「International Covenant on Economic, Social and Cultural Rights」

**Parallel Report of the National Human Rights Commission of Korea in Regards to the Review on the Fourth State Party’s Report: Republic of Korea**

July 24th, 2017

**National Human Rights Commission of Korea**

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**Preface**

The National Human Rights Commission of Korea submits this report for the review on the fourth state party’s report submitted by the Korean government to the United Nations Committee on the International Covenant on Economic, Social and Cultural Rights.

After the third review, the Korean government achieved progress of improvement in some areas by making efforts to implement the covenant based on concerns and recommendations of the committee. Still, certain areas have shown no progress or even regression, requiring urgent improvement.

Although elimination of discrimination and promotion of diversity are challenges facing the Korean society, the government has failed to respond to the issues effectively. Efforts to establish the comprehensive anti-discrimination law have not been witnessed, gender discrimination still exists and extortion and exclusion of migrants are lingering problems.

Issues including a high proportion of non-regular workers and poor treatment for them as well as gender-based wage gap have not resolved. In addition, despite the recommendation written in the concluding observations of the previous review, the status of youth employment has drastically deteriorated quantitatively and qualitatively.

Regarding the protection of the vulnerable, a wide blind spot of the national basic livelihood security system continues to exist. In addition, the basic pension and national pension stay at a level inadequate to guarantee the basic livelihood of the elderly without income. Moreover, the national health insurance and medical benefit have failed to effectively relieve the burden of high medical cost.

This report focuses on the list of issues presented by the committee and includes the current status, problems and measures related to each issue. Given the social reality, items with broad impact and significance requiring urgent settlement are described in “Key Issues” while other selected items with the clear need to be addressed in the review process are depicted in “Detailed Opinion on the List of Issues.” It is expected for the committee to pay a special attention to the selected issues written below.

1. **Key Issues**

**1. Establishment of Comprehensive Anti-Discrimination Act (List of Issues 8, 11)**

1. Recently, hate speech against the social minority has emerged as a social issue. According to the “Study on the Actual Condition of Hate Speech and Regulation Measures (2017),” 94% of sexual minority and 79% of the disabled have experienced online hate speech against them while 51% of migrants have experienced offline hate speech. Calls for the establishment of the comprehensive anti-discrimination law are increasing in and out of Korea to protect the social minority from discrimination and hatred and realize equality in every phase of life. For example, the National Assembly Research Service pointed out the need for efforts to establish the comprehensive anti-discrimination law to regulate hate speech[[1]](#footnote-1).
2. The government explained that it was conducting research on cases of legislation and application of the comprehensive anti-discrimination law in the fourth state party’s report. However, it is hard to verify its efforts up until now as it has never publicly disclosed progress of such research. Additionally, although the government explained that the legislation procedure for the comprehensive anti-discrimination law had been delayed due to the lingering social controversy over grounds for prohibition of discrimination[[2]](#footnote-2) and expressed its willingness to continuously make efforts to build social consensus through opinion gathering and persuasion[[3]](#footnote-3), the government’s efforts to settle social controversy and build consensus up until now have not been obvious.
3. While calls for the establishment of the comprehensive anti-discrimination law is increasing as seen in the activities of an Alliance for the Legislation of the Anti-Discrimination Act in March 2017 with participation of about 100 civil society organizations, opposing opinions have also been raised, arguing that the law might encourage homosexuality and cause social chaos. In order to build consensus on settlement of discrimination against the social minority, the government is required to promote the need to establish the comprehensive anti-discrimination law and promote the actual effects of its implementation as well as develop and present a specific legislation roadmap which entails the participation of diverse members of society.

**2. Improvement in Treatment for Non-Regular Workers and Guarantee of Industrial Safety (List of Issues 18, 19)**

1. According to the Economically Active Population Survey of Statistics Korea, 6. 44 million non-regular workers in the country account for 32.8% of paid workers as of August, 2016. The survey was based on the scope of non-regular workers defined by the Economic and Social Development Commission in 2002 including fixed-term workers, part-time workers and dispatched workers. With workers on contract without a fixed term included, non-regular workers represent 44% of all paid workers while the figure goes up to 53.4% with infra-subcontract workers and workers in special types of employment additionally included.
2. The biggest threat to non-regular workers is job insecurity. Although the essence of the Supreme Court decision mentioned in List of Issues 18 (2007 Doo 1729 Decision) is that employers are not allowed to unreasonably reject to renew the contract when the renewal expectation right of the employee is recognized, the scope of recognition of the right defined by the National Labor Relations Commission and the Court is highly limited in practice, maintaining job insecurity of non-regular workers.
3. Regarding wage as well, non-regular workers are subject to clearly poorer treatment compared to regular workers. The average monthly salary of irregular workers is 1.49 million KRW, about half the level of that of regular works which stands at 2.79 million KRW. Moreover, the subscription rate of social insurance including employment insurance as well as the benefits of severance pay, incentive, overtime pay and paid leave for non-regular workers stay at half the level of those for regular workers.[[4]](#footnote-4)
4. In particular, even though the jobs of workers in special types of employment are similar to those of ordinary workers given that they provide service for others’ businesses and earn income in return, they are not fully recognized as employees as they are classified as individual business owners. Thus, they are likely to face harsh working conditions without protection guaranteed by the Labor Standards Act. In addition, they are not protected by the Trade Union and Labor Relations Adjustment Act, leaving them mostly incapable of taking direct action or requiring guarantee of basic labor rights. Even though workers in special types of employment desperately need social protection as the majority of them is simple labor providers with instability and low added values, there has been no institutional improvement in protection for them for the past decade except for adding a special provision in the Industrial Accident Compensation Insurance Act in 2008 which stipulated protection of industrial accident insurance to some of workers in special types of employment. Therefore, legislative efforts to improve the situation are urgently required.
5. Meanwhile, the vulnerable industrial safety of infra-subcontract workers is highly visible regarding industrial health and safety. Businesses keep outsourcing risk by shifting hard and dangerous work onto contractors, wielding their upper hand. In addition, burden caused by a request to shorten the construction period is transferred to the employees of contractors, serving as a destabilizing factor for industrial safety. As a result, concerns over accident involving contractors’ employees are strikingly high as mortality rate of customers and contractors combined is four times higher than that of customers alone[[5]](#footnote-5).
6. Therefore, legislative measures are required to expand the scope of application of Article 28 of the Industrial Safety and Health Act which prohibits contract of harmful work and to strengthen businesses’ responsibility to ensure field safety by actively improving safety facilities through expansion of customers’ obligations for safety measures which are currently defined in a limited manner.

**3. Reinforcement of National Basic Livelihood Security (List of Issues 22)**

1. In July of 2015, the National Basic Livelihood Security System changed the criterion to determine beneficiaries from the minimum cost of living to the median income. In addition, differential benefits began to be provided based on the living conditions by setting different standards among livelihood benefit, housing benefit, education benefit and medical benefit. As a result, the number of total recipients rose from 1.328 million in 2014 to 1.646 million in 2015.
2. However, looking at the livelihood benefit which is provided to the most vulnerable people and takes up the largest share in the system, the number of beneficiaries decreased from 1.328 million before the change to 1.259 million afterward, showing that the level of livelihood guarantee for the vulnerable retrogressed in practice.
3. Furthermore, the take-up rate of the national basic livelihood security system which stood at 3.2% in 2015 showed that the majority of the poor exist outside the public assistance system since the poverty rate[[6]](#footnote-6) based on the minimum cost of living was 12.5% in the same year. Economic conditions for the poor who are not benefitting from the system is extremely harsh according to the “Survey on Human Rights Situation of the Non-Recipient Poor Living under the Minimum Cost of Living (2014)” conducted by the National Human Rights Commission of Korea, with 19.9% of respondents having skipped a meal and 36.8% having been unable to see a doctor both for the past year as well as 20.2% having thought of extreme options such as suicide all because of financial issues.
4. Most of the non-recipient poor are excluded from benefits due to the existence of capable persons under the obligation to support them although they are qualified for basic livelihood security benefits.[[7]](#footnote-7) Under the rules, in order for them to receive benefits, they are supposed to prove that they are not receiving support for reasons such as severance of the family relationship with persons with duty of care. However, it is virtually impossible or hard to prove such facts, commonly leaving them in a blind spot of the system. Thus, it is required to fundamentally review the system.

**4. Improvement in National Health Insurance and Medical Benefit (List of Issues 29)**

1. Burden of medical cost has not been solved as the public coverage of the National Health Insurance stays at 63% due to an extensive scope of uncovered items. As more and more people recognize that national health insurance services alone are not enough for them to shoulder medical expenses in case of serious illnesses causing huge medical bills, there are an increasing number of people who rely on private health insurances. When asked reasons for the new subscription of private health insurance, 76.8% of respondents answered that they wished to “alleviate financial burden of the family caused by unfortunate diseases and accidents” while 10.2% responded that they found “the national health insurance coverage not enough.”[[8]](#footnote-8) These illustrate households’ intention to ease the burden of medical expenses brought about by a narrow coverage of the national health insurance by subscribing to private health insurance.
2. However, low income families are unlikely to have a private health insurance due to the burden of insurance premium, making them even more vulnerable to the risk of sky-high medical expenses. Therefore, it is required to deal with the problem of people resorting to private health insurance and enhance the national health insurance coverage for settlement of medical inequity.
3. The government’s inactive financial support is noted regarding the fund for better coverage. Under the National Health Insurance Act and the National Health Promotion Act, the government is supposed to provide a financial support equivalent to 20% of the expected income from health insurance contributions to the National Health Service. However, the government has been downsizing the support by presenting a smaller figure for the expected income and has not provided the past year’s support, citing the lack of relevant rules. Despite an anticipated increase in insurance premiums thanks to the constantly growing number of insurance subscribers and a rising health insurance cost due to rapid aging, national subsidy for the national health insurance was reduced by 221 billion KRW compared to the previous year in 2017, undermining the capacity to promote coverage of the insurance.
4. Other than the national health insurance, the medical benefit system has been in place as a program to guarantee the right to health of the vulnerable. The revision of the National Basic Livelihood Security System in July of 2015 expanded the scope of medical benefit recipients, increasing the number of beneficiaries to 1.53 million as of 2016. Still, it was a mere recovery of the take-up rate to the level of 2012 after a drastic fall since 2009. Therefore, the sustained expansion of the number of recipients is required to protect the right to health of the vulnerable people down the road.
5. As for medical expenses shouldered by recipients of medical benefits, the national health insurance expects them to carry the burden of the total medical expenses when they use uncovered services. Given the financial situation of beneficiaries, it could impose an excessive burden on them, thus the government needs to review measures with which it bears a significant amount of expenses for uncovered medical services on behalf of the recipients.

**5. Protection of Human Rights of the Elderly from Poverty and Abuse (List of Issues 23)**

1. The number of national pension recipients who are older than 65 was 2.47 million in 2015, accounting for 36.5% of the total number of registered residents aged 65 and over. Although the take-up rate of the national pension is increasing, the figure is still small considering the fact that it is almost one and only public pension ordinary Korean people could subscribe to unless they have had special occupation.
2. Even though the nominal income replacement rate of the national pension was 46% in 2016, the figure was calculated based on 40-year subscribers and the actual income replacement rate based on the average amount of pension received stands at a mere 23.98%[[9]](#footnote-9). Moreover, the nominal income replacement rate is planned to drop by 0.5 percentage point every year to 40% by 2028, raising concerns over the weakening stability of people’s livelihoods after retirement.
3. Meanwhile, based on the Basic Pension Act enacted in 2014, basic pension is paid to people older than 65 who belong to the bottom 70% of income earners. Although the inflation-adjusted amount of basic pension is 206,050 won as of June 2017, the effect is minimal for long-term subscribers of the national pension since the payment is reduced based on the national pension subscription period. In addition, recipients of livelihood benefits are technically excluded from basic pension payment as the amount is deducted from the amount of livelihood benefits. Furthermore, the amount of basic fund is adjusted every year in line with the fluctuation rate of nationwide consumer price index which has marked 1.3%, 0.7% and 1.0% respectively for 2014, 2015 and 2016 that is lower than workers’ earnings growth rate. If the interconnected structure remains unchanged, it could lead to deterioration of relative poverty of basic pension recipients.
4. According to the 2014 Survey of Household Finances and Living Conditions, only 53.3% of all households invest their financial assets with a major intention to “prepare for their retirement.” With a significant number of households not able to save for retirement combined with the traditional support function of families weakening, the role of public pension to guarantee livelihood after retirement becomes all the more important. However, the current asset sufficiency rate of the public pension based on the minimum cost of living is about 72.4%[[10]](#footnote-10) with national pension and basic pension combined, implying that the public pension scheme alone hardly meets the level of the minimum cost of living for the elderly. Thus, reassessment on the structure and amount of basic pension payout is required.
5. A number of senior citizens in Korea face not only financial distress, but also other issues such as abuse, neglect, discrimination and social exclusion. In particular, elder abuse is growing fast every year. In 2016, the number of cases of elder abuse reported to and verified by elder protection agencies rose by 12.1% to 4,280 from 3,818 cases in 2015. Given that 3,799 cases (88.8%) of elder abuse were committed at home while 238 cases (5.6%) took place at elderly care facilities, reinforcement of efforts to identify abuse cases, general expansion of education on human rights of the elderly as well as continuous management and monitoring are required considering the invisible nature of elder abuse. On top of this, it is required to provide substantial training for persons bound in duty to give the notification of elder abuse as 751 reports (17.5%) were made by obligators while 3,529 cases (82.5%) were reported by non-obligators.
6. Neglect (1,301 cases, 19.1%, including self-neglect of the elderly) is the third common type of elder abuse following emotional abuse (2,730 cases, 40.1%) and physical abuse (2,132 cases, 31.3%). Although the government is providing various services for senior citizens living alone through elder care services, beneficiaries are selected through a procedure where the elderly fill out and submit the application on their own, raising concerns over limited accessibility to services for the socially excluded elderly living alone. Moreover, the size of the most basic services (220,000 people) such as regular safety check is too small for the whole population of the elderly living alone (1,330,000 people), showing coverage limitations.
7. As elder care is shifting from family care to social care, there is an increasing number of senior citizens who receive care at residential medical welfare facilities for the elderly. Since the Long-Term Care Insurance for the Aged System was introduced in 2008, the operation of such facilities was expanded to individual businesses in the private sector due to concerns over a drastic rise in the number of users and the consequent lack of infrastructure. However, excessive supply of small-scale private nursing facilities led to illegal over-competition and the issue of low quality service due to the lack of professionalism of operators. To avoid further unbridled establishment of facilities, measures to strengthen the establishment standard, improve the system of guidance, monitoring and evaluation as well as expand public nursing facilities are required.

**6. Protection of Children from Abuse (List of Issues 24)**

1. Reports and confirmed cases of child abuse are continuously increasing. The number of child abuse reports registered with child protection agencies more than doubled from 9,309 cases in 2009 to 19,203 cases in 2015 and confirmed cases of child abuse also have grown in number from 5,685 in 2009 to 11,715 in 2015.
2. The rising social interest in child abuse issue and the constantly increasing report rate and detection rate[[11]](#footnote-11) of child abuse seem to have contributed to those higher figures. However, the detection rate of child abuse victims in 2015 is strikingly low at 1.32‰ in Korea compared to advanced countries such as the United States (9‰) and the child abuse report rate by persons bound in duty to give the notification is also still low at 29.4% in comparison with Australia (73%), Japan (68%) and the United States (58%), both in need of improvement[[12]](#footnote-12). Potential contribution of the improved laws and institutions to a higher child abuse report rate is huge as seen in previous examples where additional establishment of 18 child protection agencies in 2004 resulted in a 40.4% rise in the number of reports compared to the previous year and the stronger duty to notify child abuse brought about by the establishment of the Act on the Punishment of Child Abuse Crime in 2014 and joint development of comprehensive measures to deal with child abuse by relevant ministries led to a 36% increase in the number of reports from the previous year. Thus, the government is required to make aggressive efforts to firmly establish the report system and fortify the duty of notification.
3. As for measures after the occurrence of abuse, recurrence is likely and it is hard for victims to effectively escape abuse since 80% of cases are committed by their parents[[13]](#footnote-13) and there are little cases where children are properly separated and protected from abusers. One of the reasons is the lack of facilities to protect child abuse victims, with only about 100 facilities although over 10,000 children are abused every year. Even though dedicated protection facilities capable of providing psychology therapy from an early phase are necessary to recover from aftereffects of abuse, there are cases where victims return to ordinary welfare facilities or their homes without sufficient protection care due to the lack of such facilities. In spite of the needs for the expansion of the operation of child protection agencies, funding is not secured smoothly and it is currently done through lottery fund instead of general accounting, destabilizing the stable operation and expansion of protection facilities.
4. Meanwhile, child migrants are unlikely to be protected as written above even in case of abuse. Abused child migrants with foreign citizenship are not qualified for the basic livelihood security program. With no national support possible, they are rejected by protection facilities. Particularly, undocumented children tend to be reluctant to report abuse because of concerns over possible notification to the immigration service and deportation. Thus, measures including stipulation of the child protection agency’s duty to protect child migrants are required so that they could be properly protected in case of abuse regardless of the sojourn status.

**7. Improvement in Working Conditions for Foreign Workers (List of Issues 15)**

1. According to the 2016 Foreigner Labor Force Survey, the number of foreign workers staying in Korea passed the one million mark for the first time. The most representative foreign workforce employment system other than the “visiting employment system” reserved only for ethnic Koreans with foreign nationality, is the employment permit system under which around 260,000 foreigners are hired in Korea.[[14]](#footnote-14)
2. However, foreign workers who came to Korea under the employment permit system are allowed to stay up to four years and ten months, short of five years that would make them qualified to apply for permanent residency. As a result, it has been constantly pointed out that foreign workers are institutionally excluded from social integration. The workplace change is limited to three times and the workers have to leave Korea when they are not hired within three months after the approval of the workplace change. In addition, the departure guarantee insurance, an equivalent of severance pay, is provided after leaving Korea. As such, under the system where they are supposed to depart after supplying short-term labor, foreign workers are in a position vulnerable to discrimination and exploitation as socially marginal people instead of subjects of integration.
3. Foreign workers are in unfavorable conditions where they cannot actively raise issues even in case of unfair treatment at workplace because of a limited job-related option as they need employers’ approval to change or leave the workplace. Consequently, although more than 10% of foreign workers have experienced violence at work, facing frequent and severe verbal abuse, physical abuse and exclusion, it is hard to solve the problem through reports or workplace changes. Working conditions are also highly unfavorable with only 21% of industrial accident victims benefitting from the industrial accident insurance[[15]](#footnote-15) in addition to widespread overdue wages and non-compliance with the minimum wage.
4. Long working hours and irregular rest are imposed on a majority of foreign workers. In particular, foreign workers in agriculture and livestock industries, who are not the subjects of application of regulations related to working hours and holidays under the Labor Standard Act, are forced to bear long working hours and short breaks. According to a fact-finding survey conducted by the National Human Rights Commission of Korea, the average monthly working hours of foreign workers in agriculture and livestock industries were as long as 284 hours while over 33% of surveyed foreign workers work for more than 300 hours per month on average.[[16]](#footnote-16)
5. In the meantime, the government expanded a pilot program of the “foreign seasonal worker system” to a nationwide system. The system allows the stay of foreign workers entering Korea with the purpose of working in agriculture and fisheries. Foreign seasonal workers are granted the right to 90-day short-term stay in Korea and assigned to farms in need of labor. However, only two days are guaranteed as minimum holiday entitlements per month. In addition, the system was introduced at a national level without clear improvements although issues such as low wage, long working hours and poor housing environment were pointed out during the pilot period, raising concerns on the infringement of basic rights of foreign workers.
6. Meanwhile, the number of foreign workers in fisheries has drastically increased. Foreign sailors hired in Korea were 2,300 in 2016, accounting for almost 39% of the total number of sailors in the country. However, improvement in the working environment for foreign workers in fisheries is urgent as more than 50% of them are given only two days of holidays per month and the majority is in a blind spot of protection, experiencing violence and overdue pay.[[17]](#footnote-17)
7. Unlike foreign workers in other industries who are subjects of the same minimum wage as Korean workers under the Minimum Wages Act, foreign workers in fisheries are subjects of the minimum wage stipulated in the Seafarers Act instead. Given the harsher working circumstances on the sea compared to the environment on the ground, the minimum wage for seafarers notified by the Minister of Maritime Affairs and Fisheries under the Seafarers Act is normally set at a higher level than the minimum wage under the Minimum Wages Act. However, it is defined that the minimum wage could be set through a collective agreement between the crew union and the ship owner for foreign seafarers. As a result, the minimum wage for foreign sailors in reality is normally lower than 80% of the minimum wage for ordinary seafarers. The discriminatory minimum wage notification system is still in place despite the recommendation of the National Human Rights Commission of Korea in 2013 to improve the system unfavorable to foreign seafarers.

**8. Improvement in Refugee Recognition Procedure and Treatment for Refugees (List of Issues 9)**

1. Despite a huge increase in the number of refugee claimants since the enactment of the Refugee Act in 2013, the number of people granted refugee status was 98 in 2016, decreased from that of the previous year.

Number of Refugee Claimants by Year[[18]](#footnote-18)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | 2012 | 2013 | 2014 | 2015 | 2016 |
| Total | 1,143 | 1,574 | 2,896 | 5,711 | 7,542 |
| Sex | Male | 1,039 | 1,366 | 2,403 | 4,814 | - |
| Female | 104 | 208 | 493 | 897 | - |
| Nationality | Pakistani | 242 | 275 | 396 | 1,143 | - |
| Nigerian | 102 | 207 | 201 | 264 | - |
| Egyptian | 43 | 97 | 568 | 812 | - |
| Syrian | 146 | 295 | 204 | 404 | - |
| Chinese | 3 | 45 | 360 | 401 | - |
| Others | 178 | 471 | 784 | 2,687 | - |

Number of People Granted Refugee Status by Year[[19]](#footnote-19)

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 |
| Total | 70 | 47 | 42 | 60 | 57 | 94 | 105 | 98 |
| Sex | Male | 51 | 31 | 27 | 39 | 35 | 62 | 54 | - |
| Female | 19 | 16 | 15 | 21 | 22 | 32 | 51 | - |
| Nationality | Myanmarese | 33 | 13 | 24 | 18 | 19 | 4 | 32 | - |
| Bangladeshi | 21 | 7 | 2 | 16 | 10 | 2 | 12 | - |
| Congolese | 1 | 3 | 6 | 4 | 1 | 3 | 1 | - |
| Ethiopian | 6 | 2 | 0 | 4 | 3 | 43 | 11 | - |
| Others | 9 | 22 | 10 | 18 | 24 | 42 | 49 | - |

1. Although the establishment of the Refugee Act is viewed as a positive step in the sense that the law developed applicable provisions related to the refugee recognition procedure and treatment of refugees, it has not been sufficiently improved in practice. The number of civil servants in charge of the evaluation procedure is not enough to handle all the applications and public servants in charge have not been able to improve their professional skills due to the lack of professional training opportunities. The Refugee Council in charge of the second review sticks to the written summary-based evaluation when an appeal is submitted, denying enough opportunities for the applicants to express their opinions. Consequently, only 10 claimants were granted refugee status after the second evaluation out of 98 people who were recognized as refugees.
2. Meanwhile, 34 out of 98 recognized refugees last year came to Korea under the refugee resettlement system (a system where refugees staying in overseas refugee camps wishing to come to Korea are accepted after an evaluation based on recommendations from the UN Refugee Agency). In addition, as many as 34 refugees were recognized for family reunion. Family reunion policy grants refugee status to spouses and minor children under the Convention Relating to the Status of Refugees and the Refugee Act. A high proportion of recognized refugees under the refugee resettlement system and the refugee family reunion policy suggest that individual evaluation is conducted in a rigid manner, making it very hard for applicants to be granted refugee status.
3. Regarding the treatment of refugee claimants, there are cases where departure order is issued to them for superficial reasons such as the delay of application or where they are detained or prosecuted with criminal charges following a compulsory eviction order citing matters related to passport or visa without proper consideration of the Convention Relating to the Status of Refugees Article 31.
4. In the meantime, the number of humanitarian status holders which was small before 2013 has grown drastically since 2014. Humanitarian status holders are asylum seekers for whom there are reasonable grounds to believe his/her life or personal freedom may be egregiously violated by torture or other inhumane treatment and many of them stay in Korea for a long time like other refugees. However, the current Refugee Act does not have a provision on the treatment for humanitarian status holders other than permission of their job-seeking activities. Consequently, their rights to basic livelihood security, health insurance, education and family reunion have not been recognized. The National Human Rights Commission of Korea’s recommendation to entitle humanitarian status holders to regional health insurance in 2013 was not accepted by the Korean government that determined it was not appropriate considering the intention of the health insurance system operated on the funding through subscribers’ insurance premium. Still, institutional improvement is required since the situation where humanitarian status holders cannot afford proper medical benefits because of high medical expenses is not consistent with the purpose of the system, humanitarian protection.

**9. Swift Development of National Action Plans on Business and Human Rights (NAPs) and Reinforcement of Businesses’ Human Rights Compliance (List of Issues 6)**

1. The National Human Rights Commission of Korea recommended the government of the Republic of Korea to develop NAPs in September, 2016. NAPs are devised with the intention of promoting human rights management of businesses, implementing due diligence and institutionally securing remedy procedures for human rights victims. Meanwhile, the international community as well has continued to call for the establishment of NAPs as seen in cases where the UN Working Group on Business and Human Rights recommended the Korean government to develop NAPs through participation of diverse stakeholders in a report on the visit to Korea in 2017 and the 2017 G20 Summit included the development of NAPs and implementation of due diligence by businesses in a joint statement. The government is needed to swiftly devise a systematic execution plan that would prevent human rights violations by businesses and contribute to human rights-friendly business activities following recommendations written above.
2. The lack of independence and activeness of the National Contact Point (NCP) has been constantly pointed out regarding businesses’ code of conduct to respect human rights. Although the government announced that it appointed labor and mediation experts as nongovernmental members to embrace perspective of diverse stakeholders in NCP activities, there remains concerns over the independent performance as the criteria and procedure to appoint the civilian members have not been publicly known. In addition, it has been pointed out that the NCP has been perfunctorily operated since information such as the number of registered petitions which allows to assume the general size and scope of activities is not disclosed and too little petitions lead to concrete measures as only two arbitration cases and one recommendation case were completed since the opening of the NCP. Thus, it is required for the NCP to improve transparency of and accessibility to its structure and operation and faithfully carry out its role including encouragement of compliance with the OECD Guidelines for Multinational Enterprises on top of dispute arbitration and recommendation.
3. Meanwhile, business activities have a grave and far-reaching impact on consumers’ rights to health and life as witnessed in the recent case of toxic humidifier disinfectants which caused harm to 5,276 people[[20]](#footnote-20) until 2016 and resulted in an identification of biocides in toothpaste and antibacterial filters of air conditioners and air purifiers. Even though related laws such as the Framework Act on Consumers and the Framework Act on Product Safety have been in place for protection of consumer rights, supplementary measures are required since relevant provisions are not sufficient to protect basic consumer rights due to a limited definition of conditions for obligation to report product flaws and collect flawed products.

**10. Settlement of Gender-based Wage Gap (List of Issues 17)**

1. The gender-based wage gap has been stagnant, showing only a 5 percentage point reduction for 15 years since the 2000s after a continuously fast decrease until the end of the 1990s. The gender-based wage gap of Korea was biggest at 36.6% in 2014 among OECD countries surveyed in the same year[[21]](#footnote-21). The wage gap resulted from a combination of widespread career break due to the burden of childbirth and childrearing mostly imposed on women, female employment type concentrated in irregular jobs and separation of occupational category based on gender. To deal with the issue, creation of an environment favorable to balance work and family and the establishment of the same work, same pay principle through improvement in treatment of irregular workers are needed, which have shown slow progress. In 2016, the number of career interrupted women[[22]](#footnote-22) in Korea was 1.9 million and 20.6% of married women aged 54 or younger were experiencing career interruption, which is a higher figure than 20.1% of 2013[[23]](#footnote-23). The proportion of irregular workers to all paid workers is higher among women at 41% than among men at 26.4%, showing little improvement from 41.8% in 2010.[[24]](#footnote-24)
2. Core provisions of the Equal Employment Opportunity and Work-Family Balance Assistance Act including equal pay for equal-value work (Article 8), prohibition of discrimination on grounds of gender in education and promotion (Article 10) and prohibition of discrimination on grounds of gender in age limit and dismissal are not applied to workplaces with less than five permanent employees. Inhuman practices such as “Pregnancy Rotation System” under which female workers take turns for pregnancy to prevent the operational vacuum exist at medical institutions including hospitals and the number of companies with in-house day-care centers is still inadequate.
3. Regarding the Certificate System for the Family-Friendly Company mentioned in the List of Issues, despite the dramatically rising number of certified companies, follow-up management is insufficient, commonly leading to cases where companies do not pay attention to work-family balance during the three years of recertification period after receiving certification.
4. **Detailed Opinion on List of Issues**

**1. Establishment of NAPs and Reinforcement of Transparency of Follow-up Measures (List of Issues 1)**

1. The government organized a citizen evaluation group to check the implementation progress of the second NAPs, however, the result has not been shared since 2014. Moreover, although the planning period of the second NAPs was over last year, the comprehensive evaluation and outcome report have not been disclosed.
2. The planned timeframe for the third NAPs was set from 2017 to 2021. However, it is hard to expect the future timeframe since no additional follow-up measures have been taken since the “Public Hearing for the Development of the 3rd NAPs” in September 2016 and no plan has been developed as of July 2017.
3. The National Human Rights Policy Council is in charge of the development and implementation of the NAPs. Minister of Justice serves as Chairman of the Council which comprises of councilors including vice ministers of government bodies. However, the council meetings are operated in a closed manner as the rules allow the Chairman to only invite councilors from ministries related to the agenda to the meeting. The development of a balanced human rights policy requires sufficient discussion and consensus among various participants. However, the lack of transparency of the Council makes it hard to reflect opinions from diverse social fields. Therefore, enhancement of transparency is required by expanding channels for multiple stakeholders to participate in meetings and publicly notify the outcome of meetings.

**2. Reinforcement of Remedies in Case of Economic, Social and Cultural Rights Violations (List of Issues 2)**

1. Remedies for violated economic, social and cultural rights include constitutional trial, lawsuit and administrative relief. However, since the Constitutional Court recognizes the “right to a life worthy of human beings” only when substantiated by the law and dismisses constitutional petitions related to social security for which the Court recognizes a wide discretion of the government, it is hard to expect the benefit of remedies in similar situations. Remedy through trials at court is not widely used due to the burden of litigation expenses. The most commonly used remedy procedure in practice is an administrative relief by filing an objection whose advantage is a swift remedy that could be provided for relatively simple matters at no cost. However, it has limitations as a remedy procedure as it is not appropriate for dispute settlement because it is a remedy through voluntary correction of the administrative agency.
2. Despite concerns of the Committee on Economic, Social and Cultural Rights included in the previous concluding observations, the scope of survey done by the National Human Rights Commission of Korea does not comprehensively deal with all rights in the Covenant. The National Human Rights Commission of Korea Act states that one may file a petition to the Commission if rights guaranteed by the Constitution Article 10 to 22 are violated or discrimination act related to those provisions was committed. Thus, infringement on major rights covered by the Covenant such as the right to education (Article 31), the right to work (Article 32 and 33), the right to social security (Article 34), the right to environment (Article 35) and the right to health (Article 36) in the Constitution cannot be relieved through investigation of the National Human Rights Commission of Korea. Therefore, measures to expand the scope of investigation by the Commission need to be considered in order to strength remedy for violations of economic, social and cultural rights.

**3. Reinforcement of Economic, Social and Cultural Rights Protection for Foreigners (List of Issues 3)**

1. Article 4 of the state party’s report states that “Regarding Article 6 of the Committee’s concluding observations, although the Constitution uses the term “Korean citizens,” rights universally applied to all human beings in nature are interpreted as rights guaranteed both for Koreans and foreigners by the Constitutional Court and the academia.” However, the Constitutional Court ruled in a 2007 decision (2004 Hun-Ma 670) that foreigners are recognized as legal subject of the right to work as fundamental liberty rights, but not as fundamental social rights. Other social rights, particularly rights related to public assistance such as social security and minimum livelihood guarantee, have no precedent of recognizing foreigners as the legal subject of basic rights.
2. In addition, social insurance such as health insurance, national pension insurance, employment insurance and industrial accident insurance as well as the public assistance system including the national basic livelihood security system have separate provisions on the application to foreigners in separate laws. These laws mostly permit the application on the premise that foreigners would pay the insurance premium with limitations on some benefits. Certain benefits such as livelihood benefits have requirements such as marriage or family relationship with a Korean citizen.

**4. Ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (List of Issues 5)**

1. Article 9 of the state party’s report stipulates that the government “began research on the current status of domestic remedy procedure for rights defined in the Covenant and issues in need of rearrangement in domestic law.” In addition, at the second UPR on Korea conducted by the UN Human Rights Council in October 2012, the government replied that it was “domestically reviewing the need for and impact of ratification” when recommended to ratify the optional protocol and it also described a plan to ratify the optional protocol in the second NAPs (2012-2016).
2. Still, the government’s efforts to ratify the optional protocol is unidentifiable since there has been no announcement or press release distribution with information that the government is conducting related research or opinion collection. The government is needed to notify the progress on survey conducted up until now as well as develop and present a concrete roadmap that entails participation of diverse groups including civil society and the National Human Rights Commission of Korea.

**5. Improvement in Living Conditions for Marriage Migrants and Their Naturalization Procedure (List of Issues 10)**

1. Among marriage migrants, 59.5% are hired with simple labor taking up the largest share of 29% followed by service (18.7%), equipment and machine operation and assembly (14.6%), professional work (12.2%) by occupation type. The level of academic background is lower than the Korean average as 10.7% have less than primary school education (including the illiterate), 21.8% finished middle school, 43.5% graduated from high school and 24.0% have college degree. A low economic status is particularly visible among migrant workers since 17.4% of them earn less than 500,000 KRW per month and 82.5% make less than 1.5 million KRW for their monthly salary. [[25]](#footnote-25)
2. Unpredictability of the length of the evaluation period after applying for Korean citizenship has been pointed out regarding the naturalization of marriage immigrants. As of December 2016, the Ministry of Justice only indicated that the waiting period for evaluation is longer than 10 months if the applicant has children and longer than 18 months if he/she does not have children without specifying the maximum period, leading to instability of marriage immigrants’ legal status caused by the extended evaluation period.

**6. Elimination of Discrimination Based on Sexual Orientation and Gender Identity (List of Issues 11)**

1. There are no efforts made by the government to prohibit discrimination based on sexual orientation and gender identity and protect and promote the rights of the affected people. No government budget has been allocated to prohibition of discrimination against or human rights protection of sexual minority and no related legislative effort has been identified.
2. As for provisions related to protection, support and human rights guarantee for sexual minority in the Daejeon Framework Ordinance on Gender Equality established by Daejeon Metropolitan City to implement the Framework Act on Gender Equality and realize the idea of gender equality, the government required a revision to the ordinance in August 2015 citing its deviation from the purpose of the establishment of the Framework Act on Gender Equality. This action was met by criticism that the government is being passive to expand the concept from equality between men and women to gender equality for all members of society including sexual minority.
3. The biggest institutional restriction on the enjoyment of equal rights for sexual minority is punishment for them. Article 92-6 of the Military Criminal Act contains punishment of same-sex sexual conduct and the Constitutional Court ruled in 2011 that the very provision in the Military Criminal Act was constitutional. The National Human Rights Commission of Korea submitted to the court an opinion that the provision mentioned above violates the right to sexual self-determination since it only punishes same-sex sexual conduct without punishing the opposite-sex sexual conduct, constitutes a discriminatory act on the grounds of particular sexual orientation and infringes freedom and privacy of personal life. However, in July 2016, the Constitutional Court once again ruled that Article 92-6 of the Military Criminal Act which stipulates punishment of same-sex sexual conduct was constitutional.

**7. Gender Mainstreaming and Promotion of Female Representation (List of Issues 12)**

1. The Gender Impact Analysis and Assessment System mentioned in List of Issues 12 expanded the scope of application to laws and plans and consequently, the number of analysis and assessment conducted by central administrative agencies and local authorities was as many as 26, 438. In addition, gender budgeting activities also increased and in 2015, budgets of 343 projects of 42 organizations were drawn up considering its impact on gender issues.
2. Aside from such quantitative expansion, the superficial operation of the system and its lopsided emphasis on quantitative achievements has been continuously indicated. Examination on the gender impact analysis and assessment reports of 17 metropolitan cities and provinces in 2014 revealed improper cases where reports were not written or the content was copied from the previous year’s report. Furthermore, the fact that 78.9% of assessment did not include policy improvement measures shows the system has been perfunctorily operated.[[26]](#footnote-26)
3. Regarding female representation mentioned in List of Issues 12, the lack of female representation has been pointed out. In politics, the female portion of lawmakers in Korea is merely 17%, lower than 23.3% of the average of 193 countries around the world and 19% of the Asian average.[[27]](#footnote-27) The Public Official Election Act states that political parties shall work to recommend not less than 30% of the total number of the candidates from among women for the election for National Assembly members of local constituency and the election for local council members of local constituency. However, out of 934 candidates of the 20th general election for National Assembly members of local constituency in 2016, only 98 people or 10.5% were female and every political party recorded less than 15% of female recommendation.[[28]](#footnote-28) This could be attributable to the fact that it is hard to determine whether political parties complied with the law as Article 47 (4) of the Public Official Election Act only defines obligations to make efforts to recommend female candidates and the lack of effectiveness without any tool to force the implementation when the provision is violated. Thus, measures to secure compulsory execution tools through revision to the law are required.
4. Gender imbalance is found in the public sector with a low proportion of high-ranking female officials among public servants comprising of the government and local governments. Female representation is poor as less than half of organizations are complying with a provision of the Framework Act on Gender Equality which prevents one particular gender from exceeding 60% in the membership of a government committee.[[29]](#footnote-29) Female representation is also low in the private sector with 2.4% of female executive proportion in the board of directors of large corporations which is the lowest among 20 surveyed countries in the Asia Pacific region[[30]](#footnote-30). Therefore, various measures are required to constantly promote female representation in the public sector and expand the effects to the private sector.

**8. Mitigation of Youth Unemployment (List of Issues 13)**

1. Youth unemployment (unemployment rate for the youth aged between 15 and 29) has been constantly high compared to other age brackets for the past five years. In the fourth quarter of 2017, youth unemployment rate was 10.8%, more than 2.5 times higher than the general unemployment rate of 4.3%.
2. However, the real unemployment rate for the Korean youth is much higher as the official rate did not count discouraged workers and job seekers looking for more stable jobs while they are hired as a temporary worker. According to research conducted by the Korea Economic Research Institute[[31]](#footnote-31), the official youth unemployment rate was 9.7% in August 2015. However, the real youth unemployment rate which takes potential jobseekers and people potentially capable of employment into account reached 22.4%, more than two times higher than the official figure in the same period.
3. As for employment type, quality of youth employment is very low as 64% of newly employed youth have non-regular jobs[[32]](#footnote-32). Even the government measures for youth employment up until now have deteriorated the quality of youth employment since they have focused on short-term low-paying jobs with expansion of the part-time public servant system and youth internship system.
4. In June 2017, the government unveiled “100-day Plan for Job Creation” with the goal of more public sector jobs, support for SMEs and startups, change of non-regular jobs to regular jobs and enhancement of quality of jobs. The plan is mainly composed of tasks that could be implemented only by government measures, making those tasks easy to complete. However, the plan is developed with focus on short-term tasks, leaving a vacuum of a long-term strategy for job creation. Thus, it is required for the government to create a sound industrial ecosystem as well as thoroughly develop and implement a long-term plan for sustained job creation.

**9. Raise in the Minimum Wage to an Appropriate Level and Minimum Wage Compliance (List of Issues 16)**

1. As of 2017, the median income notified by the Ministry of Health and Welfare is 1.652 million KRW for single-person households, 2.814 million KRW for two-member households, 3.54 million KRW for three-member households and 4.467 million KRW for four-member households. Meanwhile, the 2018 minimum hourly wage determined by the Minimum Wage Commission in July 2017 is 7,530 KRW which could be translated into 1.57 million KRW of monthly salary with 40 hours of work per week. Despite a 16.4% rise in the 2018 minimum hourly wage compared to the previous year, the drawn monthly salary based on it is only 56% and 44% of the median incomes for two-member households and three-member households respectively. Therefore, a continuous review on the proper level of minimum wage is required to sustain livelihood of minimum wage workers and their family members and improve the poverty status.
2. In the meantime, compliance with minimum wage turned out to be poor with 11.5%[[33]](#footnote-33) of paid workers receiving hourly wage below the minimum wage as of 2015. The percentage of workers receiving wage lower than the minimum wage becomes higher for small businesses (1.7% for businesses with over 300 employees, 27.9% for businesses with one to four employees) and unstable employment type (2.5% for regular jobs, 26.9% for temporary jobs and 34.4% for day labor). In addition, the percentage is higher among women, people aged 19 and younger, people aged 60 and older and people with high school diploma or lower level of education. The figures mean that it is currently hard for those workers to improve their livelihood and find room for their long-term career development. Thus, measures such as aggressive sanctions and tightened monitoring are required to avoid polarization in the labor market.

**10. Reduction of Excessive Working Hours (List of Issues 17)**

1. In 2015, the average yearly working hours of Korean employees was 2,113 hours. It was the second longest following Mexico (2,246 hours) among OECD member countries and 347 hours longer than the OECD average (1766 hours). Article 50 of the Labor Standards Act limits weekly working hours up to 40 hours and Article 53 of the same act states that even with agreement between parties concerned, the working hours extended only up to 12 hours per week. However, working hours beyond the maximum 52 hours stipulated in the Labor Standards Act are widely prevalent.
2. Research conducted by the Korea Labor & Society Institute[[34]](#footnote-34) found that 6.63 million workers are not benefitting from the five-day workweek system (40 hours) and 3.45 million workers are subject to long working hours more than 52 hours per week. This is because Article 11 (Scope of Application) of the Labor Standards Act excludes businesses or workplaces with four or less employees and Article 63 (Exceptions to Application) states that provisions related to working works are not applicable to workers in agricultural and livestock industries. In addition, based on the government’s administrative interpretation that holiday work is not included in the extended work of 12 hours per week stipulated in the Labor Standards Act, additional holiday work up to 16 hours is also possible, thereby allowing a total of 68 hours of weekly work.
3. Under these institutional circumstances, businesses are able to require long working hours to existing workers while reducing new employment. This could possibly lead to unemployment issues and excessive work burden for employees, serving as a destabilizing factor for sufficient rest and the balance of work and family. Thus, measures to expand the scope of workplaces subject to the Labor Standards Act and to reinterpret related provisions to include holiday work in the extended work of 12 hours per week stipulated in the Labor Standards Act are required.

**11. Improvement in Working Conditions for Workers in the Informal Sector and their Status (List of Issues 18)**

1. About 100,000 teenagers every year are sent to workplaces under the name of field training before high school graduation. Not living up to the purpose of the system which are practical application of learning and experience accumulation, students are commonly dispatched to workplaces irrelevant to their majors where they face long working hours under harsh conditions. Trainees should be protected by the Labor Standards Act and guaranteed minimum wage through recognition of their employee status when they provide practical labor. However, there are many cases where their employee status is not recognized although they provide practical labor.
2. In February 2017, a field trainee from a specialized high school who was in charge of dissuading customers from terminating services at a mobile carrier customer center committed suicide due to work-related stress. Before this event, one field trainee working on the construction site of Ulsan Newport was killed in a working ship overturn accident and another trainee on a night duty at an automobile manufacturing company was crushed to death under the factory roof.
3. In the meantime, Article 11 of the Labor Standards Act stipulates that the law is not applicable to domestic workers and consequently, estimated 300,000 domestic workers remain unofficial laborers who are not guaranteed basic rights as workers. The recommendation of the National Human Rights Commission of Korea to revise the Labor Standards Act to protect working conditions of domestic workers in the informal sector and guarantee them labor’s three primary rights and right to social security was not accepted by the government.
4. At the time of the establishment of the Labor Standards Act, domestic workers were regarded as a family member in a broad sense who exchanges domestic work with accommodation and meals. However, the environment has changed after the enactment of the law and currently, domestic work has commercialized and become one separate industry. Given the social protection for domestic workers in the public sector doing similar jobs based on the recognition of their employee status, the same recognition and a corresponding improvement in working conditions for domestic workers in the informal sector are urgently required. Thus, such measures are needed to be reflected in the discussion process on the pre-announced Proposal to Establish the Act on Improvement in Employment of Domestic Workers.

**12. Reinforcement of Measures to Eradicate Sexual Harassment (List of Issues 20)**

1. Sexual harassment is not subject to criminal penalties under the Criminal Act and the Act on Special Cases Concerning the Punishment, etc. of Sexual Violence Crimes. An attempt to allow criminal penalties against verbal sexual harassment through the Act on Special Cases Concerning the Punishment, etc. of Sexual Violence Crimes[[35]](#footnote-35) did not lead to a revision and currently, a similar proposal to revise the law has been submitted.[[36]](#footnote-36)
2. Regarding punishment of the assailant of sexual harassment, the Act on Equal Employment and Support for Work-Family Reconciliation requires employers to punish the assailant or take measures equivalent to punishment in case of sexual harassment at workplace and otherwise, a fine is charged on the employer. However, there is only a provision to impose responsibilities and obligations on employers and no provision related to direct punishment of the assailant.
3. As for prevention of sexual harassment, the Act on Equal Employment and Support for Work-Family Reconciliation imposes an obligation on employers to provide related education. However, the enforcement ordinance of the act allows workplaces with less than 10 permanent workers to provide training on sexual harassment prevention by distributing training materials and brochures, raising concerns over the lack of effectiveness of and interest in such trainings at small workplaces. A survey on businesses and public agencies with 50 or more permanent employees[[37]](#footnote-37) found that the participation rate of sexual harassment prevention training was 90.8%. The figure is much higher compared to small-sized businesses where 59.5% of workers have received sexual harassment prevention training (including written training and handouts) according to a survey on businesses with five and more employees[[38]](#footnote-38). As such, training participation is low at small workplaces and sexual harassment takes place there quite often[[39]](#footnote-39). Therefore, active measures to prevent sexual harassment at small businesses are required.

**13. Guarantee of Basic Labor Rights (List of Issues 21)**

1. Public officials in general service are uniformly determined on whether they could join a labor union based on their titles and assignments and the right to collective action is recognized for only a tiny fraction of public servants in charge of field work such as postal service.
2. The International Labor Organization (ILO) has continuously recommended the government to recognize the union member status of dismissed workers. At the 330th session of the Governing Body in June 2017, the ILO recommended to remove provisions in the Act on Formation and Operation of Labor Union for Teachers and the Government Employees Union Act that deprive dismissed workers of the union member status since they violate the principle of the freedom of association. Still, the government has not proceeded to revise the provisions. In 2013, the government even notified the Korean Teachers and Educational Workers’ Union that the organization is no longer a labor union since a dismissed teacher was a member. In addition, the government is rejecting a labor union formation report of the Korean Government Employees’ Union because it has a dismissed civil servant as a member.
3. Essential Minimum Services System mentioned in the List of Issues was introduced with the purpose of improving the Compulsory Arbitration System which limited the right to collective action of workers in public services. However, it has been constantly pointed out that the system excessively weakens the bargaining power of the labor union with a high standard for the amount of essential minimum services.
4. Meanwhile, despite the recommendation of the Committee on Economic, Social and Cultural Rights to inhibit the application of crime of business interference with the intention of weakening the right to strike, cases where businesses file civil and criminal lawsuits right after strike continuously take place. For example, a charge of business interference and a claim for damages were brought against the labor union executive right after the strike of Korail union.

**14. Active Response to Domestic Violence (List of Issues 24)**

1. In 2016, the number of arrests in domestic violence incidents[[40]](#footnote-40) was 45,614 which is 5.2 times higher than 8,762 of 2012.[[41]](#footnote-41) However, as seen in a decrease of the prosecution rate for domestic violence cases from 14.8% in 2012 to 8.5% in 2016 and the detention rate to 0.9% in 2016, punishment of assailants tends to become weaker. In the meantime, many cases are still sent as cases of home protection. Even in many cases, assailants are not prosecuted based on the system of indictment suspension under the condition of consultation.
2. Although active criminal punishment was not given for domestic violence with the primary purpose of keeping families, it is pointed out that the decision lacks the balanced consideration of victim protection. In addition, it has been constantly indicated that passive criminal punishment builds a perception that domestic violence is not a criminal act, undermining efforts to resolve the problem.

**15. Expansion of Measures for Homeless People and Relief of Burden of Housing Expenses (List of Issues 26)**

1. As for homeless people, the government sticks to the policy focused on shelter residency, resulting in a situation where many homeless people repetitively enter and leave the shelter, ending up sleeping out in the open again. The housing support policy to supply 60 units of rental houses to the homeless every year is not enough to solve the problem and social welfare services as well as programs to help them stand on their own feet are not sufficient.
2. In addition, protection for households who live in slice rooms or Gosiwon (a low-cost, sparsely furnished month-to-month rental room) that are inappropriate for long-term residence, rough sleepers including people living in green houses and households on the brink of eviction due to rising housing expenses is required. In addition, the government needs to make efforts to accurately identify the current housing-related situation of rough sleepers and strengthen measures such as housing benefits, public rental houses and financial support for them.
3. A recently emerging social issue related to housing is an excessive burden of housing expenses. The government policy to stimulate the property market including an increase in loan-to-value ratios and an eased debt-to-income ratio led to a higher property price and vitalization of private rental, which resulted in higher rental housing prices. In 2015, rent to income ratio in Korea rose to a record high 21.8% and based on the income quintile, the first quintile group of youth is spending more than half of their income on housing[[42]](#footnote-42). Thus, active measures to relieve the housing burden on the working class and guarantee their right to housing are required.

**16. Strict Restrictions on Forced Evictions (List of Issues 27)**

1. In the state party’s report, the government explained that it stipulated a requirement for consent of residents when carrying out a maintenance project. However, other than residential improvement projects, in a number of maintenance projects such as housing redevelopment or reconstruction, consent of residents only means consent of owners of buildings and land. Though tenants are the majority of residents for regeneration projects in large cities, their consent is not required in the process except for residential improvement projects. As for restrictions on the time of dismantlement, while the demolition of residential buildings with people still living in them is prohibited in winter for projects under the Urban Development Act, for maintenance projects under the Act on the Maintenance and Improvement of Urban Areas and Dwelling Conditions for Residents such as redevelopment, reconstruction and urban environment improvement, dismantlement prohibition in winter is not institutionally guaranteed.
2. The state party’s report explained that there is a strict restriction on vicarious administrative execution. Still, serious violence is committed by private security agents hired by project operators in the process of urging or implementing eviction. In 2016, many cases of violent forced eviction were reported in a redevelopment area of Indeok Village in Wolgye-dong and a reconstruction area of Sinsoo-dong where private security workers directly discharged the fire extinguisher at residents inside the building.
3. Forced eviction is a grave threat not only to the right to housing, but also to other related rights such as the right to life, the right to safety and the right to privacy. General comment 4 of the Covenant on Economic, Social and Cultural Rights states that “forced eviction may be justified only when it is consistent with the relevant principles in the international law under very exceptional circumstances.” Therefore, the government is required to proceed with a comprehensive legislation to strictly control all types of forced eviction, maintaining rationality and proportionality under any circumstances and ensuring appropriate compensation and protection following the forced eviction.

**17. Threat to People’s Right to Safe Drinking Water due to Water Quality Deterioration of Rivers (List of Issues 28)**

1. Since the completion of the four river refurbishment project whose main features were construction of 16 weirs and development on the skirts of rivers, phenomena of serious water pollution including an increased occurrence of algal blooms have repeated in large rivers due to a slower flow speed. With more serious algal blooms, the amount of chlorine used in the purification process is increased, which results in a rise in the amount of disinfection by-products including total trihalomethanes (THMs). The Korean water quality standard for drinking water allows up to 0.1㎍/L of THMs which could cause cancer while the German standard has a lower allowed amount up to 0.05㎍/L. There is a rising concern over the safety of tap water as cases where the concentration of THMs was over 0.05㎍/L in a domestic purification plant in 2014 and 2015.
2. Although the government recently decided to open floodgates of six weirs out of 16 weirs constructed under the four-river refurbishment project that have a high risk of the occurrence of algal blooms, some people point out that the impact of the decision on the improvement of water quality is limited. Fundamental measures for restoration of water quality of river and safe drinking water for the public are needed.

**18. Protection of Teenagers’ Right to Health through Relief of Academic Stress (List of Issues 31)**

1. The government explained that it recommended educational superintendents to ban operation of private teaching institutes after 10 pm considering its impact on school education and the health of students.[[43]](#footnote-43) However, the recommendation is not properly being implemented as only five out of 17 cities and provinces restrict courses at private teaching institutes after 10pm in practice and eight cities and provinces enacted an ordinance which allows courses at private institutes until the midnight.
2. Unlike private institutes subject to restrictions on night-time courses under an ordinance, night-time self-study programs are operated until late night in middle and high schools. According to a survey on night-time self-study programs at high schools in Seoul, 22.6% of survey schools operate such programs until the midnight even beyond 10pm.[[44]](#footnote-44)
3. Since participation in the night-time self-study programs is not optional for many students, the impact of such programs on sleep and health of students could be larger and wider than that of courses at private institutes. A survey on reasons for the lack of sleep among students of all levels of schools across the nation found that 45.3% cited private institute and tutoring as a reason for the lack of sleep while 22.8% chose the night-time self-study program at schools. In particular, among students of regular, special-purpose and autonomous private high schools where night-time self-study programs are widely in place, the proportion of students who chose the program was higher than those who chose private institutes and tutoring for the past three years. [[45]](#footnote-45)

Reasons for the Lack of Sleep among Students (2015)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Category | Night-time Self-Study Program | Private Institute, Tutoring | Study at Home | Game | Chatting and Texting | Watching Drama Series, Movies |
| Subtotal | 22.8 | 45.3 | 44.5 | 35.8 | 51.9 | 56.3 |
| Primary School | 0.0 | 52.3 | 55.7 | 44.3 | 28.7 | 59.7 |
| Middle School | 8.1 | 51.4 | 41.6 | 40.7 | 62.1 | 62.3 |
| General/Special-purpose/Autonomous Private High School | 45.7 | 43.9 | 47.6 | 24.4 | 49.1 | 47.5 |
| Specialized High School | 11.1 | 13.7 | 17.8 | 56.9 | 71.3 | 69.7 |

1. In addition to the night-time self-study program, lecture-based learning focused on college entrance exam, frequent tests and curriculum lacking consideration of ability and aptitude serve as factors for academic stress which has a negative impact on the physical and mental health of students. Although students complain of not only physical symptoms such as headache, stomach ulcer and muscle pain, but also mental health issues including sensitiveness, depression, anxiety and hostility, proper measures to resolve the problem are not in place.
2. The most serious impact of academic stress on teenagers is suicide. A survey found that “school record (42%)”[[46]](#footnote-46) is the biggest factor for teenagers to think of suicide and it turned out that the most students who actually killed themselves worried about their academic performance right before committing suicide.[[47]](#footnote-47) Given the fact that academic stress is acting as the largest risk factor for suicide, the leading cause of death among teenagers, relief of academic stress is required by improving educational methods and academic performance evaluation system as well as shortening hours spent on study.

**19. Supplementation of Public Education Normalization Law (List of Issues 32)**

1. It is difficult for youth to find a job and more than half of job-seekers end up with non-regular jobs with poor treatment. In this situation, students and their parents are motivated to secure advantage at competition in the job market by entering a prestigious university at the cost of high expenses on private education. Though the Special Law for Promotion on Normalization of Public Education and Regulation of Preceding Education (hereafter referred to as the Public Education Normalization Law) was enacted with the intention of normalizing public education by restricting prior learning through private education and regulating preceding education at school, no visible effects on curbing private education have been witnessed and even after the enforcement of the Public Education Normalization Law in 2014, spending on private education has been increasing at all levels of schools.

Monthly Average Spending on Private Education per Student by School Level

(Unit: 10,000 KRW)

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Year | Average | Primary School | Middle School | High School |
| 2012 | 23.6 | 21.9 | 27.6 | 22.4 |
| 2013 | 23.9 | 23.2 | 26.7 | 22.3 |
| 2014 | 24.2 | 23.2 | 27.0 | 23.0 |
| 2015 | 24.4 | 23.1 | 27.5 | 23.6 |
| 2016 | 25.6 | 24.1 | 27.5 | 26.2 |

1. The Public Education Normalization Act prohibits preceding education in classroom at all school levels and could give a correction order, discontinue financial support, reduce the quota of students, reduce or remove classes or majors and even suspend the admission of students if schools violate the provisions. Still, it has no huge effect on inhibiting private education as it only has a provision of “prohibiting advertisement or promotion that could encourage prior learning” for private teaching institutes, institutions and private tutors. In addition, the effectiveness is insufficient as the law does not prohibit prior learning through private education itself and does not have provisions that allow punishment even when violations of the prohibition of prior learning-related advertisement. In fact, the Ministry of Education exposed 88 private institutes that violated the Public Education Normalization Law as a result of its survey on institutes located in an area of Seoul where private educational institutes are concentrated in April 2017. However, the Ministry stopped at giving an administrative guidance to remove such advertisements without particular measures. Currently, advertisements of private institutes promoting prior learning are still rampant.
2. Measures such as cancellation of private institute registration, order to suspend operation up to one year and paparazzi system for violations were initially included in the law in order to secure effectiveness of regulations on prior learning at private institutes but finally excluded at the time of the establishment of the Public Education Normalization Law. This decision has been pointed out to be undermining the effectiveness of the law, thus a legislative supplementation considering the measures is required.

**20. Protection of People’s Right to Health from Fine Dust**

1. The risk of fine dust and ultrafine dust becomes increasingly known as the International Agency for Research on Cancer under the World Health Organization classifies fine dust as carcinogen to humans (Group 1). The fine dust issue is serious in Korea since the country ranked 174th out of 180 countries for its exposure to ultrafine dust (Average Exposure to PM 2.5) according to the Environmental Performance Index[[48]](#footnote-48) survey.
2. However, research and investigation into the cause of fine dust and the proportion of internal and external sources of pollution has not been conducted in full swing at the government level. With the cause of fine dust not clearly identified, the government is being passive in dealing with external issues, fearful of worsening diplomatic relations or sometimes it attempts to reduce internal responsibility by highlighting effects from outside Korea.
3. It is hard to develop effective measures to tackle fine dust since the clear cause has not been identified. The government’s basic plan on management of atmospheric environment in the metropolitan area and special measures to manage fine dust with focus on reducing fine dust emissions from road mobile pollution sources are pointed out to have low effects on mitigation of fine dust problems[[49]](#footnote-49). In the situation where the severity of fine dust is currently affecting the metropolitan area and the non-metropolitan area alike, the government approach to management of atmospheric environment targeting the capital area is bound to have limits.
4. The current environmental standard in Korea announces the condition is “bad” when find dust level is over 100㎍/㎥ and ultrafine dust level is over 50㎍/㎥ on a daily average. It is indicated that the domestic environmental standard is too generous as the figures are twice larger than the level recommended by the World Health Organization. In addition, the accuracy of 54% of ultrafine dust automatic measuring instruments in the capital area is found to be lower than the standard[[50]](#footnote-50) and measuring stations are absolutely insufficient in areas other than the capital area. Consequently, it is hard to determine the accuracy of measured air quality and the impact of fine dust on health.
5. Poor air quality is a serious infringement as it limits activities in all areas of life, posing a grave threat not only to the right to health but also to other related rights on top of the fact that it is virtually impossible to separate the vulnerable group including the elderly, the infirm, children and people with respiratory illnesses from the threats due to its broad influence range both in time and space. Thus, it is urgent to identify the clear source of fine dust emissions through research at the government level, thereby developing effective countermeasures. In addition, efforts are needed to publicize the actual impact of exposure to fine dust based on the environmental standard and measurement living up to the international standards.
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