**Opinion of the National Human Rights Commission of Korea Submitted to the Pre-sessional Working Group of the United Nations Committee on the Elimination of Discrimination Against Women**

**(Consideration of the 9th Periodic Report of the Republic of Korea)**

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**Introduction**

1. The National Human Rights Commission of Korea (NHRCK) submits this opinion to the Pre-Sessional Working Group of the Committee on the Elimination of Discrimination Against Women (CEDAW) regarding the List of Issues in the process of consideration of the 9th periodic report of the Republic of Korea concerning the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter, the “Convention”).

2. The NHRCK is an independent national human rights institution with “A” status, monitoring the implementation of the Convention in Korea. This report aims to present major issues on the implementation of the Convention in Korea in order to assist the CEDAW in formulating the List of Issues.

**Issue 1: The Attempt to Abolish the Ministry of Gender Equality and Family (MOGEF)**

**Current Status**

3. On October 7, 2022, the current administration announced a governmental reorganization plan to abolish MOGEF and instead establish the “Population, Family, and Gender Equality Division” under the umbrella of the Ministry of Health and Welfare (MOHW), while the youth, family, gender equality, and empowerment functions of MOGEF transferred to the said division. The government’s reasoning is that it is necessary to eliminate the confusion caused by fragmentation of youth and family affairs handled by the MOGEF and population, child, and elderly affairs dealt by MOHW, as well as to move away from the women-centric policy of focusing on women’s rights toward the paradigm of gender equality “where men and women of all generations can be equal.”

4. However, the reorganization plan reduces the purview of MOGEF to youth and family affairs only, without recognizing its supervising status in charge of implementing overall gender equality policies. Over the past 20 years, MOGEF has functioned as the responsible ministry in coordinating government policies reflecting the gender perspective as a way to achieve substantive gender equality and led the continuous improvement of the National Gender Equality Index (developed in 2009). The reorganization plan does not specify which ministry will take over MOGEF’s mission of coordinating gender equality policies.

5. The NHRCK previously expressed its opinion that abolition of MOGEF is highly likely to lead to an overall setback in gender equality policies. It is desirable that a dedicated ministry such as MOGEF takes the lead in promoting gender equality policies in close connection and coordination with other ministries responsible for labor, welfare, and education (October 14, 2022).

**Question**

6. In fighting against discrimination against women, MOGEF has played a pivotal role. If the government intends to abolish MOGEF, please clarify how it will implement and coordinate gender equality policies to eliminate structural gender discrimination.

**Issue 2: The COVID-19 Pandemic and Women’s Rights**

**Current Status**

7. The negative impact of COVID-19 on the labor market left a particularly acute impact on female workers. This is because women are concentrated in face-to-face service industries and shoulder a greater portion of the childcare burden. Since March 2020, the decrease in the women’s employment was greater than that of men, while the women’s unemployment increased greater than that of men. In addition, the number of female workers temporarily laid-off (both paid and unpaid) was twice that of their male counterparts, and the number of short-time workers working fewer than 15 hours per week also increased significantly. In particular, after the outbreak of COVID-19, the ratio of jobless households to female-headed households with children rose from 11.3 percent to 17.4 percent.

8. As of August 2021, male employment was recovered to pre-COVID-19 level, while female employment has not yet returned to pre-pandemic level. During COVID-19, public childcare services at the daycare centers, kindergartens, and schools were completely suspended or operated only on a limited basis. Subsequently, the burden of childcare shortages was disproportionately borne by families with children, mainly by women. Workers who adjusted their jobs or took time-off or a leave of absence during the COVID-19 period were mostly female employees, in particular married women in their late 30s and women with young children aged three or younger.

9. During COVID-19, home became the last private space to rest. However, for victims of domestic violence, a shift to a home-centered lifestyle resulted in an increased risk of violence with extended time staying with the perpetrator.

**Question**

10. The COVID-19 crisis had a more negative impact on women who are mainly engaged in face-to-face service industries and bear a greater burden of family care, as well as increased the risk of domestic violence. Please provide a specific plan with special support measures to assist women in their employment so that they can recover their pre-pandemic levels. Also, please provide information on measures to eliminate the blind spot for caregiving. Please also provide information on any measures to protect victims of domestic violence from the increased risk.

**Issue 3: Absence of an Anti-discrimination Legislation (Equality Act)**

**Current Status**

11. Various UN treaty bodies, including CEDAW(2018), CESCR(2017) and the Human Rights Committee(2015) have recommended the Republic of Korea to enact a comprehensive anti-discrimination legislation. The NHRCK started to recommend the enactment of an anti-discrimination legislation first in 2006 to the Korean Prime Minister, followed by a series of similar recommendations,: in the context of the 3rd National Action Plan for the Promotion and Protection of Human Rights (NAP, 2017-2021) in 2016 and again for the 4th NAP(2023-2027) in 2022; presented its opinion to the National Assembly on June 30, 2020; and urged on November 10, 2021 the National Assembly to engage in discussion of an anti-discrimination legislation.

1. The Anti-Discrimination Bill, first proposed by the government in 2007, has been continuously failed over the past 15 years, as it was either discarded due to the expiration of the National Assembly session or withdrawn entirely, even before any discussions began. During the current 21st National Assembly, four bills were submitted, and a public hearing thereon was held for the first time in May 2022, but no further legislative progress or discussions were made.
2. There seems to be a prevailing social support on the anti-discrimination legislation. In the 2020 survey by the NHRCK, the approval rate was 88.5 percent; in a public-opinion poll by the weekly newsmagazine *Sisa Journal* in 2021, 66.5 percent; and 67.2 percent in a 2022 NHRCK survey.
3. In June 2020, the NHRCK presented a draft Equality Act to the National Assembly, emphasizing to comprehensively address various grounds and forms of discrimination. On May 8, 2022, the Commission once again called on the National Assembly to work toward enacting the Equality Act.

**Question**

12. The enactment of an anti-discrimination legislation has been repeatedly recommended by the UN treaty bodies. In consideration of the strong public approval demonstrated by multiple public-opinion polls, as well as the relevant bills submitted to the National Assembly, please provide a detailed plan for enactment.

**Issue 4: Sexual Harassment and Sexual Violence**

**Current Status**

13. Gender violence is getting more varied in its forms and more sophisticated with technological advancements, infringing upon the labor rights and human rights of women and minority groups in their daily lives. With the spread of the #MeToo movement in 2018, the government announced and implemented sector-specific measures to root out sexual harassment and sexual violence in the public sector, the workplace, and the fields of culture, arts, and sports.

14. Although the new measures introduced a legal definition of secondary victimization of sexual violence victims, the tactic of sexual violence suspects is not properly dealt with. The “false allegations of sexual violence” against victims are mainly used to silence victims (Korea Women's Development Institute, 2020).

15. The “Act on the Punishment of Stalking Crimes” entered into force in 2021. However, the Act focuses solely on physical approach and contact, punishment of perpetrators is insufficient and measures to protect victims are lacking, while numerous cases of workplace stalking are left without adequate countermeasures.

16. In September 2019, a team of two female online journalists, “Team Flame,” exposed major cases of sexual exploitation on Telegram known as the “Nth Room” and “Baksa Room” cases, which sparked social outrage and led to the punishment of the perpetrators. This led to the amendments of the Act on the Protection of Children and Youth Against Sex Offenses and the Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes, which punish those who possess, purchase, store or watch non-consensually-recorded or disseminated intimate images of victims. The Act on Promotion of Information and Communications Network Utilization and Data Protection, etc. and the Telecommunications Business Act were also amended, obligating online platform operators to prevent the distribution of such images of victims. However, these laws are not enforced on illegal websites.

**Questions**

17. Please provide information on any plans to effectively address stalking crimes and to strengthen victim protection in judicial proceedings, including enactment of the “Act on the Protection of Stalking Victims” that fully reflects the digital media environment.

18. Although relevant laws have been amended to place responsibility onto platform operators, it is difficult to actually hold them accountable. What are the Korean government measures to address this issue?

**Issue 5: Underrepresentation of Women**

**Current Status**

19. The proportion of female lawmakers in the 21st National Assembly of the Republic of Korea is 19 percent, which is lower than the global average of 25.6 percent for the proportion of women in parliament (as of 2021) and ranking 121st out of 190 countries according to the Inter-Parliamentary Union.

1. In the 2018 local elections, only 35 out of 749 candidates (4.67 percent) for the heads of local governments were women, and only 9 out of 226 elected candidates (3.98 percent) were women. In the same elections, there were only six female candidates (8.45 percent) for the heads of upper-tier local governments in metropolitan cities and provinces, none of whom were elected. The proportions of women parliamentarians, female upper-tier councilors, and female lower-tier councilors have gradually risen to 19 percent, 19.4 percent, and 30.7 percent respectively, demonstrating the underrepresentation of women, especially among the heads of administrative bodies.

20. In order to reform such gender imbalances in the political field, the NHRCK advised in March 2022 the Speaker of the National Assembly to amend the Political Parties Act and the Public Official Election Act to introduce a compulsory electoral gender quota system for proportional seats as well as district seats when nominating candidates for state legislators and local councilors.

21. In the private sector, in 2021, the proportion of female officers in listed companies was merely 5.2 percent, and the proportion of companies with any female officers was only 36.3 percent, while the proportion of women in the economically active population was 43.0 percent. The proportion of women in managerial positions in private companies also remains at the significantly low level of 22.15 percent.

**Questions**

22. With respect to the amendments of the Political Funds Act, the Political Parties Act, and the Public Official Election Act recommended by NHRCK in order to ensure women’s political representation at a gender-equal level, please provide information on any progress and future plans.

23. What are the governmental measures to induce large-scale corporations to raise the proportion of women in executive and managerial positions?

**Issue 6: Right to Family in Diverse Forms**

**Current Status**

24. According to Statistics Korea, in September 2022, the number of non-family households consisting of unrelated persons reached 472,660 households, 11.6 percent up from the previous year and the number of such household members exceeded 1 million people. *Household Projections for Cities and Provinces: 2020-2050*,released by Statistics Korea in October 2022, indicates that in 2050 married-couple households (consisting of two married adults) are projected to account for 23.3 percent, while two-generation households (composed of a married couple and unmarried children) are projected to substantially drop from 29.3 (2020) to 17.1 percent.

25. In September 2022, MOGEF reversed its previous position and presented its opinion that “It is necessary to maintain the current version of the Framework Act on Healthy Family” in response to a proposed amendment of the Act that changes the term “healthy family” that connotes a discriminatory implication and deletes the legal definition of a family.

26. In 2022, NHRCK recommended the National Assembly to enact legislation such as the Life Partnership Act (tentatively named) to stipulate matters concerning the conclusion, validity, registration, etc. of new forms of life partnerships formed for reasons other than legal marriage and blood ties.

**Question**

27. Regarding the amendment of the Framework Act on Healthy Families pending before the National Assembly, as well as the NHRCK’s recommendations to enact the Life Partnership Act (tentatively named), please provide information on any progress.

**Issue 7: Sexual and Reproductive Health and Rights (SRHR)**

**Current Status**

28. With respect to a constitutional petition (2017 *Heonba* Case No. 127) on the Criminal Code to determine whether pregnant women’s right to self-determination is violated, on April 11, 2019, the Constitutional Court ruled that Article 269(1) and 270(1) of the Criminal Code which punish self-induced abortion and the performance of an abortion by a doctor at the request or with the consent of a pregnant woman are unconstitutional and ordered the legislature to amend them by December 31, 2020. In accordance with this ruling, MOJ and MOHW proposed amendments to the Criminal Code and the Mother and Child Health Act respectively, but the amendments did not pass the National Assembly. Currently, the relevant provisions have no legal force.

29. Despite the elimination of the provisions to punish abortions, abortion is not covered by the National Health Insurance, and the public still perceives that an abortion is illegal. For safe abortions, access to medical institutions and accurate information on the procedure are essential.

30. Women have long demanded the introduction of abortion pills, which the Korean government has been delaying under the pretense of requiring a separate legislation.

31. Regarding assisted reproductive technology, IVT treatment is prohibited for unmarried women. It is necessary to revise the ethical guidelines.

**Questions**

32. Regarding adoption of a new legislation to guarantee the safe termination of pregnancy, please provide information on any progress and government’s plan. Please also provide information on steps taken to include abortion to be covered by the National Health Insurance, as well as to allow abortion pills.

33. Are there any government plans to make the assisted reproductive technology available for unmarried women by creating an enabling environment, for example through research on the public opinions?

**Issue 8: Gender Inequality in the Armed Forces**

**Current Status**

34. According to a NHRCK’s 2021 survey, the proportion of women who suffered sexual harassment in the armed forces reached 32.1 percent, which is four times higher than their male counterparts’ 8 percent. The closedness and rank-based hierarchy serve as a mechanism to cover up sexual harassment and sexual violence cases in the military, and especially for women, who are a minority in the strongly male-dominated military organization.

35. The proportion of women in the armed forces, which was merely 1 percent (1,600 persons) in 1990, increased to 7.4 percent (14,000 persons) in 2020. Among commissioned officers, women are 8.9 percent (6,000 persons), while they comprise 6.6 percent of non-commissioned officers (8,000 persons). Based on the principle of gender equality, the Defense Personnel Management Directive bans any gender-based restriction on positions. However, despite the growing number of women in the armed forces and the gender equality principles, the proportion of female officers in the armed forces sharply decreases as the position of command goes up: women account for 9.7-12.8 percent of captains; 0.4-2.6 percent of lieutenant colonels; 0.0-1.0 percent of colonels; and 0.001 percent of generals.

**Questions**

36. After the death of an Air Force female officer, a Joint Committee composed of Civil Society-Government-Military representatives recommended various measures to protect and support the victims of sexual harassment and violence in the armed forces. Please provide information on any progress in implementing the recommendations and future measures to eliminate sexual harassment and violence in the armed forces.

37. Are there any concrete measures to increase the proportion of women in the ranks of senior officers in the armed forces, including temporary special measures?

**Issue 9: Gender Discrimination in the Labor Market, Including the Gender Wage Gap**

**Current Status**

38. The gender wage gap in the Korean labor market ranked top among the OECD countries since 1992 when the OECD began compiling statistics. In a MOGEF survey, the gender wage gap in listed corporations was 38.1 percent in 2021, and in public institutions, 26.3 percent. Such gaps result from various reasons: women are largely employed by small and medium-sized businesses, which only pay 54.5 percent of the amount paid to employees of large corporations; and the female-dominant industries pay 16.3 percent less than mixed-gender industries and 24.3 percent less than male-dominant industries. This can be explained as a result of structural gender discrimination, including women’s career interruptions due to a lack of public childcare services.

39. Irregular workers in the Korean labor market experience unfair treatment more often than regular workers, and more so for female employees than the males. According to the *Economically Active Population Survey for Additional Investigation by Employment Type*, the proportion of irregular female workers among all female wage workers was 47.4 percent in 2021, while the proportion of irregular male workers among all male wage workers was 31.0 percent. Furthermore, the average monthly wage of irregular female employees is only 63.5% of their male counterparts (as of 2020).

**Question**

40. What are the measures the government envisages to reduce the extremely high gender wage gap women face in the labor market, in particular to reduce the high proportion of irregular women workers and to increase their low wages? Also, please provide information on ways to assist women workers to stay in the labor market without career interruptions.

**Issue 10: Absence of Measures to Eradicate Discrimination Against Sexual Minority Women**

**Current Status**

41. On March 16, 2022, the NHRCK presented its recommendations to the Prime Minister, the Minister of Health and Welfare, the Minister of the Interior and Safety, the Minister of Gender Equality and Family, and the Commissioner of Statistics Korea on the issue of sexual minorities, including their identification in the National Statistics Surveys and other factfinding researches, and the removal of the term transsexualism from the Classification of Mental Disorders from the “Korean Standard Classification of Diseases”.

**Question**

42. The “9th periodic report of the Republic of Korea” contains no information on sexual minority women. Please provide statistical data on their number, situation and government measures to ensure equal rights for them.

**Issue 11: Human Rights of Migrant Women in Korea**

**Current Status**

43. About half of all migrants in Korea, including naturalized citizens, are women, amounting to nearly one million as of December 2021. Migrant women are with various status, such as by marrying Korean men, finding employment, studying, engaging in sex work, engaging in care work, and as refugees. However, the Korean government’s policy for migrant women is mainly focused on marriage immigrants only.

44. The number of migrant women workers are 80,000 with either an E-9 visa or an H-2 visa. One quarter of them are E-9 visa holders under the Employment Permit System, which exceptionally “allows workers to transfer to another workplace up to three times, only when the continuation of normal labor relations is deemed impossible due to the temporary closure or cessation of business, or delayed payment of wages, in order to protect the human rights of foreign workers.” However, the restriction on workplace transfers prevents migrant women who suffer sexual violence from transferring to another workplace, while unsafe accommodations, such as the representative example of so-called “plastic greenhouses,” are in extremely poor conditions including a high risk of sexual violence, inability to rest on a regular basis, and poor sanitary conditions.

45. Migrant women on an E-6-2 visa (for the purpose of performance) are often forced into prostitution at nightclubs. Most of them lead strictly controlled lives as they are either locked up or placed under surveillance, with their proof of identity (residence card or passport) taken away. In addition, they are not allowed to participate in community activities (going to churches, restaurants, etc.). Isolated from the outside world, those women face difficulties in accessing information, and those who are apprehended by the police while working at clubs or bars are subject to deportation orders on charges of violating the Immigration Act, before they can even claim the damages that they have suffered through human trafficking and sexual exploitation.

**Questions**

46. What are the government plans to formulate and implement necessary policies that encompass various categories of migrant women residing in the country, beyond the current family policy centered on marriage immigrants?

47. Please explain the efforts of the government regarding remedies for migrant women who have suffered from sexual violence, measures to provide safe accommodations and maternity care in cases of pregnancy and childbirth, as well as measures to protect migrant women from trafficking and sexual exploitation.

**Issue 12: Decriminalization of Women in Prostitution and the State Responsibility**

**Current Status**

48. Pursuant to the amendment made to the Act on the Protection of Children and Youth Against Sex Offenses, girls under the age of 19 involved in prostitution are no longer subject to punishment from November 20, 2020. However, women aged 19 or above involved in prostitution are still criminally punishable under the Act on the Punishment of Arrangement of Commercial Sex Acts, etc.

49. In 2014, 122 women who had worked as sex providers at U.S. military camp towns across the country filed a lawsuit for state compensation against the Korean government. On November 29, 2022, the Supreme Court made a ruling acknowledging that the Korean government was responsible for justifying and promoting prostitution against the plaintiffs in the process of operating and managing U.S. military camp towns, and for the illegal management of sexually-transmitted diseases.

**Questions**

50. As repeatedly recommended by CEDAW, victims of sex trafficking should be decriminalized, while the customers should be penalized to curve the demand. What is the position of the government?

51. Please provide concrete plans to investigate the truth of the prostitution system around the U.S. military base and find out the current situation of the former sex providers to the U.S. military, and to compensate them for their damages and provide support for their livelihood.