CEDAW \_Republic of Korea\_List of Issues

**Information from Civil society Organizations**

**86 (PSWG) Pre-Sessional Working Group (27 Feb 2023 - 03 Mar 2023)**

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1. **Introduction**

This report was prepared by Women with Disabilities, EMPATHY and Korean Disability Forum. Women with Disabilities, EMPATHY (WDE) was established in 1998 to advocate for the human rights of women with disabilities in South Korea. It ha deovtes to create a society that sees disabled women as equals but also respects their choices and decisions, working alongside other minoritized groups to bring about social change.

Korean Disability Forum (KDF) is a coalition of Korean disability organizations focused on international cooperation and solidarity in advocating for the rights of the disabled people. It was established in 2012 and has ECOSOC Special Concsultative Status since 2021. The main purpose of the organisation is to promote national and international implementation of international disability frameworks, including the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

The present report was developed following information sharing by and with technical guidance by the International Disability Alliance Secretariat.

1. **Issues of concern and suggested questions**

**Violence against Women with Disabilities(Related to CEDAW Art. 5, 8th Concluding Observation(CEDAW/C/KOR/CO/8) para.23(b))**

1. **Comprehensive support for the victims with disabilities of domestic/gender-based violences**

1) Background

-South Korea’s new Yoon Suk-yeol government is to abolish the Ministry of Gender Equality and Family, inciting hatred against feminism; for instance, President Yoon Suk-yeol has said that “there is no structural gender discrimination.[[1]](#footnote-0)”

- The Korean government refers to the operation of counseling centers for sexual violence and domestic violence and shelters for victims with disabilities in paragraphs 75 and 76 in the 9th periodic report(CEDAW/C/KOR/9), all of which are operated by the Ministry of Gender Equality and Family.

-However, the new president has not come up with a plan to establish a comprehensive and in-charge department or ministry to support gender violence victims, especially those with disabilities, after its decision to abolish the MoGEF.

- When the MoGEF is abolished, the roles of supporting domestic/gender-based violence victims, including those with disabilities, will be divided into the Ministry of Justice and the Ministry of Health and Welfare[[2]](#footnote-1). It will hinder comprehensive support. For this reason, victim support organizations are seriously concerned about the diminishing of the support, which is still significantly lacking, after the abolition of the MoGEF[[3]](#footnote-2). In this regard, 566 on-site support organizations have issued statements calling for integrated support for victims of domestic/gender-based violence[[4]](#footnote-3).

2) Suggested Questions

* **What is the State party’s plan for integrated support for the domestic/gender-based violence victims with cross-identities, such as women with disabilities?**

1. **Lack of infrastructure to support victims of sexual violence with disabilities**

1) Background

- Although women with disabilities are more likely to suffer domestic/gender-based violence than non-disabled women, counselling centres for women with disabilities are relatively insufficient compared to the demand. For example, 22.2% of women with disabilities experienced physical, sexual, mental, and economic violence and control damage in their intimate relationships at least once in their lives while 15.9% of non-disabled women experienced the same damage[[5]](#footnote-4). According to the paras. 66 and 74 of the 9th Periodic Report of the ROK, among total counselling centres for VAW victims, only 7.76%(32) are for the victims with disabilities.

-While disability-specific counselling centres and shelters should be strengthened and supported with better financial and human resources, the final goal should be mainstreaming disability in general centres and shelters. However, general counselling centres and/or shelters still link users with disabilities to ‘disability-specific’ counselling centres as they lack sufficient understanding of the cross-identity of disabled women.

- Among counselling centres and shelters for domestic/sexual violence victims in Seoul, 47% are not equipped with accessible accommodations at all, and 58.1% of general counselling centre workers and 30.4% of general shelter workers said they had experienced linking victims with disabilities to ‘disability specific’ facilities[[6]](#footnote-5).

2) Suggested Questions

* **Please provide specific plans to increase the budget for disability-specialized counselling centres and shelters.**
* **What is the State party’s plan to make all current domestic/sexual violence counselling centres and shelters to be disability-inclusive?**

1. **Institutionalization of Shelters**

1) Background

- In 2021, the total number of users of the sexual violence shelters was 256, and more than half of them(145 users, 56.64%) had disabilities. Furthermore, as of 2021, 67% of the users who had been living in the sexual violence shelters for more than three years had disabilities. In other words, 32.5% of women with disabilities who were staying in the sexual violence shelters could not find ways to live in the community for more than three years[[7]](#footnote-6).

-These figures indicate that women with disabilities in sexual violence victims shelters are not receiving proper support to leave the shelter and live in the community.

-Though the Korean government announced a “Deinstitutionalization Roadmap” in 2021, there are no specific measures to support the independent living of women with disabilities in shelters[[8]](#footnote-7).

| **A statement from staff in a shelter for sexual violence victims with disabilities**  *“If a shelter is 8 years long, there are women with disabilities who have been there for 8 years-10 for 10, 6 for 6. In fact, for victims with disabilities, (the perpetrations) keep repeating, and their families can't handle it; they can't take care of it. Thus, even if it's time for them(the victims with disabilities) to leave, the family don't want it(their coming back to home). (…) So we can't actually send them back to their homes and just let them keep living here. Then it resulted in the women with disabilities in emergency who really need shelter right now not being able to use the shelter.”*  Seoul Metropolitan City, 2017, Status Report: Women with Disabilities in the Support Centers for Domestic/Sexual Violence Victims |
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2) Suggested Questions

* **Please describe the state party’s specific plans, guidelines, and budgets to support users of domestic/sexual violence victim shelters, especially the users with disabilities to live in the community independently.**
* **Is there an inter-ministerial cooperation plan to include independent living support for women with disabilities in domestic/sexual violation victim shelters in the Deinstitutionalization Roadmap, which the state party issued in 2021?**

**Health Care (Related to CEDAW Art.12 and 8th Concluding Observations paras. 37, 41, and 43)**

1. **Sexual and reproductive rights of women with disabilities**

Access to safe and legal abortion

1) Background

- Article 14 of the Mother and Child Health Act in Korea permits abortion where a woman or her spouse suffers from any eugenic or genetic mental handicap or physical disease[[9]](#footnote-8). This article has been used as a main basis for infringing the reproductive rights of disabled women rather than respecting the choices of women with disabilities. In fact, according to the 2020 Disability Survey in Korea, 100% of disabled women who said they had experienced artificial abortion said the decision had been made by others[[10]](#footnote-9).

-This ‘external decision’ occurs due to the combination of both the Mather and Child Health Act Article 14 and the alternative decision-making system. According to the Civil Act Article 9, a “person who continuously lacks the capacity to manage affairs due to mental restraints caused” are subject to go under guardianship[[11]](#footnote-10). Therefore, (1) In the case of women with developmental disabilities, guardians choose abortion instead of women with disabilities in accordance with Article 14 (1) of the Maternal and Child Health Act.

-Also, even though legal capacity is not deprived by the law, there is widespread practice of external decisions, especially on the reproductive choices of women with disabilities in Korea. In other words, due to social pressure and insufficient social support, they are forced to suspend pregnancy (seemingly, it seems like a choice, but it is actually forced). However, there are no substantial and official data or statistics about the current status of sexual and reproductive rights of women with disabilities.

| **Case study**  In a study[[12]](#footnote-11), participants (persons with disabilities) experience of “external decisions” on their sexual and reproductive rights. For example, a woman with learning disability said that “I got pregnant and had (pregnancy termination) surgery, and I put a loop(IUD), but I had no idea. My mom knew it, but didn’t tell me.” The study also found that forced infertility and contraceptive procedures were determined by parents regardless of the participants’ own intentions and perceptions. All participants who experienced pregnancy were not welcomed by their families and medical personnel, but rather experienced a situation in which abortion was recommended. |
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- the Constitutional Court of Korea decided that the criminalization of abortion is constitution nonconformity in 2019, the Article 14 of the Mother and Child Health Act still remains in effect as no related legislation has been made since[[13]](#footnote-12).

- Accordingly, feminist organizations, including organizations of women with disabilities, are urging the abolition of Article 14 of the Mother and Child Health Act and to introduce laws to guarantee the right to choice in reproduction for all women, including women with disabilities.

2) Suggested Questions

* **What is the legislative plan to guarantee the reproductive right of all women, especially women with disabilities, after the decriminalization of artificial termination of pregnancy?**
* **Is there any investigation on the status of the sexual and reproductive rights of women with disabilities, including access to information and medical support for women with disabilities? If not, does the state party have a plan to implement these investigations?**
* **What is the state party’s plan to abolish the discriminatory practice of ‘external decision’ and legal frame of alternative decision-making (including adult guardianship), which seriously violate the right of sexual and reproductive rights of women with disabilities?**

**Maternity-protection-centered policy**

1) Background

-Korean government said that it “provides KRW 1 million(approximately 850USD) per baby to reduce the financial burden of pregnancy and childbirth of all women with disabilities and creates a more supportive environment for such mothers and their babies(CRPD/C/KOR/CO/2-3, para.25)” and it is the only referred service for the health of women with disabilities by the government.

-This fact shows that the policies on the health of women with disabilities are limited to pregnancy and childbirth in Korea. Furthermore, it is deceitful to veil the problem of structural discrimination and exclusion in society by the temporary subsidy for childbirth, setting aside that it’s not a universal policy for all women with disabilities.

-In addition, "Women with disabilities giving childbirth can receive both personal assistance service and the Maternity Help service(so-called ‘Mother-newborn baby visit service’)[[14]](#footnote-13), but it is not possible to receive both services at the same time.[[15]](#footnote-14)" It means that for women with disabilities should choose one support; for the baby or themselves.

- The health programs for women with disabilities conducted by local health and medical centres are limited to support related to pregnancy, childbirth, and childcare. It does not include menstruation, contraception, abortion, sexual intervention, and overall sexual and reproductive health.

-Furthermore, the Korean government does not provide information and comprehensive sex education for women with disabilities to live as a subject of sexual rights in schools, communities, or institutions.

2) Suggested Questions

* **What measures is the State taking to ensure women with disabilities have access to comprehensive sexual and reproductive health services not limited to pregnancy and childbirth?**
* **Please describe the substantial plan to implement disability-inclusive sex education at every level, including schools, communities, and institutions.**

1. h[ttps://www.bbc.com/news/world-asia-63905490](https://www.bbc.com/news/world-asia-63905490) [↑](#footnote-ref-0)
2. Currently, the Ministry of Welfare is the main implementation department of disability policies and it is new government’s plan to transfer the function of supporting victims of domestic/gender-based violences to the MOJ. [↑](#footnote-ref-1)
3. <https://english.hani.co.kr/arti/english_edition/e_national/1048263.html> [↑](#footnote-ref-2)
4. <http://www.welfareissue.com/news/articleView.html?idxno=12473> [↑](#footnote-ref-3)
5. <https://www.hani.co.kr/arti/society/women/1056628.html> [↑](#footnote-ref-4)
6. Seoul Metropolitan City, 2017, Status Report: Women with Disabilities in the Support Centers for Domestic/Sexual Violence Victims [↑](#footnote-ref-5)
7. Ministry of Gender Equality and Family, 2022, 2021 Sexual Violence Counseling Centres and Shelters Operation Status [↑](#footnote-ref-6)
8. Seoul Metropolitan City, Opt. cit. [↑](#footnote-ref-7)
9. Article 14 (Limited Permission for Induced Abortion Operations)

   (1) A medical doctor may perform an induced abortion operation with the consent of the pregnant woman herself and her spouse (including persons in a de facto marital relationship; hereinafter the same shall apply) only in the following cases:

   1.Where she or her spouse suffers from any eugenic or genetic mental disability or physical disease prescribed by Presidential Decree;(…) [↑](#footnote-ref-8)
10. Ministry of Health and Welfare, 2020, 2020 Disability Survey [↑](#footnote-ref-9)
11. Article 9 (Adjudication on Commencement of Adult Guardianship)

    (1) The Family Court shall adjudicate on the commencement of adult guardianship for a person who continuously lacks the capacity to manage affairs due to mental restraints caused by a disease, disability, old age(...) [↑](#footnote-ref-10)
12. Korea Women's Policy Institute, 2022, A Study on the Discrimination in the Sex and Reproduction against Women with Disabilities [↑](#footnote-ref-11)
13. <https://www.hani.co.kr/arti/english_edition/e_national/941122.html> [↑](#footnote-ref-12)
14. “To ensure proper postnatal care of the mother and the newborn, the Ministry (of Health and Welfare) offers help services to households or individuals who fall under the following categories: (…) mothers or newborn babies with disabilities” <https://www.mohw.go.kr/eng/pl/pl0102.jsp?PAR_MENU_ID=1003&MENU_ID=100325> [↑](#footnote-ref-13)
15. Ministry of Health and Welfare, 2022, Guidance on Personal Assistance Service 2022 [↑](#footnote-ref-14)