eligible for legal gender change. According to a NHRCK survey in 2020, only 8% of transgender persons responded that they have changed their gender legally, and 93% responded that they have experienced discrimination based on gender identity in their daily life. All gender-affirming care for transgender people is not covered by the National Health Insurance. As a result, transgender people have to bear the costs of up to tens of millions of KRW on their own, and eventually give up on getting gender-affirming care. According to the NHRCK survey in 2020, 71.0% of transgender respondents who did not undergo gender reassignment surgery said that they did not have surgery because of the cost burden³⁴. In response, the CEDAW Committee recommended in 2018 that the Korean government guarantee the right of transgender people to access medical services, including the National Health Insurance³⁵. Nevertheless, the government has not even considered insurance coverage for gender reassignment-related medical care.

Statistically, newborns in the country amount to approximately 450,000 per year, out of whom 0.1%, or some 450, are presumed to have Klinefelter syndrome.³⁶ There are additionally many other intersex variations, affecting estimates of up to 1.7% of the population. Consequently, the number of intersex newborns could be as many as 7,650 a year³⁷. For parents to register the birth of a child, they must select the legal gender of the child between male and female and record it in the reporting form according to the Resident Registration Act. To change this gender later, one must undergo legal gender change application procedures. In addition, it is general for adults including parents and teachers to educate children based on gender binarism even during socialization and

³⁴ NHRCK (2020), Survey on the situation of hatred and discrimination on transgender people

³⁵ UN Committee on the Elimination of Discrimination Against Women (CEDAW), Concluding observations on the eighth periodic report of the Republic of Korea, 14 March 2018, CEDAW/C/KOR/CO/8, para 41

³⁶ Asan Medical Center, An Encyclopedia of Diseases (in Korean).

<http://www.amc.seoul.kr/asan/healthinfo/disease/diseaseDetail.do?contentId=32375>

³⁷ Number of intersex people who claimed medical expenses from the National Health Insurance Service in 2015 - Healthcare Bigdata [sic] Hub (operated by the Health Insurance Review and Assessment Service; in Korean).

<http://opendata.hira.or.kr/op/opc/olap3thDsInfo.do>

public education processes. For these reasons, parents decide on the legal gender of their children without the latter's consent and impose irreversible surgeries on the youngsters as well³⁸.

Suggested questions

- Submit information on measures to ensure that transgender persons' right of access to medical services, including national health insurance coverage for gender affirming care services.
- Submit information on measures to exclude forced sterilization surgery, genital reconstructive surgery, and other abusive requirements such as divorce, having no minor child, age requirement for precondition of legal gender recognition of transgender persons.
- Submit information on measures to ensure the bodily integrity of intersex persons, especially infants, children, and adolescents, by prohibiting unnecessary medical interventions carried out without their free and fully informed consent.

Marriage and family relations

26. Rights of domestic violence victims in divorce proceedings

Currently, judicial divorce requires a conciliation procedure by the family court and a fact-finding investigation by a family court probation officer. This also applies when the victim of domestic violence claims for divorce. Lacking understanding of the distinct characteristics of domestic violence, numerous cases have continuously happened in which victims suffer from facing the perpetrator during conciliation proceedings, or where victims feel threatened by the family court probation officer's insensitive remarks with little knowledge on domestic violence. Also, although a couple counseling order to the plaintiff of a divorce case by the family court has advisory effect only, such order is made without considering the will and opinion of the victims of domestic violence and prolongs the divorce procedure. However, even with these problems at hand, the government does not even collect basic data for statistics such as the percentage of divorce due to domestic violence or the number of family fact-finding orders decided by family court.

Suggested questions

- Provide information on the percentage of divorce due to domestic violence and statistics on the number of couple counseling orders and child visitation orders.
- Provide concrete steps taken by the government to protect the safety and rights of domestic violence victims throughout divorce proceedings – including facing perpetrator, secondary victimization by the family court probation officers, and personal information leakage.

³⁸ Medical Today, "Is it a boy or a girl? What's the sex of [physically] ambiguous newborns?", 28 June 2007. (in Korean). <http://bit.ly/2isYKDg>.

27. Judiciary officials' understanding on gender-based violence

Korean law guarantees child visitation rights as a legal right of parents who are divorced or separated. The law stipulates, "If it is required for the welfare of children, the Family Court may, upon a request of the party or ex officio, restrict, exclude or modify such visitation right."³⁹ However, in reality, the court often grants order of implementation of visitation to the child's father even when he committed domestic violence and the child is in protective facilities, amplifying the victim's frustration and risk. Moreover, although perpetrators of domestic violence often use their child to conciliate, manipulate and gather information of their spouse, in many cases the court orders prior disposition of child visitation in cases of divorce and of child custody disputes related to domestic violence.

Suggested questions

- Provide information on the government's efforts to enhance judiciary officials' understanding and professionalism on gender-based violence, and describe specific means taken to realize exclusion of child visitation rights of perpetrators of domestic violence.

28. Social and economic protection for women in de facto unions

The Convention recognizes the different forms and concepts of the family and emphasizes that treatment of women in the family both at law and in private must accord with the principle of equality and justice. However, the only family system recognized by the Korean legal system is the family consisting of marriage, blood, or adoption. There is no registered partnership system and there are no local governments that offer a domestic partnership in the region. In addition, legal marriage in Korea is only possible between opposite sexes. The opposite-sex partners in de facto unions enjoy some rights and benefits of legal marriage, such as national health insurance, survivors' pension, the succession of tenancy, protection under the domestic violence protection system and property division after dissolution. In 2021, a same-sex couple in a de facto relationship sued the national health insurance corporation for canceling its coverage of one of the partners as a dependent of a de facto relationship. In January 2022, Seoul Administrative Court ruled against the couple, saying matrimony in South Korea is still considered a union between a man and a woman.

On May 30, 2022, the NHRCK recommended that the Korean Society of Obstetricians and Gynecologists (KSOG) revise the "assisted reproductive technology guidelines" that restrict in vitro procedures for unmarried women. However, the KSOG said, "since countries that allow assisted reproductive technology for single women also allow the technology for same-sex couples, a social consensus on the permission of assisted reproductive technology for same-sex couples should be preceded." and rejected the recommendation.

³⁹ Art. 837-2 (3), Civil Act

Suggested questions

- Submit information on measures to enable women in de facto unions to enjoy rights, including access to national health insurance, social security, and housing on an equal footing with opposite-sex couples in de facto unions.
- Submit information on incremental steps taken to ensure that women in de facto unions are not discriminated against in terms of economic and social rights and benefits, including legal recognition of same-sex marriage, civil union (Life Partnership), or domestic partnership at the local government level.

29. Revision of the Framework Act on Healthy Families

The current Framework Act on Healthy Families reinforces existing social prejudices and discrimination, and it excludes various forms of families not based on blood relations or heterosexual marriage from the policy system. So far, there has been constant demand for revision of the law⁴⁰. The government stated in its periodic report that it had incorporated a task for amending the Act in the Fourth Basic Plan for Healthy Families, including deleting the provision relating to family definitions centered on blood and legal marriage, and realigning the term for a healthy family, etc., reflecting the increase in family diversity. However, the Yoon administration announced in September 2022 that it will withdraw the plan to amend the Act and will retain the existing definition of family as it is⁴¹, meaning that the government will keep denying and ignoring the diverse forms of families that already exist, including persons in a life partnership, same-sex couples, single-parent families and single-person households. The Act should be amended with a view to protecting families of various forms from discrimination in legal and policy systems throughout the life cycle, such as care, housing, welfare, inheritance and funerals.

Suggested questions

- Explain concrete reasons for the government's recent decision to withdraw the amendment plan for the Framework Act on Healthy Families, although the plan was included in its periodic report.

⁴⁰ On April 6, 2022, the NHRCK recommended that the National Assembly pass the pending reform bills for the Act to embrace various forms of families. According to the 2021 National Perception Survey on Family Diversity, 68.1% of respondents accepted families of diverse forms, and 70.3% of those agreed on the abolition of discrimination against marriages not recognized by the legal system.

⁴¹ "Gender Ministry switches sides on 'healthy family' issue", Korea Joongang Daily, 2022.09.22.

<https://koreajoongangdaily.joins.com/2022/09/22/national/socialAffairs/Korea-samesex-family/20220922184656179.html>