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# Joint NGO submission<sup>1</sup>

## The UN Committee on the Elimination of Discrimination against Women (CEDAW)

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<sup>1</sup> **19 Korean women's and civil society organizations/coalitions**: Durebang, Gender Equality Training Platform, Korea Cyber Sexual Violence Response Center, Korea Sexual Violence Relief Center, Korea Women Workers Association, Korea Women's Political Solidarity, Korea Women's Associations United (KWAU), 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, South Korean Coalition for Anti-discrimination Legislation (168 organizations), The Korean Council for Justice and Remembrance for the Issues of Military Sexual Slavery by Japan, Universal Birth Registration Network (21 organizations), Women Making Peace, Women Migrants Human Rights Center, Womenlink

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***The RoK's 9th periodic report covers the implementation progress made during the previous Moon Jae-in administration from 2018 to March 2022. A new government took office in May 2022, and the policy changes that have taken place in the last two years since then have seriously undermined the progress made in the report. The new President Yoon Seok-yeol announced his pledge to abolish the Ministry of Gender Equality and Family (MOGEF), stating that there was "no structural gender discrimination in RoK". After strong opposition from women's organizations prevented him from abolishing the ministry, he is now trying to completely paralyze it including by not even appointing a minister. The current government has also increased its surveillance and intimidation of women's and civil society organizations and trade unions by abusing state power and labelling them 'cartels'<sup>2</sup>. Furthermore, the National Human Rights Commission of Korea (NHRCK), an independent national human rights body established to improve the human rights of women and socially marginalized groups, has been virtually unable to fulfill its mandate due to serious incitement to hatred and discrimination committed by some of its commissioners nominated by the President and the ruling party<sup>3</sup>. This NGO submission focuses on the challenges faced by women in the last two years since 2022.***

## **1. A comprehensive anti-discrimination law**

Although various UN human rights treaty bodies and mechanisms have recommended that the government enact a comprehensive anti-discrimination law<sup>4</sup>, the 21st National Assembly (NA) has only held one public

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2 Kyunghyang Shinmun, "Government Tries to Weaken NGOs with Subsidies, Similar to How It Put the Pressure on Labor Unions", 5 June, 2023,

[https://english.khan.co.kr/khan\\_art\\_view.html?code=710100&artid=202306051721067&medid=enkh](https://english.khan.co.kr/khan_art_view.html?code=710100&artid=202306051721067&medid=enkh)

<sup>3</sup> ***NHRCK's regression in women's policy:*** In the independent NHRCK report to the Committee, the issue of enacting a comprehensive anti-discrimination law was removed over the objections from some commissioners, including those nominated by the president and the ruling party. Besides, the recommendations regarding the issue of Japanese military sexual slavery; the rights of migrant domestic workers; the government's attempt to abolish the MOGEF; regression of gender equality policies; and the amendments to Article 297 of the Criminal Code on rape have been significantly watered down from the original draft. At the meeting, some commissioners, including Kim Yong-won and Lee Chung-sang, viewed the issue of Japanese military sexual slavery and restoring the dignity of the victims, which is the universal women's rights agenda, as a matter of foreign affairs and defense; made comments reproducing discrimination based on nationality and race and labor exploitation in relation to the human rights of migrant workers; and claimed that the government's plans to abolish the MOGEF should not be interpreted as a removal of policy goals related to gender equality. In addition, the proposed recommendation to amend Article 297 of the Criminal Code to change the definition of rape based on the lack of consent was watered down in the final version of the report, which removed the phrase "amend Article 297 of the Code", although the issue of amending Article 297 has already been discussed in the NA and was recommended by several UN human rights bodies. The women's organizations have strongly criticized that this is a decision that negates itself the very rationale and mission of the NHRCK, an independent national human rights body established to improve the human rights of women and socially marginalized groups (<http://women21.or.kr/statement/24067>).

The commissioners nominated by the President and the ruling party have, since the beginning of their term, attempted to cripple the function of the NHRCK through incitement to hatred and discrimination. According to the NHRCK Act, four persons nominated by the President, three persons nominated by the Chief Justice of the Supreme Court, and four persons selected by the NA shall be appointed by the President to be commissioners. In practice, however, the problem is that some are nominated not because they meet the requirements of human rights commissioners, but because they fit the political position of the nominating sides. In early February, 2 commissioners were even reported by human rights/civil society organizations to the Anti-Corruption and Civil Rights Commission for violating the Code of Conduct for Public Officials by insulting the bereaved families of social tragedies, making comments that reinforced stigma and discrimination against socially disadvantaged groups including precarious workers, and making personal attacks on the staffs of the NHRCK Secretariat.

<sup>4</sup> The enactment of a comprehensive anti-discrimination law has been recommended by many UN human rights treaty bodies, including the CEDAW Committee, the Human Rights Committee (CCPR), the Committee on Economic, Social and Cultural Rights (CESCR), the Committee on the Elimination of Racial Discrimination (CERD) and the Committee on the Rights of the Child (CRC). During the 4th UPR for the RoK in 2023, a total of 17 countries recommended the enactment of an anti-discrimination law. However, the government responded that it was difficult to take immediate action in the short term (A/HRC/53/11/Add.1, para 8(a), "the Government face difficulties in taking immediate actions in a short period of time").

hearing on this agenda and is about to end. Neither the government nor the NA has made any attempts to enact the law, including research or campaigns<sup>5</sup>.

- ***Immediately enact a comprehensive anti-discrimination law that prohibits all forms of discrimination, including based on sexual orientation and gender identity.***

## **2. National machinery for the advancement of women**

The government has been trying to completely paralyze the MOGEF, including by reducing its budget and policies on women and even not appointing a minister. Particularly, the Gender Equality Committee held only two written meetings in 2023, and has so far not held any meetings at all in 2024 (as of April 15, 2024), meaning that the overarching body for the deliberation and coordination of gender equality policies is not functioning properly. In this context, the government's plan to establish the Office of Population, Family and Gender Equality under the Ministry of Health and Welfare (MOHW) should be stopped immediately, as it is not aimed at realizing gender equality policies, but rather at shirking them. Furthermore, the MOHW lacks relevant policy experience to effectively integrate and coordinate the implementation of the National Action Plan for UNSCR 1325 (1325 NAP). Additionally, the absence of a monitoring and evaluation system to track its implementation status makes it difficult to verify whether the 1325 NAP has achieved the goal of improving women's human security, a fundamental objective of the UNSCR 1325.

- ***Immediately halt the current plan to abolish the MOGEF. Instead, strengthen the capacity of national machineries for gender equality including by significantly expanding the financial/human resources and the mandate of the MOGEF, to enable them to effectively carry out their roles.***
- ***Establish a monitoring and evaluation system for the 1325 NAP.***

## **3. Women's representation in public sectors**

The Third Plan for Improving Gender Representation in the Public Sector (2023~2027)<sup>6</sup> still sets very low targets (13.5 percent) for the percentage of women in senior civil service positions, compared to the average percentage in OECD countries (37.1 percent). Furthermore, structural gender discrimination in the work culture makes it difficult to increase women's representation by relying only on non-binding recommendations on a voluntary basis.

- ***Establish effective policies to increase the proportion of women in senior civil service positions to the OECD average.***
- ***Strengthen the coordinating and overseeing role of the MOGEF in the implementation of the Third Plan for Improving Gender Representation in the Public Sector.***

## **4. Amendment of the Criminal Act and criminalization of marital rape**

The 3rd Basic Plan for Gender Equality Policy, released on January 26, 2023, included a policy task to review Article 297 of the Criminal Act to define rape based on consent. However, the MOGEF withdrew it the very same day after the Ministry of Justice in charge claimed that it had no plan to revise Article 297, and also the ruling party also opposed it, citing the 'possibility of false claims'<sup>7</sup>. 62.5% of rape counseling cases involve

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<sup>5</sup> In 2020, the National Human Rights Commission of Korea (NHRCK) urged the NA to enact an anti-discrimination law in 2020. On March 25, 2024, however, in the final version of the independent NHRCK report to the CEDAW Committee, the issues of enacting a comprehensive anti-discrimination law was removed due to opposition from some commissioners appointed after the Yoon's administration.

<sup>6</sup> MOGEF, Press Release, "Establishment of the Plan for Improving Gender Representation in Public Sector", July 17, 2023 (in Korean),

<https://www.mogef.go.kr/kor/skin/doc.html?fn=3353e62bef5b4f31af6b1e8024156b17.hwp&rs=/rsfiles/202404/>

<sup>7</sup> KBS, "MOGEF changes stances in 9 hours. Why the Debate over 'Non-Consensual Rape' offense? 27 January, 2023 (in Korean) "<https://news.kbs.co.kr/news/pc/view/view.do?ncd=7591665>

sexual assault without explicit physical coercion or threats<sup>8</sup>. According to the MOGEF<sup>9</sup>, 13.5% of the perpetrators of 'lifetime sexual harassment' experienced by women are their spouses. However, reports of marital rape remain extremely rare.

- ***Amend Article 297 of the Criminal Act to define rape based on consent in line with the Committee's previous recommendation, and strengthen effective protection measures for victims of sexual violence by intimate partners, including marital rape.***

## 5. Victims' rights in criminal and judicial proceedings

The current government's crackdown on false accusation of sexual violence has led to an increase in prosecutors' investigations into perceived false charge cases<sup>10</sup>. Yet, there are no measures in place to address cases where investigators rely on misconceptions about sexual violence. The 2018 revision of the Prosecution Service's investigative manual<sup>11</sup> has many limitations<sup>12</sup>: the unclear timing of the conclusion of sexual assault investigations; and the failure to address various forms of retaliatory counterclaims such as defamation and perjury. The appointment of a public defender and the free legal aid system do not apply to victims' assistants who face retaliatory counterclaims. The Ministry of Justice opposed to the policy task to enact a new law which prohibits the use of evidence of victims' sexual history<sup>13</sup>, included in the *3rd Basic Plan for Gender Equality Policy* of the MOGEF.

- ***Expand the budget and scope of legal support to protect victims effectively and their assistants facing all types of retaliatory counterclaims.***
- ***Reflect the misuse of counter-accusations by perpetrators in sentencing for sexual offenses.***
- ***Specify the prohibition of using the sexual history of victims as evidence in the Act on Punishment of Sexual Crimes.***

## 6. Measures to prevent online sexual violence

The instances involving the public sexual insult of victims in cyberspace and impersonating victims by appropriating their personal information and photographs fall outside the scope of the current Act on Special Cases Concerning the Punishment of Sexual Crimes<sup>14</sup>. The victim image, falling under the provisions of Article

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<sup>8</sup> Hankyoreh, "6 out of 10 Rape Cases Lacking 'Assault or Threat'... Necessity of 'Non-Consensual Rape' Offense Asserted. Analysis of 4,765 Cases Received by 119 Sexual Violence Counseling Centers." 26 July 2023, <https://www.hani.co.kr/arti/society/women/1101677.html>

<sup>9</sup> MOGEF, Survey on Violence against Women (2021), [https://www.mogef.go.kr/mp/pcd/mp\\_pcd\\_s001d.do?mid=plc504&bbtSn=704373](https://www.mogef.go.kr/mp/pcd/mp_pcd_s001d.do?mid=plc504&bbtSn=704373)

<sup>10</sup> Prosecutor's Office Press Release, "Strict Response to Obstruction of Justice Offenses such as Perjury and False Accusation", February 14, 2023., <https://www.spo.go.kr/site/spo/ex/board/View.do>

<sup>11</sup> In 2018, due to frequent cases of sexual offenders counter-accusing their victims, the Ministry of Justice and the prosecution revised the investigative manual to include halting investigations into false accusations until the conclusion of sexual assault investigations.

<sup>12</sup> Korea Sexual Violence Relief Center, "Fighting Against Legal Retaliation in Sexual Assault Cases, Victims becoming Suspects: The Law Kick Seminar."

<sup>13</sup> Hankyoreh, "[Exclusive] Ministry of Justice and Ministry of Gender Equality and Family Both Oppose 'Sexual Violence-related Legislative Amendments'", February 10, 2023, <https://www.hani.co.kr/arti/society/women/1079253.html>

<sup>14</sup> "In 2022, according to counseling statistics from the Korea Cyber Sexual Violence Response Center (KCSVRC), the most prevalent categories of victimhood were "Others" and "Sexual Harassment," each accounting for 20% of all cases. It was followed by "Illicit Filming" at 19%. The categories of "Others" and "Sexual Harassment" encompass various instances, including nonconsensual audio recordings of sexual conversations or sounds, impersonation and the dissemination of sexually relevant facts/false information using personal data obtained from online dating apps and second-hand market websites, and the sexual exploitation of hacked personal information such as identity documents, educational affiliations, or workplace details, as well as nonsexual cyberstalking. Cases falling under "Others" and "Sexual Harassment" are challenging to address within the current legal framework provided by the Act on Special Cases Concerning the Punishment of Sexual Crimes. As a result, they are often prosecuted under laws related to defamation and contempt. However, when the existing laws are insufficient to address the complexities of these cases, the focus shifts to individual victim risk

14, 14-2, and 14-3 of the Act on Special Cases Concerning the Punishment of Sexual Crimes<sup>15</sup>, pertains to photographs or videos that reveal a “person's body, which may cause any sexual stimulus or shame against the will of the person”. Since the law focuses on bodily images “that may cause sexual stimulus or shame,” instances where no breast or genital exposure is involved, are not legally acknowledged as victimhood<sup>16</sup>. In practice, such cases are being dropped from the support system provided by the Advocacy Center for Online Sexual Abuse Victims under the MOGEF, which handles the removal of non-consensual images for victims<sup>17</sup>.

- ***Provide the legislative alternatives to approach and address sexual harassment within cyberspace as “gender-based violence.”***
- ***Remove the phrase “person's body, which may cause any sexual stimulus or shame,” and establish an alternative criterion for determining victimhood.***

## **7. Sexual harassment at work in small and medium-sized enterprises**

The government has completely cut the 2024 budget for the prevention of sexual harassment in workplaces employing less than 300 employees. The perpetrator can be punished by an administrative fine under the Equal Employment Opportunity and Work-Family Balance Assistance Act. However, the penalty provisions are not applied to the perpetrators if they are representative persons of corporations.

- ***Restore the budget for the prevention of sexual harassment in workplaces and amend the law to apply the penalty provisions to the perpetrators who are the representative persons of corporations.***

## **8. Punishment of sexual harassment in public institutions**

management strategies. This may involve actions such as deleting social media accounts used by perpetrators for criminal purposes and enhancing personal security measures.” (ShingSung, Yeone (2023). “Cyber Sexual Violence as Gender-Based Violence.” In Issues and Future Challenges in Policies Addressing Five Major Forms of Violence. (pp.63-64). Korean Women’s Development Institute)

<sup>15</sup> **Article 14 (Taking Photographs or Videos by Using Cameras)** ① A person who takes photographs or videos of another person's body, which may cause any sexual stimulus or shame against the will of the person who was shot, by using a camera or other mechanism which has functions similar thereto, shall be punished by imprisonment with labor for not more than seven years or by a fine not exceeding 50 million won.

**Article 14-2 (Distribution of False Video Products)** ① A person who edits, synthesizes, or processes photograph, video, or audio (hereinafter referred to as “photograph, etc.” in this Article) targeting the face, body or voice of a person for the purpose of dissemination, etc, in a form that may cause sexual desire or shame against the will of the person who is subject to video,etc. (hereinafter referred to as “editing, etc.” in this Article), shall be punished by imprisonment with labor for not more than five years or a fine of not more than 50 million won.

**Article 14-3 (Intimidation or Compulsion by Using Photograph, etc.)** ① A person who intimidates another person by using photograph or its duplicates (including a duplicate of the duplicate) which may cause sexual desire or shame shall be punished by imprisonment for a limited term of at least one year.

<sup>16</sup> “Courts are showing shifts in interpreting the legal emphasis and key concept of ‘sexual shame’ in cases of technologically facilitated sex crimes. However, relying solely on interpretation without modifying the concept may not ensure a stable legal interpretation. Therefore, it is essential to legislatively reflect changes in the court’s interpretation criteria regarding ‘sexual shame.’ However, in practice, the legal criteria of ‘obscenity’ and ‘sexual shame’ often lead to the dismissal of sexual violence victimhood. These criteria prioritize the punishment of perceived immoral behaviors rather than addressing technologically facilitated sexual violence as a form of “gender-based sexual violence.” (Kim, Jung-hye, et al. (2021). Legislative Measures for Addressing Technologically Facilitated Sexual Violence. 116p, Korean Women's Development Institute)

<sup>17</sup> The following is the guideline of data removal support by the Advocacy Center for Online Sexual Abuse Victims under the MOGEF:

Q. There are photos/videos that I want to have deleted. Do you provide the deletion service for those images?

A. The center provides the deletion service for intimate images taken and/or faked and distributed without the consent of the person depicted in the images. We may not provide the deletion service for non-sexual images that were taken/created and distributed through legal means.\* “Advocacy Center for Online Sexual Abuse Victims,” A.C.O.S.A.V. Official Website, accessed Mar 13, 2024, [https://d4u.stop.or.kr/delete\\_consulting](https://d4u.stop.or.kr/delete_consulting).

After the #MeToo movement, the government has initiated special reporting centers and on-site inspections to prevent the recurrence of sexual harassment in public institutions. However, these efforts have not been consistently or actively carried out. Universities wield significant professorial authority<sup>18</sup>, exacerbated by the job market's difficulties. Professors abuse their power by evading disciplinary actions and causing serious secondary harm in judicial proceedings. Although the military has introduced a system of 'heavy punishment' for sexual assault, reporting, disciplinary actions, and penalties for harassment are difficult to come by. In a 2021 survey by the NHRCK, 32.1% of female soldiers and 8% of male soldiers reported experiencing sexual harassment<sup>19</sup>.

- ***Elucidate the current status of sexual harassment prevention and protection of victims and explain the government's efforts in this regard.***

## **9. Protection of human trafficking victims**

Immigration and police are not able to identify victims of human trafficking and refer very few cases to organizations providing victim support. Immigration and police are not using the Victim Identification Index properly. In addition, the Victim Identification Index is not being used because most cases of human trafficking for purposes of sexual exploitation are considered cases of voluntary prostitution. Because there is no human trafficking punishment law and law enforcement does not conduct investigations, the number of investigations into human trafficking cases is low. The Human Trafficking Prevention Law enforced in 2023 had neither a policy nor funding to provide medical and legal assistance to victims.

- ***Improve the quality and effectiveness of extensive mandatory training for civil servants so that they can understand human trafficking and proper use of the Victim Identification Index.***
- ***Enact a human trafficking punishment law that meets the standards of the UN Protocol to Prevent Trafficking in Persons.***
- ***Expand funding for human trafficking victim rights advocacy organizations, etc. for victim support.***

## **10. E-6-2 visa system**

The government responded that it regulates the E-6-2 visa system on a regular basis. However, the government does not actually regulate the entertainment establishments on site and in person. Instead, Immigration, in accordance with the Immigration control manual, simply asks E-6-2 status holders to complete a Victim Identification Index when applying for an extension of stay at the immigration office. The Victim Identification Index is typically provided in English, and thus accessibility to non-English-speaking migrant workers is low. In addition, club owners and promoters often accompany their E-6-2 status holding migrant workers to the Immigration office, so the migrant workers cannot fill out the Index authentically based on their actual situations.

- ***Introduce effective measures to prevent human rights violations of E-6-2 status holders. Measures include increased accessibility to the Victim Identification Index; government workers or professional counselors conducting the Victim Identification Index in person by asking questions directly to E-6-2 status holders and completing the checklist on their behalf; etc.***

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<sup>18</sup> Women's News, Seoul National University Stained by Professorial Sexual Harassment.... Why Do Incidents Continue to Occur? (in Korean), 1 March 2023., <https://www.womennews.co.kr/news/articleView.html?idxno=233407>  
Hankyoreh 21, University Professors' Harassment of Victims is 'Next Level', 14 October. 2023 (in Korean), [https://h21.hani.co.kr/arti/society/society\\_general/54522.html](https://h21.hani.co.kr/arti/society/society_general/54522.html)

Kyunghyang Shinmun, Continuous #MeToo in Universities, the Time for Universities to Change, 6 March 2020., <https://m.khan.co.kr/national/national-general/article/202003061400001#c2b>

<sup>19</sup> Survey on Human Rights in Military, 2019

<https://www.humanrights.go.kr/base/board/read?boardManagementNo=17&boardNo=7605098&searchCategory=&page=21&searchType=&searchWord=&menuLevel=3&menuNo=91#>

### **11. G-1 visa and women victims of human trafficking**

During the investigation process, rather than being classified as victims of sexual exploitation and granted a G-1 visa, migrant women victims of sexual exploitation are commonly considered criminals willing to partake in prostitution and are deported from the country. In addition, G-1 visas are issued only to migrant women victims who participate in the legal process (lawsuit, investigation, court case, etc.) involving their experience as victims of human trafficking or gender-based violence. Migrant women victims who do not have an ongoing legal case cannot receive G-1 status for the purposes of receiving shelter protection, medical treatment, mental health support, etc.

- ***Classify migrant women victims of sexual exploitation as victims of sexual exploitation and not as perpetrators of prostitution, and grant them G-1 visas so that they can receive support in accordance with the law. In addition, approve G-1 status of stay for even victims who are not involved in a legal case, but rather for purposes of recovering from sexual exploitation, such as receiving shelter protection, treatment, etc.***

### **12. Decriminalization of women in prostitution**

The RoK's anti-prostitution laws prohibit the procurement and purchase of sexual services but do not penalize those victimized in the sex trade, as they define prostitution as a form of violence against women and sexual exploitation. The immunity provision, however, applies only when the victimization is substantiated and penalization against those not identified as victims remains.

- ***Repeal the provision that criminalizes prostituted women in the Act on the Punishment of Arrangement of Commercial Sex Acts.***

### **13. Japanese military sexual slavery**

On November 23, 2023, the 33rd Civil Division of Seoul High Court ruled that the state of Japan bears legal responsibility for the damages claimed by victims of Japanese military sexual slavery. The court determined that Japanese military sexual slavery constituted a systematic and widespread illegal act orchestrated by the Japanese government, resulting in irreparable "physical and psychological damage" to the victims. However, the Korean government has not undertaken any diplomatic efforts to enforce the ruling, merely reiterating its stance by acknowledging the '2015 Korea-Japan Agreement' as the official agreement between the two nations. Additionally, incidents that deny the reality of Japanese military sexual slavery, demean victims, and target support groups are increasingly prevalent.

- ***Respect the ruling of the lawsuit filed by victims of Japanese military sexual slavery, cancel the '2015 Kore-Japan Agreement,' and urge the Japanese government to acknowledge its crimes, extend an official apology to the victims, and provide them with appropriate legal reparations.***
- ***Amend the Japanese military "Comfort Women" Victims Protection Act, reflecting the verdict acknowledging Japanese military sexual slavery as a severe human rights violation and a crime against humanity, specifically targeting women, and proactively shield victims from defamation.***

### **14. Former "Comfort Women" for U.S Military**

On September 29, 2022, the RoK Supreme Court made its final ruling regarding the compensation lawsuit that 122 former Korean "comfort women" for U.S. military filed against the RoK government in 2014. In its ruling, the Supreme Court holds the State responsible for the former "comfort women" for the U.S. military; that is, for the first time, the South Korean judiciary made a ruling clarifying the State's violence and human rights violations against the "comfort women." Proceeding the first and second trials, the Supreme Court ruled that

the State not only promoted and encouraged prostitution by creating, operating, and managing the camp towns, but also committed the illegal act of conducting compulsory sexually transmitted disease control.

- ***Include in the 1325 NAP the RoK's issue of wartime sexual violence committed by the U.S. military, initiate truth and reconciliation measures as well as measures to prevent recurrence, and create a concrete system of support for victims and survivors.***
- ***In accordance with the Supreme Court ruling, provide an official apology to the "comfort women" victims and survivors, and prepare a support plan for the future compensation lawsuit that will be filed against the United States.***

## **15. Women's representation in politics**

The percentage of women members of the NA (22<sup>nd</sup>) is 20 percent. Of those elected through the Single Member District (SMD) system, only 14 percent are women. The proportion of women among NA members elected by proportional representation (PR) is 52 percent. The PR system, which enforces gender quotas, is an effective way for women to participate in politics, but its share of seats is very low (only 46 out of a total of 300 parliamentary seats) and even declining<sup>20</sup>. The revised system of the "Subsidies for fielding female candidates"<sup>21</sup> actually undermines the goal of the subsidies to increase the nomination of women candidates, as it has effectively relaxed the criteria for subsidizing political parties<sup>22</sup>.

- ***Increase the ratio of PR seats to increase the number of women members of the NA. Make a 30 percent gender quota mandatory in the nomination of SMD candidates (Article 47(2) of the Public Official Election Act).***
- ***Revise the subsidy system for fielding female candidates, which is provided to parties that nominate more than a certain percentage of women candidates, to penalize parties that do not nominate at least 30% of women candidates with the aim of improving its effectiveness.***

## **16. Rights of marriage migrant women**

Migrants married to Korean nationals are in an unstable state of stay because they cannot apply for naturalization until they have lived in Korea for 2 years, and their naturalization applications take at least 10 months to be processed. Among various visa categories<sup>23</sup>, only F-6-1 visa holders (those with valid marital status) are exempted from the comprehensive examination stipulated in the Nationality Act, and the examination period may be shortened for those who are raising children. These do not apply to those who are divorced or whose spouses are deceased, and who have no children, etc. Although a spouse's letter of guarantee has been removed from the list of documents required for extension of stay, it is still difficult for marriage migrants to extend their stay without the assistance of a Korean spouse and virtually impossible to naturalize without one.

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<sup>20</sup> PR seat changes: 54 out of a total of 299 seats (2012) → 47 out of 300 seats (2016) → 46 out of 300 seats (2024)

<sup>21</sup> The Public Official Election Act stipulates that political parties should strive to nominate at least 30% female candidates out of the total number of candidates for the SMD elections. However, since this is not a mandatory provision, the system of financial incentives for recommending female candidates, known as "subsidies for fielding female candidates," was introduced to encourage parties to comply.

<sup>22</sup> Under the current subsidy system for fielding female candidates, political parties that nominate more than 30% female candidates out of the total number of candidates for the SMD elections are eligible to receive the subsidy, while those that nominate between 20% and less than 30%, or between 10% and less than 20% are ineligible unless no party meets the first condition. However, with the recent amendment, these conditions have been eliminated, and now all parties that nominate more than 10% female candidates out of the total number of candidates for the SMD elections will receive the subsidy, albeit with varying amounts.

<sup>23</sup> The visa categories for marriage migrants are as follows: F-6-1 is for a person with valid marital status; F-6-2 is for a person raising a child after a marriage breakdown; and F-6-3 is for a person whose spouse is deceased or whose marriage has broken down due to the fault of the spouse.



- ***Take concrete steps to significantly shorten the naturalization examination period for marriage migrants, and abolish residency and naturalization policies that discriminate against those who are divorced or whose Korean spouses are deceased.***
- ***Adopt policies that allow marriage migrants to extend their stay and naturalize on their own.***

## **17. Universal birth Registration system**

The newly introduced birth notification system (2023)<sup>24</sup> does not apply to migrant children. Refugees, humanitarian stay permit holders, and refugee applicants still face difficulties in reporting their children's births to the governmental agencies of their home countries, which are likely to be the persecutors. Eventually, they cannot register the births of children in any states. While the government has stated that there was a consensus to introduce a birth registration system for migrant children, and a number of bills have been introduced in the NA for consideration, there have been no official discussions or plans made by the government since 2021. It is also highly unlikely that the bills will be passed in the 21st NA term, which ends in May 2024.

- ***Introduce the 'universal birth registration system', ensuring that all children born in the State are registered immediately after birth and given a name.***

## **18. Comprehensive sex education**

Despite the Committee's previous recommendations<sup>25</sup>, the government suspended the revision process of the national school sex education guidelines in February 2019, leaving the schools with no choice but to follow the previous guidelines which reinforces gender stereotypes and discrimination<sup>26</sup>. Sex education in school is being criticized for being dominated by conservative religious groups and being made of anti-human rights education such as purity education and hatred of LGBTIQ+<sup>27</sup>. Nevertheless, MOGEF has cut the entire budget of sex education in schools in 2024<sup>28</sup>. Furthermore, notwithstanding strong opposition from the civil society, the government confirmed the 2022 Revised Curriculum that deleted the terms "sexual minority", "gender equality", "reproductive rights" and "sexuality", stating that such terms may "confuse the gender identity of adolescents and cause unnecessary controversy"<sup>29</sup>.

- ***Repeal or revise the 2022 Revised Curriculum.***
- ***Implement effective and comprehensive sex education in the public education system including sexual and reproductive health and rights and provide the national school sex education guidelines based on this.***

<sup>24</sup> In June 2023, the Board of Audit and Inspection of Korea announced that there were over 6,000 unregistered children among those born in hospitals from 2015 to 2022. Subsequently, the government conducted a focused investigation on 2,236 children whose parents had "responsibilities to register the births of their children." About 4,000 migrant children born in hospitals were excluded from the government's investigation. The government finally amended the Act on Registration of Family Relations to introduce a "birth notification system" requiring medical institutions to report the births of children to the government.

<sup>25</sup> CEDAW/C/KOR/CO/8, para. 37.

<sup>26</sup> Hankook Ilbo, "When will 'School Sex Education' teaching gender discrimination change?" 10 July 2019 (in Korean), <https://www.hankookilbo.com/News/Read/201907071805080120>

<sup>27</sup> Segye ilbo, "Withdraw The religious organization, emphasizing premarital purity, from the consignment of the youth support center", 19 December 2022 (in Korean), <https://www.segye.com/newsView/20221219514571>

<sup>28</sup> Pressian, "'Gender Equality Education is still terrible'...MOGEF is trying to abolish 'gender human rights education'" 8 September 2023 (in Korean) <https://www.pressian.com/pages/articles/2023090817040405474>

<sup>29</sup> Kyunghyang shinmun, "The opposition to the new curriculum, which has been erased "LGBTIQ+", spreads, and Controversy continues over "a hasty collection of opinions", 14 November 2022 (in Korean), <https://www.khan.co.kr/national/education/article/202211141520001>

## 19. Implementation of Women's Economic Activity Act

While the Act on Promotion of Economic Activities and Prevention of Career Interruption of Women (Women's Economic Activity Act) aims to comprehensively promote women's economic activities and prevent career interruption of women, the government's current policy only focuses on the re-employment of career-interrupted women through the operation of the existing Career Development Centers for Women. This situation is closely related to the current vegetative state of the MOGEF, whose functions and mandates have been severely curtailed, and its inability to develop new policies as required by the amended Act.

- ***The MOGEF and the Ministry of Labor should develop and implement comprehensive policies enhancing women's economic activities in accordance with the revised Women's Economic Activity Act.***

## 20. Principle of equal pay for equal-value work

In accordance with the Equal Employment and Work-Life Balance Act (Equal Employment Act), which stipulates the principle of equal pay for equal-value work, the government is required to establish the Basic Plan for Equal Employment Opportunity and Work-Family Balance every 5 years. However, as of April 15, 2024, the government has not yet established the 7th Basic Plan (2023-2027). In addition, the legal provision (Article 8(1) of the Equal Employment Act) on the principle of equal pay for equal value of work has been narrowly interpreted in the relevant court cases, which allows only a handful of women workers to benefit from it.

- ***Immediately establish the 7th Basic Plan for Equal Employment Opportunity and Work-Family Balance.***
- ***Investigate the reasons for the ineffective implementation of redress procedures in accordance with the principle of equal pay for equal-value work stipulated in the Article 8(1) of the Equal Employment Act, and develop measures to improve the situation.***

## 21. Rights of women extreme part-timers

The labor laws have part-time-related clauses only to exclude part-time workers working less than 15 hours (shortly extreme part-timers) from legal protection. The laws also stipulate the exclusion of extreme part-timers from weekly paid holidays and severance payments, causing the wage cut, and the preclusion of them from social insurance for unemployment, pension, and healthcare. Even worse, the extreme part-time workers are not covered by the Act on the Protection Etc. of Fixed-term and Part-time Workers that regulates the transition of temporary employment to permanent one after two years of employment, allowing the use of the extreme part-timers forever<sup>30</sup>. Some employers abuse the laws and hire more workers, working 14.5 hours

<sup>30</sup> Exceptions limiting the legal rights of part-time workers working less than 15 hours

**Labor Standards Act** : Article 18, (3) Articles 55 and 60 shall not apply to employees whose contractual work hours per week on an average of four weeks (in cases where their working periods are less than four weeks, such period of working) are less than 15 hours.

[https://elaw.klri.re.kr/kor\\_service/lawView.do?hseq=25437&lang=ENG](https://elaw.klri.re.kr/kor_service/lawView.do?hseq=25437&lang=ENG)

**Act On The Guarantee Of Employees' Retirement Benefits**: Article 4 (Establishment of Retirement Benefit Schemes)

(1) Each employer shall establish at least one retirement benefit scheme in order to pay benefits to retiring employees: Provided, That this shall not apply to employees whose continuous service period is less than one year, nor employees whose average weekly working hours over a four-week period is less than 15 hours.

[https://elaw.klri.re.kr/kor\\_service/lawView.do?hseq=60203&lang=ENG](https://elaw.klri.re.kr/kor_service/lawView.do?hseq=60203&lang=ENG)

**Employment Insurance Act**: Article 10 (Exclusion from Application) (1) This Act shall not apply to any of the following persons 2. An employee whose contractual working hours in the relevant business are less than the number of hours prescribed by Presidential Decree;

[https://elaw.klri.re.kr/kor\\_service/lawView.do?hseq=64176&lang=ENG](https://elaw.klri.re.kr/kor_service/lawView.do?hseq=64176&lang=ENG)

**Enforcement Decree Of The National Pension Act**: Article 2 (Persons Not Deemed Employees)

Neither of the following persons shall be deemed employees prescribed in the proviso of Article 3 (1) 1 of the National Pension Act A part-time worker whose prescribed working hours are less than 60 hours in a month: Provided, That any of

weekly. According to the Economically Active Population Survey by Statistics Korea, 8.3% of female employees work less than 15 hours. The protection, already minimal, for the extreme part-timers became worse in December 2023 when the government abolished a 4-hour unemployment insurance provision, which assumed all the part-time workers working for 4 hours at minimum per day in calculating unemployment benefits. It was because the government was concerned that the workers, having worked less than 4 hours, may receive higher unemployment allowance than their wage. As a result, vulnerable workers may have to deal with bigger challenges to make their living<sup>31</sup>.

- ***Repeal the exclusive and discriminatory legal provisions that deprive the extreme part-timers of their labor rights, and restore the 4-hour provision for unemployment benefits.***

## 22. Right to care

Developing policies to reduce working hours is crucial to improving the right to care. Koreans work 150 hours more per year than people in OECD countries<sup>32</sup>. Nonetheless, the government has pushed to extend working hours up to 69 hours, amending from the current 40-hour work week with a 12-hour overtime<sup>33</sup>. In 2022, only 30.2% of those eligible took parental leave. Of these, only 27.1% were men. Most of those taking the leave worked in big companies; 70.1% of men and 60.0% of women who took leave worked in companies with more than 300 employees<sup>34</sup>. Although it is difficult for workers in small-and-medium companies, temporary workers, and specially-employed/freelancers who are not considered employees to take parental leave, the government has not paid attention to this issue. Meanwhile, the government has tried to stimulate public opinion to bring migrant care workers with less than minimum wage to respond to the high cost and supply shortage of care workers like in Hong Kong<sup>35</sup>.

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the following persons among the relevant part-time workers shall be deemed an employee

[https://elaw.klri.re.kr/kor\\_service/lawView.do?hseq=63510&lang=ENG](https://elaw.klri.re.kr/kor_service/lawView.do?hseq=63510&lang=ENG)

**Enforcement Decree Of The National Health Insurance Act:** Article 9 (Persons Excluded from the Employee Insured)

"Workers and employers of workplaces prescribed by Presidential Decree, ... public officials, and school employees" in Article 6 (2) 4 of the Act means any of the following persons: 1.Part-time workers, or workers by the hour who are working less than 60 hours a month; 2.Part-time school employees, or public officials or school employees by the hour who are working less than 60 hours a month;

[https://elaw.klri.re.kr/kor\\_service/lawView.do?hseq=63233&lang=ENG](https://elaw.klri.re.kr/kor_service/lawView.do?hseq=63233&lang=ENG)

**Enforcement Decree Of The Act On The Protection Of Fixed-term And Part-time Employees, Act On The Protection Of Fixed-term And Part-time Employees:** Article 4 (Employment of Fixed-Term Employees)

(1) Any employer may hire a fixed-term employee for a period not exceeding two years (where his or her fixed-term employment contract is repetitively renewed, the total period of his or her continuous employment shall not exceed two years): Provided, That where a fixed-term employee falls under any of the following subparagraphs, any employer may hire such employee for more than two years

6.Where any reasonable ground exists equivalent to those mentioned in subparagraphs 1 through 5, as prescribed by Presidential Decree.

[https://elaw.klri.re.kr/kor\\_service/lawView.do?hseq=57035&lang=ENG](https://elaw.klri.re.kr/kor_service/lawView.do?hseq=57035&lang=ENG)

Article 3 (Exception of Restriction on Period of Employment for Fixed-Term Employees) (3)"Where prescribed by Presidential Decree" under Article 4 (1) 6 of the Act shall be any of the following 6.Where a part-time employee whose contracted weekly working hours are clearly short under Article 18 (3) of the Labor Standards Act;

[https://elaw.klri.re.kr/kor\\_service/lawView.do?hseq=52108&lang=ENG](https://elaw.klri.re.kr/kor_service/lawView.do?hseq=52108&lang=ENG)

<sup>31</sup> Workers working 3 hours or less, will have less unemployment allowance from December / Joseilbo, 10 December 2023

<https://m.joseilbo.com/news/view.htm?newsid=505002>

<sup>32</sup> Yearly working hours for Koreans fall by 200, but remain far longer than OECD average / Korea Times, March, 4, 2024

<https://www.koreatimes.co.kr/www/2/common/viewpage.asp?newsIdx=369885&categoryCode=113>

<sup>33</sup> New government plan opens up possibility of 80.5-hour work week in Korea / Hankyoreh, 7 March, 2023,

[https://english.hani.co.kr/arti/english\\_edition/e\\_national/1082563.html](https://english.hani.co.kr/arti/english_edition/e_national/1082563.html)

<sup>34</sup> Parental leave increase by 14%.. More men taking it but mostly working in big companies/ MBC, 20 December 2023 (in Korean), [https://imnews.imbc.com/replay/2023/nw1200/article/6554938\\_36170.html](https://imnews.imbc.com/replay/2023/nw1200/article/6554938_36170.html)

<sup>35</sup> Migrant workers, caregivers condemn BOK suggestion to exempt foreign nannies from minimum wage / Korea Times, March 13, 2024 (in Korean) [https://www.koreatimes.co.kr/www/nation/2024/03/113\\_370534.html](https://www.koreatimes.co.kr/www/nation/2024/03/113_370534.html)

- **Adopt policy frameworks to reduce standard work hours and overtime, including a policy to establish the legal 35-hour work week.**
- **Provide policy alternatives for those who have difficulty taking parental leave, such as workers in small enterprises, short-term contract workers, specially employed/self-employed workers and freelancers.**
- **Abolish policies that allow migrant care workers to be paid less than the minimum wage.**

### **23. Termination of pregnancy and women's SRHR**

The government is again attempting to restrict the right to abortion by proposing amendments to the Criminal Act<sup>36</sup>. The proposed amendment bills specify the permissible timing and grounds for abortion<sup>37</sup>, although the "crimes of abortion" provisions of the Criminal Act have been completely repealed as of January 1, 2021. The NHRCK has recommended a comprehensive review of the government's proposed amendment bills<sup>38</sup>, as they effectively retain the criminalization of abortion. However, the government is delaying the introduction of abortion pills and obstructing the amendments to the Mother and Child Health Act<sup>39</sup>, claiming that the amendment to the Criminal Act is a priority, even though the introduction of the pills does not require any legislative changes. As highlighted in the WHO's guidelines on abortion<sup>40</sup>, abortion should be fully decriminalized and the right of access to quality abortion care must be guaranteed.

- **Ensure a public health care system for sexual and reproductive rights, including the prompt introduction of abortion pills and comprehensive health insurance coverage for abortion services.**

### **24. Health of women in diversity**

Despite the Committee's previous recommendation (para 41), the sexual and reproductive health policies are centered on pregnancy and childbirth and do not sufficiently take into account the lives and intersectionality of

<sup>36</sup> Government Partial Amendment Act to the Criminal Act Article 270-2 (Conditions for Allowing Abortion)

① No punishment shall be imposed when an act under Article 269(1) or (2), or Article 270(1), is performed by a physician using a medically recognized method within 14 weeks of pregnancy.

② No punishment shall be imposed when an act under Article 269(1) or (2), or Article 270(1), is performed by a physician using a medically recognized method within 24 weeks of pregnancy, under any of the following circumstances:

1. Pregnancy resulting from rape or quasi-rape.

2. Pregnancy between relatives or kinship prohibited by law.

3. When all of the following conditions are met:

a. The continuation of pregnancy would seriously endanger or likely to endanger the pregnant woman due to social or economic reasons.

b. The pregnant woman received counseling for the maintenance or termination of pregnancy according to the Mother and Child Health Act and at least 24 hours have passed since then.

4. When the continuation of pregnancy seriously endangers or is likely to endanger the health of the pregnant woman for medical reasons.

③ When a pregnant woman, after counseling for the maintenance or termination of pregnancy according to the Mother and Child Health Act, has received sufficient information about pregnancy, childbirth, and childcare and reached a decision that she cannot continue the pregnancy after thorough consideration, it shall be presumed that the provisions of subparagraph 3 of paragraph 2 apply

<sup>37</sup> The Kyunghyang Shinmun, Women Offended by Government's Revision Bill on Abortion Laws, October 21, 2020, <https://www.khan.co.kr/opinion/column/article/202010211622001>

<sup>38</sup> National Human Rights Commission of Korea Press Releases, "Abortion Should Not Be a Crime," Says NHRCK in Its Opinion to Speaker of the NA, February 4, 2021, <https://www.humanrights.go.kr/site/program/board/basicboard/view?&boardtypeid=7003&menuid=002002001&pagesize=10&searchcategory=policy&boardid=7606239>

<sup>39</sup> The Kyunghyang Shinmun, "Condemnation of the Ministry of Health and Welfare Blocking Amendment to the Mother and Child Health Act" ... Over 4 Years Without Progress on 'Abortion Replacement Bill', 2023.12.15., <https://www.khan.co.kr/national/national-general/article/202312151544001>

<sup>40</sup> WHO, Abortion Care Guideline, <https://iris.who.int/handle/10665/349316>

diverse women<sup>41</sup>. Trans women are forced to undergo medical or surgical intervention as a requirement for gender recognition. Meanwhile, the medical measures required for transitioning are classified as non-covered items in health insurance.

- ***Following up on the previous recommendation (para 41), ensure that health legislation policies on women's sexual reproductive health and rights do not focus solely on fertility, but are inclusive of all women who face intersectional discrimination, including on the basis of economic status, disability, migration, sexual orientation and gender identity. Exclude involuntary medical interventions, such as surgery from the trans gender recognition and make sure the national health insurance cover necessary medical measures.***

## **25. Abolition of the patrilineal surname principle**

The government has made no effort to abolish the patrilineal surname principle. Despite the government's stated policy plans in its periodic report<sup>42</sup>, since the current government took office, the Ministry of Justice in charge has stated that it will "take steps to revise the Act only after a national consensus is reached"<sup>43</sup>. The Ministry of Justice also submitted a brief arguing for the dismissal of the case to the Constitutional Court in response to the constitutional complaint regarding the patrilineal surname principle, stating that it did not violate fundamental rights<sup>44</sup>.

- ***Revise the Article 781(1) of the Civil Act to abolish the patrilineal surname principle.***

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<sup>41</sup> The Korean Medical Association of Obstetricians and Gynecologists rejected the NHRKC's' recommendation to revise the guidelines limiting access to assisted reproductive technologies such as artificial and in vitro fertilization only to legal and de facto married couples, not single women or women in same-sex unions.

<sup>42</sup> The government mentioned in its periodic report 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 (2021-2025) and Fourth Basic Plan for Law Fertility and Aging Society (2021-2025).

<sup>43</sup> In 2022, the Ministry of Justice also submitted a written response to the NA at the Parliamentary Inspection of State Administration, stating that the abolition of the patrilineal surname principle must be carried out in a deliberate manner based on national consensus. (MP Park Joo-min, 2022, Written response submitted by the Ministry of Justice to the Parliamentary Inspection of State Administration in 2022)

<sup>44</sup> Yonhap News, "Ministry of Justice, "Patrilineal surname principle is not unconstitutional", in response to the constitutional complaint", Nov.28, 2022 (in Korean), <https://www.yna.co.kr/view/AKR20221128147500004?input=1195m>