

**「Convention on the Elimination of All Forms  
of Discrimination Against Women」**

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

January, 2018

**National Human Rights Commission of Korea**

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## **Introduction**

The National Human Rights Commission of Korea ("NHRCK") hereby submits this report for the review on the eighth state party's report submitted by the Korean government ("Government") to the Committee on the Elimination of All Forms of Discrimination against Women ("CEDAW")

This report contains the current status, problems and measures regarding each matter with focus on the list of issues submitted by the NHRCK to the CEDAW at the beginning of July and the lists of issues and questions released by the CEDAW after the pre-sessional working group meeting at the end of July. It is expected for the CEDAW to pay a special attention to the selected issues described below.

### **[1] Establishment of Comprehensive Anti-Discrimination Act (List of Issues 3)**

1. The National Human Rights Commission of Korea recommended the Government to enact an anti-discrimination law in July 2006. The NHRCK recommended the Government once again in July 2016, to establish a comprehensive anti-discrimination law when it gave a recommendation on the third National Action Plan for the Promotion and Protection of Human Rights ("NAP", 2017~2021). 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 as seen in the case of the National Assembly Research Service pointing out the need for efforts to establish a comprehensive anti-discrimination law to regulate hate speech<sup>1</sup> in June 2017.
2. In the concluding observations after the review on the fourth state party's report of Korea, the United Nations Committee on the International Covenant on Economic, Social and Cultural Rights ("CESCR") stipulated that "it is concerned

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<sup>1</sup> National Assembly Research Service (2017), International Trend and Legislation Challenges of Hate Speech Regulations

over the delay of the enactment of an anti-discrimination law. In addition, the Committee is also concerned that the state has not sufficiently taken aggressive and effective measures to build consensus on the grounds for prohibition of discrimination (Article 22);” “the Committee reiterates the urgency of the establishment of a comprehensive anti-discrimination law and recommends the state party to raise awareness among its people and lawmakers of the negative impact of discrimination on protection of human dignity and equal enjoyment of human rights (Article 23).”

3. While calls for the establishment of a comprehensive anti-discrimination law are increasing as seen in the activities of the 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 the elimination of discrimination against the social minority, the government is required to promote the need to establish a comprehensive anti-discrimination law and promote the actual effects of its implementation while developing and presenting a specific legislation roadmap which entails the participation of diverse members of society.

## **[2] Establishment of Gender Discrimination Prevention Act<sup>2</sup>**

4. Despite the severe gender inequity situation with its seriously low ranking at 118<sup>th</sup> in the Global Gender Gap Index (GGI) in 2017, a gender discrimination prevention act as a separate anti-discrimination law has not been in place in Korea since the abolishment of the Gender Discrimination Prevention and Relief Act in 2005. The country is currently only equipped with discrimination-related legislation such as the National Human Rights Commission of Korea Act and individual anti-discrimination laws including the Act on the Prohibition of Discrimination against Disabled Persons, Remedy against Infringement of Their

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<sup>2</sup> The Act on Prohibition of Gender Discrimination and Sexual Harassment as well as Relief of Right was proposed at the 9<sup>th</sup> standing committee on March 20<sup>th</sup>, 2014 with Rep. Kim Sang-hee (then-Democratic Party) as a representative. The NHRCK reviewed the proposed bill (November 20<sup>th</sup>, 2013) and expressed the need to enact the law.

Rights, etc. and the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion. The National Human Rights Commission of Korea Act is an organization act which focuses on procedures to petition against and provide the relief of discrimination, limiting the possibility of conceptually defining diverse reasons for discrimination and entailing various areas subject to anti-discrimination. Due to this restriction, the Act on the Prohibition of Discrimination against Disabled Persons, Remedy against Infringement of Their Rights, etc. and the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion have been enacted as individual anti-discrimination laws.

5. The Equal Employment Opportunity and Work-Family Balance Assistance Act and the Gender Discrimination Prevention and Relief Act have been established in 1987 and 1999 respectively as laws for anti-discrimination against women and equality. Still, The Equal Employment Opportunity and Work-Family Balance Assistance Act is confined to gender discrimination in employment. The first individual law which applied prohibition of discrimination based on gender to all areas, the Gender Discrimination Prevention and Relief Act, was repealed in 2005 during the law rearrangement through the unification of organizations for discrimination remedy.
6. Therefore, in order to redress gender discrimination in various areas such as increasing hatred against women and online sexual violence and reinforce relief for victims, an act on prohibition of gender discrimination is required based on an approach as a substantive law. Since the prohibition of gender discrimination is part of a comprehensive anti-discrimination law, some might argue that a separate gender discrimination act would have no substantial benefits. However, it would be more effective in discrimination prevention and victim relief if a comprehensive anti-discrimination law is enacted to serve as an umbrella (higher law or proper law as a common ground for all anti-discrimination acts) for anti-discrimination acts on individual grounds and areas and additionally other anti-discrimination laws by reasons and areas are also established based on their distinct characteristics.

**[3] Reinforcement of Gender- and Women’s Human Rights-related Roles of NHRCK  
(List of Issues 4)**

7. From 2006 to the middle of 2009, the NHRCK had a separate division for sexual discrimination that was in charge of petitions regarding women’s human rights, policy recommendation, monitoring and domestic/foreign cooperation. Since the exclusive team was closed as a result of the forced size reduction of the organization by the Government in the middle of 2009, the Commission has never had a separate division for the issue and could not restore the size of the workforce and budget of the past as of January 2018. As seen in <Table 1> below, the number of petitions for unfair discrimination against women including sexual discrimination, sexual harassment and discrimination against pregnant or child-rearing women is increasing every year with a drastic rise last year in particular. As an organization to redress gender discrimination, the NHRCK has monitored the processes of enactment and revision of women-related laws, explored and recommended measures to improve gender discrimination-related institutions in the labor market and conducted fact-finding activities on increasing violence against women as well as came up with countermeasures. In addition, the NHRCK investigated petitions and monitored the performance status of acting on the CEDAW for a full realization of the convention, comprehensively carrying out projects with diverse tasks and of different levels. Also, the Commission should take initiative to reflect perspectives and experiences both from men and women in all ongoing projects to realize gender mainstreaming for the completion of gender equality. As such, for the NHRCK to serve its original role as an organization to redress sexual discrimination, it is essential to rearrange the organization to have a separate division for the issue.

< Table 1 > Number of Relevant Petitions

	<b>Sexual Discrimination</b>	<b>Discrimination against Pregnant or Child- rearing Women</b>	<b>Sexual Harassment</b>	<b>Total</b>
2015	64	21	203	288
2016	97	8	201	306
2017	122	34	280	436

8. Although the NHRCK is an independent national organization, it is not independent in recruiting the workforce and allocating the budget since those activities require approval from the relevant ministry. The constant request from the NHRCK to set up a division for women's human rights and recruit more staff in order to reinforce its role in the issue has not been accepted by the Government until January 2018. The Commission's autonomy over the workforce and budget needs to be secured.

#### **[4] Promotion of Female Representation in the Public Sector (List of Issues 7)**

9. Korea has been one of the lowest ranked countries in the glass-ceiling index for years among 29 OECD countries. Representing women, half of the members of society, equally as men in politics and economy is a critical condition for equal opportunity, equity and ultimately respect for humankind and development of democracy. In particular, political representation of women is very low even though at least 30%<sup>3</sup> of female politicians would enable women-friendly policies and laws in the currently male-dominant political scene. The female proportion of lawmakers in Korea was 17% in 2016, which was higher compared to 15.7% in 2012, but still lower than 23.3% of the average of 193 countries and 19% of the Asian average<sup>4</sup>. The situation is particularly worse in the local elections as merely 8.2% of metropolitan city councilors were women in 2014. Meanwhile, in case of local council members, over 10% of them were women in 2010 with 274 out of 1,512 and in 2014, the proportion was a record high at 14.6% in the local elections. Still, it is lower compared to the female proportion of National Assembly members (Election Statistics System of the National Election Commission).

10. The Public Official Election Act states that political parties shall work to recommend not less than 30/100 of the total number of the candidates from

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<sup>3</sup> Dahlerup pointed out that women's voice can be heard when 30% of the parliamentary seats are taken by women (1988). According to the theory of critical mass by Kanter, at least 15% of politicians should be women to bring about changes to political culture and enable policies and legislation for women in the situation of female underrepresentation and male dominance.

<sup>4</sup> IPU(2017), Women in national parliaments



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 20<sup>th</sup> 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<sup>5</sup>. 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.

11. According to the Statistical Yearbook (2016) of the Ministry of Personnel Management, the proportion of female public servants accounts for almost half, 49.4%. However, the proportion of female officials in influential positions remains very low. The figures of female officials in Level 4 or higher positions were 11.3%, in senior executive services 3.4%, and in political services 7.1%, nine out of 126 positions, respectively. Given that 35.5% of local government officers are female, the female proportion is lower in higher-ranking positions as only 12.1% of fifth and higher grade civil servants are women. On November 21<sup>st</sup> 2017, the Government announced the Five-year Plan to Promote Female Representation in the Public Sector in cooperation with eight ministries and disclosed its goal to increase the proportion of high-ranking female public officials. Currently in 2017, the female proportion in high-ranking public officials is 6.1% and the Government plans to increase it to 10% by 2022 and for division head-level public officers (Level 4 and higher), the figure is planned to expand to 21% by 2022 from 14% in 2017. In order to achieve this goal, it is required for each ministry's personnel committee and promotion review committee to have a certain percentage of women. In addition, specific action plans including the gender balance of interviewers when interviewing candidates for new or career service public servants shall be additionally implemented.

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<sup>5</sup> National Election Commission (2016), Election Statistics System

12. In the education sector, where women's participation has traditionally been higher than other sectors, the rate of female teachers in elementary, middle and high schools reached 66.7% (Education Statistical Service, 2016); however, the glass ceiling is still thick for women with the rate of women principals of elementary schools stands at 28.7%, that of middle schools at 23.2%, and that of high schools at only 9.5% (Ministry of Gender Equality and Family, 2016). The gender gap becomes even greater at universities, and the proportion of female professors remained only at 14.2% at public/national universities (Ministry of Strategy and Finance, 2015). In the above-mentioned Five-year Plan to Promote Female Representation in the Public Sector, the Government announced its plans to expand the female ratio of professors at public/national universities to 19% and the female proportion of principals and deputy principals to 45% by 2022. Still, detailed plans should be followed on how to increase the number of female principals at high schools which currently shows the lowest figure.

13. The Government announced in the Five-year Plan to Promote Female Representation in the Public Sector that it would introduce the Female Executive Goal System for the first time to encourage equal participation of men and women in the decision-making process of public organizations and would expand the female proportion of executives including directors to the level of the OECD average (20.5%) by increasing it to 20% by 2022. However, a policy that prevents discrimination against women in the recruiting process at public organizations has not been in place. A relevant study<sup>6</sup> found that only one out of five new employees at 30 largest public organizations was a woman in 2016. The share of female employees has also drastically decreased from 25.6% in 2012 to 21.7% in 2016. Public organizations show an even lower share of female employees compared to private companies. In 2016, the female proportion of new employees at 50 major companies was 26.2% on average. Moreover, according to the announcement of the Supreme Prosecutors' Office (December 20<sup>th</sup>, 2017), public corporations such as Korea Coal Corporation and Korea Gas Safety Corporation have intentionally eliminated female candidates when

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<sup>6</sup> Chosun Biz, May 7<sup>th</sup> 2017, "Only one out of five newcomers at 30 largest public organizations was woman last year, gender equality goal system in the shade"

recruiting youth interns or new employees. The Government maintains the female share of civil servants above 30% through the gender equality goal in recruitment system applied to the civil servant examination which does not exist for other public organizations. Efforts to prevent discrimination against women in the recruiting process by taking aggressive recruitment improvement measures or applying the gender equality goal in the recruitment system at public organizations and policies to improve the situation of gender discrimination in recruitment at public organizations are required through the management of gender ratio among interviewers when conducting job interviews.

**[5] Improvement in Poor Structure of Women’s Employment (List of Issues 16, 17)**

14. The previous administration set up the ‘Employment Rate 70% Roadmap’ and carried out various policies including ‘Lifecycle Career Management Support Plan for Female Workers’ as a major government project with an aim of increasing women’s employment rate by 10%p. However, the result was proven insufficient. The rate of increase in women’s employment has remained only at 2.3%p in 2016 and it has been much lower than the rate of increase in men’s employment rate at approximately 20%p since 2013. The employment rate for women came in the 29<sup>th</sup> place out of 35 OECD member countries in 2015.

<Table 2> Trend in employment rates by gender (Ages 15~64) since 2011

(Unit: %)

Gender/Year	2011	2012	2013	2014	2015	2016. 11.
Men	74.5	74.9	74.9	75.7	75.7	75.8
Women	53.1	53.5	53.9	54.9	55.7	56.2

(Source: Economically Active Population Survey, National Statistical Office, 2016)

15. The rates of employment between the ages 20 and 29 for both men and women are similar at around 59%; however, the gender imbalance becomes greater at an alarming rate after the age 30. This is believed to be due to women’s career break for the childbirth and child care reasons. The rate of employment for men in the 30s increases rapidly to 90%. On the contrary, the rate of employment for

women in the 30s decreases, and then increases again in the 40s displaying the M shape. However, the jobs for women in the 40s are mostly irregular positions and low-quality jobs compared to the jobs they had in the 20s or jobs for men. In particular, according to data from Statistics Korea<sup>7</sup>, the lowest point of employment rate among women in their 30s has shifted from the early 30s (34 or younger) to the late 30s (35 or older) since 2015, which reflects the reality that women who secured jobs in their 20s delay the time of childbirth.

<Table 3> Men/Women Employment Rate by Year

Category		Employment Rate by Year (%)						
Gender	Age Group	2008	2009	2010	2011	2012	2013	2014
Men	20~29	59.2	58.4	58.2	58.3	57.3	55.7	55.8
	30~39	90.3	89.1	89.5	89.8	90.3	90.2	90.9
	40~49	91.8	90.9	91.2	91.6	91.7	92.0	92.7
Women	20~29	59.1	58.0	58.3	58.7	58.8	57.8	59.0
	30~39	54.7	52.7	53.7	53.7	54.5	55.5	56.3
	40~49	64.7	64.1	64.2	64.9	64.6	64.6	65.1

(Source: Economically Active Population Survey, National Statistical Office, 2016)

16. Particularly, the low economic participation of highly-educated women raises a serious problem. The college entrance rate among women was higher (74.6%) than men (67.6%) in 2015, and more women than men entered both two-year junior colleges and four-year universities. According to the 'Statistical Yearbook of Education' (2016) by the Korean Educational Development Institute, the rate of women's tertiary education (higher education from junior college and above) is the highest among the OECD member countries. Although the employment rate of highly-educated women changed from the L shape in 2011 to the M shape in 2015, their return-to-work rates are lower than that of women with high school education, and the time of their return is also different. Women with university education return to work in their late 30s or early 40s, quicker than women with high school education, and the employment rates after the age 40

<sup>7</sup> Statistics Korea, Women's Lives through Statistics in 2016, June 28<sup>th</sup>, 2016

are similar among the two groups. However, the employment rate in their 20s and 30s of women with university degrees are lower than that of those with high school degrees.

17. The 'OECD Economic Survey of Korea' (2016) published In May, 2016, diagnosed the issues of women's employment and made recommendations as below.

a. The labor market is segmented into regular and non-regular workers, who earn only 62% as much per hour as regular workers, boosting inequality and relative poverty. Women account for a disproportionate share of non-regular workers, thus discouraging female employment. (p.12)

b. The employment of women is constrained by the limited take-up of maternity and parental leave and the availability of high-quality childcare. Career breaks for women widen the gender wage gap, which is the largest in the OECD." Thus, it's recommended to "Increase the take-up of maternity and parental leave systems by enforcing compliance and raising the benefit level for parental leave and enhance childcare quality by making accreditation mandatory and strengthening competition. (p.13)

18. The analysis of the rates of irregular workers as an indicator to judge the quality of work in the society at large shows that the gender gap among irregular workers has narrowed since 2011, but widened again in the first half of 2016 to the rates similar to those of 2012.

<Table 4> Rates of irregular workers by gender

(Unit: %, p)

Gender/Year	2011	2012	2013	2014	2015	2016.6.
Total	34.2	33.3	32.6	32.4	32.5	32.8
Men	27.8	27.2	26.5	26.6	26.5	26.4
Women	42.8	41.5	40.6	39.9	40.2	41.0
Gender Gap	15.0	14.3	14.1	13.3	13.7	14.6

(Source: Additional Survey by Work Types, Economically Active Population Survey, National Statistical Office, August 2016)

19. The rates of those receiving below minimum wages or short-time workers with less than 15 working hours per week have not changed in the past ten years. In 2015, the rates of women irregular workers and women workers receiving below minimum wages decreased over the previous year, but the rate of women working less than 15 hours per week has increased. In 2015, out of 100 women workers, 40.2 of them held irregular positions while 11.8 of them received below minimum wages and 4.9 of them engaged in short-time work positions.
  
20. The National Human Rights Commission of Korea conducted a fact-finding study on human rights situation of workers engaged in short-time work positions who work less than 15 hours per week in 2016. In many cases, short-time workers are not protected by social insurances as they are subjects of optional entry instead of mandatory entry for employment insurance, national pension and national health insurance with an exception of occupational health and safety insurance out of four major social insurances. They are excluded from paid holidays/extra pay and yearly paid holidays/stipend for unused annual leave under the Labor Standards Act and cannot receive severance pay even after working for the organization for more than one year. Moreover, they are excluded from candidates to become unlimited contract workers under the Act on the Protection, etc. of Fixed-term and Part-time Workers even if they have worked for the organization for more than two years. In 2002, the number of short-time workers was 1.8 times larger in women (120,279) than men (66,264), but as of 2015, the gap has grown to 2.4 times with 411,307 women (70.3%) and 174,146 men(29.7%). The annual growth rate on average was also higher in women at 9.9% than men at 7.7%. This means that more and more lower-quality jobs are taken by women and the increased number of short-time work positions leads to the deterioration of gender discrimination.
  
21. In order to improve the situation of gender discrimination in employment, the NHRCK recommended a policy to improve human rights situation of short-time workers to the Ministry of Employment and Labor and the Ministry of Health and Welfare in November, 2017. The major content of the recommendation is to protect short-time workers through the constructive employment system defined

in the Act on the Protection, etc. of Fixed-term and Part-time Workers as they are completely excluded by the current severance pay system, annual paid leave, weekly leave and the unlimited term contract system of the Act on the Protection, etc. of Fixed-term and Part-time Workers. In addition, the Commission also recommended the guarantee of social insurance benefits such as employment insurance, health insurance and national pension.

## **[6] Improvement in Gender Wage Gap (List of Issues 16)**

22. Korea is the country with the largest gender wage gap among OECD member countries. Since 2000, where the OECD has started presenting relevant statistical information, the Republic of Korea has been placed in the first place with the biggest gender wage gap. The average gender wage gap among OECD member countries, calculated based on the median wage among full-time male workers, was 15% in 2014 while the figure was 37% for the Republic of Korea. The rate has decreased by 3%p from 40% in 2004. However, countries with less gender wage gap than Korea such as the U.K., Switzerland, Belgium, and Iceland have shown decrease in the gap by 6%p for the past ten years. Japan, with the third highest gender wage gap among OECD nations, also showed decrease by 5%p from 2004.
  
23. Korea's gender wage gap reflects the hierarchical structure in the labor market where more women are concentrated in low-wage positions than their male counterparts. According to an article 'Scale and Current Situation of Irregular Workers: Additional Survey in the Economically Active Population Survey' by the National Statistical Office (Yoo-seon Kim, March 2016), in 2016, monthly wage for women was 1,760,000 won and for men was 2,920,000 won while monthly wage for irregular workers was 1,510,000 won and regular workers was 3,110,000 won. Supposing that male regular worker's monthly wage 3,500,000 won as 100, male irregular workers received only 52.6% (1,840,000 won), female regular workers 68% (2,380,000 won), and female irregular workers 35.4% (1,240,000 won), showing wide disparity according to the employment type.

24. In terms of hourly wage by gender and employment type, in March 2016, male workers received 16,055 won per hour while female workers received 10,512 won, regular workers receiving 16,985 won, and irregular workers receiving 9,291 won. Supposing that male regular workers receive 100, male irregular workers received its 55.5%, female regular workers 69.5%, and female irregular workers 43.2% respectively.
25. Wage gap by gender and employment type is closely related to the career break among women. Women exit the labor market at the time of marriage, pregnancy and childbirth and take a lower-level job considering their career, academic background and competency when returning to the market. Since there has been a vacuum in their economic activities for a certain period, it is hard for them to be recognized for the past career or competence which results in taking a lower-paying job in the end. Career breaks decrease the level of female employment for the short term and have a negative impact on women's position in the labor market and their economic achievement for the long term.
26. Since the reasons behind the gender wage gap are diverse and structurally intertwined, a comprehensive approach to the institutional improvement is required by integrating with other laws to narrow the gender gap such as turning irregular jobs into regular ones, raise in the minimum wage, improvement in the situation of categorizing job types based on gender and breaking of glass ceiling. Therefore, aggressive measures are required at the ministry level such as the "establishment of five-year plan to narrow the gender wage gap" based on a short-term roadmap. The Government announced that it would implement the "Wage Public Notification system for Gender Equality" in the second Basic Plan for Gender Equality which will be carried out starting 2018. Institutional measures are needed to identify and improve the gender wage gap reality among companies through public notification of wages for men and women at public and private corporations by revising the Equal Employment Opportunity and Work-Family Balance Assistance Act.

## **[7] Reinforcement of Punishment for Domestic Violence Crimes (List of Issues 8, 9)**



27. The last administration defined domestic violence as one of the four social evils and made pledges to create a safe society by providing comprehensive countermeasures. However, home protection cases have risen by 376.9% during the past ten years (2006~2015) according to the '2016 White Paper on Crime' published by the Institute of Justice in 2017.
28. While it is analyzed that the increase in domestic protection cases is the result of active reaction by investigative agency and higher social awareness of domestic violence, when looking at the outcome of proceedings, it is hard to hold confidence whether domestic violence is considered as crime and dealt with accordingly. The same data reveals that out of 16,868 home protection cases, 7,319 cases (43.4%) were subject to non-punishment<sup>8</sup> in 2015 showing a big increase from 31.8% in 2006. The high rate of non-punishment brings into question whether the victims receive *de facto* protection given that 84.4% of all cases are the charges of injury or assault.
29. The police's lax attitude on the crimes of domestic violence affects the victims to less likely to ask for help from the police. The '2016 Fact-finding Survey on Domestic Violence' announced by the Ministry of Gender Equality and Family published in 2017 shows that only 2.8% of the female victims of domestic violence reported the case to the police.

Category	Total	Women	Men
Police	1.7	2.8	-
Family or Relatives	12.1	16.3	5.8
Neighbors or Friends	10.3	12.9	6.5
Religious Leaders	1.0	1.6	-
Women's Emergency Hotline 1366	0.6	1.0	-

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<sup>8</sup> Home protection case is a system where the Family Court determines protective disposition such as access restriction, probation and treatment trust instead of giving criminal punishment for domestic violence under the Special Act for the Punishment of Domestic Violence. Considering the intention of victims, prosecutors are allowed to send a domestic violence case to the Family Court where it would be handled as a home protection case. The Family Court could make a decision not to make disposition under Article 37 (decision not to make disposition) under the Act on the Special Cases Concerning the Punishment, etc. of Crimes of Domestic Violence when probation is impossible or not needed or when it is inappropriate to handle the situation as home protection case. Before ruling on probation, the Family Court could take temporary measures such as separation including eviction, restraining order within 100 meters and consignment to medical institutes.

Domestic Violence Counseling Center and Protection Facilities/Shelter (Nursing Facilities)	0.6	1.0	-
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Note: 1) Percentage was estimated given a weighting based on 426 people (respondents) victimized by violence of spouses

2) The share of request for help by each category

<Source: The Ministry of Gender Equality and Family 「2016 National Study on Domestic Violence」>

30. The reason behind these female victims not resorting to the official support system could be attributed to their judgment that the support for victims or outcomes of proceedings does not guarantee *de facto* assistance or protection for them, not because their damages are not severe enough to be reported. According to the data from the Ministry of Justice and others, in 2016, indictment rates for domestic violence stands only at 8.5% and arrest rates only at 0.9%.

31. Recently, one domestic violence offender broke into a protective facility for victims of domestic violence, resulting in an involvement of the police. However, the police refused to isolate the offender citing the lack of a directly damaging act. In the end, facility workers blocked the view of the offender with a banner and evacuated all residents. As a result, discussions are continuing on problems of police responses to domestic violence and criminal and judicial measures to improve the situation of violence crimes against women. Above all, a better awareness of violence cases against women among the police and institutional and perceptual innovation to strengthen their job competencies is required.

32. Three major causes could be attributed to the tendency of non-punishment of crimes of domestic violence. First of all, domestic violence cases are forwarded as home protection cases based on the object clause<sup>9</sup> in the 'Act on Special Cases Concerning the Punishment, etc. of Crimes of Domestic Violence' (38.2% in 2016). Secondly, the introduction and enforcement of the 'Suspension of Indictment on Condition of Counseling' system in 2008 allows the assailants to

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<sup>9</sup> Act on Special Cases Concerning the Punishment, etc. of Crimes of Domestic Violence aims at “restoring the peace and stability of home wrecked by domestic violence and building a healthy home through probation of offenders to adjust the environment and correct their inclination of action.”

be exempted from obligation. Thirdly, Article 9 of the 'Act on Special Cases Concerning the Punishment, etc. of Crimes of Domestic Violence' defines 'the Crime not prosecuted against Objection of the Victim' and this shifts all the responsibility of decision making on punishment or non-punishment of assailants onto the victims under the name of respecting the victims' wishes.

## [8] Responses to Increasing Hatred of Women (List of Issues 10)

33. The issue of hate crimes including misogyny became a national issue after the killing of a woman near Gangnam Station in May 2016. Following this incident, the NHRCK conducted a 'Fact-Finding Survey on Hate Speech and Countermeasures' in 2016 and the National Assembly also made legislative efforts including the establishment of an anti-discrimination law to respond to hate crimes, although no legislation has been enacted. Currently, the only law that regulates hate speech is the Act on the Prohibition of Discrimination against Persons with Disabilities, Remedy against Infringement of their Rights, etc. (Article 32 (Prevention of Harassment)).

34. According to the above-mentioned fact-finding survey by the NHRCK, all respondents (about 1,000 people) including women, persons in sexual minority groups, disabled persons and migrants felt fear of hatred, were concerned that they might be the target of hate crime, and even concealed their identity in some cases, and over half of the respondents said that they did not know how to deal with both online and offline hatred.

<Table 7> Fear of Hatred

(Unit: %)

<b>Groups/Levels of Fear</b>	Not at all	Not much	To a certain degree	Very much
<b>Women</b>	16.8	19.2	49.0	14.9
<b>Sexual minority groups</b>	4.7	10.5	52.2	32.5
<b>Disabled persons</b>	8.0	21.5	45.5	25.0
<b>Migrants</b>	27.0	20.6	33.3	19.0

<Table 8> Responses to Online Hatred

(Unit: %)

Groups/Levels of Knowledge	Fully aware	Not clear	Not aware
Women	7.2	34.1	58.7
Sexual minority groups	7.1	34.6	58.3
Disabled persons	14.5	39.0	46.5
Migrants	24.6	29.4	46.0

<Table 9> Responses to Offline Hatred

(Unit: %)

Groups/Levels of Knowledge	Fully aware	Not clear	Not aware
Women	7.7	33.2	59.1
Sexual minority groups	9.8	32.9	57.3
Disabled persons	17.5	37.0	45.5
Migrants	31.0	29.4	39.7

35. Development of measures is urgently needed as social minorities such as women, sexual minority groups and disabled persons are victims of hatred in particular. Rather than criminal regulations, it may be more important to achieve an improvement in the environment of hate speech by creating an environment where freedom of expression and values of anti-discrimination and equality are realized at the same time. Therefore, it is required to stipulate prohibition of hate speech in the National Human Rights Commission of Korea Act or an anti-discrimination law and take various and aggressive national measures including the reinforcement of equality education and anti-hatred campaigns.

#### [9] Responses to Online Sexual Crime (List of Issues 10)

36. The Republic of Korea is no exception when it comes to the sexual harassment or assault on the Internet including Social Network Sites that are being reported

worldwide. In the cases of online sexual assault, it is difficult to directly confirm the damage as the assaults are perpetrated secretly in many cases. Countermeasures are needed since the current law does not allow legal punishment.

37. Gender violence is a comprehensive expression which encompasses physical, sexual, emotional violence as well as economic damage imposed on women and the disadvantaged group in society resulting from gender discrimination and inequality. One of the campaign pledges of President Moon Jae-in was to “develop measures to prevent three new types of gender violence” such as stalking, dating violence and online crime (online sexual violence). As such, there has been an increasing awareness of problems in reality where the development of scientific technology leads to a tool of sexual violence against women.

38. According to the 「2016 Crime Analysis」by the Supreme Prosecutor’s Office, the online sexual assaults such as the ‘Crime of Obscenity Using Telecommunication Medium’ and ‘Crime of Taking Photos Using Cameras (known as “hidden camera crimes”)’ have significantly increased in the past ten years while the rates of rapes and indecent acts by force have not had notable changes in numbers. Particularly, the ‘Crime of Taking Photos Using Cameras’ have increased most dramatically from 3.6% of all sexual violence cases in 2006 to 23.9% in 2015, showing a sevenfold increase in the past ten years.

<Table 10> Number of Cases and Trend in Proportions of Major Sexual Violence Types<sup>10</sup>  
(Unit: Cases, %)

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<b>Filming using cameras</b>	517 (3.6)	564 (3.9)	585 (3.6)	834 (4.8)	1,153 (5.6)	1,565 (7.1)	2,462 (10.5)	4,903 (16.9)	6,735 (24.1)	7,730 (23.9)
<b>Obscene act through communication media</b>	195 (1.4)	240 (1.7)	378 (2.3)	761 (4.4)	1,031 (5.0)	911 (4.1)	917 (4.0)	1,416 (4.9)	1,254 (4.1)	1,139 (3.7)

10 Supreme Prosecutors’ Office 「2016 Crime Analysis」, pp14-15.

<b>Rape</b>	2,510 (17.6)	2,659 (18.5)	3,621 (22.5)	3,923 (22.6)	4,383 (21.3)	4,425 (20.2)	4,349 (18.6)	5,359 (18.4)	5,092 (17.1)	5,274 (17.0)
<b>Forced sexual molestation</b>	4,984 (34.9)	5,348 (37.3)	6,080 (37.7)	6,178 (35.6)	7,314 (35.5)	8,535 (38.5)	10,949 (46.9)	13,236 (45.5)	12,849 (42.2)	13,266 (42.7)

39. Despite the high rate of crimes, the 'Crime Statistics' by the National Police Agency revealed that the arrest rate of the 'Crime of Taking Photos Using Cameras' was 97.6% (7,430 cases) in 2015, but the rate of indictment was only 31.2% indicating that not all perpetrators were properly brought to justice. The number of cases of these "hidden camera crimes" increased by three times in the past two years, but the indictment rate decreased year by year; 53.6% in 2013, 43.7% in 2014 and 31.2% in 2015, dropping by more than half from 72.6% in 2010.
40. The analysis of victims in the cases of the 'Crimes of Taking Photos Using Cameras' revealed that the 98.3% of victims was female, according to the 'Amendment to the Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes by analysis of cases of Crimes of Taking Photos Using Cameras' by the Korean Women Lawyers Association (2016). The relationships between the victims and perpetrators were 89.01% of the cases strangers and 10.99% of the cases acquaintances. The crimes occurred in subways (54.73%), on the street (10.80%), inside the buses or taxis (4.64%), in home or other accommodation (3.29%), and in public toilets (2.81%); this showed that women are not safe in public spaces. This could also be interpreted that women could be the victim of hidden cameras anywhere anytime. However, the examinations of the "hidden camera crimes" were as follows in the first trials; monetary penalty (71.97%), probation (14.67%), suspended sentence (7.46%), and prison sentence (5.32%). Breaking down the monetary penalty cases, 26.60% was sentenced with two million won, 22% with three million won, 15.06% with one million won and 12.53% with one and a half million won. As such, 79.97% of the cases were sentenced with three million or lower won of monetary penalty.
41. The damage from online sexual violence remains grave after the closure of

'Soronet', an Internet site that was the hub of pornographic materials in Korea. The offenders are committing crimes abusing the personal information they possess of their former girlfriends such as family or workplace information after filming intimate videos, against the women's will or after obtaining consent. It is retaliation after the couples break up and the offenders disseminate the videos to specific persons including the victims' husbands, new boyfriends or family members, or to unspecified individuals on the Internet. The number of pornographic materials deleted by the Korea Communication Standards Commission, after receiving complaints, increased more than five times from 1,404 cases in 2014 to 7,325 cases in 2016. The number of complaint cases submitted to the Commission with respect to the delete requests of pornographic materials containing individuals' sexual acts was 3,397 cases in 2015, and 1,166 cases were submitted and dealt with in 2013 showing a sharply rising curve.

42. While the victims could report the case and request the videos to be deleted by the Commission, in reality, it takes a long time to be finished. As such, most victims personally resort to the private service by "digital undertakers" to destroy the videos online. It costs from 500,000 won to 3,000,000 won a month causing economic damage to the victims with no end in sight. The official statistical information on these services is not available while the number of the private business is increasing with a rising demand of requests by the victims.

#### **[10] Reinforcement of Human Rights Protection of Women and Children Victimized by Sex Traffic (List of Issues 12)**

43. Article 21 (1) of the Act on the Punishment of Acts of Arranging Sexual Traffic enacted in 2004 stipulates that "a person involved in prostitution shall be subject to imprisonment up to one year or monetary penalty up to three million one, detention or fine," punishing both the buyer and seller of sex. In December 2012, the Seoul Northern District Court requested an adjudication on the constitutionality of Article 21 (1) of the Act on the Punishment of Acts of Arranging Sexual Traffic citing that the provision goes beyond the limit of basic

right restrictions for the purpose by punishing prostituted women, violates the principle of minimized loss and infringes on the right to equality by handling sex trade victims and prostituted women differently in relation to a case of violation of the particular provision. However, the Constitutional Court ruled that the provision is constitutional on March 31<sup>st</sup>, 2016<sup>11</sup>. After the request for an adjudication on the constitutionality of the provision, the number of people arrested for sex traffic decreased from 11,675 in 2011 to 5,674 in 2012, 4,414 in 2013, 4,841 in 2014 and 4,440 in 2015. However, in 2016, after the ruling of the Constitutional Court, the number increased to 17,982.<sup>12</sup> Out of arrested people in 2016, 13,512 people were men (75.14%), 4,274 people were women (31.63%) and 196 people (4.58%) were unclassified.<sup>13</sup> In most cases, sellers are women and buyers are men. Punishment for prostituted women seems relatively weaker as the arrest rate of buyers is about three times higher than that of sellers.

44. However, in the actual application process of the law, punishment based on Article 21 (1) of the Act on the Punishment of Acts of Arranging Sexual Traffic is implemented in serious disfavor of prostituted women rather than men who bought sex. First, when people involved in sex traffic violating Article 21 (1) are exempted from indictment, male sex buyers are subject to suspension of indictment on the condition of education (so-called John School education) while prostituted women are subject to protective disposition based on regulations of protection cases stipulated in Article 12 and the following articles of the Act on the Punishment of Acts of Arranging Sexual Traffic. As of 2016, although John School education is a condition for suspension of indictment, the palpable effect as a punishment is larger for protection cases since it is sent to a family court in the jurisdiction and gives an order of protective disposition after a separate trial

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11 Constitutional Court 2016.3.31. 2013 Hun-Ga 2.

12 National Police Agency 『Crime Statistics』Current Status of Crime Incidence and Arrest in Case of Violation of the Act on the Punishment of Acts of Arranging Sexual Traffic (Prostitution) (2011-2016), Korean Institute of Criminology, Crime and Criminal Justice Statistics (<http://www.crimestats.or.kr/main/index.k2?cmd=main>) Crime Statistics DB.

13 National Police Agency 『Crime Statistics』Current Status of Crime Incidence and Arrest in Case of Violation of the Act on the Punishment of Acts of Arranging Sexual Traffic (Prostitution) (2016), Korean Institute of Criminology, Crime and Criminal Justice Statistics (<http://www.crimestats.or.kr/main/index.k2?cmd=main>) Crime Statistics DB.



procedure. Second, when people involved in sex traffic violating Article 21 (1) are indicted, most of them are subject to monetary penalty through a summary indictment. Although the legal punishment is the same both for buyers and sellers, most prostituted women are second time offenders and many are even three time offenders since they continue to engage in sex traffic to make a living, leading to a much higher amount of monetary penalty than sex buyers. Even worse, there are cases where they go back to sex traffic due to the burden of monetary penalty.

45. According to the Research on Legal and Policy Directions for Curbing Procurement and Demand in Prostitution (2017) by Women's Human Rights Institute of Korea, the legal definition of sex traffic subject to the current Act on the Punishment of Acts of Arranging Sexual Traffic is also based on the act of prostituted women<sup>14</sup>, which makes it necessary to conduct investigation in disguise and crackdown on brothels or suspected places of sex traffic in order to prove the act of the law violation. To this end, the police carry out a sting operation against prostituted women in disguise as a customer. However, in 2014, there was a case where a prostituted woman committed suicide by jumping off the window at a motel to avoid the operation. As such, in the process of crackdown on prostitution, issues of violations of human rights and safety of prostituted women resulting from the abuse of police activities are raised.<sup>15</sup>

46. Although the Government claims that the Act on the Punishment of Acts of Arranging Sexual Traffic has exemption provisions for sex traffic victims and youth involved in prostitution from criminal punishment and provides protection for victims of sexual traffic under the Act on the Prevention of Commercial Sex

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14 "The term "sexual traffic" means committing any of the following acts for an unspecified person or becoming a partner thereof in return for receiving or promising to receive money, valuables or other property gains; (a) Sexual intercourse; (b) Pseudo-sexual intercourse using parts of the body, such as the mouth and anus, or implements" (Article 2 (1) of the Act on Punishment of Acts of Arranging Sexual Traffic)

15 Yoon Deok-kyung, Lee In-sun, Jang Da-hye (2017), Research on Legal and Policy Directions for Curbing Procurement and Demand in Prostitution, Women's Human Rights Institute of Korea, p102.

Acts and Protection, etc. of Victims, it is not easy for prostituted women to be recognized as victims under the current investigation procedure since they have to prove themselves to be victims in order to be exempted when they were arrested during the crackdown activities by the police. In addition, it is suspicious whether the criminal punishment exemption provisions are truly effective as the Government has failed to provide statistical data on exemption cases where the arrested are recognized as victims. Therefore, measures to improve the effectiveness of criminal punishment exemption provisions for female victims of sexual traffic need to be developed.

47. The fact-finding results of youth prostitution in the 「2016 Fact-finding Survey on Prostitution」 published by the Ministry of Gender Equality and Family in May 2017 revealed that the seven out of ten teenagers (74.8%) who experienced the so-called "conditional dating" met the potential sex buyers through 'chatting applications' (37.4%), 'random chatting applications' (23.4%), or online chatting sites (14%). Only 15.7% of the total 108 websites that promote prostitution requested for the age authentication to prove that the users were not minors. As for the mobile applications, 278 applications that facilitate prostitution out of total 317 (87.7%) were accessible without identity or device authentication, and the highest number of applications (210 apps, 66.2%) had the age limit of 17 years.

\* "Chatting applications" offer 1:1 conversation services and video conversation services.

"Random chatting applications" offer conversation or messaging services with unspecified individuals.

Source: Press Release from the Ministry of Gender Equality and Family (May 1<sup>st</sup>, 2017)

48. In the 「2016 Fact-finding Survey on Prostitution」, 107 adolescents under 19 years of age who experienced prostitution and ran away from home (61.8%) responded that they had experienced the "conditional dating" out of total 173 respondents. Among these, 70.7% of adolescents first went to the "conditional dating" after they had ran away from home, and 51.4% of them experienced it while still enrolled in schools. The most common reason for the "conditional dating" was to find a place to go and sleep (29%), and the "condition" was money (87.9%) in most cases. The adolescents who went on the "conditional dating" experienced both physical and psychological damage (65.4%), which

include (multiple responses allowed); buyers paying less money than promised (72.9%), buyers' refusal to use condoms (62.9%), and unwanted pregnancies or having sexually transmitted diseases (48.6%). These adolescents also responded that stronger punishment (49.1%) and tough investigation and punishment of illegal 'random chatting applications' (12.7%) were needed in order to combat "conditional dating" with youth. Countermeasures such as a mandatory adult authentication procedure are required since smartphone chatting applications have become a hotbed of youth prostitution.

49. According to the Fact-finding Survey on the Environment of Youth Prostitution and Their Human Rights conducted by the National Human Rights Commission of Korea in 2016, out of 103 respondents who are youth victims of sexual traffic, 8.7% responded that they first experienced prostitution at the age of 13 or younger, 57.3% at between 14 and 16 and 32% at 17 or older. The average age of first prostitution was 14.7 years old. The reasons for the first prostitution were "no place to sleep (35%)," "no other jobs (26.2%)," and "because of hunger (25.2%)" which resulted from their situation of running away from home in addition to other reasons (multiple responses allowed) such as "to buy cosmetics/clothing (30.1%)" and "temptation of money (32%)." The fundamental reasons behind youth (girls) starting prostitution are the dismantlement of family relationships and loose social safety net which resulted in the lack of material and human resources. A significant number of youth who were involved in sexual traffic ran away from home or have been neglected that led them to a vulnerable economic and psychological position. Since adults have relative advantages in age, intelligent strength and economic power, it is easy for them to exploit the above-mentioned vulnerable situation of youth. Therefore, many countries such as the United States, Canada and Sweden punish the sexual traffic of youth below a certain age without considering whether the youth have agreed to the act and do not punish the adolescents themselves.

50. Although the Act on the Protection of Children and Juveniles against Sexual Abuse states that children and juveniles are not punished for the sake of protection and rehabilitation, Article 28 (1-1) of the same law stipulates that they

could be subject to protective disposition pertaining to every subparagraph of Article 32 (1) of the Juvenile Act. The protective disposition is a special measure related to criminal disposition whose purpose of legislation was protection and aid for juveniles instead of punishment. However, it includes the restrictions on physical freedom including probation, consigned care and custody at young offender institutions and sending to juvenile reformatories. In addition, protective disposition has the nature of "punishment" in fact as it is impossible to prosecute the same case or send it to a Juvenile Court. Moreover, the decision of protective disposition remains as investigation data and in some cases, the past decision of protective disposition is used as evidence of repeatability of crime in the future.

51. Although protective measures for children and juveniles victimized by sexual traffic are needed, the current law allows protective disposition with the effect of "punishment," thereby making it hard for victimized children to ask for help outside and escape from sexual traffic due to sex buyers and brokers who exploit the situation. Thus, the NHRCK delivered an opinion to make it clear that prostituted children are victims, delete the provisions enabling protective disposition and revise the law to reinforce protection and assistance for them in July 2017.

#### **[11] Measures Related to Induced Abortion (List of Issues 19)**

52. Demand for decriminalization of abortion is higher than ever among women. In November 2017, 235,372 people signed the national petition to the Blue House for the "decriminalization of abortion and introduction of an abortion pill (Mifegyne)" and the Blue House provided an answer to this petition on November 26<sup>th</sup>, 2017. The answer disclosed the Government's plan to conduct an extensive fact-finding research on induced abortion in 2018 and emphasized the need for a forward-looking approach, acknowledging that "the responsibility of the country and men were completely left out" on the issue. On the contrary, the Catholic Bishops Conference of Korea started a national petition against

decriminalization of abortion, triggering a dispute on the matter.

53. According to the latest fact-finding survey conducted by the Government, the number of artificial abortion cases among women aged from 15 to 44 was 168,738 in 2010 (all the numbers are estimates as the Criminal Code prohibits abortion<sup>16</sup>). The most common reason for abortion was 'unwanted pregnancy' (50.7%). It was revealed that adequate sex education and implementation are urgently needed seeing from the answers by the respondents; 43.9% of those who underwent abortion stated that they used 'menstrual cycle method' and 42.2% of them used 'coitus interruptus,' also known as 'pull-out method,' both of which are not considered as proper contraception options. In addition, the reasons for not using contraceptives included, "I did not think I would get pregnant" (52.8%) and "I knew about the options but my thoughts did not reach for the actual use" (19.7%). Meanwhile, the survey showed that the majority of the respondents underwent abortion within the 12 weeks of gestation (94%).
54. Two thirds of OECD member countries, 23 nations, allow artificial abortion at the request of a pregnant woman, however, the Republic of Korea does not allow abortions for the societal and economic reasons. The fact-finding survey in 2010 showed that 26.4% of women with the experience of abortion stated that they did so because they were unmarried, and 19.9% of them stated that their economic situation was the primary reason (unstable employment status and low wages), both of which are social and economic reasons. As of June 2017, only seven nations out of 35 OECD member countries do not allow artificial abortion for the societal and economic reasons, and the Republic of Korea is one of them<sup>17</sup>.

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16 Son Myung-se et al. (2011), 『National Survey on Trends of Induced Abortion』, Ministry of Health and Welfare •Yonsei University

17 <http://www.un.org/esa/population/publications/2011abortion/2011wallchart.pdf> Latvia, which joined OECD in 2016, is also a country that allows induced abortion for social and economic reasons.

55. The number of indictment of illegal abortion is from 10 to 20 cases per year.<sup>18</sup> This number includes both women and medical practitioners who performed the procedures.

Number of Cases/Year	2006	2007	2008	2009	2010	2011	2012	2013
<b>Indictment</b>	5	2	7	9	12	13	20	15
<b>Non-indictment</b>	32	13	37	39	54	45	50	40
<b>Total</b>	37	15	44	48	66	58	70	55

56. The results of first trials on crime of abortion from 2006 to 2015 are presented in the table below. From 2006 to 2009, most cases ended in probation or suspended sentence, however, since 2010, some illegal abortion cases have received imprisonment sentences for a limited term and the number of monetary penalties has increased. It is pointed out that the Government’s intention to tap into crime of abortion as a measure to tackle low birthrate is behind the reinforcement of punishment. For example, “prevention of abortion” was put forward as one of responses to handle low birthrate at the Government’s “First Strategic Meeting on Responses to Low Birthrate” held on November 25<sup>th</sup> 2009.<sup>19</sup>

<Table 12> Results of First Trials on Crime of Abortion from 2006 to 2015  
(Source: Supreme Court of Korea 『Yearbook of Judicature』)

Year	Total	Results				
		Fixed-term Imprisonment	Suspension of Execution	Pecuniary Punishment	Suspension of Sentence	Others
<b>2006</b>	7		1	1	5	
<b>2007</b>	7		4		3	
<b>2008</b>	3		2		1	

18 Supreme Prosecutors’ Office Crime Analysis (2006~2013) It was impossible to identify the number of indictment and non-indictment cases related to crime of abortion since 2014 because the Supreme Prosecutors’ Office started to release statistics combining crime of abortion with other crimes from that year.

19 Press Release from the Office of Secretary to the President for National Future and Vision, Blue House (2009. 11. 25.)

<b>2009</b>	5		1		4	
<b>2010</b>	11	1	4	4		2
<b>2011</b>	16	2	2	4	8	
<b>2012</b>	9	1	2	6		
<b>2013</b>	16		1	2	11	Acquittal 1, Exemption from Punishment 1
<b>2014</b>	8		3	1	4	
<b>2015</b>	14		8	2	4	

57. Although the number was small, cases of male partners or his family members reporting the women for illegal abortion have emerged since 2010. According to the Korean Women Link, ten counseling cases on abortion out of twelve were about the threats of reporting in 2013<sup>20</sup>. There was a case where a woman was reported and punished. During the course of termination of common law marriage, the man wrote his consent for abortion for woman, and days later sent contents-certified mail reversed his decision. Subsequently, the woman filed a lawsuit against the man's father to pay off the borrowed money, and the man brought charges against the woman in retaliation. The woman was sentenced to monetary penalty for illegal abortion (Uijeongbu District Court, 9.17.2014. Sentence *2013 NO 1827* ruling).

58. In the recommendation of the UN Committee on the Elimination of All Forms of Discrimination against Women (July 29<sup>th</sup>, 2011), it was urged to "review abortion-related laws, especially criminal law, to delete provisions imposing punishment on women who had an abortion," and "provide quality services to manage complications that could occur due to unsafe abortions." The UN Committee on the International Covenant on Economic, Social and Cultural Rights stated that "The Committee is concerned about the criminalization of abortion in the country (Article 59)," "The Committee urges the State to decriminalize women who had abortions to guarantee women's right to sexual and reproductive health and protection of dignity and ensure accessibility for all people to sexual and reproductive health services. The Committee presents General Comment Subparagraph 22 (2016) on sexual and reproductive health to the State

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20 Korean WomenLink(2013), 『You know what... I got an abortion』, Darun

(Paragraph 60)" in the concluding observations on the fourth state party's report of Korea on October 6<sup>th</sup>, 2017. The Government shall review the provisions criminally punishing women who had an abortion. In addition, it also needs to come up with more realistic measures to restore women's dignity based on a broader concept of the right to reproduction which includes not only pregnancy and childbirth but also contraception and abortion as well as guarantee the harmony of the right to health and the right to life.

**[12] Reserve Clause: Improvement in the Rule of Following Father's Surname (List of Issues 2)**

59. Article 781 (1) of the Civil Act states that a child shall succeed his or her father's surname and origin of surname in principle with an exception that when the parents agree to have the child assume his or her mother's surname and origin of surname at the time of filing a report on their marriage. However, it requires improvement since it constitutes a gender discrimination (between parents) in deciding on the child's surname and origin of surname as they have to submit an agreement document when the child succeeds his or her mother's surname and origin of surname while no document is needed for the cases of succeeding the father's surname and origin of surname and it should be determined in advance at the time of reporting on their marriage instead of the time of the child's birth registration.

60. In addition, although Article 781 (6) of the Civic Act stipulates that the requirement to change the child's surname and origin of surname is "where there exists a need to alter the surname and origin of surname of a child for the welfare of the child" instead of the agreement between parents, Article 59 (2-2) of the Rules on Family Litigation defines a provision of listening to the opinion of the biological father (next-of-kin lineal ascendant with the same surname and origin of surname in case of a biological father deceased) on the alteration of the child's surname and origin of surname. This leaves a room for other factors than "the welfare of the child" to be involved in the permission of the alteration of the surname and origin of surname by the court. The declaration of the



principle of following the father's surname in the Civil Act and the provision which lays emphasis on the blood relationship in the Rules on Family Litigation could be ultimately seen as moves to maintain or consider the principle of succeeding paternal blood which violates gender equality in family life enshrined in the Constitution, triggering the need for the revision.

### **[13] Improvement in Gender Impact Analysis and Assessment and Gender-Responsive Budgeting (List of Issues 4)**

61. Gender Impact Analysis and Assessment is a system for the government policies to contribute to the realization of gender equality by systemically analyzing and assessing factors such as characteristics of and social/economic gap between men and women in the process of developing and implementing major government policies including legislation, plans and projects based on the Gender Impact Analysis and Assessment Act enacted in 2011. The system expanded the scope of application to include legislation and plans in addition to projects and consequently in 2014, the number of analysis and assessment conducted by central administrative agencies and local authorities was as many as 26,438. Although important government policies should be developed and implemented from the perspective of gender equality by going through the Gender Impact Analysis and Assessment, the issue of low birthrate, for which the Government spent more than 100 trillion won for the past decade, has seen no progress. Furthermore, a fundamental evaluation on the effectiveness of the system is required as there was a case of "Korea Childbirth Map" developed by the Ministry of Government Administration and Home Affairs in December 2016 which basically regarded women's childbirth as a tool.

62. Gender-Responsive Budgeting also increased the number of applicable tasks and in 2015 budgets of 343 projects of 42 organizations were drawn up, considering its impact on gender issues. However, aside from such quantitative expansion, the superficial operation of the system and its lopsided emphasis on quantitative achievements have 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. In addition, 52.4% of relevant projects are concentrated in five organizations including the Ministry of Gender Equality and Family, the Ministry of Employment and Labor and the Ministry of Health and Welfare while five organizations including the National Assembly, the Supreme Court, The Ministry of Strategy and Finance and Statistics Korea have recorded 0% of achievement rate. There are many cases where the target is achieved but the projects themselves are not related to the improvement in gender equality issues and other cases where it is hard to find out whether there was an actual improvement. In order to enhance the effectiveness of the system, the policy function of the system operation should be strengthened by evaluating whether the budget was implemented considering gender equality, making efforts to improve the system through the evaluation results reflected in budgeting and implementation and setting the gender-responsive national finance management direction through the Ministry of Strategy and Finance going beyond a simple collection of budgeting and final accounts document.

#### **[14] Responses to Sexual Harassment and Sexual Violence in Workplace (List of Issues 10)**

63. According to diverse sexual crime-related statistics, one out of two workers has experienced sexual harassment. "The Analysis on the Current Status of Sexual Harassment and Responsive Measures through Criminal Policy (December 2016)" published by the Korean Institute of Criminology surveyed 1,150 workers (698 women and 452 men) and 45% of the respondents answered they "have experienced sexual harassment." In case of women, almost half, or 52% have been exposed to sexual harassment. The number of cases of "sexual crime taking advantage of a superior position" counted by the National Police Agency was 341 in 2012, 447 in 2013, 449 in 2014, 523 in 2015, 545 in 2016 and 370 as of August, 2017.

64. According to the Fact-finding Research on the Secondary Damage of Sexual Harassment conducted by the NHRCK in 2015, 40.2% (181 people) of the total respondents (450 workers) answered they "would not raise the issue" when asked whether they would raise an issue if they experience sexual harassment. For the reasons (multiple responses allowed), 51% (94 people) chose "fear of negative rumors about themselves," followed by 36% (65 people) of "concern over disadvantage in workplace," 34% (62 people) of "stress in the process" and 25% (46 people) of "fear of encountering the offender again." The answers reflect the reality of victims concerned over secondary damage they would face when they raise an issue of sexual harassment. Given the result, it is found that most workplaces lack the system to prevent sexual harassment in the organization and even though there is a system, it lacks the effectiveness as it fails to protect victims properly.
65. Even though there has been a progress such as the reinforcement of employer's responsibility for sexual harassment in workplace through the revision of the Equal Employment Opportunity and Work-Family Balance Assistance Act at the National Assembly on November 9<sup>th</sup> 2017, a stronger role of the ministry in charge is required in order to enhance the effectiveness of prevention and remedy of sexual harassment in workplace. In August 2016, the NHRCK recommended the Minister of Employment and Labor to △ specify a provision which prohibits disadvantage to sexual harassment victims in workplace in the Equal Employment Opportunity and Work-Family Balance Assistance Act, △ oblige workplaces with more than a certain number of employees to establish procedures for prevention and remedy of damage from sexual harassment, △ strengthen professional training on the staff in charge of handling sexual harassment complaints, △ develop and distribute a detailed manual to handle the issue. However, △ to oblige workplaces with more than a certain number of employees to establish procedures for prevention and remedy of damage from sexual harassment has not been carried out.
66. The Measures to Eradicate Sexual Harassment and Sexual Violence released by the Ministry of Employment and Labor and the Ministry of Gender Equality and

Family on November 14<sup>th</sup> 2017 includes plans to incorporate sexual harassment into items of monitoring for every workplace and reinforce punishment to the level of imprisonment or monetary penalty. On November 28<sup>th</sup> 2017, the Ministry of Gender Equality announced the Measures to Prevent Sexual Harassment in the Public Sector in cooperation with the Ministry of Employment and Labor and the Ministry of Public Administration and Security which ensures control and monitoring of a higher organization in case of sexual harassment committed by a high ranking official in public organizations. Still, the situation of victims of sexual crime is not properly reflected in labor supervision by regional employment and labor administrations and investigation by the police and prosecutors. Therefore, it is urgently needed to have more labor supervisors or investigators with gender-responsive senses exclusively in charge of gender discrimination in employment and sexual crime, respectively. In addition, recently, an increasing number of people appeal to in-house counselors and HR staff instead of filing an official petition or a lawsuit with an outside organization. Thus, an effective training should be reinforced to enhance the level of expertise of the staff in charge of the matter.

#### **[15] Responses to Sexual Harassment and Sexual Violence in Elementary, Middle and High Schools (List of Issues 10)**

67. The result of the Fact-finding Survey on Sexual Harassment of Students Committed by Elementary, Middle and High School Teachers conducted on 1,000 male and female high school students by the NHRCK in 2017 found that 27.7% answered that they "have experienced sexual harassment by a teacher after entering high school," meaning that three out of ten students have experienced sexual harassment committed by a teacher since they started high school. Looking at types of sexual harassment, physical harassment took up the largest share with 23.4% followed by verbal harassment with 9.9%, visual harassment with 5.8% and forced harassment with 1.2%. When asked who the offender was (multiple responses allowed), 62.4% answered that it was a subject teacher which was followed by a home room teacher at 40.2% and a non-subject teacher at 7.1%. The reasons behind teachers' sexual harassment of students

(proportion of agreement on each statement) were as follows: teachers' having wrong ideas and attitude about sex (88.5%), inadequate preventive measures for sexual harassment (76.5%), lukewarm responses to teachers' sexual harassment cases (84.7%), hierarchical relationship between teachers and students (70.4%), lack of awareness of respect for students or students' human rights (78.1%), patriarchal sex culture in society (72.2%) and wrong attitude of students (31.8%).

68. For the policy measure (primary) to prevent teachers' sexual harassment of students, 62.7% of the total respondents chose a stronger punishment of the offender, which was followed by the reinforcement of training for teachers and school staff on prevention of sexual harassment (8.5%), fortification of protection measures for victims (5.7%) and more attention to children from parents (5.4%). Therefore, in order to prevent teachers' sexual harassment of students, the followings are required: First, for a more clear and grave punishment of teachers who committed sexual harassment, the fairness and effectiveness of the system of appeal for educators need to be strengthened and countermeasures against the restoration of offenders' position as teachers should be developed. Second, to strengthen preventive measures for teachers, it is required to make the preventive training for teachers at schools more substantial, develop manuals, reinforce the training on prevention of sexual harassment in all stages of education, appointment and educator training as well as fortify the training for managers such as principal and deputy principal. Third, to reinforce the operation of the system to support victims, it is needed to facilitate reporting and counseling systems that guarantee confidentiality and strengthen the training for students on prevention of sexual violence.

#### **[16] Responses to Damage from Stalking (List of Issues 10)**

69. Rearrangement on relevant laws and systems is required to protect and support victims of stalking and prevent the damage as the seriousness of damage from stalking has become known recently. According to the Fact-finding Survey on Sexual Violence released by the Ministry of Gender Equality and Family 2016, the cases of victims suffering from stalking for three times or more were 44.8% while

one-time stalking was 30.6% and stalking for twice was 24.6%. As such, victims exposed to stalking for twice or more account for 69.4% which is more than double of the one-time damage. In terms of the type of the offender, 82.3% were acquaintances and 18.8% were strangers. Damage types were "constant or repetitive approach or tail (65.6%)," "constant or repetitive staring at or standing near the victim in routine places and regions such as home, workplace and school (47.3%)," "constant or repetitive delivery of message through phone calls, letters and computer communication channels (including SNS) or sending of a particular picture, drawing and text (43.3%)."

70. Under the current law, the act of stalking is punished according to the Punishment of Minor Offenses Act and the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc. The Punishment of Minor Offenses Act completely revised in March 2012 allows punishment of stalkers under the title of "consistent harassment" by a fine not exceeding one hundred thousand won, by misdemeanor imprisonment or by a minor fine. However, this provision has a limitation of failure to prevent stalking as it only allows criminal punishment after the damage is done and risk of a stronger secondary crime by provoking the offender due to soft punishments. Even in most cases of stalking and dating violence constituting crime of violence (Article 260), intimidation (Article 283) and intrusion upon habitation (Article 317) in the Criminal Act, victims have suffered from serious damage at the time of enforcement.

71. The Government announced its plan to build a national response system to eradicate violence against women by incorporating the "devotion to the development of three major security measures to protect the disadvantaged groups in society and removal of a blind spot (eradication of gender violence (sexual, domestic, revenge violence against women)) into 100 major national projects in 2017 in addition to the establishment of the Framework Act on Gender Violence Prevention (tentative name), reinforcement of responses to various types of gender violence through development and implementation of national action plans with particular focus on the system to punish the newly

emerging gender violence (stalking and online sexual crime etc.) and to protect victims. The Government shall make legislative efforts to enact the Act on the Punishment of Stalking and Protection of Victims so that stalking victims could be effectively protected and supported on top of punishing the act of stalking as a new type of crime.

#### **[17] Development of Measures to Prevent Dating Violence (List of Issues 10)**

72. Recently, violence between couples has become a serious social issue. Since the crime takes place in a close relationship, victims tend to think that they should shoulder the burden themselves, becoming reluctant to report or request for help until violence poses a grave threat to them. Even if they finally reported, the police has taken a lukewarm response citing privacy between a man and a woman when they are in a relationship or used to live together, which resulted in murder in worst case scenarios. According to data of the National Police Agency in 2016, the number of arrests for criminal charges on dating violence was 8,367 in 2016 which increased by 8.8% compared to the previous year and 449 people were indicted. The number of cases of murder is continuously about 100 per year and assault, rape and forced sexual harassment are constantly increasing as well.

73. Under the current law, dating violence could be regulated when it constitutes crime based on the Criminal Act and other special criminal codes. Victims of dating violence are also protected and supported by the current law which was applied to the act of crime. Normally, they could be protected and supported by the Criminal Procedure Act and in case of sexual violence, it is possible to provide protection and support according to the Sexual Violence Prevention and Victims Protection Act and the Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes. However, in the process, measures to set the direction of handling cases and protect victims need to be developed considering the special relationship between the offender and the victim. The establishment of a protective system for dating violence victims through the revision to the Act on Special Cases Concerning the Punishment, etc. of Crimes of Domestic Violence is

urgently needed in addition to effective measures for the eradication of dating violence and protection of victims.

### **[18] Support for Female North Korean Defectors (List of Issues 11, 17)**

74. Although there is no exact figure reported on female North Korean defectors, it was found that many of them have experienced sexual violence in the process of moving from North Korea to China, from China to the third country and from the third country to Korea. However, their experience of sexual violence even takes place during the resettlement in Korea not only in the process of moving here. According to the fact-finding survey on the violation of female North Korean refugees' human rights in the process of leaving North Korea and resettlement conducted by the NHRCK in 2009, their experience of sexual violence in those periods leaves a physical and emotional trauma as well as difficulties to settle in Korea due to the lack of proper treatment<sup>21</sup>.
75. The Government designated healthy family support centers and domestic violence/sexual violence counseling centers in areas where many female North Korea refugees live as counseling and psychological therapy centers to in its efforts to handle their experience of sexual violence. In order for this measure to be effective, their recognition of and access to organizations related to female North Korean defectors should be considered. Female North Korean refugees lack knowledge and information on how to handle the matter and even are not clearly aware of the concept of the crime since they were not educated in North Korea. The priority to be considered in devising measures for their sexual violence experiences is to conduct proper training on sexual violence.
76. According to research (2016) conducted by the Ministry of Gender Equality and Family, 16.5% of the respondents answered that they have received training on prevention of sexual harassment and sexual violence while 74% responded that

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21 National Human Rights Commission of Korea (2009)「Fact-finding Survey on the Violation of Female North Korean Refugees' Human Rights in the Process of Leaving North Korea and Resettlement」



they have never received the training<sup>22</sup>. Although it is mandatory for female North Korean defectors to receive training on gender equality and human rights at Hanawon, a resettlement support center for North Korean refugees, many of them still responded that they have never received the training, indicating that the training at Hanawon is not sufficient to see the effects. Out of a total of 392 hours spent on training at Hanawon, program on gender equality and prevention of sexual violence takes three hours<sup>23</sup>. Proper amount of time needs to be spent on the training as three hours are not enough to enhance the understanding of gender equality and prevention of sexual violence.

77. Regarding the preventive training and counseling related to sexual violence, training on understanding of female North Korean defectors is required for educators and counselors who deal with them. In addition, professional training on sexual violence/domestic violence counseling is needed for people working for the existing organizations to support female North Korean refugees since there are limitations on providing proper counseling and training due to their lack of understanding of female North Korean defectors. On top of the system hiring counselors reserved for female North Korean refugees at relevant organizations, a professional training for people (counselors at local resettlement centers and officers in charge of protective custody) at organizations for female North Korean refugees should be provided. The professional training is important as a majority of respondents expressed their intent to "ask for help from officers in charge of protective custody or counselors" and to "report to the police" in research conducted by the Ministry of Gender Equality and Family in 2016.

78. As of September 2017, the total number of North Korean defectors is 31,093 out of which 71% or 21,908 people are women<sup>24</sup>. According to the 2016 Settlement Survey on North Korean Refugees in South Korea conducted by the Korea Hana

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22 Ministry of Gender Equality and Family (2016), 「Specific Gender Impact Analysis and Assessment for Policy to Support Resettlement of North Korean Defectors」p163

23 Hanawon(2016), "2016 Plans for Basic Training Program for Social Adjustment"

24 Ministry of Unification, [www.unikorea.go.kr](http://www.unikorea.go.kr)

Foundation, the participation rate in economic activity was 70.9% for men and 53.5% for women. The monthly salary for women on average is 1.437 million won, which is about 600,000 won lower than that of men at 2.045 million won and about 430,000 won lower than the average of the monthly wage for South Korean women at 1.869 million won. As of 2015, the total take-up rate of livelihood benefits among North Korean defectors is 25.3% in general, 15.1% for men and 29.3% for women<sup>25</sup>. The higher rate for women is attributable to lower quality jobs and the career break as a result of childbirth and childrearing. Some women opt for livelihood benefits rather than employment because of a low wage. Therefore, measures to increase employment rate of female North Korean defectors and improve working conditions for them are required. Specifically, expansion of educational opportunity including admission to a school is needed. Looking at the academic background of North Korean defectors, 36.2% of men have a degree of junior college or higher education while the figure for women is 33.8%. For women, majority has a degree of junior college and as for men, majority has a college degree.<sup>26</sup>

## **[19] Measures to Tackle Human Trafficking in Women (List of Issues 12)**

79. Victims of human trafficking for the purpose of sexual traffic are classified as "victims of sexual traffic"<sup>27</sup> under the Act on the Punishment of the Acts of Arranging Sexual Traffic. Therefore, they are entitled to protection and support

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25 Ha Hyun-sun (2016), 『Assessment on Projects to Support Settlement and Protection of North Korean Refugees』, National Assembly Budget Office, p22.

26 Korea Hana Foundation (2016), 『2016 Survey on Settlement of North Korean Refugees in South Korea』, p95.

27 (a) Transferring targeted persons to a third person while holding them under control and management by a deceptive scheme, by force or by other means equivalent thereto for the purposes of making them sell sex or do obscene acts referred to in Article 245 of the Criminal Act, or using them as an object of pictures, videos, etc. depicting sexual intercourse and other obscene scenes;(b) Transferring to a third person juveniles defined in subparagraph 1 of Article 2 of the Juvenile Protection Act (hereinafter referred to as "juvenile"), persons who have no or weak ability to discern things or make decisions, or persons with serious disabilities determined by Presidential Decree who are targeted for the same purposes as those under item (a) while holding them under control and management in return for providing or promising to provide money or valuables, such as pre-payments, and other property gains to such juveniles or persons or to persons who protect or guard the said persons;(c) Transferring targeted persons for the same purposes as those under item (a) or for the purpose of resale, in awareness that acts referred to in items (a) and (b) take place; (d) Recruiting, moving and hiding targeted persons for acts referred to in items (a) through (c); (Article 2 (1-3), Act on the Punishment of Acts of Arranging Sexual Traffic)

defined in the Act on the Prevention of Commercial Sex Acts and Protection etc. of Victims. According to Women's Rights Support Division of the Ministry of Gender Equality and Family, foreign women are eligible for provision of meals and accommodation, medical and legal assistance, vocational training and employment assistance, interpretation as well as support in going back to their home country under the Act on the Prevention of Commercial Sex Acts and Protection, etc. of Victims. However, according to the Research on the Current Status of Support for Foreign Crime Victims and Improvement Measures (2017) conducted by the Korean Institute of Criminology, protection and assistance for human trafficking victims are not properly provided in the criminal procedure. There are many cases where human trafficking victims who were enticed for the purpose of sex traffic (many Thai women victimized by forced prostitution after coming to Korea enticed by an advertisement hiring massage therapists from Thailand) are found through crackdown activities but recognized as offenders of sex traffic because of the lack of assistance in giving a statement such as interpretation and the police's failure to identify human trafficking victims. In addition, there are cases where foreign witnesses were not provided with travel expenses in the criminal procedure due to the lack of consideration for characteristics of foreigners. Also, there was a case where the Support Center for Crime Victims rejected to cover the cost of returning home for a human trafficking victim citing the absence of precedents.<sup>28</sup>

80. Although it is very important for an investigation agency which first contacts with the victims to identify them since it is a starting point to prevent additional damage from human trafficking and provide help to victims, there are limits on identification of human trafficking victims at an early stage on the site without specific criteria of judgment. Thus, in 2016, the NHRCK recommended the Government to develop and utilize the Human Trafficking Victim Identification and Protection Index that is specific criteria to identify human trafficking victims on the site and protect them.

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28 Choi Young-shin, Jang Da-hye (2017), the Research on the Current Status of Support for Foreign Crime Victims and Improvement Measures, Korean Institute of Criminology, pp87-88

81. Korea ratified the United Nations' Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime on November 25<sup>th</sup>, 2015. However, the country has not established a law or an institutional system to provide support and protection for human trafficking victims according to this protocol. Unlike Korean sex traffic victims, foreign human trafficking victims need protection and assistance in special issues such as residence, stay and returning to the home country. In addition, interpretation service for identification of human trafficking victims is needed due to a language barrier on top of training for workers at agencies handling criminal matters. Thus, it is urgently required to establish a law and a system to provide protection and assistance for human trafficking victims, meeting the minimum standard of the protocol.

## **[20] Reinforcement of Human Rights Protection for Marriage Migrants (List of Issues 13)**

82. For the past decade, as many as 19 marriage immigrants were killed by spouses or family members after suffering from domestic violence according to data collected by the Women Migrants Human Rights Center of Korea (June, 2017).<sup>29</sup> Most of them were murdered by husbands or cohabiting men and in two cases, women migrants were killed by her fathers-in-law. Although there is no official statistics on the number of women migrants suffering from domestic violence, it is estimated that about seven percent of them are exposed to domestic violence when comparing the number of foreign women married to Korean men (185,000) to the number of domestic violence counseling cases (13,000) registered at 'Danuri Call Center', a comprehensive information and call center for multicultural families in 2016<sup>30</sup>.

83. When breaking down the counseling cases at 'Danuri Call Center' by issues, the

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29 (2017. 6. 26) Press Release from the Women Migrants Human Rights Center of Korea "Deaths of women migrants, I could become the woman migrant from Vietnam myself." (June 26<sup>th</sup>, 2017)

30 SBS News Report File, The Cruel Story of Women Migrant, "Nowhere to report even in case of violence" (July 31<sup>st</sup>, 2017)

number of counseling sessions on sojourn and nationality has increased from 13,959 in 2015 to 16,747 in 2016. The reason for the increased number is that the rights of marriage migrants such as qualification for stay, permanent residence and acquisition of nationality are currently dependent on a Korean family member or guaranteed with focus on giving birth to children with Korean nationality, undermining an equal marital relationship. Although a certificate to prove the validity of marriage is submitted at the time of applying for F-6 visa, marriage migrants are still supposed to submit a fidelity guarantee written by their spouse based on the Enforcement Regulation of the Immigration Act. As long as fidelity guarantee by a Korean spouse is necessary, marriage migrants would be left in a situation where they have to bear unfair treatment and violence committed by their Korean spouse before acquiring the Korean nationality, which increases the possibility of continuing an unequal marital relationship where marriage migrants become subordinate to Korean spouses.

84. The NHRCK expressed an opinion on the "Fidelity Guarantee System by Spouses for the Acquisition of F-6 Visa" in the Third Basic Plans for Multicultural Family Policy released by the Ministry of Gender Equality and Family that "in order to improve the subordinate status of marriage migrants, it is desirable for the fidelity guarantee system to be abolished as it goes against the constitutional value of sustaining marriage and family life on the basis of individual dignity and equality of the sexes stipulated in Article 36 (1) of the Constitution of the Republic of Korea and undermines an equal marital relationship and to streamline the procedure to prolong their stay" in November 2017. In addition, the Commission pointed out "the lack of considerations of gender and human rights as the system guarantees stable sojourn of marriage migrants with focus on childbirth" as it is hard for women migrants who are no longer married to Korean spouses to raise children with Korean nationality and prove that the normal marriage life was impossible even though they are not to blame.

**[21] Improvement in the Issue of "National Sex Education Standards" (List of Issues 15)**

85. Korea has built a foundation to conduct sex education and gender equality education in the Framework Act on Education, the Framework Act on Gender Equality, the Sexual Violence Prevention and Victims Protection Act, the School Health Act, the Act on the Prevention of Commercial Sex Acts and Protection, etc. of Victims and the Act on the Protection of Children and Juveniles against Sexual Abuse<sup>31</sup>. Nevertheless, sexual violence and sex traffic have been continuously increasing. Thus, calls for the reinforcement of the effectiveness of sex education and gender equality education in public education have continued in and out of Korea<sup>32</sup>.

86. "The National Sex Education Standards" developed by the Ministry of Education in 2015 comprises of six major areas (human development, human relationship, coping skills, sexual behavior, sexual health, society and culture) considering developmental stages with the aim of helping students establish values and attitude about sex and develop awareness of the pricelessness of life and sense of responsibility. It also includes proper knowledge about sex, sexual health, the prevention of pregnancy in adolescents, responsible sexual acts, values and norms on sex. However, since the release of the content, issues have been constantly raised by organizations specialized in education, women and sex education as well as sexual minority human rights groups and international human rights groups which claim that the content and the guidelines<sup>33</sup> rather infringe on adolescents' right to health, information, education and human rights<sup>34</sup>.

87. The most controversial parts in the National Sex Education Standards are the content of the training to prevent sexual violence which fortifies gender-

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31 Article 17 (2) and 17(4) of the Framework Act on Education, Article 18 (1) and Article 36 of the Framework Act on Gender Equality, Article 5 of the Sexual Violence Prevention and Victims Protection Act, Article 5 of the Act on the Prevention of Commercial Sex Acts and Protection, etc. of Victims, Article (9) of the School Health Act, Article 47 of the Act on the Protection of Children and Juveniles against Sexual Abuse

32 The 47<sup>th</sup> CEDAW Concluding Observations No. 29 (2011)

33 Student Welfare Policy Division, Ministry of Education(2015-6325)

34 Issuance of statement and press conferences continued by organizations such as the Gwangju Women Link, the Council for Sex Educators in Daegu and the Seoul Educators' Council starting from March, 2015 including the press conference of "The Alliance for the Abolishment of National Sex Education Standards 2015" comprising of about 230 groups (August, 2015) followed by an international human rights groups Human Rights Watch delivering a public letter to the Minister of Education (2015).

discriminatory stereotypes, the value of the abstemious approach to sex, the deletion of content on homosexuality and sexual minorities and transfer of negative images about various types of families including single-mom families. Not only media outlets but also lawmakers<sup>35</sup> during the parliamentary inspections pointed out researchers participated in the development of the standards are concentrated in public health and the content of the sexual violence prevention training could generate victims.

88. Consequently, organizations related to human rights, women and adolescents have continued activities to repeal the National Sex Education Standards such as signature collection and press conferences and with President Moon Jae-in taking office in 2017, they have strongly requested to build an institutional foundation for comprehensive sex education based on gender equality and human rights<sup>36</sup>. Minister of Gender Equality and Family expressed her will to review the issue of the "National Sex Education Standards" at a confirmation hearing<sup>37</sup> and proposed and hosted a public-private joint conference in October 2017 in cooperation with the Ministry of Education. The Ministry plans to continue the consultation on guidelines for sex education in school. Still, a substantial improvement has not taken place as the Ministry of Education continues to stick to the position which opposes the inclusion of human rights of sexual minorities in sex education by inviting the representative of school parents who are conducting an anti-homosexuality campaign to the public-private joint conference.<sup>38</sup>

89. In developing the "Second Basic Plan for Gender Equality," the Ministry of Gender Equality and Family selected disseminating the culture of gender equality

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35 Press Release from Rep. Lee Jasmine (September 2015) "Unequal Composition of Researchers in Developing the National Sex Education Standards in Controversy of Gender Discrimination"

36 Network for Guarantee of the Right to Comprehensive Sex Education (June, 2017) Gwanghwamoon 1st Street National Government Transition Committee Open Forum "Start Gender Equality Education for All"

37 Jung Hyun-baek, Minister of Gender Equality and Family (July, 2017) Inaugural Press Conference "Review of the National Sex Education Standards"

38 Ministry of Gender Equality and Family (October, 2017) Official Document on Hosting Public-Private Joint Conference to Develop Measures to Improve Sex Education

and raising awareness as major tasks and established a plan to rearrange a system for expansion of education on human rights in sex and gender equality<sup>39</sup>. However, for an organized, effective and comprehensive sex education in public education, a division exclusively in charge of education on gender equality needs to be set up within the Ministry of Education, enabling education based on gender equality and human rights and monitoring of gender equality policies in the educational environment.

## **[22] Improvement in Human Rights Situation of Women Farmers (List of Issues 20)**

90. Although the Government came up with the Fourth (2016~2020) Basic Plan for Support of Female Farmers, the establishment of an exclusive division for women farmers, their long-cherished wish, has not taken place. The revision to the Support of Female Farmers and Fishermen Act related to the establishment of an exclusive division was reviewed at the National Assembly but not passed in 2017. Although there are currently some staff in charge of the Rural Welfare & Women Division of the Ministry of Agriculture, Food and Rural Affairs, budgets and projects of the division are concentrated in welfare matters, leaving difficulties to focus on policies for women farmers. Women account for 50% of the total agricultural workforce and play an increasingly important role in production, processing and distribution through agricultural labor. Thus, an exclusive division for them is needed to carry out a specialized and systemic support policy and improve the gender-discriminatory structure against them. Women's Policy Office was in place in the Ministry of Agriculture in 1998 which was reorganized into Women's Policy Division in 2004 and abolished in 2009. It is required to come up with a proper system to push for policies for women farmers.

91. As for participation as a member of the National Agricultural Cooperative Federation(Nonghyup), the multiple member system (more than one member allowed in one household) has been carried out since 1995 at the request of female farmers. Although it is allowed by law for them to become a director of Nonghyup, in reality, even participation as a Nonghyup member which is a

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<sup>39</sup> Ministry of Gender Equality and Family (October, 2017) Second Basic Plan for Gender Equality (Draft)



prerequisite to become a director is not easy for women farmers on the site, because the amount of investment to become a member is not affordable to most of female farmers. Moreover, some regional Nonghyup organizations impose a limit on the number of participants per household. Women farmers should be guaranteed with proper opportunities to participate as a member, representative and director through a discussion between female farmers, the Government and Nonghyup.

### **[23] Equal Guarantee of Marital Property Rights (List of Issues 22)**

92. The current Civil Act defines a separate property system by stipulating that inherent property belonging to either husband or wife from the time before the marriage and property acquired during the marriage in his or her own name shall constitute his or her peculiar property and husband or wife shall separately manage, use and take profit from his or her peculiar property regardless of the spouse's intent (Article 830 and 831). There is no separate principle of property division between a married couple as it is written that if no agreement is made for a division of property as referred to in paragraph (1), or if it is impossible to reach an agreement, the Family Court shall, upon a request of the parties, determine the amount and method of division, considering the amount of property acquired by cooperation of both parties and other circumstances (Article 839-2). Property division before divorce is not allowed. Meanwhile, if inheritance is initiated with the death of one spouse, claim for division of property is not allowed unlike the case of divorce and the share inherited by an inheritee's surviving spouse shall be increased by 50% over the inherited share of the inheritee's lineal ascendant where the spouse inherits jointly with such ascendants. (Article 1000, 1003 and 1009)

93. Women's property rights need to be guaranteed even without divorce when the spouse poses a threat to the livelihood of family by squandering the fortune on gambling, extramarital affair and speculation. In case of divorce, a spouse could claim for up to 50% of property in the other spouse's name when a justifiable division of property takes place according to the ruling. However, a system to

reflect the contribution of the surviving spouse to the formation of property when a spouse passes away before divorce is not firmly established. In addition, the right to inheritance of a de facto marriage spouse is not recognized at all. It is required to allow the division of property in case of a spouse's death to recognize the surviving spouse's fair contribution to property and protect the right of property of a de facto marriage spouse. In case of property division due to divorce, a law based on a principle of equal division for property acquired by cooperation between two sides should be legislated.

#### **[24] Improvement in the Situation of Gender Discrimination in Media (List of Issues 23)**

94. "Monitoring on Gender Discrimination in Media (2016)" conducted by the NHRCK found the following problems of sexual violence-related report by monitoring coverage of sexual violence, murder, sports by seven major broadcasters' main news program. ▶ Too frequent report on sexual violence crime committed by celebrities and distribution of "the myth of gold digger" ▶ Warning against false accusation of sexual violence ▶ Interviews and reports that reinforce the conventional idea of sexual violence ▶ Excessively detailed description of the incident ▶ Provocative composition of the scene through illustrations and reenactment of the situation ▶ Usage of terms that attenuates the seriousness of sexual violence such as "an evil deed" ▶ Widespread perception of sexual violence as "something women should be careful of". The following problems found as a result of monitoring sports-related coverage. ▶ More coverage of male athletes than female athletes ▶ Usage of expressions that fortify gender stereotypes such as "mom (sister) leadership" and "brother leadership" ▶ "Ability" for the winning secret of male athletes, "dream" for women athletes' winning secret ▶ Introduction of women athletes as "mom" and "housewife" instead of focusing on expertise ▶ Emphasis on appearance and age of female athletes ▶ Usage of nicknames highlighting femininity for female athletes (fairy, mermaid and black pearl)

95. In the Monitoring on Gender Discrimination in Media (2017) conducted by the

NHRCK, analysis on the age of anchors hosting evening news programs of terrestrial and cable TV networks found that a majority of anchorwomen are in their 20s and 30s while a majority of anchormen are in their 40s and 50s. Gender and job imbalance is also serious as for news reporters and interviewers. The sex ratio of news reporters and interviewers is 3:7, indicating that the number of men is more than twice larger than that of women. By jobs, professional female interviewers are 5.8% while the figure is 20.8% for professional male interviewers. This means that when there are 100 interviewers on the new, 25 of them are professionals out of which 20 are men and five are women. The gender imbalance is also serious in the number of hosts and panels of talk program on current events with 90% of men and merely 10% of women.

96. Gender imbalance in media is related to the gender imbalance in the media workforce. According to data from the Ministry of Employment and Labor<sup>40</sup>, the female proportion of the total press workforce was as low as 16% in 2015. The Journalists Association of Korea<sup>41</sup> researched the sex distribution of journalists at broadcasters (KBS, MBC, SBS, YTN) in 2016 and found a serious gender imbalance with 81.4% of men and 18.6% of women. The proportion of women decreases drastically with a longer length of service as the female proportion of journalists with 21 years of experience or longer is about five percent while the figure is 38.9% for journalists with one to five years of experience. In addition, as for first to third groups of panels in broadcasting regulators, three out of 27 panels are women at the Korea Communications Standards Commission and only one out of 15 panels at the Korea Communications Commission. It is hard to find a female director at KBS, MBC and EBS as well. It is urgently needed to develop measures for gender equality in media.

## **[25] Need for Measures for Households Composed of Single Women including Housing Support**

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40 Re-quotation from “Female proportion of 16% at media companies, is discrimination to blame?” Kim Do-yeon <Media Today> (July 4<sup>th</sup>, 2015)

41 “Who is Korea’s TV news reporter of 2016?” <TV News Reporter>. Vol. 29, pp 6-9, TV News Reporter Editing Commission (2016)

97. The number of households composed of single women was 2.61 million as of 2015, accounting for 50.2% of the total single person households, which increased by 17.7% compared to five years ago. By age group, women in their 60s or older took up the largest share with 43.2% followed by 15.4% of women in their 20s and 15.3% of women in their 50s. As of 2016, as for the average monthly salary of households composed of single women, the largest share of 56.9% earned less than one million won (29.5% for households composed of single men) and 80.2% of households composed of single women in their 60s earned less than one million won. Since 90% of violent crime victims are women, the lack of public security for women was completely reflected in their psychology which resulted in 46.2% of single female households answering that "the social safety in general is not stable" while only 13% responded that they felt "safe" in 2016. It is 10%p higher than the portion of households composed of single men answering that they felt "unsafe." The biggest factor for instability was the occurrence of crime (37.2%). People in their 20s expressed the most fear in comparison with other age groups. 65.8% of women in their 20s answered that they felt "unsafe" and 54.3% of them expressed "fear of becoming crime victims." On the contrary, the major factor for instability for men living alone was national security (21.5%).

98. According to the Fact-finding Survey on Life of Households Composed of Single Women in Seoul (2016) conducted by the Seoul Foundation of Women & Family, a majority of women in their 20s and 30s living alone lives in row house/multiplex housing and studio at a monthly rent with deposit or a key money deposit and about 74.2% are burdened with housing costs. In addition, four out of ten female youth living alone feels unsafe about their place with major reasons of the lack of safety facilities such as CCTV and window for crime prevention and the existence of places of concealment including stairs and hallways inside the building. Women living alone in a semi-basement flat which can be seen from the outside are exposed to the high risk of sexual violence, requiring them to spend more money on housing for safety compared to single men. As women earn less than men and have relatively less capital, poverty and

violence issues plaguing female youth should be considered in the development of housing policies by the Government.

## **26. Statistics on Female Migrant Workers (List of Issues 23)**

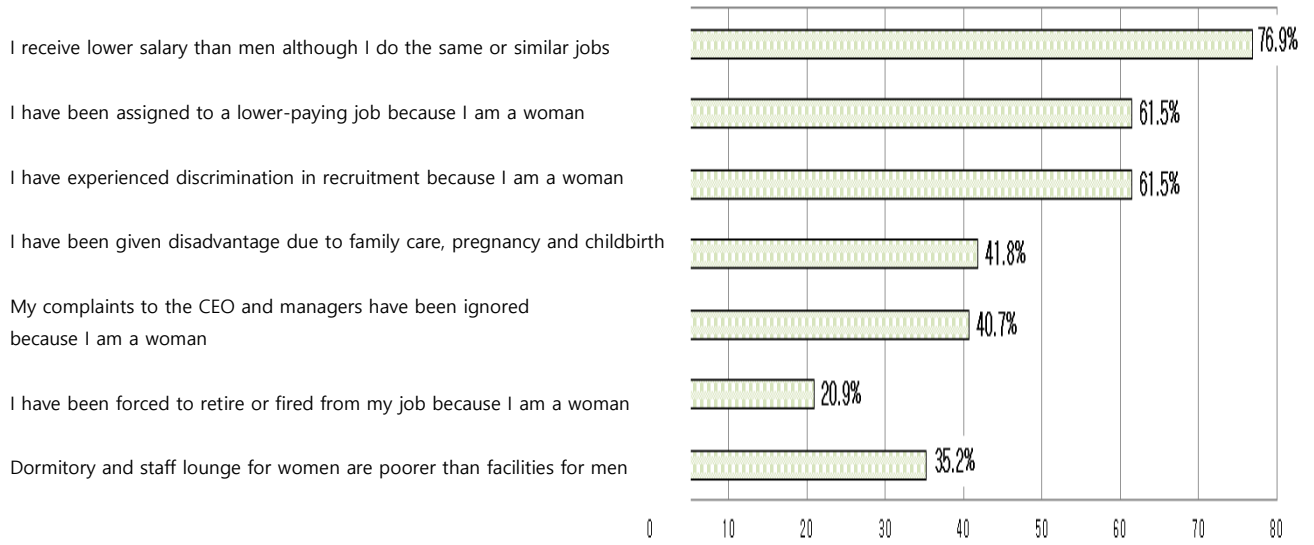
99. As of 2016, the number of female migrant workers is 324,000; accounting for 33.7% of the total foreign workforce and the share is constantly increasing<sup>42</sup>. The major areas of employment are wholesale/retail, accommodation and restaurants (39.5%), business, private and public services (27.4%) and manufacture (26.5%). Meanwhile, women are paid less than men as 74.3% of female migrant workers make less than 2 million won per month while 42.7% of male migrant workers earn less than 2 million won and 57.3% of them make two million or more per month.

100. According to the Fact-finding Research on Human Rights Situation of Female Migrant Workers in the Manufacturing Sector conducted by the NHRCK in 2016, gender wage gap was the most common discrimination experienced by women migrant workers in the workplace which was followed by gender discrimination in employment and disadvantage due to family care, pregnancy and childbirth.

[Illustration] Experiences of Discrimination against Women

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42 255,000 in 2013, 284,000 in 2014, 312,000 in 2015 and 324,000 in 2016



<Source: National Human Rights Commission of Korea 「Fact-finding Research on Human Rights Situation of Female Migrant Workers in the Manufacturing Sector (2016)」>