

**「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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[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.

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 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)."

[2] Establishment of Gender Discrimination Prevention Act¹

3. Despite the severe gender inequity situation with its seriously low ranking at 118th 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 Rights, etc. and the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion. 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
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law is enacted to serve as an umbrella 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)

4. 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

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

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

5. Korea has been one of the lowest ranked countries in the glass-ceiling index for years among 29 OECD countries. 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 average². 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 among women for the election for National Assembly members of local constituency and the election for local council members of local constituency. However, out of 934 candidates of the 20th general election for National Assembly members of local constituency in 2016, only 98 people or 10.5% were female and every political party recorded less than 15% of female recommendation³. 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.

6. On November 21st 2017, the Government announced the Five-year Plan to Promote Female Representation in the Public Sector. 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%

² IPU(2017), Women in national parliaments

³ National Election Commission (2016), Election Statistics System

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.

7. 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.

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

8. 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 29th 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)

9. 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 Korea⁴, 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.

10. 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)

11. 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. 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,

⁴ Statistics Korea, Women's Lives through Statistics in 2016, June 28th, 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.

12. 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)

13. 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.

14. 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-punishment⁵ 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.

15. 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 clause⁶ 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 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)

16. The issue of hate crimes including misogyny became a national issue after the killing of a woman near Gangnam Station in May 2016. Development of measures is urgently needed as social minorities such as women, sexual minority

⁵ 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.

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)

17. 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.
18. 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.
19. 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)

20. 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.

21. 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)

22. Demand for decriminalization of abortion is higher than ever among women. On the contrary, the Catholic Bishops Conference of Korea started a national petition against decriminalization of abortion, triggering a dispute on the matter. 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] Development of Measures to Prevent Dating Violence (List of Issues 10)

23. 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.