

# 《消歧公约》与韩国的妇女运动 CEDAW AND KOREAN WOMEN'S MOVEMENT

讲座资料  
Study Package

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**《消除对妇女一切形式歧视公约》**  
The Convention  
on the Elimination of All Forms of Discrimination against Women

点击以下链接，阅读《公约》全文

Click below for the full text of the convention:

**[English]** [Convention on the Elimination of All Forms of Discrimination against Women](#)

**[官方中文版本]** [《消除对妇女一切形式歧视公约》](#)

**《消除对妇女一切形式歧视公约任择议定书》**  
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women

点击以下链接，阅读任择议定书全文

Click below for the full text of the optional protocol:

**[English]** [Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women](#)

**[官方中文版本]** [《消除对妇女一切形式歧视公约任择议定书》](#)

《消除对妇女歧视委员会关于大韩民国第八次定期报告的结论性意见》 [CEDAW/C/KOR/CO/8]

Click to find the English version of the [Concluding observations on the eighth periodic report of the Republic of Korea](#)

1. 委员会在 2018 年 2 月 22 日举行的第 1576 次和第 1577 次会议(见 CEDAW/C/SR.1576 和 CEDAW/C/SR.1577)上审议了大韩民国第八次定期报告(CEDAW/C/KOR/8)。委员会的议题和问题清单载于 CEDAW/C/KOR/Q/8，缔约国的答复载于 CEDAW/C/KOR/Q/8/Add.1。

A. 引言

2. 委员会赞赏缔约国提交其第八次定期报告。委员会还感谢缔约国的后续报告(CEDAW/C/KOR/CO/7/Add.1)、对会前工作组提出的议题和问题清单作出书面答复，并欢迎代表团进行口头介绍，以及对委员会在对话期间口头提出的问题作进一步澄清。

3. 委员会赞扬缔约国由两性平等和家庭部长官郑铉栢率领的高级别代表团，代表团成员包括外交部、两性平等和家庭部、司法部、教育部、卫生与福利部、就业和劳动部、人事管理部、韩国国家警察厅、大韩民国常驻联合国日内瓦办事处和其他国际组织代表团的代表。

B. 积极方面

4. 委员会欢迎自 2011 年审议缔约国第七次定期报告(CEDAW/C/KOR/7)以来该国在开展立法改革方面取得的进展，特别是通过或修正了以下文书：

(a) 2017 年修订的《多元文化家庭支助法》，旨在协助移民妇女建立社会支助网络；

(b) 2014 年，《性别平等框架法》；

(c) 2012 年和 2014 年修订的《防止性侵犯和保护受害者法》；

(d) 2012 年和 2014 年修订的《劳动标准法》，延长怀孕十六周之前出现流产或死产的妇女的产假；

(e) 2012 年和 2014 年修订的《平等就业机会和工作与家庭平衡援助法》，将照顾子女的年龄上限提高到子女包括养子女九岁，以确定父母享有育儿假的资格，鼓励父母休育儿假；要求雇主及其雇员接受预防性骚扰教育，对拒不履行者给予处罚；

(f) 2012 年和 2014 年修订的《防止性贩运和保护受害者法》；

(g) 2012 年、2013 年和 2014 年修订的《防止家庭暴力和保护受害者法》；

(h) 2011 年、2012 年、2013 年和 2014 年修订的《性犯罪处罚等特殊案件法》。

5. 委员会欢迎缔约国努力完善体制和政策框架，以加快消除歧视妇女行为并促进性别平等，例如通过以下文件：

(a) 韩国国际协力团《中期部门战略》，涵盖 2016 至 2020 年；

(b) 《第二个促进性别平等政策基本计划》，涵盖 2018 至 2022 年。

6. 委员会欢迎自审议上一次报告以来，缔约国加入了(2015 年)《联合国打击跨国有组织犯罪公约关于预防、禁止和惩治贩运人口特别是妇女和儿童行为的补充议定书》(《禁止贩运人口议定书》)。

#### C. 议会

7. 委员会强调立法机构在确保全面执行《公约》方面发挥着关键作用(见委员会关于其与议员关系的声明，2010 年第四十五届会议通过)。委员会请国会按照其任务授权采取必要步骤，从现在起直至提交下一次报告时，落实本结论性意见。

#### D. 主要关切领域和建议

##### 保留意见

8. 委员会注意到缔约国相关部委就撤回对《公约》第十六条第 1 款(g)项的保留持续进行的磋商将于 2018 年结束。

9. 委员会回顾其之前在 1998 年第十九届会议上通过的(CEDAW/C/KOR/CO/7, 第 11 段)及其关于保留意见的声明，认为对《公约》第十六条第 1 款(g)项的保留不符合《公约》目的和宗旨，因此不应该准许，而应该予以撤回。《公约》及其《任择议定书》以及委员会结论性意见和一般性建议的知名度

10. 委员会注意到缔约国为传播委员会之前的结论性意见(CEDAW/C/KOR/CO/7)所作的努力，包括向国民议会提交结论性意见，注意到缔约国就《公约》及其《议定书》所作的其他提高认识工作。然而，令它感到关切的是，这种努力并没有针对执法人员、检察官和司法人员，妇女本身并不了解《公约》赋予她们的权利或《任择议定书》规定的申诉程序，因此缺乏提出权利主张的能力。

11. 委员会重申其之前的建议(CEDAW/C/KOR/CO/7, 第 13 段)并鼓励缔约国：

(a) 确保将本结论性意见、《公约》及其《任择议定书》以及委员会的一般性建议传播给所有利益攸关方，包括政府和执法人员、检察官和司法人员；

(b) 提高所有妇女、尤其是弱势群体妇女的认识，使她们认识到《公约》赋予她们的权利以及可以根据《任择议定书》采取的提出权利主张的程序；

(c) 如上所述，促进所有相关利益攸关方就《公约》规定的权利实施能力建设方案。

##### 歧视妇女定义和歧视性法律

12. 委员会关切地注意到，缔约国尚未按照韩国国家人权委员会在 2006 年和 2016 年提出的建议通过一项全面的反歧视法律。委员会注意到缔约国在对话期提供的信息，指出将就歧视行为，包括以性取向和性别认同为由实施的歧视行为

采取行动，涵盖 2017-2021 年期间的《第三个国民行动计划》将包括通过一项全面的反歧视法。它还关切地注意到，自 2005 年废除《禁止性别歧视和救济法》以来，大韩民国还没有颁布关于禁

止性别歧视的单行法。委员会进一步注意到，2015年，两性平等和家庭部要求大田市政委员会从其《性别平等基本条例》中删去有关女同性恋、双性恋、跨性别者和双性者的规定。

13. 委员会重申其之前的结论性意见(CEDAW/C/KOR/CO/7, 第15段), 建议缔约国根据《公约》第一条的定义, 并按照关于缔约国在《公约》第二条下应负核心义务的委员会第28(2010)号一般性建议, 通过一项禁止歧视妇女的全面的反歧视法, 包括禁止影响到弱势妇女群体, 如贫困妇女、在族裔、种族、宗教信仰和性取向上属于少数群体的妇女、残疾妇女、难民妇女和寻求庇护妇女、无国籍妇女和移民妇女、农村妇女、单身妇女、少女和老年妇女的直接、间接和交叉形式歧视。

#### 国家域外义务

14. 委员会赞赏缔约国努力将性别平等纳入其国际合作方案主流。它注意到缔约国的环境政策, 特别是那些旨在到2022年将细粉尘降低30%的环境政策。然而, 委员会感到关切的是, 缔约国与化石燃料和燃煤火力发电厂有关的能源政策导致排放温室气体和其他排放物, 对妇女、特别是孕妇产生了不利影响, 因为这些排放物提高了女性和儿童的死亡率。

15. 委员会建议缔约国审查其能源和气候变化政策, 确保这些政策不会对妇女和女童的生命和健康产生不利影响。

#### 提高妇女地位的国家机制

16. 委员会欢迎缔约国在2015年设立性别平等委员会, 在国务总理的领导下开展工作, 并在2017年进行了改革, 还欢迎缔约国计划将该委员会改为一个由总统领导的统筹协调机构。委员会还欢迎2015年在47个中央行政机构和17个市级和道级政府实体任命性别平等政策官员。然而, 委员会感到关切的是, 由两性平等和家庭部全权负责处理性别平等和家庭事务问题可能会直接或间接地加深对妇女和男子在家庭和社会中所扮演角色和所承担责任的歧视性陈规定型观念。

此外, 委员会感到关切的是, 由企划财政部长官负责的促进性别平等预算编制常设合作机构缺乏法律框架, 并且只配备了10名官员。

17. 委员会回顾其关于有效的国家机制和宣传的第6(1988)号一般性建议, 并建议缔约国:

(a) 在总统办公室设立性别平等委员会, 并为其配备必要的人力、财政和技术资源以及明确的任务授权, 以协调缔约国提高妇女地位的国家机制;

(b) 按照《性别影响分析和评估法》加强各级政府的性别影响和分析机制, 并为其配备充足的人力、财政和技术资源;

(c) 拟定一个法律框架, 促进由企划财政部长官负责的促进性别平等的预算编制常设机构的有效运转, 并为其提供必要的人力、财政和技术资源。

#### 国家人权机构

18. 委员会感到关切的是, 2018年新设立的性别平等处并没有足够的能力来处理数量剧增的有关歧视妇女的诉状。

19. 委员会建议缔约国加强韩国国家人权委员会在性别和妇女权利方面的任务授权, 并分配充足的人力、财政和技术资源, 以加强其处理性别歧视的职能。



## 暂行特别措施

20. 委员会感到关切的是，缔约国在经济合作与发展组织(经合组织)29国的玻璃天花板指数排名中一直排在末尾，自2002年起实施的旨在加强妇女在公共部门代表性的五年计划在妇女担任公共部门高级别职务方面产生的结果有限。委员会注意到，2022年计划的目标是，妇女人数在二级及以上劳动力队伍中占到10%，在四级(处长级)及以上就业的比率达到21%，目标不算高大。委员会还感到关切的是，2015年，小学、初中和高中的女校长占比仅为28.7%、23.2%和9.5%，公立和国立大学的女教授占比为14.2%。

21. 委员会建议缔约国根据《公约》第四条第1款和委员会关于暂行特别措施的第25(2004)号一般性建议，在明确的时限内充分利用暂行特别措施，确保妇女在高级别公职上、包括在各级公立学校和学术界有平等代表性。

## 基于性别的暴力侵害妇女行为

22. 委员会注意到缔约国为打击性别暴力所作的努力，包括开通应急热线，设立为受害者提供临时收容的中心，提高社会对家庭暴力是一种罪行的认识，以及采取措施加强预防和保护。委员会欢迎缔约国修正《性犯罪处罚等特殊案件法》，修正案删除了性暴力受害者提出申诉的要求，以便对案件进行调查和起诉。然而，

委员会关切地注意到：

(a) 《刑法典》第297条中现行的强奸定义要求就“施暴或恐吓手段”提供证据，缔约国没有落实委员会之前提出的在立法中而不仅仅在判例法中将婚内强奸定为具体刑事犯罪的建议(见CEDAW/C/KOR/CO/7，第20段和第21(e)段)；

(b) 从2013年到2016年，举报的家庭暴力案件数量从160 272起增加到264 528起；从2012年到2016年，根据《家庭暴力犯罪处罚等特殊案件法》针对家庭暴力提供家庭保护的案件从494起增加到19 834起；鉴于该法的主要目的是维持和恢复家庭关系，在2015年发生的16 868起家庭保护案件中，有43.4%的案件未涉及任何刑事处罚；违反禁止令者仅受到了行政罚款处罚；

(c) 对性暴力受害者强加社会污名和体制性偏见，包括部分上由男性组织产生的普遍错误观念，对妇女和女童向警察报案构成阻碍；对向主管机关举报或告知亲友暴力性犯罪的受害者提出诽谤指控，并考虑将受害者的性背景作为诉讼程序中的证据，这些导致受害者再度受到侵害，令受害者保持沉默；

(d) 在过去十年里，涉及网络性暴力的犯罪数量大幅增加；起诉比例偏低，且对犯罪者惩罚较轻；让韩国通讯标准委员会根据执法机关的请求删除和拦截犯罪内容的计划只用作事后措施而不是预防措施；这种措施尚未得到实施，此类罪行受害者不得不求助于昂贵的“数字殡葬服务”，将此类内容从数字空间上删除；

(e) 就业和劳动部在2012至2016年间接到了2 100多份有关工作场所性骚扰的投诉，但由于对受害者造成的伤害必须有确凿的证据才能进行诉讼，没有此类证据，便以支付过失罚金方式结案，起诉案件数量极少(在2012至2015年的1674起案件中，只有83起)，其中包括对《平等就业机会和工作与家庭平衡援助法》第14条第(2)款所禁止的雇主对性骚扰受害者采取不利措施提起诉讼；缔约国对预防和保护工作场所性骚扰政策的监督不充分；

(f) 在学校、大学和军队等公共机构，包括教师，对妇女实施的性暴力行为极为普遍；

(g) 据报告，面向朝鲜民主主义人民共和国女性“脱北者”的辅导和心理治疗中心和收容所提供服务不足。

23. 委员会提及其之前的建议(CEDAW/C/KOR/CO/7, 第 21 段), 并考虑到其更新第 19 号一般性建议、关于基于性别的暴力侵害妇女行为的第 35(2017)号一般性建议, 同时回顾可持续发展目标中具体目标 5.2, 建议缔约国加大努力, 打击基于性别的暴力侵害妇女的行为, 并:

(a) 修正《刑法典》第 297 条, 以便将缺少受害者自由同意置于定义核心, 并明确将婚内强奸定为刑事犯罪;

(b) 修正《家庭暴力犯罪处罚等特殊案件法》, 以确保将受害者及其家人作为主要目标, 除其他外, 将其适用范围扩大到同性伴侣或家庭以及所有妇女, 不论其性取向或性别认同; 废除在家庭保护案件中针对家庭暴力提供辅导或培训条件下暂停指控的制度, 并禁止在此类案件中使用和解与调解方式; 确保采取法定制裁措施对犯罪者给予刑事处罚; 以及通过强制逮捕政策, 在违反禁止令的情况下对家庭暴力施害者实施强制逮捕;

(c) 采取一切必要措施, 防止通过对性虐待受害者提出莫须有罪名而滥用刑事诉讼程序, 包括确保提供免费的法律代理人为其辩护, 并禁止将受害者的性背景用作诉讼程序的证据;

(d) 加强防范网络性暴力的预防措施, 包括颁布立法, 明确规定将这种新形式针对妇女的性暴力行为定为刑事犯罪, 考虑对未能在各自平台删除或拦截犯罪内容的网络平台和网络经销商处以严厉的经济制裁, 并立即执行计划, 让韩国通讯标准委员会根据受害者等提出的请求删除和拦截此类犯罪内容;

(e) 建立以预防为重点的管理和监督工作场所性骚扰案件的有效制度, 特别是针对中小企业的制度, 并确保严格遵守《平等就业机会和工作与家庭平衡援助法 2017 年修正案》, 对施害者采取强制性纪律措施。

(f) 确保对在中小学、大学和军队等公共机构的性暴力施害者给予更严厉的惩罚; 采取步骤避免让施害者恢复原职; 并作出更严格的保密规定, 以便于举报和提供辅导;

(g) 为面向朝鲜民主主义人民共和国女性“脱北者”的中心提供充足的财政资源, 以便提供有效的心理治疗和辅导, 包括在她们遭受性暴力的案件中。贩运人口和利用妇女卖淫意图营利

24. 委员会欢迎缔约国批准《禁止贩运人口议定书》并通过《刑法典》第 296.2 条, 确定了对贩运人口罪行有限的普遍管辖权。委员会承认缔约国为向遭到贩运的外国妇女提供支助服务所作的努力。然而, 委员会仍对以下几点感到关切:

(a) 缺少关于人口贩运的全面法律, 人口贩运的相关方面在部门立法中仍然分散;

(b) 凭 E-6-2 签证入境在该国娱乐行业工作的移民妇女的处境, 她们往往是人口贩运和利用妇女卖淫意图营利的受害者, 容易受到性骚扰、性暴力和其他犯罪侵害, 还面临着被驱逐出境的风险, 除非她们主动对其施害者提起诉讼, 以及朝鲜民主主义人民共和国女“脱北者”的处境, 她们往往为供养家人而被迫卖淫;

(c) 对贩运妇女和女童案件的起诉和定罪率较低，对施害者处罚较轻，缺少关于受害者的分类数据；

(d) 缺少以受害者为中心的解决人口贩运和利用妇女卖淫意图营利的办法，因为未受到胁迫从事卖淫的妇女，包括配合假扮买春者的警察盯梢行动的妇女都会受到刑事处罚，遭受卖淫剥削的儿童、包括女童未被归类为受害者，只作为“受保护青少年”接受治疗和矫正教育；

(e) 缺少面向希望脱离卖淫行业的妇女的退出方案的信息。

25. 委员会重申其之前的结论性建议(CEDAW/C/KOR/CO/7, 第 23 段)，并建议缔约国：

(a) 制定一部关于人口贩运的全面法律，该法律应符合《禁止贩运人口议定书》规定的支助和保护人口贩运受害者标准，受害者包括在居住、逗留和遣返母国等问题上需要特殊保护和援助的外国妇女和女童；

(b) 修订现行的 E-6-2 签证制度，并加强对征聘外国妇女的娱乐公司的监管，包括实地走访在该制度下从业的妇女的工作场所；采取措施确保 G-1 签证制度适用于所有遭受贩运的女性受害者，无论其是否愿意或是否有能力与检察机关合作；设计并实施以其生活条件调查为基础的政策，解决朝鲜民主主义人民共和国女性

“脱北者”被迫卖淫的结构性原因；

(c) 采取适当措施，提高对贩运和拐卖妇女和女童的施害者的刑事定罪率，并采取法律措施，减少暂缓执行刑事判决数量；

(d) 采取以受害者和人权为中心的做法，努力打击贩运以及利用妇女和女童卖淫意图营利行为；

(e) 设计并实施针对希望脱离卖淫行业的妇女的退出方案。

“慰安妇”

26. 委员会回顾其有关日本的结论性意见(CEDAW/C/JPN/CO/6, 第 37-38 段和 CEDAW/C/JPN/CO/7-8, 第 28-29 段)，并欢迎缔约国自 2017 年 12 月 27 日公布其与日本在 2015 年 12 月 28 日进行的双边协定审查的结果后采取的补充措施。它又注意到，缔约国计划按照以受害者为中心的做法实施后续措施，受害者/幸存者及其家人反对根据双边协定由日本出资 10 亿日元成立的和解与愈合基金会。

27. 委员会建议缔约国：

(a) 确保在执行与日本于 2015 年 12 月联合宣布的双边协定的过程中适当考虑受害者/幸存者及其家人的意见；

(b) 确保充分维护受害者/幸存者及其家人了解真相、获得公正和得到补救的权利，包括通过毫不拖延地帮助她们康复并提供公平和适足的赔偿。

参与政治和公共生活

28. 委员会关切地注意到，2016 年，国民议会中只有 17%的议员为女性(而 2012 年为 15.7%)，其中，在根据比例代表制选出的 47 名议员中，女议员占 53.2%(而 2012 年占 51.9%)，相

比之下，在 253 名基于选区的地方议员中，女议员仅占 10.3%(而 2012 年占 7.7%)。委员会尤其感到关切的是，尽管《公职人员选举法》要求各政党提名参加国民议会选举的候选人中妇女至少占 30%，但并没有辅之以执行机制，因此，在 2016 年大选中，只有 10.5%的候选人为女性。委员会还感到关切的是，尽管《公职人员选举法》要求各政党在每个地方选区(不包括农村地区)至少任命一名女性候选人参加道级或地方政府议会的选举，在 2014 年选举中，只有 8.2%和 14.41%的妇女分别当选为道级和地方议会议员。

29. 委员会建议缔约国考虑增加国民议会中比例代表制席位相对于地方选区席位的数量，以增加女议员人数，并推出附加罚款的强制性和可执行的性别配额，以便各政党提名候选人参加国民议会及道级和地方政府议会的选举。

30. 委员会关切地注意到，2017 年，由于“性别隔离征聘做法”，在缔约国的总警力中，妇女所占比例仅为 10.9%(2015 年为 9.9%)，由于报告的具有性别歧视性的安置和晋升政策，只有 5.7%的妇女担任管理职务，据报告韩国国家警察厅已根据韩国国家人权委员会和警察改革委员会的建议撤销其决定，同意优先征聘女性担任正规警务人员。

31. 委员会建议缔约国采取必要步骤，废除“性别隔离征聘”警察做法，并采取必要措施，增加女警察人数，包括巡警及以上职等的警察人数。

#### 妇女与和平与安全

32. 委员会欢迎缔约国在 2014 年通过第一个《妇女与和平与安全国家行动计划》。

33. 委员会建议缔约国继续致力于确保有效执行安全理事会关于妇女与和平与安全的第 1325(2000)号决议及后续决议，以根据委员会关于妇女在预防冲突、冲突及冲突后局势中的作用的第 30(2013)号一般性建议，应对在冲突及冲突后局势中侵犯妇女人权的行为以及妇女大量参与和平建设。

#### 国籍

34. 委员会关切地注意到：

(a) 由于社会对单身母亲强加污名的性别歧视持续存在，因缺少社会共识，国民议会未能通过关于外籍父母所生子女进行登记的法律草案，缔约国缺少具有普遍性和强制性的出生登记制度，导致无证移民妇女，特别是无证未婚移民妇女所生子女面临无国籍风险；

(b) 与大韩民国男性国民结婚的移民妇女面临的困难以及入籍过程耗时长；

(c) 移民官员有时仍要求女性移民申请者提交一份韩国公民出具的担保信才能延长合法居住期，尽管 2012 年颁布了一项法律修正案取消这一要求。

35. 委员会建议缔约国：

(a) 通过并实施关于外籍父母所生子女进行登记的必要法律和程序，包括由医院和专业保健人员进行强制性出生登记；

(b) 加快采取必要措施，以确保大大缩短与大韩民国男性国民结婚的移民妇女的入籍进程，并确保无论如何如何在缔约国最长合法居住期内结束；

(c) 在申请延长居住期时，严格执行废除大韩民国公民出具担保信的法律要求，包括通过开展能力建设和为移民官员提供培训。

## 教育

36. 委员会欢迎缔约国为让更多的女学生进入科学和技术等非传统领域学习所采取的措施。然而，委员会感到关切的是，自 2017 年 3 月以来开始执行的《国立学校性教育准则》(于 2015 年 2 月发布)偏重生育率和环境卫生内容，据报告有关预防性暴力的内容加深了具有性别歧视的陈规定型观念，并刻画了某些类型负面家庭形象，如单身母亲家庭。

37. 委员会鼓励缔约国考虑采取更有效的措施，包括暂行特别措施，如为教育机构规定配额，为渴望进入非传统领域学习的妇女和女童提供定向赠款或贷款。委员会建议缔约国修订其《国立学校性教育准则》，消除歧视性陈规定型观念，提供适龄、循证、科学准确的与性健康和生殖健康权利有关的信息。

## 就业

38. 委员会感到关切的是，缔约国的薪酬持续存在着性别差异(2016 年差额达到 35.4%)，仍是所有经合组织国家中差异最大的国家。此外，委员会感到关切的是，缔约国 70.2%的短期工人为妇女，《劳工标准法》和《保护定期和非全时工人法》等劳工法完全没有为此类女工提供任何保护，或提供的保护有限，而此类女工只能作为个人参保人参加国家养老金计划，并且只有在连续工作三个月后才能参加就业保险计划。

39. 委员会重申其之前的结论性意见(CEDAW/C/KOR/CO/7，第 31 段和 33 段)，并建议缔约国：

(a) 严格执行《平等就业法》，以落实等值工作同等报酬原则，特别是大力提高就业和劳动部调查性别薪酬差异的能力；对违反同值工作同等报酬原则的行为给予严厉制裁；并推出公营和私营公司工资通报制度；

(b) 根据《劳工标准法》和《保护定期和非全时工人法》加强对女性短期工人的保护；

(c) 继续开展提高认识运动，并扩大福利范围，包括提高产假和育儿假的福利水平，以便加强父母分担育儿责任的奖励措施。

## 卫生保健

40. 委员会欢迎缔约国努力完善面向妇女的保健服务，包括扩大面向低收入老年妇女的社会和保健服务。然而，委员会感到关切的是，缔约国的性健康和生殖健康权利政策狭隘地偏重于已婚妇女和孕妇的健康和家庭保健。委员会还感到关切的是，据报告变性人获得的医疗服务受到限制，双性者在未经其知情同意的情况下对其实施了不可逆转的性别分配、绝育或“生殖器矫正手术”。

41. 委员会建议缔约国审查其保健立法和政策，特别是与妇女性健康和生殖健康及权利有关的立法和政策，在必要时采取纠正行动，以便在保健部门推动实质性性别平等，纳入遭受交叉

形式歧视的所有妇女。委员会还建议缔约国确保变性人有权获得医疗服务，包括参加国家医疗保险计划，确保不强迫双性者接受非自愿的医疗干预。

42. 委员会表示关切的是，尽管《母婴保健法》等规定，在某些情况下，包括在强奸和乱伦情况下，堕胎是合法的，但按照《刑法典》的规定，堕胎仍属于一种应受惩罚的犯罪行为。此外，委员会感到关切的是，据报告，2016年9月，卫生与福利部将违反《母婴保健法》的堕胎定义为一种不道德的医疗行为，对所涉医疗专业人员处以刑事处罚，并吊销医疗执照。然而，委员会欢迎缔约国后来撤回该政策措施。在这方面，委员会注意到缔约国提供资料指明宪法法院正在审议是否将堕胎定为刑事犯罪。

43. 委员会重申其之前的结论性意见(CEDAW/C/KOR/CO/7, 第35段)，并考虑到不安全堕胎是导致孕产妇死亡率和发病率的主要原因，呼吁缔约国将在强奸、乱伦、威胁孕妇生命和(或)健康或胚胎严重受损情况下的堕胎行为合法化，并将所有其他情况下的堕胎行为非刑罪化，取消对堕胎妇女的处罚措施，并为妇女提供获得高质量堕胎后护理的渠道，特别是针对不安全堕胎引起的并发症的护理。

#### 农村妇女

44. 委员会注意到缔约国努力将性别平等政策纳入《2016-2020年培养女农民的第四个五年框架计划》，承认妇女在平等的基础上与丈夫共同拥有农场，扩大女农民参与国家养恤金计划，并提高她们的职业能力。然而，委员会感到关切的是，区域渔业合作社(到2017年底为5.7%)和农业合作社中的妇女主任比率极低，尽管法律要求女性成员比例达到30%下限的合作社至少任命一名妇女主任，这表明这些合作社中的妇女成员人数很少。

45. 根据《公约》和关于农村妇女权利的第34(2016)号一般性建议，委员会建议缔约国采取适当措施，继续改善农村妇女的境况，包括执行由韩国海洋研究所赞助的旨在提高妇女在渔业中的参与和增强其这方面权能的研究项目的结果。委员会还建议缔约国采取强有力措施，任命更多妇女担任渔业和农业合作社主任，并确保听取妇女的意见，同时充分考虑到性别平等关切问题。

#### 婚姻和家庭关系

46. 委员会感到关切的是，《民法典》第781条第(1)款维护父系原则，规定子随母姓必须是在父母结婚时父亲表示同意。委员会还感到关切的是，离婚时婚内财产分割依据的是配偶各自的相对贡献，除非他们在合同中另作规定。委员会进一步感到关切的是，和解程序是强制性的，即便在因家庭暴力导致的离婚案件中，由于存在着维护家庭完整观念，施虐的父亲也享有探视权和儿童监护权。它还感到关切的是，缺少对事实婚姻关系中的妇女的社会和经济保护。

47. 委员会呼吁缔约国修正《民法典》第781条第(1)款，废除父系原则，以便

使其法律与《公约》第十六条第1款(g)项保持一致。委员会回顾之前的结论性建议(CEDAW/C/KOR/CO/7, 第39段)，即缔约国按照委员会关于婚姻、家庭关系及其解除的经济后果的第29(2013)号一般性建议，采取法律措施，纳入关于在解除婚姻或事实婚姻关系时平等分配婚内财产的规则。委员会还呼吁缔约国确保寻求离婚的家庭暴力受害者在获得离婚准许前不会被强迫同施暴者进行和解或调解，并确保司法部门成员接受了要求在儿童监护权案件中将家庭领域性别暴力考虑在内适足的强制性培训，优先考虑对罪行进行起诉而不是家庭和解，以便对基于性别

的暴力侵害妇女行为给予适当惩罚并防止再次发生。委员会还建议缔约国考虑将社会和经济保护扩大到处于事实婚姻关系中的妇女。

《北京宣言》和《行动纲要》

48. 委员会呼吁缔约国在努力执行《公约》条款时运用《北京宣言》和《行动纲要》。

《2030 年可持续发展议程》

49. 委员会呼吁在执行《2030 年可持续发展议程》的整个过程中，根据《公约》条款实现实质性的性别平等。

传播

50. 委员会请缔约国确保以其官方语文向相关各级(国家、区域和地方)国家机构及时传播本结论性意见，尤其是政府、各部委、议会和司法部门，以使结论性意见得到充分落实。

批准其他条约

51. 委员会注意到，缔约国加入主要的九项国际人权文书，<sup>1</sup>将有助于妇女更好地在生活所有方面享有其人权和基本自由。因此，委员会鼓励缔约国考虑批准其尚未批准加入的《保护所有移徙工人及其家庭成员权利国际公约》和《保护所有人免遭强迫失踪国际公约》。落实结论性意见的后续行动

52. 委员会请缔约国在两年内提供书面资料，说明为落实上文第 13 段、第 23(b)和(d)段和第 25(b)段所载的建议而采取的措施。

下一次报告的编写

53. 委员会请缔约国在 2022 年 3 月提交其第九次定期报告。报告应按时提交，如有延迟，则应涵盖截至提交之时的整个期间。

54. 委员会请求缔约国遵循“包括共同核心文件和条约专要文件准则在内的根据国际人权条约提交报告的协调准则”(见 HRI/GEN/2/Rev.6, 第一章)。

Joint NGO Submission to the CEDAW Committee for the Adoption of the List of Issues Part 1 (韩国的 NGO  
向 CEDAW 委员会提交的关于通过问题清单的联合文件第一部分)  
[Republic of Korea]  
CEDAW Pre-Sessional Working Group for the 86th Session  
(27 Feb. - 3 Mar. 2023)

For state party's report, list of issues and info from other civil society organizations, please click the link below and scroll down to download:

CEDAW - Convention on the Elimination of All Forms of Discrimination against Women  
[86 \(PSWG\) Pre-Sessional Working Group](#) (27 Feb 2023 - 03 Mar 2023)

Document type	Symbol/Title
<b>State party's report</b>	CEDAW/C/KOR/9
<b>Annex to State party report</b>	Appendix. - Tables and Figures
<b>(Common) Core Document</b>	HRI/CORE/KOR/2022
<b>List of issues</b>	CEDAW/C/KOR/Q/9
<b>Info from Civil Society Organizations (for LOIs)</b>	Korea Center for United Nations Human Rights Policy (KOCUN)
<b>Info from Civil Society Organizations (for LOIs)</b>	Amnesty International
<b>Info from Civil Society Organizations (for LOIs)</b>	Women with Disabilities, EMPATHY and Korean Disability Forum
<b>Info from Civil Society Organizations (for LOIs)</b>	The Advocates for Human Rights, the World Coalition Against the Death Penalty, and the Cornell Center on the Death Penalty Worldwide
<b>Info from Civil Society Organizations (for LOIs)</b>	Korea Women's Associations United (KWAU) and others - 1st submission
<b>Info from Civil Society Organizations (for LOIs)</b>	Korea Women's Associations United (KWAU) and others - 2nd submission
<b>Info from NHRIs (for LOIs)</b>	National Human Rights Commission of Korea

**Joint NGO Submission to the CEDAW Committee for the Adoption of the List of Issues Part 1**

*Durebang, Korea Cyber Sexual Violence Response Center, Korea Differently Abled Women United, Korea Sexual Violence Relief Center, Korea Women Workers Association, Korea Women's Hot-Line, Korea Women's Political Solidarity, Korea Women's Associations United, Korean Network of Gender Budgeting, MINBYUN - Lawyers for a Democratic Society, National Solidarity Against Sexual Exploitation of Women, Rainbow Action Against Sexual-Minority Discrimination of Korea, Saewoomtuh, Solidarity for USAFIK, Camptown Women's Human Rights, The Korean Council for Justice and Remembrance for the Issues of Military Sexual Slavery by Japan, Women Making Peace, Women Migrants Human Rights Center, Women's Human Rights Defenders, Womenlink*

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## Introduction

According to the 2022 Gender Gap Report (World Economic Forum), the Republic of Korea (RoK) ranked 99th out of 146 countries on the gender equality scale<sup>1</sup>. Gender wage gap stood at 31.12 percent as of last year. The RoK has retained the top position in terms of gender pay inequality among the OECD countries for 26 consecutive years since joining the group in 1996. Gender inequality still persists in society, and women experience diverse forms of gender-based discrimination and violence in daily lives.

While the RoK government has declared overseas that it firmly upholds and prioritizes the value of human rights, the current president Yoon Suk-yeol, who took office in May 2022, keeps denying the rights of women and vulnerable groups and continuously tries to capitalize on backlash against feminist movements in Korean society for his own political interest. He made abolishing the Ministry of Gender Equality and Family (MOGEF), a national machinery for gender equality, a central pledge of his presidential campaign, saying that “systemic “structural discrimination based on gender” doesn’t exist in the RoK”<sup>2</sup>. In October 2022, a government organization reform bill to abolish the MOGEF was proposed to the National Assembly with the support of the entire MPs of the ruling party. The Yoon administration and the ruling party are still pushing for the abolition plan for the MOGEF, continuously denying the existence of gender-based discrimination and instead describing it as a “personal matter” or “an issue that incites conflict between men and women”. Women and CSOs are now deeply concerned about the risks of great regression in women’s rights in Korea, which have been gradually advanced over the past 30 years through women’s long struggles<sup>3</sup>.

## Legal Status of the Convention and Legislative and Institutional Framework

### 1. Enactment of a comprehensive Anti- discrimination Act

15 years after the first attempt to legislate the bill in 2007, the comprehensive Anti-discrimination Act has not yet been enacted. Currently, four bills have been proposed in the National Assembly (NA). In addition, a public petition, signed by 100,000 people, demanding the enactment of the bill has also been submitted to the NA. Nevertheless, the NA continues to delay the legislative process on the bill. Even though the two activists fought a hunger strike for 46 days to urge the enactment, the NA has not started any specific legislative process except for one public hearing at the Legislation and Judiciary Committee at the NA in May 2022.

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<sup>1</sup> The RoK ranked 115th out of 146 countries on the economic participation and opportunity sub index; 97th on the educational attainment; 52nd on the health and survival; and 72nd on the political empowerment.

[https://www3.weforum.org/docs/WEF\\_GGGR\\_2022.pdf](https://www3.weforum.org/docs/WEF_GGGR_2022.pdf)

<sup>2</sup> Time, “How South Korea’s Yoon Suk-yeol Capitalized on Anti-Feminist Backlash to Win the Presidency”, May 10, 2022,

[https://time.com/6156537/south-korea-president-yoon-suk-yeol-sexism/?fbclid=IwAR346wZK3II4IQuj1S-zF4v4IMEGG5AmiUZI\\_EmjBUOo8I-EdYwKi0ydzBs](https://time.com/6156537/south-korea-president-yoon-suk-yeol-sexism/?fbclid=IwAR346wZK3II4IQuj1S-zF4v4IMEGG5AmiUZI_EmjBUOo8I-EdYwKi0ydzBs)

The Guardian, “‘Devastated’: gender equality hopes on hold as ‘anti-feminist’ voted South Korea’s president”, March 11, 2022

<https://www.theguardian.com/world/2022/mar/11/south-korea-gender-equality-anti-feminist-president-yoon-suk-yeol>

<sup>3</sup> 116 global CSOs, Joint Statement to South Korean president-elect Yoon Seok-yeol on Women’s Rights, April 3, 2022,

<https://www.hrw.org/news/2022/04/04/joint-statement-south-korean-president-elect-yoon-seok-yeol-womens-rights>

## Suggested questions

- Submit information on measures to enact a comprehensive Anti-discrimination Act that prohibits all forms of discrimination, including sexual orientation and gender identity.

## 2. Withdrawal of reservation to Article 16.1(g) of the Convention

In its periodic report, the government mentioned that there was a policy task focusing on abolishing the patrilineal surname principle and revising Article 781(1) of the Civil Act in the Fourth Basic Plan for Healthy Families (2021) and the Fourth Basic Plan for Low Fertility and Aging Society (2020), reflecting the survey result<sup>4</sup> that 73.1 percent of respondents agreed on determination of a child's surname based on agreement between parents at the time of registering the birth of the child. The report also included provision for a reform bill to abolish the patrilineal surname principle (introduced by a member of the NA and currently under discussion). However, implementation of the task for revising the Act has virtually halted under the current administration. The Ministry of Justice (MOJ) in charge will reportedly take steps to revise the Act only after a national consensus has been reached<sup>5</sup>. In October 2022, the MOJ also submitted a written answer to the NA<sup>6</sup> at the Parliamentary Inspection of State Administration, stating that abolition of the patrilineal surname principle must be conducted in a deliberate manner based on a national consensus.

## Suggested questions

- Explain the government's clear position on the policy task of abolishing the patrilineal surname principle, which was included in the Fourth Basic Plan for Healthy Families and the Fourth Basic Plan for Low Fertility and Aging Society, and provide information on the concrete plans to revise Article 781(1) of the Civil Act, including steps taken by the Ministry in charge to consult with diverse stakeholders.

## 3. National machinery for the advancement of women

The Ministry of Gender Equality and Family (MOGEF), the national machinery for gender equality policy, has existed as a form of government ministry for more than two decades, since its establishment in 2001. While gender-based discrimination and violence are still prevalent in diverse areas, the MOGEF operates with an extremely inadequate budget (0.24% of the nation's annual budget) and human resources (279 officials, 2021), which makes it difficult to effectively carry out its mandates. Various CSOs and citizens have been strongly calling for strengthening of the capacity of the MOGEF by allocating sufficient financial and human resources to enable it to play an effective role in coordinating gender policies in all ministries.

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<sup>4</sup> Ministry of Gender Equality and Family (2020), National Survey on Family Diversity, [http://www.mogef.go.kr/mp/pcd/mp\\_pcd\\_s001d.do?mid=plc503&bbtSn=704886](http://www.mogef.go.kr/mp/pcd/mp_pcd_s001d.do?mid=plc503&bbtSn=704886)

<sup>5</sup> The Hankyoreh, "The government's policy task of abolishing the patrilineal surname principle has halted just a year after it was planned", May 11, 2022 (in Korean), <https://www.hani.co.kr/arti/society/women/1042235.htm>

<sup>6</sup> MP Park Joo-min, 2022, Written answer submitted by the MOJ at the 2022 Parliamentary Inspection of State Administration

However, President Yoon pledged to abolish the MOGEF during his presidential campaign, claiming that there is no systemic gender discrimination in society and therefore no longer a need for the MOGEF<sup>7</sup>. On October 7, 2022, a government organization reform bill, including abolition of the MOGEF and establishment of the Office of Population, Family and Gender Equality, under the Ministry of Health and Welfare (MOHW), was proposed with the support of all parliamentarians in the ruling party. If the MOGEF is abolished and the existing women's policies are allocated to different ministries, such as the MOHW and the MOJ, the coordination and integration mechanism for gender equality policies among ministries and local authorities will shrink or even disappear completely. The mandates given to the head of the ministry, including the mandates to 1) deliberate and decide on important policies as a member of the State Council and 2) propose the bill and issue ordinances concerning matters that are within its jurisdiction, will be lost. The legal and policy frameworks for women's rights will become fragmented and lose priority, leading to worsening of the human rights of women and vulnerable groups. However, the government and the ruling party keep trying to mislead citizens by claiming that abolition of the MOGEF will do good in terms of advancing gender equality.

Recently, the terms "women" and "gender equality" have started being deleted from the existing institutional mechanisms and policies on gender equality<sup>8</sup>. The local execution structure for gender equality policies is being severely impacted by the government's abolition plan for the MOGEF.

### **Suggested questions**

- Explain the government's clear position on the question of whether structural gender-based discrimination against women exists in Korean society, and whether it will stick to its plan to abolish the MOGEF despite the deep concerns of Korean CSOs and international communities.
- Submit information on the government's concrete plans to fulfill its obligations to eliminate structural gender-based discrimination and achieve gender equality.

### **4. Gender Impact Assessment and Gender-responsive Budgeting**

The periodic report mentions that Gender Impact Assessment (GIA) implementation rates became a part of government performance evaluation indicators in 2019. However, it was excluded again as of 2022 when the idea of abolishing the MOGEF was put on the table. It can be assumed that the government's decisions regarding the utilization of the GIA outcomes were affected by the controversy over the existence of the MOGEF. In addition, precarious employment conditions and high turnover of professional staffs of the 16 Local Gender Impact Assessment Center (LGIAC) is an obstacle to the support of the local governments' implementation of GIA; This problem becomes more worrisome in

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<sup>7</sup> 116 global CSOs, Joint Statement to South Korean president-elect Yoon Seok-yeol on Women's Rights, April 3, 2022, <https://www.hrw.org/news/2022/04/04/joint-statement-south-korean-president-elect-yoon-seok-yeol-womens-rights>

<sup>8</sup> The name of the annual statistical report published by the MOGEF has been changed this year – from "Women's Lives as Seen Through Statistics" to the "Lives of Men and Women as Seen Through Statistics". The names of divisions dedicated to women and gender equality policies in local governments have been changing, with the term "women" being deleted (Division of Women, Youth and Families -> Division of Population and Families, Division of Welfare and Women -> Division of Social Welfare, Division of Women and Families -> Division of Family Policy), The Hankyoreh, "1 year passed since the RoK president had pledged to abolish the MOGEF. The term "women" is being deleted, and only "families" and "population" are left", January 6, 2023 (In Korean), [https://h21.hani.co.kr/arti/politics/politics\\_general/53180.html](https://h21.hani.co.kr/arti/politics/politics_general/53180.html)

the current situation where there is a possibility that the national machinery for gender equality might be weakened, as the MOGEF's mandate includes designation of and budget allocation to the LGIAC<sup>9</sup>.

The gender-responsive budgeting (GRB) system in RoK has several limitations: there are no meta-analysis mechanisms on the GRB statements and procedures to revise the resource allocation structure, and therefore adding or adjusting budget is not possible; the gender mainstreaming strategies of the budgeting process lacks policy tools to promote citizen participation. Since the government didn't provide sufficient information to the public on the characteristics of the GRB system except for its budget size, it has been often misunderstood as the "budget only for women beneficiaries" even among experts and domestic journalists. However, the government has so far not taken any action to set the record straight on such misconceptions about and raise public awareness on the GRB system after it began in full force in 2010. Recently, there have been anti-feminist groups' attempts to block the adoption of GRB ordinances in the local councils, such as occupying the meeting rooms and collectively sending text messages to politicians.

### **Suggested questions**

- The government announced that it will maintain and strengthen the existing policy tasks and programs under the MOGEF, even if the MOGEF is abolished. Provide information on plans to improve the effectiveness of GIA at both central and local administrations, including expanding human and financial resources of the GIA division of the MOGEF and ensuring job security of staff of the LGIAC.
- Provide information on concrete plans to enhance effectiveness of the GRB system, including plans to establish a meta-analysis mechanism on GRB statements; to include the result of meta-analysis in the government performance evaluation framework; and to promote citizen (women) participation and engagement.
- Provide information on measures taken to raise public awareness on the GRB system, including its operation and impact.

### Temporary Special Measures

#### **5. Participation in public sectors**

Under the Plan to Improve Women's Representation in the Public Sector (2018-2022) prepared in 2017, the MOGEF has been monitoring its implementation progress every year. While the percentage of women in senior positions is steadily increasing, as of 2021, the rate of women at senior managerial levels in central administrative bodies is still 10%; those at Level 4 or higher is 24.2%; women executives in public institutions is 22.5%; women senior managers in local public enterprises is 11.8%; women professors in national universities is 18.9%; women police officers is 14.2%; and women senior military officers in the army, navy and air force is 8.2%. The rates of women in government committees are less than 30%, except for the committees under the central administrative bodies that have a mandatory 40% gender quota for women. As of November 2022, the number of female heads of central administrative bodies is only 6 (15%), and there are only 4 women high-level public officials (Level 3 or higher) in the Office of the President (7.7%).

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<sup>9</sup> Gender Impact Analysis and Assessment Act (Article 17)

[https://elaw.klri.re.kr/eng\\_mobile/ganadaDetail.do?hseq=33723&type=abc&key=GENDER%20IMPACT%20ANALYSIS%20AND%20ASSESSMENT%20ACT&param=G](https://elaw.klri.re.kr/eng_mobile/ganadaDetail.do?hseq=33723&type=abc&key=GENDER%20IMPACT%20ANALYSIS%20AND%20ASSESSMENT%20ACT&param=G)

## Suggested questions

- Provide information on concrete steps taken and plans to address women's low representation in public sectors, including specific measures to enhance women's representation at high-level positions in governmental bodies, such as ministers and public officials with Level 3 or higher.

## Violence against Women

### 6. Solution to domestic violence and punishment on the perpetrator

The government's perspective on domestic violence remains to be centered on "the maintenance and recovery of the family." Comprehensive Countermeasures on Domestic Violence Prevention, announced by the government in 2018, still includes suspending indictment on condition of counseling (suspension of indictment on condition of counseling) and newly added "perpetrator counseling" as one of the temporary measures, with no mentioning of the amendment of the purpose clause of the Act on Special Cases Concerning the Punishment, Etc. of Crimes of Domestic Violence focusing on the maintenance and restoration of family. Meanwhile, only 20% of the 221,824 cases reported as domestic violence in 2020 were arrested, and about 35% of these cases were transferred to family court instead of criminal court as 'Family Protection Cases' which focuses on counseling and education.<sup>10</sup> Even among those cases reported as criminal cases, only about 10% were indicted and only 0.5% of the perpetrators were arrested and charged. The government should abolish alternative proceedings which incapacitates punishment on the domestic violence perpetrator and take necessary measures to ensure victims' rights through practical and functioning law.

## Suggested questions

- Describe concrete steps taken to amend article 1 (purpose clause) of the Act on Special Cases Concerning the Punishment, Etc. of Crimes of Domestic Violence to ensure victims' safety and human rights as its purpose.
- Provide information on measures taken to enhance the report rate and arrest rate of the domestic violence cases and to prevent inappropriate transfer of cases to Home Protection Cases.

### 7. Online sexual exploitation industry and victim support system

Digital sexual violence is still occurring on various online platforms, including the Telegram sexual exploitation incident in 2020. It is difficult to criminally punish those who design and operate the sexual violence industry by distributing sexual exploitation videos as they do not directly commit acts of abuse, such as illegal filming and distribution of non-consented images. In addition, despite legal grounds that require Internet platform operators to implement "technical measures" to prevent digital sexual violence on their platforms and criminally charge them if they neglect or bypass it, in reality, such platform operators have rarely been held accountable since it is difficult to prove that they bypassed it.

In 2018, the MOGEF started operating the Digital Sex Crime Victim Support Center, and currently, 10 of the sexual violence counseling centers across the country are commissioned to operate the Specialized Counseling Center on Digital Sex Crime. In addition, local governments in Seoul, Incheon, Gyeonggi, and

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<sup>10</sup> MP Jeong Chun-sook (2021), material submitted by the Prosecution Service and the Korean National Policy Service Agency at the Parliamentary Inspection of the State Administration.

Busan also operate digital sex crime support centers. As there is no centralized nationwide blueprint for the victim support system at the central government-level policy, support systems were formed sporadically from one center to another. The scope, content, and case management system of each project are not comprehensively implemented, and their roles are unclear due to overlapping functions or are treated in a way separate from existing sexual violence cases.

### **Suggested questions**

- Provide government-level measures against the ever-changing industrialization of digital sex crimes in a situation where it is difficult to properly punish those who run the sexual exploitation industry.
- Provide concrete plan(s) to improve a nationwide digital sex crime victim support system that is in line with the existing sexual violence support system, considering particular characteristics of digital sex crimes as well as various concerns raised due to the segmented supports from each center and absence of a comprehensive support system.

### **8. Amendment of Article 297 of the Criminal Act and criminalization of marital rape**

The #Metoo movement in 2018 showed the Korean society that sexual violence can occur from an exercise of power and status without physical assault and explicit threat on the part of the perpetrator. Among the 1,030 cases of rape and imitative rape reported to 66 Sexual Violence Relief Centers nationwide from January to March 2019, 71.4% (735) of the cases involved no assault or threat.<sup>11</sup> However, the government still has not implemented Article 5 of the CEDAW Convention despite the long-standing demands of women's rights organizations and the CEDAW Committee's two previous recommendations (CEDAW/C/KOR/CO/7, para. 21 and CEDAW/C/KOR/CO/8, para. 23). The current Article 297 of the Criminal Act creates a vacuum in the punishment of rape without consent, such as marital rape. It also causes negative side effects such as secondary victimization during the investigation and trial proceedings and abuse of criminal proceedings in the form of retaliatory counterclaim. Even when the bill was proposed, it would be politically used and either remained pending for a long time or eventually discarded. Ten related bills were proposed at the 20th NA, but they were all discarded due to the expiration of the session, and three related bills have been proposed and pending at the current 21st NA for more than a year now<sup>12</sup>.

The 3rd Basic Plan for Gender Equality Policy (2023-2027), released on Jan.26, 2023, included a policy task to take steps to revise the Criminal Act (Article 297) to define rape based on the lack of consent, but the MOJ and the MOGEF suddenly withdrew this amendment plan on the very same day it was announced<sup>13</sup>. It has received harsh criticism from women's rights groups and citizens.

### **Suggested questions**

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<sup>11</sup> Report released by the Korean CSO coalition for the revision of the legal definition of rape, Jul.9, 2019

<sup>12</sup> Kyunghyang News "Is this law disappearing again?" 1 year has passed since the amendment bills to change the legal definition of rape based on the lack of consent of the victim were proposed at the NA, but they are still pending."(in Korean, )[https://www.khan.co.kr/kh\\_storytelling/2021/lawrevision/](https://www.khan.co.kr/kh_storytelling/2021/lawrevision/)

<sup>13</sup> The Korea Herald, "Ministry blasted over rape law U-turn", Jan.26, 2023, <https://www.koreaherald.com/view.php?ud=20230127000672>

- Explain concrete reasons for the government’s sudden decision to withdraw the plan to take steps to amend Article 297 of the Criminal Act to define rape on the basis of consent, despite the CEDAW Committee’s previous recommendations.
- Provide the government’s concrete steps taken to criminalize marital rape in legislation.
- Explain the government’s position on the current perpetrator-centered sentencing standards.

## 9. Rights of sexual violence victims

According to the Korean Women's Development Institute, the majority (84.1%) of false claims made against victims of sexual violence by perpetrators in 2017-2018 were not prosecuted, and of those cases prosecuted, 15.5% of cases were acquitted and only 6.4% of cases were found guilty.<sup>14</sup> This shows that counterclaims such as false charges and defamation are abusively made by perpetrators. As the number of counterclaims made against not only victims but also supporters is increasing, it is necessary to develop a system that guarantees the rights of both victims and supporters.

In the course of a sexual violence trial, the perpetrator would demand re-evaluation of the medical records and physical assessment submitted by victims<sup>15</sup> and the court would accept the victims' sexual history unrelated to the case as evidence of the trial and doubt the victims’ credibility. All these acts prolong the trial and make the victim shrink. In addition, perpetrators request investigation of fact and deliberately leak the victims’ personal information through the media, social network services, etc. in the name of exercising the defendant's right to defend. This causes secondary victimization.<sup>16</sup>

### Suggested questions

- Provide concrete plans to guarantee the rights of victims of sexual violence against retaliatory counterclaims made by perpetrators.
- Provide information on the government’s efforts to prevent the court’s recognition of victims’ medical records and sexual history unrelated to the case as evidence of the trial.
- Provide concrete steps taken by the government to prevent the perpetrators’ indiscriminate requests of investigation of fact and secondary victimization.

## 10. Prevention of sexual harassment in workplace

In September 2022, a female worker was killed by a co-worker’s crime of stalking. Gender-based violence at work, including sexual harassment in the workplace, is directly related to workers' right to work safely, and thus the employer should be held accountable more heavily than now. In particular, 36.6% of all female workers work at workplaces with less than five employees.<sup>17</sup> Despite difficulties to take victim protection measures (such as separation of space of victim/perpetrator, paid leave order, etc.) In the case of small businesses, workplaces with less than 10 employees can exceptionally replace

<sup>14</sup> Korean Women’s Development Institute Press release, 117th Policy Forum on Gender Equality, Jul.19, 2019

<sup>15</sup> The Hankyoreh, “Perpetrators of sexual violence often demand re-evaluation of the medical records and physical assessment of victims. Is this okay?”, Jan.18, 2022 (in Korean), <https://www.hani.co.kr/arti/society/women/1027727.html>

<sup>16</sup> Korea Sexual Violence Relief Center & Law Public Interest and Legal Clinic Center of Seoul National University (2021), 1st legal workshop, “Overcoming backlash and resolving sexual violence through effective legal measures”

<sup>17</sup> Jang Jin-hee (2022), Federation of Korean Trade Unions (FKTU) Research Center



sexual harassment prevention education with distribution of educational materials or promotional materials. Considering that the implementation of sexual harassment prevention education affects the perception and reporting rate of sexual harassment, the government should abolish the exception clause and thoroughly conduct sexual harassment prevention education as well as management and supervision for all small businesses.

### **Suggested questions**

- Are there plans to abolish the exception clause for sexual harassment prevention education? Provide information on the present condition of sexual harassment in the small business workplaces and the specific measures taken by the government to improve this situation.
- Suggest government-level measures such as legal amendments and policy proposals to strengthen employers' responsibility for gender-based violence in the workplace.

## **11. Elimination of sexual violence in public institutions**

In 2022, the seriousness of sexual violence in public institutions became recognized due to the "illegal filming of prostitutes by the police" in July and the "Sindang Metro Station stalking murder"<sup>18</sup> in September. The National Police Agency and the Seoul Metro respectively reported that 77.25%<sup>19</sup> and 100%<sup>20</sup> of their members completed sex crime prevention training, but above-mentioned cases show the problem of the current sexual violence prevention education which judges the effectiveness of education based on the completion rate.

Lack of gender sensitivity in public institutions is more evident when sexual violence cases are handled by the military which has a strong hierarchical order and tends to be closed. Only 17% of female soldiers and 54.7% of male soldiers said they trusted the military's measures for sexual violence incidents.<sup>21</sup> Due to the low level of punishment for perpetrators of sexual violence and insufficient protection of victims in the process of handling the cases, the trust of the victims is low, which causes the victims to remain silent about their bad experience. According to a survey by the National Human Rights Commission of Korea (NHRCK) in 2021, 32.1% of female soldiers and 8% of male soldiers admitted that they had experienced sexual harassment. The survey also showed that 2.2% of female soldiers and 0.3% of male soldiers had experienced sexual violence.<sup>22</sup>

### **Suggested questions**

- Explain in detail what efforts the state is making to develop an effective violence prevention education system that reflects the differences in the characteristics of public institutions (schools, universities, military), as well as in the demographics (age, position, etc.) of the members

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<sup>18</sup> The Korea Times, "Public outraged by yet another stalking murder", Sep.15, 2022, [https://www.koreatimes.co.kr/www/nation/2023/01/113\\_336180.html](https://www.koreatimes.co.kr/www/nation/2023/01/113_336180.html)

<sup>19</sup> Korea Safety Union News, "Sexual violence crimes are on the rise, but sexual violence prevention education completion rates of members of Korean National Police Agency and Ministry of justice are lowest.", Sep.23, 2022 (in Korean), <http://www.csbn.co.kr/mobile/article.html?no=238127>

<sup>20</sup> MOGEF, Performance of Violence Prevention Education in Public Institutions

<sup>21</sup> Ministry of National Defense (2019), Survey on sexual violence in military

<sup>22</sup> Chosun News, "32% of female soldiers have experienced sexual harassment... four times as many men as men ", May. 9, 2022 (in Korean), [https://www.chosun.com/national/national\\_general/2022/05/09/MEVWC5HTEJDFZPE6LK3CVFZ554/](https://www.chosun.com/national/national_general/2022/05/09/MEVWC5HTEJDFZPE6LK3CVFZ554/)



- Explain what efforts the state is making to encourage reporting of sexual violence cases in the military and to improve system for secondary victimization prevention

## **12. Human rights of women defectors from DPRK**

According to the 2017 National Survey on Violence Against Women Defectors from the Democratic People’s Republic of Korea (DPRK) and Policies for Support (MOGEF), the majority of women defectors from the DPRK are exposed to diverse forms of gender-based violence (GBV): 18.7 percent of respondents said that they had experienced sexual violence or human trafficking in the DPRK, and 26.8 percent of these individuals had experienced this in China or a third country before entering the RoK; 25.2 percent of respondents had also experienced sexual violence after entering the RoK; 42.3 percent of respondents experienced domestic violence in the RoK in their 30s; 30.8 percent in their 40s; 15.4 percent in their 50s; and 7.7 percent in their 20s. However, the MOGEF operates only 10 counseling and psychological therapy centers for women defectors from the DPRK in the country: low accessibility to centers is a big obstacle for victims trying to access services in a timely manner.

### **Suggested questions**

- Provide information on concrete plans to effectively provide support for women defectors from the DPRK who have suffered a trauma caused by sexual violence, etc., including early intervention, the provision of effective support measures in specialized GBV counseling institutions, and the expansion of resources for and programs in counseling and psychological therapy centers for women defectors from the DPRK.

## **13. Protection of migrant women victims of sexual exploitation and human trafficking**

While E-6-2 visa policy has been partially improved since 2020, there are still limitations. When applying for extension of stay, E-6-2 visa holders must complete a checklist at the Immigration office that aims to screen for victims of human trafficking, but the checklist is available in Korean and English only. Even when a migrant worker checks items that suggest the worker is a potential victim, the immigration officers simply send the potential victim back home with their club owner or promoter, without any safety measures in place. Afterwards the Immigration office would forward the potential victim’s phone number to a victim-support organization, yet the phone number is typically invalid. There are reportedly zero cases of the immigration authorities neither effectively reporting exploitative establishments and promotion companies nor successfully referring potential victims to victim support organizations through this screening process for E-6-2-visa holders. Under the supervision of the MOGEF, four Ministries conduct joint inspections of foreigner-exclusive adult entertainment establishments to identify sexual exploitation cases of E-6-2 visa holders. However, the inspections are ineffective as the establishment owners can easily pass the inspections by covering up the illegal aspects of the establishments and forcing women workers to memorize scripted answers to pass the inspection interviews.

Undocumented migrant women and migrant women who enter Korea on other visas such as tourist visas or student visas, are experiencing forced prostitution or sexual exploitation in massage parlors, clubs, etc. When they are caught in raids, authorities simply deport them as criminals of sex trade, without conducting proper victim identification screenings. Currently, only victims undergoing legal proceedings (claim, investigation or trial) for human trafficking, sexual violence or sexual exploitation

are granted the G-1-11 visa. Victims who do not undergo such legal proceedings and instead seek only shelter, medical, psychological and/or other support are ineligible to apply for the G-1-11 visa.

#### **Suggested questions**

- Explain reasons for the lack of victim assistance and lack of reporting potentially exploitative establishments in the process of screening for E-6-2-visa-holding human trafficking victims.
- Provide information on procedures/standards that the police and immigration authorities have in place to identify victims of sexual exploitation and trafficking, and concrete steps taken to effectively provide proper protection and the right to a remedy for human rights violations for migrant women, including undocumented women and other visa holders such as tourist visas or student visas, who are victims of sexual exploitation and human trafficking.
- Clarify whether the government has alternative plans to effectively monitor and investigate foreigner-exclusive adult entertainment establishments other than inspections and raids, considering that the inter-ministerial joint inspections have reportedly not led to any actual police investigations of traffickers.
- Clarify whether the government plans to amend the G-1-11 visa regime so that all victims can receive the visa for recuperation purposes, regardless of their participation in legal proceedings.

#### **14. Human trafficking and Exploitation of prostitution**

The government amended the Criminal Code in 2013 to add a penal provision for human trafficking. The following year, the Act on Prevention of Traffic in Persons and Protection of Victims (Hereafter the anti-trafficking law) was legislated. However, the current clause in the Criminal Code does not follow the UN protocol for human trafficking, and the anti-trafficking law lacks penal provisions. The MOJ has put little effort into prosecuting the offenders. Based on these findings, the US State Department demoted South Korea from tier 1 to 2 in its 2022 Trafficking in Persons Report. While the anti-trafficking law is to take effect in 2023, a specific enforcement plan, including facilities to protect the victims, has not progressed due to the government's recent project to abolish the MOGEF.

The government's aid system for victims of prostitution is organized and enforced effectively. Victims of human trafficking for sexual purposes can receive assistance based on the said system. However, those unable to prove "coercion into prostitution" are penalized, and international sex-trafficking victims are subjected to either penalization or deportation. The penal provision for prostituted women has hindered the victims from accessing aid services and exiting the sex trade.

#### **Suggested questions**

- The state must amend the anti-trafficking law or the Criminal Code to modify the definition of human trafficking in line with the UN protocol and add penal provisions. How does the government plan to take these steps?
- The government has not shown interest in intra-government, inter-municipal, and international negotiation and cooperation necessary for the effective enforcement of the anti-trafficking law. There is a discussion about abolishing the MOGEF that should play an essential role in this process. Various government departments have also

expressed negative attitudes toward the law. What are the government's measures to securely enforce the anti-trafficking law?

- Has the government built a comprehensive system to prepare for the anti-trafficking law which will take effect in 2023? What are the specifics regarding human trafficking prevention, cultivating experts, early identification, assistance for victims, and protection of victims' rights during juridical proceedings?
- Is the government interested in removing the penal provision for prostituted women, which penalizes the victims of the sex trade and hinders the prevention of human trafficking? What are the measures to stop the victims from being penalized if not?

### 15. Military Sexual Slavery by Japan

On November 4, 2022, the UN Human Rights Committee expressed strong regret to the Japanese government for not making any progress regarding the issue of the Military Sexual Slavery by Japan. It reiterated its previous concluding observation (2014) and urged the Japanese government to take immediate measures to ensure punishment of perpetrators; full reparations to victims, and officially apologize to victims<sup>23</sup>. However, the Japanese government is refusing to accept the obligation to make reparations for victims.

In July 2022, the RoK foreign minister Park Jin even announced that the ““2015 Korea-Japan Agreement” should be respected as an official agreement between two governments”<sup>24</sup>, although the Agreement had a significant deficiency as it was against the principle of truth and justice and excluded the voices of survivors.

In the meantime, the victims of the Military Sexual Slavery by Japan are experiencing serious human rights violations amidst the obstruction of Wednesday demonstrations, denial of history and sexist verbal abuses/insults against them by far-right history denialists<sup>25</sup>. Activists and participants of demonstrations are also exposed to various sexual harassment and misogynistic behaviors<sup>26</sup>. In January 2022, the NHRCK recommended the active intervention of the police to control the far-right activists through issuing an emergency relief decision, but the government and police do nothing but to keep ignoring this situation.

#### Suggested questions

- Indicate whether the Korean government’ s position of ““compliance with the spirit of the 2015 Korea-Japan Agreement”” means that it agrees with the Japanese government’ s claim that the issue of the Military Sexual Slavery by Japan was resolved through the Agreement. Provide information on concrete plans to resolve the issue of Military Sexual Slavery by Japan, protect victims and restore human rights and dignity of them.

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<sup>23</sup> UN Human Rights Committee, Concluding observations on the seventh periodic report of Japan, 30 November 2022, CCPR/C/JPN/CO/7, para.29

<sup>24</sup> The Korea Herald, “Yoon makes economic diplomacy a top priority”, July 21, 2022, <https://www.koreaherald.com/view.php?ud=20220721000922>

<sup>25</sup> The Hankyoreh, ““Comfort women” protest obstructed by far right despite call for safeguarding”, Jan.20,2022 [https://english.hani.co.kr/arti/english\\_edition/e\\_national/1028191.html](https://english.hani.co.kr/arti/english_edition/e_national/1028191.html)

<sup>26</sup> Newstapa, “Hatred in streets, people sabotaging Wednesday demonstrations”, <https://www.youtube.com/watch?v=bHhWCJak8zo>

- The amendment bill on Protection, Support, and Commemorative Projects for the Victims of Military Sexual Slavery by Japan under Japanese Occupation was recently proposed at the NA to establish a legal basis for punishing history denialists for defamation of victims. Provide information on the government’s specific plans to pass the amendment bill and protect victims from defamation.

## **16. Violence against U.S. Military Camptown “Comfort Women”**

On September 29th 2022, the Supreme Court ruled in favor of 122 plaintiffs, who had filed the “Compensation Lawsuit for Former Camptown “Comfort Women” for US Troops” against the RoK government on June 25, 2014<sup>27</sup>. The plaintiffs are survivors of the camptown sex industry. The Supreme Court declares that by operating and managing the camptowns, the government agencies and officials are responsible for the justification and promotion of the illegal camptown sex industry. In doing so, the government violated the comfort women’s human rights and human dignity, consequently subjecting all of the plaintiffs to psychological damage. This is a historic court ruling, as it is the first time the RoK’s Judiciary—over seventy years since the division of the Korean peninsula and the US Armed Forces being stationed in RoK—declared the government’s responsibility in the various illegal acts and human rights violations that the government and US Armed Forces carried out against Korean camptown comfort women. This ruling is the culmination of Korean camptown comfort women’s brave acts of telling their stories of experiencing state violence and human rights violations in the camptowns.

Currently the Special Act on the Investigation of Human Rights Violations Against US Military Camptown “Comfort Women” and Support for Survivors has been proposed at the NA, but it has yet to be properly reviewed. The Gyeonggi Provincial Assembly passed the Ordinance on Support for Camptown Women in Gyeonggi Province on April 29, 2020, but the provincial government claims that it cannot take steps to provide any actual support without the enactment of a higher law at the national level.

### **Suggested questions**

- Indicate whether the government plans to formally apologize to US military camptown “comfort women”, in accordance with the recent Supreme Court ruling.
- Provide information on specific plans to investigate the human rights violations against US military camptown “comfort women”, create measures to prevent recurrence, and provide specific support measures for victims and survivors.
- Indicate whether the government plans to include that the RoK, where US Armed Forces has been stationed for over seventy years, is a country still currently affected by ongoing war and wartime sexual violence, and add the issue of U.S. military camptown “comfort women” alongside the issue of Japanese military sexual slavery in the National Action Plan for the UN Resolution 1325 on Women, Peace and Security and propose solutions.

## **17. Rights of women with disabilities**

In 2021, 9,200 victims of sexual violence and 267 victims of domestic violence were women with disabilities, accounting for 77.9% of the total 12,147 women victims of violence. The types of violence include rape and imitative rape (63.8%), Indecent act by compulsion (29.3%), Obscene Acts by Using

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<sup>27</sup> The Hankyoreh, After 40 years in US camptown sex trade, S. Korean woman rejoices in court victory, Sep.30, 2022, [https://english.hani.co.kr/arti/english\\_edition/e\\_national/1060900.html](https://english.hani.co.kr/arti/english_edition/e_national/1060900.html)

Means of Communication (5.8%), and others (1.1%)<sup>28</sup>. As for the type of disability of victims of violence, 13.2% were women with physical disabilities, 83.5% were women with mental disabilities, and 3.3% of women with multiple disabilities,<sup>29</sup> resulting that violence against women with psychological disabilities is the most severe of all. Despite the widespread damage of violence against women with disabilities, integrated and specialized national statistics are insufficient to identify the status of sexual violence, domestic violence, and digital sex crime against women with disabilities.

In addition, protection facilities are highly lacking as there is only one mid- to long-term shelter (protection facility) for disabled women victims of violence in the country despite it being one of the quintessential conditions to support the sexual violence victims with disabilities. Furthermore, there are only three living facilities for self-reliance support (in Busan, Chungcheongbuk-do, Gyeongsangnam-do) and one transitional housing(in Jeollanam-do). Because of this situation, women victims with disabilities cannot find support institutions due to disabilities and eventually had to return to their homes where violence occurred, or may enter homeless facilities or institutions for persons with disabilities that allow persons with disabilities to enter, not facilities that support women victims of violence.

### **Suggested questions**

- Provide concrete plans to build integrated and professional statistics to identify the actual conditions of violence against women with disabilities.
- Provide concrete plans to expand shelters dedicated to protecting women victims with disabilities and to support self-reliance after discharge from the shelters.

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<sup>28</sup> Internal statistics of Korea Differently Abled Women United

<sup>29</sup> Korea Differently Abled Women United

Joint NGO Submission to the CEDAW Committee for the Adoption of the List of Issues Part 2  
(韩国的 NGO 向 CEDAW 委员会提交的关于通过问题清单的联合文件第二部分)  
[Republic of Korea]

CEDAW Pre-Sessional Working Group for the 86th Session

(27 Feb. - 3 Mar. 2023)

Participation in political and public life

1. Women's Political representation

The proportion of seats held by women in the NA is 57 out of 300 (19%) as of December 2022, which ranks 126th out of 190 countries (IPU 2022). The NA is composed of 300 members, 253 elected by votes from the single-member districts (SMDs) and 47 through the proportional representation (PR) system. The current number of female members elected on the basis of the PR system is 27. The Public Official Election Act stipulates that when nominating candidates for the PR seats, political parties shall nominate not less than 50% of the female candidates falling under every odd number in order of the candidate list. It also has a provision on gender quotas to recommend female candidates to be nominated in 30 % of SMDs, but there are no enforcement measures or punitive provisions.

In the 2022 local election, the number of women elected as local governors was 7 (3%); 115 for the SMD seats in municipal councils (14.8%); 650 for the SMD seats in local councils (25%); 58 for the PR seats in municipal councils (62.4%); and 348 for the PR seats in local councils (90.2%). There were no women elected as municipal governors. Also, the Act stipulates that political parties shall nominate at least one female candidate for municipal or local councils in every electoral district. In reality, political parties tend to nominate female candidates at the level of local councils. Furthermore, the ratio of the PR seats to the SMD seats is merely 10%.

The Subsidies for Fielding Female Candidates, which encourages political parties to nominate women at least 30% of the total candidates for the SMD seats, was revised (April 2022) to allow any parties to be granted subsidies if they nominate women at least 10 percent of the total candidates for the SMD seats. The revised law enables major parties to take subsidies without an effort to increase women's representation. The NHRCK recommended that the government reform relevant laws to reduce gender imbalance in politics (May 2022) but no law has been revised yet.

Suggested questions

- Explain why the government takes passive attitudes on the advancement of women's political participation, such as not taking any actions to revise relevant laws (to make gender quotas in SMDs compulsory, etc.).

Women, peace and security

## 2. Implementation of UN Resolution 1325 on women, peace and security

In 2022, military tensions escalated in the Korean Peninsula and Northeast Asia due to North Korea's missile launches and joint military exercises between RoK, the U.S., and Japan . Among the rising military tensions on the Korean Peninsula, the increase in armaments by neighboring countries in Northeast Asia, and the intensifying competition between the U.S. and China, residents on the Korean Peninsula are concerned about their safety. In particular, the concerns of women and girls who are disproportionately affected by conflicts and disasters are bound to be great.

As the RoK's new president is fundamentally shaking the gender equality policies of the MOGEF, it is very worrisome whether the MOGEF, responsible for the coordination and integration of the implementation of the National Action Plan for the UN Resolution 1325 on Women, Peace and Security (1325 NAP), will be able to carry out its roles properly due to the weakening role of the ministry. During the COVID-19 period, the implementation monitoring of the 1325 NAP on the responsible ministries was conducted only in writing, which was a mere formality. While 10 ministries submit the implementation report on the 1325 NAP, a lack of a comprehensive Monitoring and Evaluation system makes it difficult to evaluate how the basic goal of the 1325 NAP, the advancement of women's human security, has been achieved.

### Suggested questions

- Provide information on concrete plans for establishing a legal basis for the comprehensive Monitoring and Evaluation system on the implementation of the 1325 NAP, including by revising the Article 41(3) of the Framework Act on Gender Equality and building a constructive collaboration system between the government and women CSOs, with a view to effectively implementing the 1325 NAP.

## Nationality

### 3. Human rights of marriage migrant women

Marriage migrants must stay in Korea for at least 2 years on a marriage migrant visa (F6) to be eligible to apply for naturalization. As of December 2022, the period required for the naturalization examination after applying for naturalization is 21 months. This period may be shortened to 10 months as an exception by comprehensively considering the period of marriage, family type, and whether the woman is raising a child, etc. Procedurally, marriage migrants are in an unstable state of stay for at least 4 years, considering the required period of 2 years and the review period of about 2 years. In particular, it is difficult for marriage migrants to stay and naturalize in a stable manner without their spouses' help. Although the identity guarantee letter by their Korean spouse has recently been omitted from the list of required documents, the assistance of a Korean spouse is still crucial in the naturalization process of marriage migrants. Marriage migrants who do not have a spouse due to divorce or bereavement have to go through a different, more difficult, process, which is clearly discriminatory. The rejection rate for naturalization applications is also high. The number of people who were rejected their naturalization application after marriage was 3,121 in 2019,

3,158 in 2020, and 2,789 in 2021 respectively. During the same period, the number of applicants for naturalization were 9,881 in 2019, 9,617 in 2020, and 10,489 in 2021 respectively. The high rate of refusal to naturalization applications from marriage migrants who are already based in Korea and are living with their Korean families makes their stay unstable and may lead to uneasiness in family relationships.

#### Suggested questions

- Differentiating the status of stay and naturalization process based on marriage status such as divorce or bereavement is discriminatory against migrant women without a Korean spouse. Provide information on the government's plan to abolish such discriminatory policy.
- Marriage migrants become more dependent on their Korean spouses during the marriage naturalization examination period. Provide information on the concrete steps by the government to shorten the naturalization examination period.
- What can be done to increase the naturalization rate so that marriage migrants who have already settled in Korea through marriage can live a stable life through naturalization? Suggest a plan for stable naturalization for those who are raising children and also who have entered the country prior to the marriage visa strengthening policy.

## Education

### 4. Comprehensive sexuality education

The government continues to deal with the sexual and reproductive health and rights (SRHR) only as a matter of fertility and health. In the government's policy framework, women's bodies have been objectified as a means of population control and the SRHR has been narrowly interpreted as issues of pregnancy, childbirth and maternal health of married couples. In particular, the 2022 Curriculum Amendment bill announced by the government in November 2022 intentionally deleted the term "sexual minority" from school textbooks among examples of social minorities "because of worries about terminologies related to LGBTI+," and also deleted the terms "gender equality" and "sexual and reproductive health and rights" due to the "persistent concerns raised by the national public regarding gender-related expressions." Despite strong criticism and a number of submissions of opinions from various fields such as the NHRCK, teachers' trade unions, parents' organizations and women's rights organizations during the administrative notice period, the Ministry of Education confirmed and announced the 2022 Curriculum Amendment that is gravely retrogressive in terms of human rights and education. The 2022 Curriculum Amendment will be gradually applied to all elementary, middle and high school curriculums from 2024. The government must immediately abolish the 2022 Curriculum Amendment and implement a comprehensive sexuality education as a part of regular school curriculum within the public education system. It should be in line with the 2014 ICPD Beyond, CEDAW, other universal human rights standards and gender-related principles, and encompasses social structural issues of gender discrimination and SRHR including gender diversity.



## Suggested questions

- Provide information on the 2022 Curriculum Amendment, introduced by the Ministry of Education in 2022, including its objective, content, as well as on how it addresses issues of gender stereotypes, sexual diversity, among others.
- Provide information on how the government will address the social structural issue of gender discrimination, SRHR, and human rights of LGBTI+ students as a part of regular school curriculum within the public education system.

## Employment

### 5. Gender wage gap

Non-regular workers: As of 2021, the proportion of non-regular workers among female workers is close to 52.3%. Among female workers, non-regular workers were on the decline, but in 2021, it increased by 1.9%p compared to the previous year. As of 2021, the wage of non-regular female workers is only 37.8% of the average wage of regular male workers. The average monthly wage of non-regular female workers in 2021 was 1.45 million Korean Won (about 1,173 USD), 460,000 Korean Won lower than the monthly minimum wage of 1.91 million Korean Won (about 1,544 USD) in the same year. The average monthly wage of non-regular female workers began to be lower than the minimum wage in 2016, and the trend has continued to this day. The proportion of part-time workers among female workers is 26.4%, and the proportion of female workers among part-time workers is 71.2%. The proportion of part-time workers among all workers continues to increase. As of 2020, nearly 8% of female workers are ultra-short-time workers (less than 15 hours a week). Ultra-short-time workers are not subject to major labor law provisions such as weekly holiday allowances, severance pay, and annual leave, and are not obligated to subscribe to the four major insurance policies. Ultra-short-time workers are in extreme blind spots of labor rights protection.

Wage Disclosure System: The AA (affirmative action) system applies only to workplaces with 300 or more employees, and there is no classification of employment types, absolute comparison criteria, etc., and the reported results are not disclosed. AA's effectiveness has constantly been questioned but not improved. Despite recommendations to introduce the Wage Disclosure System, it still has not been implemented.

Gender discrimination in employment: In 2018, it was revealed that a large number of women were eliminated due to systematic interview scores manipulation by public institutions and the financial sector. The women workers demanded the reinforcement of ridiculously weak punishment (a fine of less than 5 million won or 4,038 USD), disclosure of the gender ratio of successful applicants to total applicants, and introduction of statistical criteria for discrimination determination, but none has been accepted. During interviews, women are continued to be asked sexist questions about marriage, boyfriends/partners, and childbirth, but the government does not sanction them.

## Suggested questions

- Provide information on why the government is not limiting the reasons for using non-regular workers when it is absolutely necessary to reduce the proportion of female non-regular workers.
- Explain why the government is not taking any measures to fully implement labor laws to all workers in order to resolve the blind spots of labor rights where ultra-short-time workers are placed.
- Provide concrete plans to introduce a system including the wage disclosure system which include compulsory disclosure and follow-up measures to improve the gap revealed as found effective in cases of European countries' experiences.
- Provide a detailed plan to improve the employment system, work environment and culture, including clear standards, to eradicate gender discrimination in employment.

## 6. Work-life balance

Career interruption of women: The number of marriages in 2021 decreased by 9.8% compared to the previous year, and the total fertility rate in 2021 was 0.81, the lowest ever respectively. This is because women are choosing to work instead of marriage and childbirth as strategies to survive in the sexist world of work. The Act on Promotion of Economic Activities of Career-interrupted Women was replaced by the Act on Promotion of Economic Activities and Prevention of Career Interruption of Women (promulgated on December 7, 2021, and enforced from June 8, 2022). The policy targets were expanded from "career-interrupted women" to "all women" and entered into force in 2022. This means a shift from a policy targeting women in a career-interrupted state to a policy that prioritizes prevention. There is a need for a new policy that fits the newly amended law, but the government has not announced any related policy.

Male parental leave: Male parental leave usage is increasing, but it is polarizing depending on the size and sector of the workplace. In 2021, the usage rate of male parental leave was 26.3%, and 56.7% among them were from workplaces with 300 or more employees. Also, the rate is concentrated in the public sector. There is no government policy to resolve the polarization of male parental leave.

### Suggested questions

- Explain why the government has not developed policies in accordance with the Act on Promotion of Economic Activities and Prevention of Career Interruption of Women.
- What is the government's policy to resolve the polarization of male parental leave, which is concentrated toward large corporations and the public sector, so that the use of male parental leave can become a universal right?

## Health

## 7. Women's SRHR in relation to termination of pregnancy

Although the “crimes of abortion” provisions of the Criminal Code ceased to be in effect in January 2021, there is still a lack of legal and policy frameworks for women who have an abortion, including a lack of alternative legislation and extremely limited health insurance coverage for abortion. Although the government health agencies initially announced their plan to push ahead with approval of the abortion pill, the Ministry of Food and Drug Safety (MFDS) kept delaying its approval, asking the pharmaceutical company to submit supplementary data during the product license application process, despite the pill being registered on the WHO Model List of Essential Medicines and approved as a safe and effective medicine in many countries. As the company eventually withdrew the application, the MFDS made the excuse that it had done so voluntarily, without acknowledging the government’s responsibility for this. Women’s rights groups have long demanded for the establishment of legal and policy frameworks to guarantee women’s sexual and reproductive health and rights, including the right to safe termination of pregnancy, health insurance coverage of medical services for abortion, prompt approval of an abortion pill, and provision of comprehensive pre-/post-abortion care.

#### Suggested questions

- Submit information on concrete measures and plans to address women’s SRHR, which have been violated due to a lack of legal and policy frameworks that guarantee quality care for the safe termination of pregnancy, including failure of the domestic sales plan for an abortion pill.

#### 8. LGBTI women and persons and the rights to health

Legal recognition for trans persons is limitedly available through judicial procedures. Only unmarried adults, without legally minor children, who have been diagnosed with ‘transsexualism.’, received psychiatric/hormone therapy and undergone sterilization surgeries, are eligible for legal gender change. According to a NHRCK survey in 2020, only 8% of transgender persons responded that they have changed their gender legally, and 93% responded that they have experienced discrimination based on gender identity in their daily life. All gender-affirming care for transgender people is not covered by the National Health Insurance. As a result, transgender people have to bear the costs of up to tens of millions of KRW on their own, and eventually give up on getting gender-affirming care. According to the NHRCK survey in 2020, 71.0% of transgender respondents who did not undergo gender reassignment surgery said that they did not have surgery because of the cost burden. In response, the CEDAW Committee recommended in 2018 that the Korean government guarantee the right of transgender people to access medical services, including the National Health Insurance. Nevertheless, the government has not even considered insurance coverage for gender reassignment-related medical care.

Statistically, newborns in the country amount to approximately 450,000 per year, out of whom 0.1%, or some 450, are presumed to have Klinefelter syndrome. There are additionally many other intersex variations, affecting estimates of up to 1.7% of the

population. Consequently, the number of intersex newborns could be as many as 7,650 a year . For parents to register the birth of a child, they must select the legal gender of the child between male and female and record it in the reporting form according to the Resident Registration Act. To change this gender later, one must undergo legal gender change application procedures. In addition, it is general for adults including parents and teachers to educate children based on gender binarism even during socialization and public education processes. For these reasons, parents decide on the legal gender of their children without the latter's consent and impose irreversible surgeries on the youngsters as well .

#### Suggested questions

- Submit information on measures to ensure that transgender persons' right of access to medical services, including national health insurance coverage for gender affirming care services.
- Submit information on measures to exclude forced sterilization surgery, genital reconstructive surgery, and other abusive requirements such as divorce, having no minor child, age requirement for precondition of legal gender recognition of transgender persons.
- Submit information on measures to ensure the bodily integrity of intersex persons, especially infants, children, and adolescents, by prohibiting unnecessary medical interventions carried out without their free and fully informed consent.

#### Marriage and family relations

##### 9. Rights of domestic violence victims in divorce proceedings

Currently, judicial divorce requires a conciliation procedure by the family court and a fact-finding investigation by a family court probation officer. This also applies when the victim of domestic violence claims for divorce. Lacking understanding of the distinct characteristics of domestic violence, numerous cases have continuously happened in which victims suffer from facing the perpetrator during conciliation proceedings, or where victims feel threatened by the family court probation officer's insensitive remarks with little knowledge on domestic violence. Also, although a couple counseling order to the plaintiff of a divorce case by the family court has advisory effect only, such order is made without considering the will and opinion of the victims of domestic violence and prolongs the divorce procedure. However, even with these problems at hand, the government does not even collect basic data for statistics such as the percentage of divorce due to domestic violence or the number of family fact-finding orders decided by family court.

#### Suggested questions

- Provide information on the percentage of divorce due to domestic violence and statistics on the number of couple counseling orders and child visitation orders.
- Provide concrete steps taken by the government to protect the safety and rights of domestic violence victims throughout divorce proceedings – including facing perpetrator, secondary victimization by the family court probation officers, and personal information leakage.

## 10. Judiciary officials' understanding on gender-based violence

Korean law guarantees child visitation rights as a legal right of parents who are divorced or separated. The law stipulates, "If it is required for the welfare of children, the Family Court may, upon a request of the party or ex officio, restrict, exclude or modify such visitation right." However, in reality, the court often grants order of implementation of visitation to the child's father even when he committed domestic violence and the child is the direct victim or is in protective facilities, amplifying the victim's frustration and risk. Moreover, although perpetrators of domestic violence often use their child to conciliate, manipulate and gather information of their spouse, in many cases the court orders prior disposition of child visitation in cases of divorce and of child custody disputes related to domestic violence.

### Suggested questions

- Provide information on the government's efforts to enhance judiciary officials' understanding and professionalism on gender-based violence, and describe specific means taken to realize exclusion of child visitation rights of perpetrators of domestic violence.

## 11. Social and economic protection for women in de facto unions

The Convention recognizes the different forms and concepts of the family and emphasizes that treatment of women in the family both at law and in private must accord with the principle of equality and justice. However, the only family system recognized by the Korean legal system is the family consisting of marriage, blood, or adoption. There is no registered partnership system and There are no local governments that offer a domestic partnership in the region. In addition, legal marriage in Korea is only possible between opposite sexes. The opposite-sex partners in de facto unions enjoy some rights and benefits of legal marriage, such as national health insurance, survivors' pension, the succession of tenancy, protection under the domestic violence protection system and property division after dissolution. In 2021, a same-sex couple in a de facto relationship sued the national health insurance corporation for canceling its coverage of one of the partners as a dependent of a de facto relationship. In January 2022, Seoul Administrative Court ruled against the couple, saying matrimony in South Korea is still considered a union between a man and a woman.

On May 30, 2022, the NHRCK recommended that the Korean Society of Obstetricians and Gynecologists (KSOG) revise the "assisted reproductive technology guidelines" that restrict in vitro procedures for unmarried women. However, the KSOG said, "since countries that allow assisted reproductive technology for single women also allow the technology for same-sex couples, a social consensus on the permission of assisted reproductive technology for same-sex couples should be preceded." and rejected the recommendation.

### Suggested questions

- Submit information on measures to enable women in de facto unions to enjoy rights, including access to national health insurance, social security, and housing on an equal footing with opposite-sex couples in de facto unions.

- Submit information on incremental steps taken to ensure that women in de facto unions are not discriminated against in terms of economic and social rights and benefits, including legal recognition of same-sex marriage, civil union (Life Partnership), or domestic partnership at the local government level.

## 12. Revision of the Framework Act on Healthy Families

The current Framework Act on Healthy Families reinforces existing social prejudices and discrimination, and it excludes various forms of families not based on blood relations or heterosexual marriage from the policy system. So far, there has been constant demand for revision of the law . The government stated in its periodic report that it had incorporated a task for amending the Act in the Fourth Basic Plan for Healthy Families, including deleting the provision relating to family definitions centered on blood and legal marriage, and realigning the term for a healthy family, etc., reflecting the increase in family diversity. However, the Yoon administration announced in September 2022 that it will withdraw the plan to amend the Act and will retain the existing definition of family as it is , meaning that the government will keep denying and ignoring the diverse forms of families that already exist, including persons in a life partnership, same-sex couples, single-parent families and single-person households. The Act should be amended with a view to protecting families of various forms from discrimination in legal and policy systems throughout the life cycle, such as care, housing, welfare, inheritance and funerals.

### Suggested questions

- Explain concrete reasons for the government’ s recent decision to withdraw the amendment plan for the Framework Act on Healthy Families, although the plan was included in its periodic report.

## 人权条约机构相关术语词汇表 [Glossary of technical terms related to the treaty bodies]

### 人权条约机构相关技术术语词汇表

来源: <https://www.ohchr.org/zh/treaty-bodies/human-rights-treaty-bodies-glossary-technical-terms-related-treaty-bodies#backlog>

### 如何使用这份词汇表

十大人权条约机构已开发出一些大体上相似,但在一些重要方面有所区别的工作方法和做法。其委员会采用的术语也有所区别。本词汇表旨在对条约机构系统中的一些重要部分作出解释,并重点强调术语方面的一些显著区别。

括号中为对应英文词汇

- [积压 \(Backlog\)](#)
- [主席团 \(Bureau\)](#)
- [主席 \(Chair\)](#)
- [共同核心文件 \(Common core document\)](#)
- [结论性评论 \(concluding comments\)](#)
- [结论性意见 \(concluding observations\)](#)
- [无报告情况下审议一国状况  
\(Consideration of a country situation in  
the absence of a report\)](#)
- [建设性对话 \(Constructive dialogue\)](#)
- [国家报告员 \(Country rapporteur\)](#)
- [国家工作队 \(Country task force\)](#)
- [声明 \(Declaration\)](#)
- [克减 \(Derogation\)](#)
- [后续程序 \(Follow-up procedures\)](#)
- [一般性评论 \(General comment\)](#)
- [一般性建议 \(General recommendation\)](#)
- [人权条约司 \(Human Rights Treaties  
Division\)](#)
- [个人来文 \(Individual communication\)](#)
- [非政府组织 \(Non-governmental  
organizations\)](#)
- [不交报告 \(Non-reporting\)](#)
- [任择议定书 \(Optional protocol\)](#)
- [周期性 \(Periodicity\)](#)
- [申述 \(Petitions\)](#)
- [会前工作组 \(Pre-sessional working  
group\)](#)
- [建议 \(Recommendation\)](#)
- [缔约国报告准则 \(Reporting guidelines  
for State parties\)](#)
- [保留 \(Reservation\)](#)
- [审查程序 \(Review procedure\)](#)
- [议事规则 \(Rules of procedure\)](#)
- [秘书/秘书处 \(Secretary/secretariat\)](#)
- [简化报告程序 \(Simplified Reporting  
Procedure\)](#)
- [专门机构、基金和方案 \(署\)  
\(Specialized agencies, funds and  
programmes\)](#)

- [个人投诉 \(Individual complaint\)](#)
- [调查程序 \(inquiry\)](#)
- [迟交报告 \(Late reporting\)](#)
- [议题和/或问题清单 \(List of issues and/or questions\)](#)
- [报告前议题清单 \(List of issues prior to reporting\)](#)
- [主题清单 \(List of themes\)](#)
- [国家人权机构 \(National human rights institutions\)](#)
- [缔约国报告 \(State party report\)](#)
- [针对性或专题报告 \(Targeted or focused report\)](#)
- [条约、公约或文书 \(Treaty, convention, covenant or instrument\)](#)
- [条约机构或委员会 \(Treaty body or committee\)](#)
- [条约专要报告/文件 \(Treaty-specific report/document\)](#)
- [工作方法 \(Working methods\)](#)
- [对议题清单的书面答复/回复 \(Written response/replies to list of issues\)](#)

## 积压

除了缔约国迟交和不交报告的问题，一些条约机构还发现难以完成每年大量的报告审议工作。由此产生的积压意味着从缔约国提交某份报告到委员会完成审议可能间隔两年之久。获取最新信息的需求是发布问题清单做法的原因之一（见下文）。更有效的工作方法能减少积压，一些委员会也提出了创新的方法。例如，儿童权利委员会和消除对妇女歧视委员会有时会在两个平行小组中会面。

## 主席团

主席团通常由主席、副主席、报告员或委员会任何其他指定成员组成，召开会议决定与委员会工作相关的程序性和行政性事务。

## 主席

每个条约机构选举一名成员担任主席，任期为两年。主席根据商定的议事规则主持每次会议。所有条约机构的主席每年会面一次以协调条约机构的活动。

## 共同核心文件

缔约国向秘书长提交的包含与所有条约相关的该国一般性信息的文件，如有关土地与人口、政治体制、该国保护人权的一般法律框架、非歧视、平等和有效补救措施等方面的信息。文件构成了提交条约机构的所有国家报告的共同起始部分。1991年的主席会议引入共同文件作为减少报告中的重复部分的方法。2006年审议了有关该文件的导则（HRI/GEN/2/Rev.6）。



## 结论性评论 (CONCLUDING COMMENTS)

见“结论性意见 (concluding observations) ”

### 结论性意见

条约机构在审议缔约国报告后发布的意见和建议。结论性意见既包括缔约国在落实条约中的积极方面，也包括条约机构建议缔约国需进一步采取行动的值得关注的领域。条约机构致力于发出具体、重点突出且可落实的结论性意见，并日益关注能确保有效跟进其结论性意见的措施。

### 在无报告情况下审议一国状况

参见“审查程序”

### 建设性对话

所有条约机构采取的邀请缔约国派代表团出席其报告受审议的会议的做法，以便于其回应委员们的问题，并就其落实相关条约规定方面的努力提供附加信息。建设性对话的概念强调了条约机构并不是司法机构这一事实（即使其具有部分准司法职能），其创设目的在于审议条约落实情况。

### 国家报告员

大多数委员会委任一名或两名成员作为受审议的缔约国报告的国家报告员。国家报告员通常负责起草议题清单，在会议期间向代表团提问，并起草委员会将要讨论和通过的结论性意见。

### 国家工作队

人权事务委员会已将之前由会前工作组进行的审议报告的准备工作分配给国家工作队，工作队在全体会议期间召开会议。国家工作队包含由主席提名的四至六名成员，其中一名是全面负责起草议题清单的国家报告员。

### 声明

一国可以选择或被要求就其加入的某一条约发表声明。声明类型如下：

- **解释性声明**

一国可就其对某一条约中特定规定中包含问题的理解或对规定的解读发表声明。与保留不同，此类声明并不意在排除或更改条约的法律效力。其目的仅仅在于澄清一国对于整个条约或某些条款含义的立场。

- **任择性和强制性声明**

条约允许各国发表任择性和/或强制性声明。这些声明对发表者具有法律约束力。因此，例如在《公民权利和政治权利国际公约》第 41 条规定下，各国可发表一项有关其接受人权事务委员会审议国家间投诉的能力的任择性声明。与此相似，《儿童权利公约》关于儿童卷入武装冲突问题的任择议定书第 3 (2) 条规定要求缔约国发表具有约束性的声明，说明该国允许自愿应征加入国家武装部队的最低年龄，并列出其已采取的确保这种应征不受强迫或胁迫的措施。

### 克减

克减是缔约国部分暂停一项条约中的一项或多项规定的措施，至少是临时暂停。一些人权条约允许缔约国在威胁国家生存的公共紧急状态下，例外并暂时地克减一些权利，并需严格限于该情况要求的程度。然而，缔约国不能克减一些特定权利，也不能采取歧视性措施。各国一般有义务就此类克减告知其他缔约国，说明理由并明确克减结束的日期。（参见人权事务委员会第 29 号一般性评论 (2011)）

### 后续程序

为确保缔约国落实条约机构的结论性意见或与投诉程序下的案件相关的决定中所包含的建议而设立的程序。禁止酷刑委员会、消除种族歧视委员会、人权事务委员会和消除对妇女歧视委员会已通过正式后续程序，所有委员会都要求各国在定期报告中提及后续问题。议会、司法机构、国家人权机构、非政府组织和民间社会组织都在后续工作中具有重要地位。

### 一般性评论

条约机构对人权条约规定、专题问题或其工作方法的解读。一般性评论通常旨在澄清缔约国在一些规定方面的报告义务，并就落实条约规定的方法提出建议。又称“一般性建议”（消除种族歧视委员会和消除对妇女歧视委员会）。

### 一般性建议

见“一般性评论”

### 人权条约司

人权高专办 (OHCHR) 下属的人权条约司（位于日内瓦威尔逊宫）向所有条约机构和联合国酷刑受害者自愿基金提供秘书支持。

### 个人来文

见“个人投诉”

## 个人投诉

声称其在某一条约下的权利受到一缔约国侵犯的个人提出的正式投诉，大多数条约机构都有权对其进行审议。相关缔约国必须以下列三种方式之一明确承认条约机构审议个人投诉的权利：

(a) 在条约相关条款下发表声明（该程序适用于《消除一切形式种族歧视国际公约》、《禁止酷刑公约》和《保护所有移徙工人及其家庭成员权利国际公约》）；

(b) 批准或加入条约自身（该程序适用于《保护所有人免遭强迫失踪国际公约》），或

(c) 批准或加入某条约中关于个人投诉权规定的相关任择议定书（该程序适用于两大国际公约、《消除对妇女一切形式歧视公约》、《儿童权利公约》和《残疾人权利公约》）。

参见 <https://www.ohchr.org/zh/treaty-bodies/cedaw/individual-communications>

## 调查程序

如果消除对妇女歧视委员会收到可靠信息，表明某一缔约国严重或系统性侵犯了《公约》所载的任何权利，就可以启动调查程序。

调查只能对承认委员会在这方面具有权限的缔约国进行。[检查缔约国是否在“声明和保留”一节中作出了这一声明。](#)

以下资源能够提供更多有关调查的信息：

[消除对妇女歧视委员会所有调查报告清单](#)

[所有条约机构调查程序概览](#)

## 迟交报告

各条约期望其缔约国正常提交报告；但事实上，许多国家发现难以严格遵守其所在条约规定的周期进行报告。迟交报告已被确定为条约报告系统面临的主要挑战之一，而条约机构也一直在寻求使各国报告更加简易的方法，例如通过简化报告程序等。

可提供有关各条约缔约国报告状况的信息。

## 议题和/或问题清单

条约机构根据缔约国报告和其他可用信息（来自联合国专门机构、国家人权机构、非政府组织等）拟出一个议题或问题清单，并在条约机构审议报告的会议之前将其转交给缔约国。议题清单向缔约国代表团提供了建设性对话的框架。一些委员会鼓励缔约国提前提交书面回复，以使对话更快触及具体问题。在等待审议的过程可能长达两年的情况下，议题清单为委员会提供了该国的最新信息来源。

## 报告前的议题清单

见“简化报告程序”

## 主题清单

专题或主题清单不需要答复，旨在在审议缔约国报告的过程中引导和聚焦缔约国代表团和消除种族歧视委员会之间的对话。

## 国家人权机构

许多国家已建立国家人权机构（NHRIs）以促进和保护人权。因其不受政府控制的独立性能得以保证，这类机构正日益被视为任何国家人权保护系统的重要部分。被称为“巴黎原则”的一系列国际标准被一致认为是用来衡量国家人权机构独立性和完整性的准绳。了解更多关于国家人权机构的信息，请参见国家人权机构：历史、原则、作用和职责，职业培训系列 No.4/Rev.1（联合国出版物，销售编号 E.09.XIV.4）

## 非政府组织

非政府组织（NGOs）可以有助于促进普遍或某一特定主题方面的人权。存在非政府组织参与众多联合国人权机制的框架，如授予其经社理事会咨商地位，使之能够参与人权理事会。国际和国家非政府组织都密切遵照条约机构的工作，多数条约机构也为它们提供了为报告进程作贡献的机会，例如提交有关特定国家落实条约的附加信息（有时也被成为“替代报告”或“平行报告”）。各条约机构处理此类信息的方法有所不同。

国际和国家非政府组织在从国家层面跟进条约机构结论性意见中包含的建议，及在报告起草时及之后促进关于落实人权的全国公开辩论方面也发挥着重要作用。非政府组织还对推动在世界范围内批准人权条约作出了重要贡献。

## 不交报告

一些国家虽然大量承担了其批准的人权条约规定的法律义务，却未能向条约机构提交报告。国家未提交报告的原因很多，如战争、内乱和资源有限等。人权高专办可向各国提供实现其报告义务的技术援助。若缔约国未对条约机构寻求信息的请求作出回应，条约机构还通过了一些程序确保对未报告的缔约国落实条约的情况进行审议。委员会还会特别在无报告情况下审议一国的情况。

（可提供有关各条约缔约国的报告情况。网站还提供有关缔约国可获得的技术援助信息。）

## 任择议定书

“议定书”一词指某项条约新增或补充的附加法律文书。议定书的主题可与原始条约的任何方面相关，可用于进一步解释原始条约中的某项内容（如《公民权利和政治权利国际公约》第二任择议定书）；提出新出现的问题（《儿童权利公约》的头两项任择议定书）或为条约的运作和执行增加程序——如增加个人投诉程序（《公民权利和政治权利国际公约》第一任择议定书和《消除对妇女一切形式的歧视公约》、《禁止酷刑公约》和《经济、社会和文化权利国际公约》任择议定

书及《儿童权利公约》有关来文程序的任择议定书)。议定书并不会自动对已批准原始条约的国家产生约束力,所以是“任择”的。各国必须单独批准或加入议定书。

#### 周期

由各项条约或个别委员会根据条约要求规定的缔约国向条约机构提交初始报告和定期报告的时间表。缔约国在条约生效后的一定时间内应提交一份初始报告,并在之后定时提交定期报告。各条约周期有所不同。

#### 申述

各程序中向条约机构提出申述的总称。申述既可包括个人对缔约国侵犯某项条约的指控,也可包括一缔约国对另一缔约国侵犯某项条约的指控(国家间投诉)。

#### 会前工作组

一些条约机构在每次全体会议之前或之后为计划其未来会议工作而召集的工作组。会前工作组的工作视各委员会而有所不同:一些工作组在缔约国报告受审议前起草议题和问题清单,一些具有审议个人来文能力的委员会通过工作组提出与投诉程序相关的案件和其他事宜有关的初步意见。会前工作组通常举行闭门会议。

#### 建议

条约机构发布的正式建议或决定。该词可被用于描述有关特定事项的正式决定,也可用于更一般性质的决议,如在一般讨论日通过的决议。结论性意见包括特定建议,而“条约机构建议”一词有时可与“结论性意见”通用。消除种族歧视委员会和消除对妇女歧视委员会也将其一般性意见称为“一般性建议”。

#### 缔约国报告导则

各条约机构为缔约国提供的关于其应按照相关条约提交的报告的形式和内容方面的书面导则、一些委员会提供逐条具体导则,其他委员会则提供更一般性的指导。(参见 HRI/GEN/2/Rev.6)

#### 保留

保留是一种缔约国用来排除或更改某项条约中的规定对该国的适用情况的声明,无论其措辞或名称如何。保留可使一国加入某些其本来不能或不愿意参与的多边条约。各国可在签署、批准、接受、同意或加入条约时作出保留。一国若在签署条约时作出保留,则必须在批准、接受或同意时再次确认。

保留是《维也纳条约法公约》的规定,故不能背离该条约的目的和宗旨。因此,在签署、批准、接受、同意或加入某项条约时,各国在下列情况之外才可作出保留:(a) 该条约禁止保留;或

(b) 该条约只允许特定保留，而相关保留不属于其中。其他缔约国可对一国的保留提出反对。缔约国可在任何时候全部或部分地撤回保留。

#### 审查程序

条约机构在无报告情况下审议一国情况的程序。该程序在报告迟交过久且缔约国对条约机构的提醒不予回应的情况下使用。在多数情况下，缔约国提交报告以避免审查程序，或者在无法提交报告的情况下派代表团出席条约机构会议并回答其问题。消除种族歧视委员会 1991 年首次采用审查程序。其他委员会则使用“在无国家报告情况下审议一国情况”的说法。一些委员会在无报告情况下仍向缔约国发送议题清单。大多数委员会在进程最后会提出结论性意见，但缔约国若希望提交报告则可暂时保密。

#### 议事规则

条约机构采取的用于指导其工作方式的正式规则。除经济、社会和文化权利委员会之外的各委员会都根据各自条约通过其议事规则。规则通常包括选举官员、通过决定流程（尤其是在未达成共识的情况下）等事宜。议事规则与工作方法相关但有所不同。

#### 秘书/秘书处

各条约都要求联合国秘书长向其条约机构提供秘书处支持。每个条约机构都设有一个处于联合国秘书处之内、由一名秘书和其他国际公务员组成的秘书处，负责管理委员会日程并协调其工作方案。所有条约机构的秘书处都设在位于日内瓦的人权高专办。

#### 简化报告程序

禁止酷刑委员会、人权事务委员会和移徙工人委员会通过的这项新的任择报告程序涉及到提交各自定期报告之前转交缔约国的议题清单的准备工作，以推动报告程序。缔约国对议题清单的回复构成了其对以上三个条约机构的报告。

#### 专门机构、基金和方案（署）

联合国系统中开展包括促进和保护人权在内的多项工作的各专门机构、基金和方案（署）。所有条约机构都允许联合国机构在审议特定国家报告的情况下提供附加国别信息。一些专门机构还向各国提供落实条约义务和为条约机构撰写报告方面的技术援助。联合国人权系统系统中的一些专门机构、基金和方案有：联合国粮农组织、国际劳工组织、人道主义协调厅、联合国艾滋病/艾滋病联合方案、联合国发展计划署、联合国教科文组织、联合国人口基金、联合国人类住区规划署、联合国难民事务高级专员办事处、联合国儿童基金会、联合国促进性别平等和增强妇女权能署、世界卫生组织等。联合国国家工作队也在不断参与人权条约机构的工作。



### 缔约国报告

某项人权条约的缔约国根据该条约规定，需定期向条约机构提交的报告，包含其所采取的落实条约规定的措施和面临的困难。所有条约都要求缔约国在批准条约后的一定时间内提交一份全面初始报告，并在之后定时提交后续定期报告（《保护所有人免遭强迫失踪国际公约》除外）。

### 针对性或重点报告

见“条约专要报告”

### 条约、公约或文书

条约和公约在法律意义上没有区别，都是在国际法中对根据这些文书的最后条款成为缔约国，从而选择接受其所规定的义务的国家具有法律约束力的国际法律文书。

### 条约机构或委员会

被委任审议缔约国对某项国际人权条约的落实情况的独立专家委员会。各条约中都使用“委员会”一词贯穿始终，但由于其根据所监督的条约规定设立而被广泛称为“条约机构”。虽然接受联合国秘书处的支持并向联合国大会报告，条约机构在很多重要方面独立于联合国系统之外。有时也被称作“条约监督机构”。

### 条约专要报告/文件

针对性的条约专要文件与共同核心文件一道提交给条约机构，重点关注与相应条约具体相关的问题。虽然通常被称作“条约专要报告”，提交各个条约机构的报告实际上都包含一份共同文件（对所有委员会相同）和一份条约专要文件（具体针对每个条约机构）。两份文件共同构成了缔约国的报告。

### 工作方法

各条约机构为促进其工作而开发的程序和做法。这类做法并不总被议事规则所正式采纳。各条约机构的工作方法随工作量和因素而变化。近年来，年度主席会议推动了简化和协调工作方法的趋势，尤其针对委员会间的不同方法所造成的混乱和不一致的情况。

### 对议题清单的书面回复/答复

缔约国对某条约机构在其报告受审议的会议之前提交的议题和问题清单的书面答复。对议题清单的书面回复对缔约国的报告提供补充或更新。

## 相关网站、数据库链接 [Useful Links]

- 韩国加入的联合国人权公约、周期报告及相关文件（需要在下拉菜单中选择“Republic of Korea”）：[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Countries.aspx](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx)
- 观看联合国会议直播（大部分会议提供中文同声传译）：<https://media.un.org/en/webtv>
- 联合国人权索引：<https://uhri.ohchr.org/zh/>
- 查看委员会发布的所有一般性建议：  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeID=11)
- 查看委员会针对所有国家发布的各类文献（可通过更改检索条件查询结论性文件、调查报告和针对个人来文的意见）：  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeID=5](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeID=5)
- 查看委员会发布的所有调查报告：  
[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeCategoryID=7](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&DocTypeCategoryID=7)
- 联合国人权高专办法学数据库：<https://juris.ohchr.org/>