

NGO Shadow Report

Republic of Korea

An Examination of
The Seventh Periodic Report by the Republic of Korea(2006-2009)
on the Implementation of the UN Convention on the Elimination of
All Forms of Discrimination against Women

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National Association of Parent's for Charm/Education, Chungbuk Women's Association,
Pohang Women's Association, Women Making Peace,
Korea Sexual Violence Relief Center, Korea Women Workers Association, Korea Womenlink,
Korea Women's Studies Institute, Korea Women's Hot Line,
Korea Differently Abled Women United, Korean Association of Women Theologians,
Korea Women Migrants' Human Rights Center, House Wives Meeting Together

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I. Introduction

1. Korean Women's Association United (KWAU)¹

This document was coordinated and integrated by Korean Women's Association United (hereinafter referred to as "KWAU"), an umbrella organization comprised of 6 regional sections and 27 member organizations. KWAU was created in 1987 by the coalition of progressive women's associations fighting against the military dictatorship in order to achieve democracy, gender equality and reunification and peace of Korea. Since its creation, KWAU has established itself as the most active women's rights NGO in Korea.

Based on the contributions by its member organizations working on the ground and the cooperation with progressive experts and lawyers offering professional support, KWAU has always been at the front line of the movements to enhance women's human rights in Korea, such as: the movements for the enactment of "three acts on women's human rights," for the prevention of sexual violence, domestic violence and prostitution; the movement for the abolition of the patriarchal family-headship system ("*Hoju*" system); the movement encouraging public responsibility for childcare; the expansion of women's participation in politics and public offices; the elimination of discrimination against non-regular workers; and the expansion of a policy for maternal protection. Furthermore, KWAU is the NGO which has played a critical role in establishing the basic framework for the government's women's policies, including the creation of the Ministry of Gender Equality and the adoption of a gender-responsive budget. The political situation in Korea necessitated such quasi-governmental roles for NGOs, since the political parties did not properly formulate effective policies. KWAU also obtained a Special Consultative Status from the United Nations in 2001.

¹ This Shadow report is written by 6 regional organizations and 27 member organizations of KWAU in cooperation with Korean Women Network for Gender Budgeting, Women's Human Rights Defenders, Korea Women's Political Solidarity, Korean Public Interest Lawyers' Group 'GONG-GAM', and the Women's Rights Committee of the MINBYUN-Lawyers for a Democratic Society. In this report, the KWAU represents above mentioned organizations.

2. Backgrounds: Calling attention to the changes in women's policies due to the change of political power

The Seventh Periodic Report of the Republic of Korea is concerned with the period from 2006 to 2009. Since the current administration took office in 2008, Korean society and women's policies have been rapidly conservatized. Therefore, the latter part of the government report should be prudently reviewed as it deals with "changes in women's policies due to the change of political power."

After the "*Hoju*" system was declared unconstitutional by the Constitutional Court of Korea in 2005 and was abolished by the following revision of the Civil Act, there have been misleading perceptions spreading through society that there are no more serious gender problems in Korea, because Korean law and policies have now become equipped with a basis for gender equality. The advent of the current administration in 2008 reinforced such improper perceptions and the subsequent backlash against progressive women's policies became substantial and severe.

The backlash against women's policies has been evident in recent years. For example, right after the current administration took office, it has attempted to abolish the Ministry of Gender Equality and Family and the Ministry of Unification, but it has had to step back in the face of severe oppositions by women's and citizens' movements. In 1999, a law giving extra points in government exams to men who had completed their compulsory military service was declared unconstitutional; however, the government's attempt to readopt such system is still ongoing in 2011. Rigid crackdowns on abortion, which was de facto allowed in the past, are being suddenly implemented due to the government's fight against the low birth rate. The "Joint North and South Korean Women's Event," supported by the Ministry of Gender Equality and the Ministry of Unification was stopped and has not been held since 2008. The fact that 98% of lost jobs during the economic crisis in 2008 were women's positions clearly indicates how the value of women's labor is significantly underestimated in the Korean society. Women's policies by the Ministry of Gender Equality and Family, emphasizing women's roles in the family, revert back to the traditional familism. Childcare policies are

forcing commercialization on citizens who are already overburdened by their children's education expenses.

Under such realities, the government broke down the previous "cooperative governance system" and has turned on NGOs. The organizations that take critical positions against the government policies find themselves targeted. The government even filed suits against some of them.

Therefore, this report pays attentions to the regression of women's policies since the advent of the new administration, and discusses major women-related issues which are not included in the Seventh Periodic Report of the Republic of Korea.

3. Major Issues of the NGO Report

This is the third NGO report submitted by KWAU. The first report was submitted to the 19th CEDAW session in 1998 with regard to the Korean government's 3rd and 4th periodic reports. The second report was submitted to the 39th CEDAW session in 2007 with regard to the Korean government's 5th and 6th periodic reports. In the past NGO reports, KWAU has consistently pointed out the limitations and improvements regarding women's policies, while appreciating that many women's policies have been institutionalized and implemented by the democratic governance system developed through the cooperation between the government and the civil society.

KWAU repeatedly pointed out the following two major problems that persist up to the present day.

First, KWAU criticized "the government's incapability to improve women's quality of life" due to social polarization and the embedded structures that have entrenched female poverty under periodically occurring economic crises since 1998. It emphasized the government's incapability to improve the "economic-social-cultural reality" of the marginalized women of various groups, including non-regular female workers, victims of violence against women (such as sexual violence, domestic violence, and prostitution), and migrant women. Korea

ranked 104th out of 134 nations under the Gender Gap Index in the World Economic Forum in 2010, demonstrating the severity of gender inequality in Korea. Korea, included among the top 20 nations regarding economic power, belongs to the group of the lowest 30 nations regarding the gender gap. Korea's phenomenal economic achievement, which was made possible by women's hard work and sacrifice, has little bearing on Korean women's lives in reality.

Secondly, despite the continuous institutionalization of women's policies, the government has failed to strengthen and guarantee "civil rights and political liberties," which have still not guaranteed substantial equality. Although the legal system was established to address sexual and domestic violence and prostitution, there have been strong criticisms that victims' human rights are not properly protected in reality.

Based on such understandings, KWAU has proposed actions to improve the reality in which the civil and political rights, as well as economic social cultural rights, are not being applied toward integrated women's rights. Furthermore, KWAU has raised concerns over numerous cases in which institutionalized women's policies have been distorted in the course of implementation.

i. Five Key Issues

The Five Key Issues of this NGO report are the following: the collapse of GO-NGO gender governance, abortion, immigrant women's rights to reside in Korea with stability, female non-regular workers and part-time workers, and the adoption of "For-Profit Childcare Centers." Among the five issues, the collapse of GO-NGO gender governance - the cooperative gender governance system between the government and NGOs - is of particularly serious concern and is dealt with throughout the report as a new problem that has occurred since the current administration took office. The current administration takes an undemocratic and anachronistic approach, subjecting women's organizations to its unilateral supervision, rather than developing cooperative partnerships and governance initiatives with them. Most women's organizations who prepared this report together have serious concerns on this issue.

Second, the current administration's compulsory enforcement of several women's policies regarding a woman's body and sexuality raises serious concerns. The government's policies on abortion are particularly problematic. Abortion had been practically allowed despite the criminal law against it. However, the current administration is rigidly enforcing the punitive provisions on abortion, which seriously threatens women's right to control over their body, rights to health, and reproductive rights.

Third, the report deals with the issue of immigrant women's right to stable residence in Korea. The human rights problems of married immigrant women, women migrant workers, and immigrant women who entered with E-6 visas are fundamentally based on their unstable rights to stay in Korea. Most of them are exposed to violence against women in fear of forced deportation.

The fourth key issue concerns with female non-regular workers and part-time workers. Compared to regular workers, non-regular workers suffer from lower wages and unstable employment. Also, many are excluded from the social insurance. Recently, the wage gap between regular and non-regular workers has increased even more. This is a critical problem from a gender perspective since 63.4% of women workers are non-regular workers. However, instead of preparing any measures for non-regular workers, the government has implemented a policy to expand non-regular jobs in the public sector, which raises serious concerns.

Finally, reliable high-quality childcare services should be provided regardless of the parents' income. Most parents wish for dependable national and public childcare facilities to be built, but the government has adopted "Autonomous Childcare Centers" (a term used by KWAU is "For-Profit Childcare Centers") as pilot projects in order to abolish the ceiling on the childcare fee in the long run. A special act should be enacted to expand national and public childcare facilities to 30% of the overall number of childcare facilities in Korea.

ii. 'Five Emerging Issues' not included in the Seventh Period Report of the Republic of Korea

Several recent cases have turned Korean society upside down. These cases were related to the sexuality pervasive in the culture of Korean men, and the citizenry was shocked as incidents were committed by men in privileged class. First and foremost, there was a suicide of an actress. Before committing suicide, she left messages to the public stating that she was forced to sexually entertain 31 men in leadership positions such as the leaders of conglomerates, financial businesses and journalism more than 100 times. Also, she pled for revenge against such persons. Although more and more people wish to become celebrities in the Korean society, the human rights of today's female entertainers' are not being properly addressed.

Second, there are a number of cases in which the leaders of society, such as the President, representatives of the political party, members of National Assembly, prosecutors, and police officers, engage in prostitution and sexual harassment. However, in reality, no penalties are being imposed on such leaders who have violated women's human rights.

The third issue concerns with the appearance-based discrimination and the social frenzy for appearance management, leading to widespread cosmetic surgeries. Even though standards for physical appearances are rarely included in an explicit form in a job recruitment process, most public institutions and private enterprises consider appearance as one of the evaluation criteria in the interview process and require information such as a photograph, height, and weight which may result in appearance-based discrimination. Korea ranked the second place behind Hungary, recording 133 surgical cosmetic procedures per 10,000 people. Thus, women's rights to health are seriously threatened along with the commercialization of female sex.

Fourth, caregiving workers should be recognized as workers under labor law. Due to the aging population and increased female participation in economic activities, the demand for caregiving labor, such as housework, nursing and childcare, has gradually increased and the government has expanded social service jobs offering such services. However, caregiving workers are not recognized as workers under the Labor Standards Act in Korea and are excluded from the social safety net, including the Social Insurance System.

The last issues are related to the special situation of Korea as a divided nation. The issues are the women's participation in the reunification and peace policy process, and human rights of displaced women out of North Korea(hereinafter "the displaced women"). The fact that the topic regarding women's participation in the reunification and peace policies of Korea has been excluded from the Seventh Periodic Report of Republic of Korea demonstrates the government's ignorance and indifference on this issue. Although the Korean government belongs to the Friends of 1325 to advocate the implementation of the United Nations Security Council Resolution 1325, the topic regarding reunification of Korea and peace policies has been deleted from the Third Basic Plan for Women's Policies, as modified under the current administration. Therefore, this report places the topic of peace and reunification as the fifth emerging issue and prepared detailed refutations against every relevant paragraph stated in the government report.

The displaced women population numbers about 20,000 as of 2010. The trauma and serious violations of women's human rights during their displacement from North Korea, the poverty and discrimination during their settlement in South Korea, and the extra burden required to help their separated family members to displace from North Korea are among some of the multifaceted human rights problems suffered by the displaced women. It is becoming a new women's issue in Korean society. Nevertheless, there is no support system for these women concerning such problems.

4. Overall Structure of the NGO Report and Involved Organizations

Structure and special characteristic of the NGO Report

This report was prepared after a comprehensive review of the Seventh Periodic Report of the Republic of Korea, the questions submitted by KWAU to the CEDAW Pre-session, CEDAW's list of issues and questions with regard to the consideration of the Seventh Periodic Report, and Korean government's responses to the list. Women's issues covered not only by CEDAW but also by BPA and United Nations Security Council Resolution 1325 are included in the report. The report deals with the conditions from the year 2006 to the present, May 2011.

The Introduction (Part I) explains the changes in women's policies since the current administration took office and introduces the NGO report's main contents. Five Key Issues (Part II) and Five Emerging Issues (Part III) deal with the most emphasized issues in the report. Article 2 (Part IV. Analyses and recommendations with regard to newly enacted and amended legislation) discusses legislation not included in the Seventh Periodic Report Articles 3-16. From Part V to Part XIV, most contents are written in the form of the corresponding report that refute the relevant paragraphs in the Seventh Periodic Report, Articles 3-16.

It should be noted that the following issues, which are dealt with loosely in separate parts in the Seventh Periodic Report, are organized into single articles in this report: respectively, issues concerning sexual violence and domestic violence in Article 5, issues concerning prostitution and migrant women in Article 6, and issues concerning female labor and work-family reconciliation in Article 11. The report is more comprehensive by introducing diverse matters regarding immigrant women and female labor which were not included in the Seventh Periodic Report and by including issues which were not addressed at all in the Seventh Periodic Report, such as the elimination of the requirement of a victim's complaint in order to prosecute crimes of sexual violence, the improvement of the minimum wage system, and the challenges facing unmarried mothers.

Organizations that prepared the report

Since the submission of the pre-session report in 2010, this final NGO report was prepared after numerous discussions and forums held until June 2011. Member organizations of KWAU, along with many other women's organizations and civil groups participated in preparing the report. The lawyers from the MINBYUN (Lawyers for a Democratic Society) and Gonggam (Korean Public Interest Lawyers' Group) offered an overall review and translation of the report.

Respective Roles of the Organizations in Preparation of the Report

Organization	Role in preparation of the report
Korean Women's Association United (KWAU)	<ul style="list-style-type: none"> • Overall review of the report and coordination • Preparation of Introduction, Key Issue I (Gender governance), Emerging Issue II (Violations of women's human rights by the leadership of society) • Preparation of Article 3 (Gender mainstreaming), • Key Issue V (Childcare)
Korean Women Network for Gender Budgeting	<ul style="list-style-type: none"> • Preparation of Article 3 (Gender mainstreaming and regional women's policies)
Korea Sexual Violence Relief Center	<ul style="list-style-type: none"> • Preparation of Article 2, 5 (Sexual violence), • Key Issue I (Gender governance)
Korea Women's Hot Line	<ul style="list-style-type: none"> • Preparation of Key Issue II (Abortion), • Article 5 (Domestic violence), Article 15 (Marital rape)
National Solidarity for the Solution for Sexual Trafficking	<ul style="list-style-type: none"> • Preparation of Article 6, Emerging Issue II (Violations of women's human rights by the leadership of society)
Korea Women Migrants' Human Rights Center	<ul style="list-style-type: none"> • Preparation of Article 2, 6, • Key Issue III (Migrant women's rights to reside in Korea)
Korea Women's Political Solidarity	<ul style="list-style-type: none"> • Preparation of Article 7 (Women's participation in politics)
Korean Women Workers Association	<ul style="list-style-type: none"> • Preparation of Article 11, Key Issue IV (Labor) • Article 4 (Women's participation in the public sector),
Korea Differently-Abled Women United	<ul style="list-style-type: none"> • Preparation of Article 13 (Human rights of women with disabilities)
Korean Womenlink	<ul style="list-style-type: none"> • Preparation of Emerging Issue I (Sexual exploitation of female celebrities), Key Issue III (Cosmetic surgery)
Women Making Peace	<ul style="list-style-type: none"> • Preparation of Emerging Issue V (Unification · Peace)
Women's Human Rights Defenders	<ul style="list-style-type: none"> • Preparation of Emerging Issue V (the displaced women)
The Women's Rights Committee of the MINBYUN-Lawyers for a Democratic Society	<ul style="list-style-type: none"> • Preparation of Article 13 (Unmarried mothers) • Review of the parts relevant to their respective specialties
Korean Public Interest Lawyers' Group 'GONG-GAM'	<ul style="list-style-type: none"> • Translation and overall review of the Report
6 regional sections & 27 member organizations of KWAU	<ul style="list-style-type: none"> • Review by field

NGO delegation, comprised of ten experts, was selected to represent the organizations that participated in preparing the report and will attend the 49th CEDAW session from 12th to 25th of July 2011.

- i) Korean Women's Association United (KWAU) : Youngsook Cho, Kyoungsook Lee
- ii) Korea Women's Hot Line (KWH): Choonsook Jung, Ranhee Song
- iii) Korea Women Workers Association (KWWA): Moonja Jeong
- iv) Women Migrants' Human Rights Center of Korea: Kukyom Han
- v) MINBYUN – Lawyers for a Democratic Society: Hye-Ryeong Cha, Hanbon Lee, Yoon Jin Shin, Eun-jin Wee

※ The report was prepared without any financial support from the Korean government.

II. Five Key Issues

1. Collapse of GO-NGO Gender Governance

<Backgrounds>

1.1 Governance means the settlement of social problems by cooperation between government and civil society. Especially for women's policies, the planning and execution stages require as essential that the concerned parties share and communicate a gender equality philosophy. It is no doubt that women's organizations have played key roles in the development of women's policies in Korea. In fact, the Korean government and women's organizations have achieved many accomplishments through cooperative gender governance. The foremost examples are the establishment of the government department exclusively in charge of women's policies (Ministry of Gender Equality) and the enactment of women-related legislation and policies. In this historical context, past governments have emphasized the close responsiveness of women policies to reality, and thus, acknowledged the autonomy and professionalism of NGOs.

1.2 Since President Lee Myung-bak took office in 2008, the cooperation between government and civil society has collapsed in many areas, due to his political style that refuses communication with the public. The most negatively affected areas were those related to women and unification of Korea.

<Analysis>

Abolition of the Ministry of Gender Equality

1.3 Then President-elect Lee's transition committee attempted to abolish the Ministry of Gender Equality. This attempt foundered facing the strong resistance by women's and citizens' associations, but the Ministry became minimized with weakened authority.

Suppression and exclusion of women's organizations

1.4 The current government suppressed and excluded the activities of women's organizations, especially those critical of government policies. Considering the fact that women's

organizations are the active parties of gender governance, the suppression of the organizations showed the blindness and negligence of the government on women's policies. In 2008, a massive candlelight rally took place protesting against the import of the United States beef, which had the risk of mad cow disease. At that time, the Korean government vigorously suppressed the Anti-Mad Cow Disease Campaign Committee (a coalition of civic groups) in which hundreds of online groups and more than 1,850 civil society organizations participated nationwide. Some member organizations of KWAU did not receive promised governmental outsourcing projects because of their affiliation to the Anti-Mad Cow Disease Campaign Committee. For example, Korea Women Workers Association did not receive financial assistance from the government for the second year term of a three-year project without any notice. Also, Korea Women's Hot Line was required to sign a pledge that it would not engage in illegal violent campaigns in return for receiving a governmental project. The two organizations objected to these measures and complained against the government. In 2010, Korea Women Workers Association and Korea Women's Hot Line won their cases in the Supreme Court and the High Court, respectively. In this process, trust between the government and non-governmental organizations failed.

Senseless personnel policy

1.5 The personnel policy of the current government also has shown its self-righteous attitude.

In April 2008, Kim Hee-eun, the president of Korean Institute for Gender Equality Promotion and Education, the only organization under the Ministry of Gender Equality, was dismissed from her presidency by the Ministry of Gender Equality and the Blue House. President Kim was duly appointed by public recruitment as a professional with more than 30 years of teaching experience. Coercing President Kim, who served only for 1 year out of the guaranteed term of 3 years, into resignation was similar to what happened to the chiefs of other organizations appointed by the previous government. Women's organizations strongly criticized the forced resignation, but their efforts ended in vain.

Arbitrary policy decision excluding the opinions of civil society

1.6 There are numerous cases in which the government arbitrarily carried out sensitive policies without listening to the opinions of the public and civil society. For example, the government pushed ahead with environmentally harmful development projects which require enormous amount of government budget (around 30 trillion Won (US\$ 27,716,186,200) in total, which amounts to nearly 10% of its annual budget) by force even though more than 70% of the public was against them. The situation was not very different regarding women's policies. In May 2011, the Ministry of Health and Welfare announced in advance the legislative bill which would introduce "For-Profit Childcare Centers" and implement the pilot project. This legislation could reverse the fundamentals of childcare policy, and women's (as parents') interests will be seriously affected by the bill. While dealing with this sensitive matter, the Ministry of Health and Welfare only collected the opinions of those favorable to the policy (such as directors of private childcare centers). The Ministry ignored the opinions of various groups such as civil groups and professionals who have greatly contributed to the development of childcare policy. Even the public hearing was publicized only one day before the event.

Uncooperative and high-handed attitude of public officials

1.7 It is difficult to get information or materials about governmental policy. In order to monitor the governmental policies, materials from governmental institutions are essential, but it is getting harder to obtain them. Unlike in the past, public officials are not cooperative and even imperious to those trying to obtain the materials. Under this attitude underlies the exclusion policy against civil organizations. The government's hostility toward civic society that is sensed by women's rights groups is so prevalent in the public sector that it is difficult to list all the individual cases of exclusion.

Lack of understanding in women's rights issues and "taming" of women's rights groups

1.8 One of the fields in which governance is most seriously destroyed is the women's rights field, which deals with violence against women, such as sexual violence, domestic violence, and prostitution. The private sector initiated these anti-violence-against-women

activities when there was no governmental policy on the issues and led their institutionalization.

1.9 Women's rights groups, which have accumulated expertise in women's rights field over a long time, perceive violence against women not just as the misfortunes of individuals but as a problem with social structures. Thus, those associations focus on changing the patriarchal social order and culture in Korea and empowering victims for the fundamental prevention and eradication of such violence. However, the government treats the centers for the prevention of violence against women (consultation offices, shelters, and rehabilitation support centers for survivors of sexual violence, domestic violence and prostitution) as agencies for governmental services or its administrative subunits. As a result, the government forces these associations to follow a "welfare without human rights" policy and threatens the basis of women's rights activities by bureaucratic administration in the name of "budget support" and "smooth administrative processing."

1.10 Examples of such bureaucracy are: public officials whose attitudes are unprofessional and insensitive to human rights, forcing women's associations to follow performance standards analogous to those of public officials; application of a uniform standard to all the different cases of sexual violence, domestic violence and prostitution in ignorance of their characteristics; the perceived low status of women's associations that are treated as government service agencies; and advisory committee's limited role as a mere formality.

Risk of disclosure of victims' experiences of violence and personal information by coerced use of the "Integrated Network for Social Welfare Management"

1.11 The current government requires centers for the prevention of violence against women to use the "Integrated Network for Social Welfare Management." It is "an administrative network system that manages information about the eligibility and past records of applicants for various social welfare benefits and services" in order to prevent double dipping and to expedite administrative processing.

1.12 The problem is that the network keeps information on women suffering from sexual violence, domestic violence or prostitution for 5 years. Due to the double-standard gender norms of patriarchy, abused women in Korea do not want to disclose their traumatizing

experiences and enter shelters lest their personal information be revealed to their offenders. Former sex workers also do not want their experiences of prostitution in government records.

1.13 Thus, women's associations are reluctant to use this network system, which collects the information of abused women. In fact, there are cases where offenders obtained information about abused women and their children. A child admitted to a domestic violence shelter with his/her mother left the shelter after his/her information was revealed to the offender through the "e-Childcare System," in which the child was registered for child care support (Oct. 2008). School information of children admitted to a domestic violence shelter with their mother was revealed to their offender via National Education Information System (NEIS) (Aug. 2008). Also, an offender confirmed the issuance region of the medical care card issued to a facility inmate through National Health Insurance Corporation and shouted threats at the city hall of that municipality (2007).

1.14 The governmental control of personal information that may be sensitive to victims is tantamount to collection of personal information without consent that "exceeds the range of minimum intervention." The governmental control also conflicts with OECD's Guidelines on the Protection of Privacy and Transborder Flows of Personal Data. The government's forceful recommendation to use this network system, despite the system's shortcomings, can only be explained by the government's preference for administrative convenience in lieu of the human rights of the victims.

1.15 Not only the Integrated Network for Social Welfare Management but also various other administrative networks established by the government are accessible to offenders, especially when they are victims' family members, via request or cajolery. This situation gives victims a continuous sense of fear, so the solutions should be provided immediately.

Urgent need for extended support for victims of violence against women instead of the incentive program through assessment

1.16 In 2010, Ministry of Gender Equality and Family announced that it would provide incentives to outstanding centers for the prevention of violence against women after a performance assessment. However, extension of living assistance for the facility residents

is a more urgent issue than the incentive program. The government has barely increased assistance for operating expenses in more than 10 years. For example, government's arrangement for clothing expenses of the residents are about 10,000 Won (about \$9) per month, and daily living expenses are less than 5,000 Won (about \$4.50, which may cover a small burger or one meal of the simplest type in Korea), which is not enough for even basic livelihood costs. Human rights activists have asked for a prioritized increase in the budget to improve the living conditions of women victims of human rights. However, the government, ignoring such requests by activists, focuses on mere window dressing such as the introduction of the incentive system.

1.17 The purpose of the assessment of the centers was to find suggestions for improvement, to identify the realities of women's human rights conditions, and to find new areas for support. Providing incentives according to assessment results will only cause unnecessary competition among women's centers, so the incentive system cannot work as an appropriate social welfare system for women victims of sexual violence, domestic violence, and prostitution. The current incentive system is likely to create "competition for profits." The government's document-based assessment showed low discernment and credibility, so some of the organizations that received the incentives even returned them to the government.

1.18 Gender-sensitive governance in Korea, which was responsive to the voices of activists on the frontline, has collapsed and conflicts are occurring between the government and women's associations with respect to women's rights issues. Harms include the government's lack of women's rights perspectives, and its negligence on both punishment of offenders and raising public awareness of violence against women. Treatment of the victims of violence against women, whose safety and protection remains a low priority due to administrative processing and documents, and neglect of public officials who are not paying attention to the warnings of women's rights groups, combine to create a critical situation for women's human rights activities in Korea.

<Recommendation>

Urgent recovery of gender mainstreaming and gender governance

1.19 Last February, the government's support for the establishment of UN Women and announcement of financial support greater than 100 times as much as the current amount of support are of great significance. However, more meaningful ways to support UN Women would be a reliable promise of gender mainstreaming and prioritization of women's policies.

1.20 The current government has unfriendly and passive attitudes toward women policy and women-related agenda, and the Ministry of Gender Equality and Family has a low status. Above all, gender governance, one of the United Nation's core agenda in women's policy, is seriously damaged. For the past 20 years, considering the fact that women's groups played a key role in developing women's policies and institutions in Korea, the government's exclusive policy against women's rights NGOs could significantly impair women's policies and women's rights conditions.

1.21 Especially, after the government abandoned the partnership with NGOs in gender mainstreaming, the women's policy of Korea has been regressing since 2008. The government should immediately integrate gender perspectives into governmental policies in order to achieve gender mainstreaming and restore gender governance.

2. Abortion (the number of government report [NG] 12.112-113)

<Analysis>

2.1 Korea's Criminal Act Articles 269 and 270 punish a woman who has an abortion and a person who conducts an abortion upon a woman's request or with her consent. However, according to the Act on Maternal and Child Health, a doctor may conduct an abortion with the consent of a pregnant woman and her spouse (including those in a *de facto* marital relations) only in the five following cases: 1) where she or her spouse suffers from any eugenic or genetic mental disorder or physical disease as prescribed by Presidential Decree; 2) where she or her spouse suffers from any infectious disease as prescribed by Presidential Decree; 3) where she is impregnated by rape or quasi-rape; 4) where pregnancy is taken place between blood relatives or matrimonial relatives who are legally unable to marry; or 5) where the maintenance of pregnancy significantly injures or might

injure the health of a pregnant woman on health and medical grounds. However, according to a survey on abortion in 2005², the rate of lawful abortions under the Mother and Child Health Act in that year was only 4.4% out of 342,233 reported abortions in total.

2.2 As can be seen in the Table below, during the years 2006-2008, less than 50 illegal abortion cases were transferred to the prosecutor’s office each year, and only 2 to 7 cases were prosecuted annually. Furthermore, in trial courts, most cases resulted in the suspension of sentence or the suspension of execution. Such statistics, compared to the actual number of abortions, prove the abortion-related legislation is practically ignored.

The Prosecution of Abortion Crimes and Court Decisions

Year	Prosecutor’s Office			Court of the First Instance		
	Reported Cases	Prosecuted	Non-prosecuted, etc.	Prosecuted Cases	Suspension of Execution	Suspension of Sentence
2006	37	5	32	5	4	3
2007	17	2	15	5	2	1
2008	46	7	39	4	1	4

*Supreme Prosecutor’s Office “Crime Analysis” & Supreme Court “Judiciary Yearbook”, 2007-2009

2.3 However, the Korean government adopted the “Comprehensive Plan for the Prevention of Illegal Abortion” in February, 2010 with a vision to fight the low birth rate and an expressed strong determination to crack down on illegal abortions. After a few recent rigid decisions over abortion cases by the Judiciary Branch, most obstetricians have stopped conducting abortion operations. Moreover, since August 2010, “Health and Welfare 129 Call Center” under the Ministry of Health and Welfare has been providing counseling related to abortion, and “Crisis Pregnancy Counseling and Report Call Center” has been set up for the purpose of providing counseling on abortion and receiving reports

² Kim, Hae Joong (Korea University), 2005, Study on the Abortion Operations and Establishment of Comprehensive Countermeasures, Ministry of Health and Welfare.

on illegal abortion operations and medical institutions advertising such operations. The Center received 1,623 cases of counseling request and 25 reports on illegal abortions in 2010. Among the reported cases, two cases were referred to investigative agencies by the public health centers.

2.4 Due to the rigid enforcement of regulations against illegal abortions, abortion operation costs have risen sharply and medical institutions available for operations have decreased. In consequence, the probability of underground abortion operations without a minimum level of medical safety has increased, which threatens women's rights to health as well as their rights to life. Moreover, such conditions expose women to secondary damage, such as being threatened by their male partners or actually being accused by the partners who try to take advantage of the women's situation. Additionally, there was a case of sexual assault against a pregnant woman by a broker who approached her with a suggestion of help securing an abortion.³ Blind accusations and rigid enforcement policies against abortion without any alternative solutions victimize women and result in infringements of these women's rights.

<Recommendation>

2.5 A right to abortion, along with rights to sexual relationships, pregnancy, childbirth and childcare, is one of the reproductive rights that should be guaranteed for women's self-determination and autonomy. The Committee's General Recommendation No. 24 on Women and Health in 1999 also recommended removing punitive provisions against women who undergo an abortion. In Korea, the enforcement of punitive provisions on abortion has been fluid depending on the government's changing population policies. During the era of the birth rate control policies, no enforcement of punitive provisions was in place and governmental health centers even offered abortion operations. Whereas recently, strong countermeasures against abortion have taken place due to the government's fight against the low birth rate and some Christian-minded doctors' proclamations against abortion. Such variances, contingent on national policies, have

³ Sexual violence incident against the 20s pregnant woman by a male pretending to help procure miscarriage, Yonhap News, June 21, 2010

caused extreme confusions to the public and infringed on women's rights to health and self-determination. Given this reality and the impracticality of punitive provisions against abortion (only an extremely small number of illegal abortion cases are actually punished), Criminal Act Article 269, which disregards any underlying contexts of abortion procedures and categorically punishes women who undergo an abortion, should be eliminated.

2.6 95.6% of total abortion operations are regarded as illegal under the current law. For married women, 76.7% of the abortions were related to respective family plans: not wanting a child, attempting to control the time gap between childbirths, or not wanting a child of specific gender. For unmarried women, 96% were related to socio-economic circumstances: discrimination against unmarried women with a child, pregnancies by minors, or economic difficulties. Although the criminal provisions punishing abortions should be eliminated in order to guarantee the reproductive rights and the right to bodily self-determination of women, the entire decriminalization might be difficult to implement, because social agreement is hard to reach on this controversial issue. Since the Mother and Child Health Act permits abortions under very limited circumstances, many women are left with no choice but to undergo illegal abortion operations. Therefore, the Mother and Child Health Act should be entirely amended to broaden the categories of permitted abortions in order to enable women to access lawful and safe operations. Furthermore, the provision under the Act requiring a married woman (including those in a *de facto* marriage) to obtain the consent of her spouse to an abortion should be eliminated as it makes a woman's right to self-determination dependent on her male partner.

3. Immigrant Women's Rights to Reside in Korea and Social Safety Net

※ Refer to Article 6 for detailed contents

<Analysis>

Married immigrant women's rights to reside in Korea

- 3.1** For married immigrant women, overall procedures, from foreigner registration to extension of stay, application for permanent residency status and naturalization are processed on the premise of a reference given by the spouse. Thus, married immigrant women are completely subject to the will of the Korean spouse and his family. The resident status of a married immigrant woman in Korea is ensured by the law in the case of separation or divorce where it is proved that the marriage breakdown is due to the Korean spouse's fault, or in the case of the spouse's death or disappearance, or in a case where a woman is supporting a child or family. According to the time passed, acquisition of Korean nationality is made possible for immigrant women. However, there is a substantial gap between the law and reality. Such procedures are processed without clear legal grounds but according to internal guidelines. Since immigration officials are given broad discretions over the procedures, it results in similar cases being differently processed according to the public officials in charge. Therefore, it is difficult for a married immigrant woman to predict a result in the potential maintenance or extension of her resident status. Furthermore, since married immigrant women are held responsible for providing evidence regarding the person accountable for the marriage breakdown, married immigrant women who suffer psychological or financial abuse, not physical violence, are not being sufficiently protected.
- 3.2** In the case of the spouse's death, the legal resident status of married immigrant women is not always guaranteed. In the case of an early death of the husband, the immigrant women would find it difficult to obtain legal resident status without the consent of the deceased spouse's parents.
- 3.3** A reference provided by a Korean citizen is required for a foreigner to be naturalized. Although a reference by a Korean "citizen" would also suffice in the case of married immigrant women according to the law, a reference by the Korean "spouse" or the spouse's family member is required in practice.
- 3.4** In the case of marriage breakdown that is due to Korean spouse's fault, such as domestic violence, a foreign wife is ensured by the law a legal resident status and can also apply for permanent residency or naturalization. However in reality, if a married immigrant woman is not supporting a child that she had with a Korean spouse or if she only has visitation rights for her child, the acquisition of nationality is difficult and time-consuming.

3.5 There is a tendency to recognize only physical violence as the husband's fault in a marriage breakdown. Even if the court's judgment states that the divorce is due to the husband's fault, the immigration control office does not easily grant legal resident status and only grants temporary stay visas to married immigrant women, making their lives very difficult.

3.6 In case of supporting a child, it is possible to acquire a resident visa, permanent residency, or nationality. However, this only applies to an immigrant woman with a child that she had with her Korean spouse. In the case of supporting her child whom she brought to Korea after marriage in a form of adoption, she would not be eligible to apply for such procedures.

Right to reside in Korea of married immigrant women who have been victimized by international marriage brokerage agencies

3.7 The amendment of the Marriage Brokerage Control Act reinforced the supervision of international marriage brokerage agencies, such as provision of personal information in writing, adherence to the foreign law, and support for translation and interpretation.

However, there is no reliable way to protect women victimized by unregistered agencies or individual brokers, and there is no legal system to regulate brokers abroad to prevent further damage. Furthermore, an effective provision to punish brokers who engage in human trafficking via international marriage brokerage does not exist yet. There is also no provision to protect immigrant women victimized by the brokers as victims of human trafficking.

Right to reside in Korea of foreign women who married abroad but are not invited to Korea

3.8 In order to minimize damage from imprudent international marriages, the Korean government started an educational program for Korean spouses and foreign wives. However, since such educational program is for married couples who already reported their marriages to both nations, its effectiveness is limited. Furthermore, since the completion of the educational program by the spouse is required for the issuance of a Korean visa for a foreign wife, there are cases of married immigrant women who reported

their marriages in their country but have seen the marriage breakdown while they were not able to enter Korea.

3.9 There are cases in which Korean spouses return to Korea after marrying foreign women abroad, but do not invite their wives to Korea. Although the foreign wives already reported their marriages in their respective nations, they lost contact with the Korean spouse who returned to Korea and it becomes very difficult for them to enter Korea or even to resolve or resume their marital relations. Even in the case of a foreign wife who gave birth to and is supporting a child that she had with her Korean spouse, she undertakes the sole responsibility for childrearing because there is no way to find the Korean father. There is not a single measure addressing such damage suffered by these women.

Right to residence for women migrant workers who have been victimized by sexual violence or sexual harassment

3.10 According to the law, female migrant workers, like Koreans, can be protected from sexual violence and sexual harassment in the workplace and can use shelters for victims. Although the government permits immigrant women's temporary stay in the case of sexual violence and harassment, allowing employment during the investigation process, immigrant women are reluctant to report their cases to the police due to the threats of dismissal by employers, difficulty in proving damages, prolonged investigations, anxiety about retaining their employment and uncertainty about compensation for damage.

3.11 In cases of women migrant workers overstaying their visa or work permits, these women face forceful deportation if their undocumented status is disclosed. Since they cannot easily report their cases to the police, they often become the targets of sexual violence. When women migrant workers overstaying their visas do report sexual violence cases to the police, they are to be forcefully deported when the case ends. Thus, they are reluctant to report their cases to the police.

Right to residence for immigrant women victims of prostitution

3.12 Although the Act on Punishment of Procuring Prostitution and Associated Acts has a special provision concerning foreign women, the provision states only the following: during the investigation of a human trafficking case requested by a foreign woman, the

temporary suspension of forceful deportation is effective until the investigation is concluded. After the prosecution, it is at the authorities' discretion whether to grant such suspension of deportation or not. In practice, the temporary sojourn status granted to foreign women during the process rarely allows them to be employed. Therefore, immigrant women victims of human trafficking may face forceful deportation after their cases are concluded. However, no measure supporting those women exists yet. Therefore, immigrant women victims of human trafficking cannot speak up in their cases.

<Recommendation>

- 3.13** The legal status of married immigrant women should be guaranteed to be independent, regardless if a reference is provided by a spouse or a spouse's family member, in order to foster equal marital relationships and to guarantee married immigrant women's human rights. Furthermore, concrete provisions concerning the legal status of married immigrant women in the cases of marriage dissolution due to the Korean spouse's fault or the Korean spouse's death or disappearance should be enacted in order to ensure the immigrant women's future stability. Support measures for psychological and financial abuse in international marriage family should be developed in detail.
- 3.14** Commercial international marriage brokerages must be thoroughly regulated and immigrant women victimized by marriage brokerage agencies should be recognized as victims of human trafficking. Legislation and policy supporting their rights to reside and work in Korea should be prepared.
- 3.15** Pre-education programs for Korean spouses which are neither compulsory nor effective and their linkage with the visa screening process of foreign wives should be reconsidered. Also, measures should be taken to prevent further damage suffered by immigrant women who cannot enter Korea because the Korean spouse did not invite them even after the marriage abroad. Those women should be allowed to stay in Korea, if they wish to do so.
- 3.16** Companies employing migrant women workers should be obligated to run an educational program on the prevention of sexual harassment at workplace in order to prevent sexual violence and harassment at work against migrant women workers. Stable residence status and other support measures should be prepared for immigrant women victims of sexual violence and harassment for obtaining psychological treatment and other assistance.

3.17 The government should conduct entire review on the E-6-2 visa system, which is aiding the process of making foreign women work as sexual receptionists. The visa should not be a means to induce immigrant women to enter into sex industry. Furthermore, the government should guarantee a resident status for those identified as victims of human trafficking. Also, the possibilities of permanent residency with employment eligibility or naturalization should be guaranteed for victims who want to reside in Korea.

4. Female Non-Regular Workers and Part-Time Workers (NG 11.98-99)

<Analysis>

Public institutions were the first to fire non-regular workers

4.1 In Korea, legislation regarding the protection of non-regular workers came into effect in 2007.

The law states that if a non-regular worker was continuously employed for two years or longer, she must be converted to a regular or permanent worker. In 2009, two years after the law was implemented, the government claimed that the two-year requirement must be extended to four years to avoid a chaos of many non-regular workers being fired because of such requirement. However, such chaos did not occur. The government contended that 1 million non-regular workers would be fired all of sudden, but many private corporations abided the law and converted non-regular workers to regular workers after two years of employment. On the other hand, public institutions, including public agencies and public enterprises, were the first to start mass layoffs of non-regular workers.

4.2 Public institutions led the way in executing the planned layoffs. Among them were the: Korea Broadcasting System (89 people laid off / 292 transferred to subsidiaries / 30 transferred to contracting agencies), Korea Veterans Hospital (20 laid off), Workers Accident Medical Corporation (27 laid off), Korea Housing Corporation (145 laid off), Korea Land Corporation (31 laid off), Korea Highway Corporation (22 laid off), Korea Polytechnics (19 laid off), and others. Most of the people laid off were women.

There is an ever-increasing proportion of non-regular workers in government-sponsored research institutes

4.3 The proportion of non-regular workers in government-invested research institutes was 30% in 2007. This percentage is increasing each year, to 30.7% in 2008, 31.2% in 2009, and 34.9% in 2010. In addition, the proportion of non-regular workers by occupational category was 37.2% for researchers, 26.3% for administrative workers, 17.1% for engineers, and 41.6% for technicians. The researcher category shows the second highest rate of non-regular workers next to technicians.

4.4 The proportion of female workers was especially high for non-regular workers compared to regular workers. In August 2010, the proportion of women among regular workers was 12%, while the proportion of women among non-regular workers was more than 40%. [2010 Government Inspection of Affiliated Organizations of the Ministry of Science and Technology]

There has been a serious increase in non-regular workers in the public sector

4.5 While employment in public administration and the defense industry decreased by 214,000 people, temporary workers increased by 4,918 and part-time workers increased by 20,000. 54,000 people lost their jobs in the education services sector, and these positions were filled with temporary part-timers. As the number of regular workers and fixed-term workers decreased, non-regular and part-time workers were hired to replace them, aggravating the employment structure problems. [Reanalysis of the August 2010 Supplement to the Economically Active Population Survey by the Statistics Korea].

There is an increase in indirectly-employed workers

4.6 The number of the indirectly-employed, such as those employed through in-house contractors, temporarily dispatched agents, and other contractors, is increasing. In 1993, the proportion of directly-employed workers in large enterprises with more than 300 employees was 22.6%, but in 2009 the rate dropped to 13.7%. Among them, women accounted for only 7.9%. The degree of unionization of indirect workers is only 0.4%. With job insecurity and low income, increasingly more workers do not have means to confront their employers.

4.7 The subcontracting rate of large enterprises with more than 300 employees is 54.6%. The subcontracting rate in the public sector is even higher: 78%. Rather than addressing the problems of indirect-employment, the Korean government is expanding privatization in the name of advancing the nation.

Rates of Companies by its Number of Employers Size (Unit: %)

Year/ No. of Workers	1993	2009
1-4	28.3	29.0
5-9	9.0	12.1
10-49	21.1	24.1
50-99	8.5	10.1
100-299	10.5	10.9
300-999	9.0	7.6
1000+	13.6	6.1

*Source: Measures for Non-Regular Employment in the Public Sector: Evaluation and Prospects, 2011, Soo-mi Eun

There has been an abusive extension of women’s part-time work (flexible-time work)

4.8 As a measure to address women’s career interruption, the Korean government launched “the part-time work increase policy” (also known as “the flexible working hours policy”). The government is requesting, though not mandating, female government workers who use maternity or parental leave to convert their positions to part-time work to take care of their children. According to the 2010 Survey Report on Government-Designated Test Organizations done by the Korea Government Employee’s Union, the actual people to whom the policy applied were female governmental employees assigned to simple tasks or civil affairs, and most upper-middle level female government workers did not apply for such part-time work in fear of consequential negative effects on their wages, promotion and personnel issues.

4.9 In public enterprises, tasks which could be done in shorter time among the tasks of regular workers are being converted to part-time job of non-regular workers and the number of regular work positions are being reduced. In particular, tasks done primarily by women are

often converted to part-time jobs. This trend ultimately results in the decrease of women's working hours and wages in the labor market.

4.10 This policy purports to create an environment favorable for the reconciliation of work and family, but it actually presupposes that women are special workers who must carry out both labor and housework/childcare at the same time, without attempting to change the working hours or conditions of male workers at all. In the end, this policy subordinates women to housework and child rearing and devaluates them as secondary workers. An estimated 94.9% of all part-time jobs are temporary or day labor of very low quality work conditions [2011, Ministry of Employment and Labor]. However, the government repeatedly makes the implausible claim that it will increase high-quality part-time jobs.

<Recommendation>

4.11 The government should abandon the current practice of indiscriminately filling public sector positions with non-regular employment, and provide workers with stable high-quality jobs.

4.12 The government should convert the currently employed non-regular workers to regular workers.

4.13 The government should develop a policy to provide stable high-quality jobs instead of the current policy that expands low-quality part-time jobs.

5. Problem of “For-Profit Childcare Centers”

<Analysis>

The number of public childcare centers increased by only about 10 each year, while private childcare centers are highly supported by the government

5.1 In Korea, 5.4% of the total childcare centers are public and only 11% of the children in childcare centers use the public facilities. Private childcare centers, where individuals both own and operate the facility, account for 89.3% of total childcare centers. Despite the current situation, only about 10 new public childcare centers are planned to be built every year in regions where high-quality private childcare centers do not exist.

The Number of Childcare Centers by Categories

	Total	Public	Corporate Body	Private	Family	Workplace	Parental Cooperation
Number of Centers(%)	35,550 (100)	1,917 (5.4)	1,470 (4.1)	14,368 (40.4)	17,359 (39.9)	370 (1.0)	66 (0.2)
Number of Children(%)	1,175,049 (100)	129,656 (11)	112,338 (9.6)	675,714 (57.5)	236,892 (20.2)	18,794 (1.6)	1,655 (0.1)

*Source: Childcare Statistics(2009)

5.2 Where private childcare centers occupy the majority of childcare centers, the government argues that it could provide high-quality childcare service, comparable to that of public facilities, by financially supporting private childcare centers instead of building more public childcare centers. This policy was modeled after the “Seoul Childcare Centers” policy where private childcare facilities are supported by the Seoul metropolitan government. However, there are about 20,000 children on the waitlists of public childcare centers in Seoul. Parental preference for public facilities is based on social trust of government-operated facilities.

5.3 Although governmental support of private childcare centers is increasing, actual childcare expenses imposed on parents are not decreasing. According to 2009 National Childcare Survey by the Ministry of Health and Welfare, while financial support on childcare has been increased since 2005, the costs imposed on parents have not changed much. It is because private childcare centers share various miscellaneous expenses.

“Autonomous Childcare Centers” policy that would deepen polarization of childcare expenses according to parents’ income

5.4 In 2011, the government announced to introduce so-called “Autonomous Childcare Centers,” which are not subject to the maximum limit of childcare fees stated in Infant Care Act (as of now, they can set the infant care fees within 1.5 times the maximum rate). These facilities are, “For-Profit Childcare Centers,”⁴ and by introducing them, the

⁴ Korean Women’s Association United(KWAU) names government’s “autonomous childcare centers” as “for-profit childcare centers.”

government has unilaterally disregarded social consensus that childcare should not be a business for profit.

5.5 The government maintains that the introduction of the Autonomous Childcare Centers is to widen the range of choices available to parents and to provide high-quality childcare service by competition. However, this policy would rather decrease the range of choices available to parents and push up childcare fees. Because of the high childcare fees of “For-Profit Childcare Centers,” excepting the few parents with high income, the range of childcare centers available to most parents will only be restricted by the introduction of Autonomous Childcare Centers.

5.6 According to the Household Survey Report of 2009, National Childcare Survey, completed by the Ministry of Health and Welfare, an estimated 62.0% of parents responded that they feel current childcare expenses are burdensome. If “For-Profit Childcare Centers” are introduced, then the quality of childcare service would be polarized depending on parents’ income. Childcare polarization is an obvious consequence that would widen the gap between social classes. The government’s policy does not improve the quality of public childcare service, but passes its responsibility for childcare to parents.

The government’s unilateral decision excluding the opinion of civic society

5.7 The government (The Ministry of Health and Welfare), while introducing policies like “For-Profit Childcare Centers,” which reverses the fundamentals of childcare policy, listened only to the directors of childcare centers agreeing with the government. The Ministry ignored the opinions of various groups, such as civil groups and professionals, who have greatly contributed to the development of childcare policy thus far.

<Recommendation>

5.8 A special act to expand public childcare centers should be enacted to increase the percentage of public childcare centers up to 30% of total childcare centers. If so, 50% of children in childcare centers are expected to use public facilities. High-quality childcare service should be provided to children through fair competition between public and

private childcare centers in each region and by balancing different types of childcare centers.

- 5.9** The government should withdraw the “For-Profit Childcare Center” policy, which would polarize childcare expenses according to the parents’ income and hinder social integration.
- 5.10** Instead of spending the budget on private childcare centers, the government should lessen the burden of childcare expenses on parents by removing the miscellaneous expenses of childcare centers.

III. Five Emerging Issues

6. Sexual Exploitation of Female Celebrities

<Analysis>

Suicide of female celebrity Ja Yeon Jang in reaction to the forced acts of sexual extortion, and the incomplete investigation of the incident

- 6.1** In March 2009, Ja Yeon Jang committed suicide after leaving a note, “I am a weak, powerless actress. I want to get out of this torture.” In this note, she recorded the fact that she had been forced by her management company to engage in sexual acts as bribery for prosecutors, reporters, and high officials of the broadcasting companies. Of these 20 important figures, only the CEO of the management company and her former manager were punished with one-year’s imprisonment and acts of community service. Even that punishment was for conviction of battery and verbal abuse (the CEO of the management company) and defamation (former manager), not for sexual bribery.
- 6.2** In March 2011, 50 hand-written letters of Ja Yeon Jang were found, and these letters included the fact that she was forced to engage in sexual bribery to 31 leaders of major companies, banks, and the broadcasting industry. She also called these men as the “devils” and pleaded to “take revenge” on them. However, the investigation did not proceed due to the reason that these letters were fabricated. However, Korean people do not trust the announcement of the government that this recently found evidence was fake.

Forced acts of sexual bribery against female celebrities and the violation of the right to work

- 6.3** The government, through its report, has claimed that the number of sexual bribery cases has decreased due to rigid enforcement of regulations. However, the case of Ja Yeon Jang is not even being investigated. Sexual bribery is a typical within the male-centered group culture of Korea. In many companies, as well as the prosecutor’s office and other governmental offices, the provision or purchase of sexual services is done collectively. In business relationships, offering or procuring sex is a tacit but pervasive way of securing business.

6.4 In Korean society today, many people envy the careers of celebrities and increasing numbers of people are trying to become celebrities. However, because the gateway to becoming a celebrity is very narrow and their work is unstable in income or job offers, being demanded sexual bribery (as part of serving entertainment) by people in authority has become a custom. In particular, female celebrities are in the most vulnerable position since the entertainment industry, including management companies, agencies, production companies and mass media, is mainly dominated by men. When women refuse to offer sexual bribery, they have to face career disadvantages, such as being excluded from casting calls or job offers.

6.5 When the National Human Rights Commission of Korea conducted a survey on female celebrities (actresses) and prospective celebrities, 60.2% of them answered that they had been requested to provide sexual bribery for broadcasting-related authorities and important figures of the society. Approximately 63.6% had experienced verbal abuse such as violent words and insults, and 31.5% answered that they had experienced other people inappropriately touching their body parts (such as their bosom, hips, or legs). Direct demands for a sexual relationship have been made to 21.5% of survey respondents, and 6.5% have been the victims of crimes such as sexual violence or rape. 55% of respondents had been forced to attend meetings with important figures, known as “sponsors.”

Problems of the “slave contract” of celebrities and the violation of the labor and education rights of adolescent female celebrities

6.6 In Korea, celebrities sign exclusive contracts with entertainment management companies. This brings an individual under complete control of the company. This type of contract includes an excessively long-term contract, unfair income distribution, and an excessive invasion of privacy. For new or unpopular celebrities, the income distribution agreement with the company is usually in 2:8 or 1:9 ratios. Due to this problem, the Fair Trade Commission has made a “Celebrity Standard Contract.” However, since this standard contract is not mandatory, it does not serve as a practical regulation in the field. In majority of cases, damages from an unfair contract occur when an individual is a trainee.

Thus, it is hard for her to raise concerns about the unfavorable terms. In addition, since such contracts tend to be premised upon personal trust, the Standard Contract remains as only a nominal suggestion.

6.7 According to a survey of 103 adolescent celebrities and prospective celebrities (by Ministry of Gender Equality and Family, 2010), and especially for those under 19 year old, 10.2% of them have had experiences where they were forced to expose their body parts, such as their legs, bosom, or hips, and 60% of female adolescents were forced to do so. Approximately 56.1% have received recommendations to go on a diet, and 14.6% received recommendations to undergo plastic surgery. Among those under 18 year old, 35.9% have worked more than 8 hours a day, and 10.3% have worked more than 40 hours a week. About 41% answered that they have worked at nighttime (10pm to 6am) and on holidays. This nighttime labor and application of long working hours for adolescents is prohibited by domestic law and the United Nations Convention of the Rights of the Child. In addition, among those who are currently enrolled in elementary, middle, and high schools, 47.6% have not been able to attend their classes for more than a half of a day per week, and thus are not enjoying their rights to an education.

<Recommendation>

There should be a re-investigation on the case of Ja Yeon Jang

6.8 The case of Ja Yeon Jang has plainly revealed the perverted nature of forced acts of sexual bribery in Korean society. Due to the involvement of the important figures in Korean society, including the CEO of the most influential daily newspaper company, the truth of this case is not being disclosed despite continuing suspicion and evidence concerning the case. Witnesses and people directly involved in this case are not telling the truth out of fear. Additionally the government is not proposing an adequate plan or an ex-officio investigation. The government ought to actively re-investigate this case.

There should be a reinforcement of the law in order to punish those who receive sexual bribery and management companies that arrange it

6.9 Although the current law punishes the act of prostitution and the arranging of such acts, it is hard to prove that those who received sexual bribery have either paid the price directly or have promised to pay in return for the sexual services, which makes difficult to punish the recipients. Therefore, the law related to sexual bribery should be reinforced or modified in order to punish those who partake in sexual bribery and those who arrange it.

The “slave contract” of celebrities should be prohibited and the legal protection of adolescent celebrities and prospective celebrities should be strengthened

6.10 The Celebrity Standard Contract should be mandated in order to eradicate the customary “slave contract,” which only advantages the management company. There should also be legal assistance for female celebrities during the term of their contracts and their working periods.

6.11 Since adolescent celebrities are exposed to excessive working hours, invasion of rights to their bodies (via demands for diet and plastic surgery), and requests for excessive amount of commission and bribes from their management companies, there should be legal protection for the adolescents and supervision of the management companies. They should also be guaranteed their rights to an education.

6.12 People working in the field of entertainment management should be required to receive human rights education related to sexual violence and harassment at the workplace.

7. Violations of Women’s Human Rights by the Leadership of Society

<Analysis>

7.1 There are a number of cases of the civic leaders of society, such as prosecutors, police officers, members of the National Assembly, politicians, public officials, and teachers engaging in prostitution, sexual harassment and other forms of improper behavior that violate women’s human rights. However, most of them are not being judicially punished for such acts.

7.2 <Case 1> In April 2009, the Commissioner of the National Police Agency made the following comments during a meeting with journalists concerning a controversial issue of

an executive official of the Blue House engaging in prostitution: “People get caught if unlucky,” “I have engaged in sexual bribery many times while working as an information officer,” “I gave motel room keys to journalists.”

7.3 <Case 2> In April 2010, it was revealed that more than hundred prosecutors not only received bribes and improperly received entertainment, but also engaged in prostitution offered by one construction company CEO for 25 years. Although an independent counsel called for an investigation, the case ended without prosecution for the following alleged reasons: difficulty in finding evidence to support prostitution and denial of the crime by the persons involved.

7.4 <Case 3> In July 2010, a member of the National Assembly made the following comments during a dinner with college students who participated in a debate competition: “Judges actually do not listen to the debate but only look at the appearances of participants,” “The panel should be comprised of two ugly girls and one pretty girl. It best attracts the judge’s attention.” Furthermore, he made the following comment and question to a female college student who hopes to become a news anchor: “Announcers should give everything (implying offering sexual favors for bribery). Do you still want to become an announcer?” The case resulted in a 6-month imprisonment with one-year probation and the expulsion of the man from the National Assembly was passed at the Special Ethics Committee and is currently awaiting a decision by the plenary session of the Assembly.

7.5 <Case 4> Additional cases

- President Lee Myung-bak made a following comment during a meeting with journalists as a presidential candidate: “Ugly massage girls give better services.” (August 2007)
- Kang Jae-sup, a former representative of the Grand National Party, made the following comment during a luncheon meeting with journalists: “Why does Jo Cheol-bong (a protagonist of a serial novel in a daily newspaper) not have sex anymore? He is not having any sex these days. He had sex several times a day in the past.” (January 2007)

- Chung Mong-Joon, a former representative of the Grand National Party, touched the cheek of a female journalist instead of answering her question and the act became a controversy and seen as sexual harassment. (2008)
- The Grand National Party included the following phrases in the official publicity video for a local election in the year 2010: “Women hate news second only to cockroaches” and “Women do not know beans about anything.” (2010)

7.6 The number of public officials engaging in prostitution increased more than double-fold from 101 officials in 2004 to 229 in 2008. The number of public educational officials engaging in prostitution greatly increased from 31 in 2007 to 42 in 2008. As of May 2010, the number of officials engaging in prostitution in 2010 already exceeded 30. Whereas police officers should be cracking down on prostitution, the number of police officers engaging in prostitution has increased every year, from 12 officers in 2006, to 13 in 2007, to 15 in 2008 respectively. Although public officials are responsible for preventing prostitution, the number of public officials engaging in prostitution has exceeded 200 every year, with 229 officials caught in 2008 and 266 officials caught in 2009.

<Recommendation>

7.7 Heavier penalties should be imposed on the leaders of society, like prosecutors, police officers and politicians, who participate in violations of women’s human rights. In particular, the public officials who engage in such behavior should be expelled from their positions.

7.8 Education programs for public officials in investigative, judiciary, and governmental organizations should contain content focusing on the prevention of prostitution and on gender equality. Any criminal act committed by public officials should be effectively punished.

8. Cosmetic Surgery and Women’s Rights to Health

<Analysis>

Appearance-based discrimination in employment and the social frenzy of appearance

management

8.1 The rapid growth of Korea's cosmetic surgery industry is closely related to the increase in female employment. According to the report "Study on the Reformation of Customs related to the Female Employment" by the Ministry of Gender Equality & Family in 2006, even though appearance standards are rarely included in an explicit form in recruitment notices, 46.7% of public institutions and 36.8% of private enterprises consider appearance as part of the evaluation criteria in the interview process and 80% of public institutions and 85.4% of private enterprises require information such as a photograph, or information about height and weight, which may result in appearance-based discrimination. According to a survey of public opinion by the Ministry of Gender Equality & Family in 2006 on the employment discrimination, 37.4% of unemployed women responded to have experienced appearance-based discrimination. 92.2% of job candidates, 78% of private enterprise human resources directors, 94.2% of unemployed women responded that a custom exists emphasizing an appearance as a factor in the female employment process. In sum, appearance plays an essential role as a precondition for employment and appearance management has become a prerequisite for women.

Widespread cosmetic surgery

8.2 According to the International Society of Aesthetic Plastic Surgery, Korea ranked the second place behind Hungary, recording 133 surgical cosmetic procedures per 10,000 people. Korea also ranked seventh in surgical cosmetic procedures performed per year in 2010, showing a considerably high rate against its population. Since the 21st century, the cosmetic surgery industry has rapidly grown along with the industrialization of the medical industry, advertisements and media. And in recent years, cosmetic surgery has become a commonplace procedure that anyone can do. Furthermore, the cosmetic procedure market outside the official medical market (simple cosmetic procedures provided by institutions unauthorized to perform medical practices or by persons other than medical personnel, such as a cosmetic eyelid surgery in a sauna or spa) has expanded, and simple procedures even on workdays during one hour break time have become popular. Women are suffering from excessive demands on their physical appearances and have become targets of the cosmetic surgery industry. However, a national survey does not exist yet on the annual number of surgical cosmetic procedures, the composition of

cosmetic surgery patients, the reasons for undergoing the surgeries, and the exact size of the industry.

Lack of protection of women's rights to health

8.3 According to the Korea Consumer Agency, the Committee on Consumer Dispute Resolutions received 4,171 complaints for remedies for damage from medical accidents during the last five years. Among such complaints, those concerning cosmetic surgery are showing consistent increase, from 6.9% in 2008 to 9.3% in 2009. Regarding the types of damage, side effects and aggravations were the most frequently experienced by 53.7%, following this was death, at 13.4%, and impairment at 11.3%. More than half of the medical accidents in cosmetic surgery were caused by side effects from anesthesia. In April 2011, a woman in her late 20s died due to side effects from anesthesia while undergoing a procedure on her forehead and nose under general anesthesia. Due to the rapid disorderly spread of cosmetic surgery industry, plastic surgeons or nurses, and not professional anesthesiologists, have administered intravenous or general anesthesia to patients. Also, simple surgical cosmetic procedures are taken without a detailed look at the patient's medical history. Although sufficient counseling with the plastic surgeon should take place before the procedure following a thorough examination including an ECG, liver-function examination, blood test, and urine test, recently popularized simple surgical cosmetic procedures tend to ignore such preparatory processes. Overwhelmingly, women comprise the most of cosmetic surgery patients. The lack of proper professional counseling before the procedures, including informing patients of the risks and the side effects threatens women's rights to health. Furthermore, side effects are not publicized as much as the extensive advertisements on the service, and the potential damage from surgeries tends to be underestimated.

<Recommendation>

Plastic surgeons should conform to his or her duty under the Medical Service Act to fully explain surgical procedures

8.4 Whereas there are only 1,600 plastic surgeons in Korea, there are more than 2,000 plastic surgery institutions. This means that not only plastic surgeons but also doctors of other fields have entered the cosmetic surgery industry. As cosmetic surgery has become

commonplace, aesthetic plastic surgery has spread and also increased the risks possible from such procedures. However, since there is a lack of safety devices like effective regulatory policies regarding the plastic surgery industry, institutional intervention is needed. Doctors should comply with a duty to explain possible side effects from cosmetic procedures under the Medical Service Act in order to prevent women from undertaking procedures in risky conditions.

Regulation of the use of media such as overstated medical advertisements

8.5 Cosmetic surgery has become not a medical service but a commodity in Korean society.

Although the Medical Service Act prohibits false or overstated advertisements and advertisements which omit important information, such as serious side effects, most advertisements on cosmetic surgery overstate the effects of procedures and do not mention any side effects. Korean cosmetic surgery industry has even attracted consumers from abroad, such as Southeast Asia, via extensive advertising and marketing. The commercialization of cosmetic surgery has greatly expanded through various marketing methods such as cosmetic medical services available even via online shopping for half price deals on certain cosmetic procedures. Given such situations, the Ministry of Health and Welfare conducted an ex-officio investigation on online cosmetic surgery advertisements for the first time in 2011, but no other regulation has been adopted. The government should guarantee women's rights to health by regulating the use of media for imprudent advertisements for cosmetic surgery.

9. Caregiving Workers' Rights to Work

<Analysis>

There are increases in the number of caregiving workers, who are not recognized as workers and are excluded from the social safety net in Korea

9.1 Due to the aging population and increased female participation in the workforce, the demand for caregiving labor, such as housework, nursing, and childcare has gradually increased. According to the statistics compiled by the Korea Employment Information Service, out of approximately 440,000 caregiving workers in total in the year 2007,

230,000 were working in housework, nursing, and childcare, and most of these workers were women. However, domestic workers are excluded from the application of the Labor Law and from the social safety net, including social insurance.

Privatized social service industry

9.2 The government has expanded social service jobs by socializing labor previously done by family members, such as childrearing, nursing the sick, and caring for the aged. However, the public sector's role was minimized and the services are being provided mainly through private for-profit businesses. In other words, the government is avoiding its responsibility of overseeing and supervising the working conditions of social service workers and this negatively affects the quality of services as well. Consequently, social service jobs related to caregiving have been firmly categorized as non-regular low paying jobs. Since most of these workers are women, their economic status is very weak.

9.3 Since the enactment of the Act on Long-Term Care Insurance for the Aged, the number of people obtaining certificates as geriatric care helpers sharply increased from 136,000 in July 2008, to 490,000 in May 2009, and rising to 500,000 in 2010. However, those who received jobs as geriatric care helpers numbered only about 120,000. Furthermore, the monthly pay of a home-visit geriatric care helper is lower than the legal minimum cost of living.

9.4 In 2009, there was a case in which the government did not recognize geriatric care helpers as workers. There were multiple cases in which applications for employment insurance and occupational health and safety insurance by new geriatric care helpers were rejected and in which unemployment allowances were not provided to retired geriatric care helpers. Such cases occurred since the government relegated social service work, which should be provided by the public sector, to the private sector.

<Recommendation>

9.5 Legal protection of caregiving workers should be systemized. First, caregiving workers should be recognized as workers under the Labor Law. Second, a new provision should be enacted to guarantee employment insurance and occupational health and safety

insurance for them. Third, the government should be made responsible for the insurance premium paid by business owners so that caregiving workers may receive social insurances. As the government stated a position in agreement with the convention to protect domestic workers at the 100th Session of the International Labor Conference, held on 16th June this year, the domestic law should be appropriately amended as soon as possible.

9.6 In order to guarantee the rights to work of caregiving workers and to increase the users' level of satisfaction, the government's responsibility for caregiving social services should be strengthened.

9.7 In June this year, the ILO will vote on the adoption of an international convention to guarantee the rights of caregiving workers. The Korean government should vote for the convention and ratify it in order to guarantee the rights of these workers in Korea.

10. Women's Participation in the Reunification and Peace and Security Policy Process & Human Rights of Displaced Women out of North Korea

10.1 Women's Participation in the Reunification and Peace and Security Policy Process

<Backgrounds>

10.1.1 The Korean peninsula is still a conflict zone. The Korean War ended with a truce and technically, the two Koreas are still at war. Tensions between North and South Korea remain high, and the possibility of a military conflict exists at all times.

10.1.2 The prime ministerial talks held in 1991 resulted in the Inter-Korean Basic Agreement and the Joint Declaration on denuclearization. Inter-Korean Summits held in June 2006 and October 2007 called for reconciliation, economic cooperation, and peace between the two Koreas. Talks on politics, military, and economics were held at the governmental level and various civilian exchanges were promoted. South Korean tourists were allowed to visit Mt. Gungang in North Korea and Gaesung industrial complex was constructed as

a collaborative economic project between the two countries. The South and the North have also agreed to create a Special Peace and Cooperation Zone in the West Sea.

10.1.3 However, then President-elect Lee's transition committee attempted to abolish the Ministry of Unification and the Ministry of Gender Equality and Family in 2008. However, this attempt foundered in the face of strong resistance by the public. Lee's administration criticized the past administrations' open policies toward North Korea, including its Sunshine Policy and its Peace and Prosperity Policy. The administration made clear that it will pursue a policy for the betterment of inter-Korean relations and for the reform and opening of North Korea, but only after North Korea gives up its nuclear ambitions.

10.1.4 Since the new administration took power, talks and negotiations for risk management, prevention of conflicts, and resolution of inter-Korean relations have disappeared and military tensions have continuously expanded due to mutual distrust between the two Koreas. A South Korean woman was killed in a North Korean military zone of Mt. Gungang in July 2008. In 2009, North Korea tested its first nuclear weapon. The two countries fought a naval battle in November 2009, a South Korean warship Cheonan sunk in March 2010, which the government assumes to be related to North Korea, and North Korea shelled Yeonpyeong Island in October 2010. The South Korean government announced the "May 24th Measures" (a set of punitive measures against North Korea), which included the discontinuation of economic cooperation, ROK-US joint military maritime exercises, and participation in the Proliferation Security Initiative or PSI. In 2011, North Korea announced it would cease further talks with the South Korean government in 2011.

10.1.5 Such inter-Korean conflict threatens the lives and security of residents of the Korean peninsula, especially the lives of women and children. As the conflict persists, the participation of women in the process toward peace, reunification, and diplomacy remains low and gender gaps remain unsolved. Amid the special circumstances of national division, the incorporation of a gender responsive perspective and the expansion of women's participation are particularly important to the peace, reunification, and diplomacy policy process.

10.1.6 The Korean government ratified the CEDAW, stands for the Beijing Declaration and Platform for Action, and belongs to the Friends of 1325 organization. As a member of the Friends of 1325, the Korean government should confirm the importance of women's roles in the peace-making process and the prevention and resolution of disputes. It is crucial that women participate equally and actively in maintaining and promoting peace and security.

<Analysis>

Policies on Reunification of Korea deleted from the Third Basic Plan for Women's Policies which was modified under the current administration (NG 3.33)

10.1.7 The First Basic Plan for Women's Development (1998-2002) included the "expansion of women's roles in international cooperation and reunification" as one of its six basic strategies. The Second Basic Plan included the "expansion of women's roles in peace, reunification, and international cooperation" as one of its ten major policy objectives. Although the Third Basic Plan for Women's Policies initially included the "promotion of cooperation between South and North Korean women" as a policy objective, the Third Basic Plan was modified in December 2008 after the current administration took office. The modified version completely excludes the projects concerning the reunification of Korea and only includes the "expansion of women's international cooperation" as a minor policy objective.

10.1.8 The implementation process of peace, reunification, and diplomacy policy by the Ministry of Gender Equality and the Ministry of Unification were modified according to the changes in the Basic Plan for Women's Policies. There were particularly noticeable changes regarding reunification policies. After the Inter-Korean Summit on 15th June 2000, the Ministry of Gender Equality has supported the activities of domestic women's organizations for the expansion of inter-Korean exchange and cooperation, has promoted GO-NGO partnership and the expansion of women's participation in the exchange and cooperation process between the two Koreas. The Ministry of Unification administered the South-North Cooperation Fund for the Joint South and North Korean Women's Event.

Joint South and North Korean Women's Event
Supported by the Ministry of Unification and the Ministry of Gender Equality

Year	Event
2002	<ul style="list-style-type: none"> • Asian Regional Forum, demanding Japan's settlement of past affairs (May 1 - 4, Pyeongyang) • South and North Korean Women's Reunification General Meeting (October, Mt. Gumgang)
2004	<ul style="list-style-type: none"> • 2nd International Solidarity Conference, demanding Japan's settlement of past affairs (May 20 – 23, Seoul)
2005	<ul style="list-style-type: none"> • Support for Overseas South and North Korean Women Solidarity Meeting (August 16, Seoul) • South and North Korean Women's Reunification Event (September 10 – 16, Pyeongyang)
2006	<ul style="list-style-type: none"> • Support for South and North Korean Women Representatives Conference (March 10 – 11, Mt. Gumgang)
2007	<ul style="list-style-type: none"> • 8th Asian Conference on the Japanese Military Sexual Slavery of Women (May 19 – 21, Seoul) • South and North Korean Women Representatives Conference (May 23 – 26, Pyeongyang)

10.1.9 No event has been held since 2008. As can be clearly seen in the table above, since the current administration took office in 2008, government support for exchanges between South and North Korean women has been stopped due to the administration's modification of the Third Basic Plan for Women's Policies. Before the modification of the Third Basic Plan for Women's Policies, the Ministry of Gender Equality supported four projects to promote South and North Korean women's role in foundation building for reunification. However, since the modification, the Ministry has not support any women-related projects. Especially, there has been no support by the Ministry of Unification for the South and North Korean Women Representatives Conference held in May 2008.

There is no governmental organization to review and promote the implementation of United Nations Security Council Resolution 1325 (NG 3.34)

10.1.10 In order to implement the UN Security Council Resolution 1325 which requests the incorporation of gender responsive perspectives in peace and national security policy processes, government ministries, including the Ministry of Foreign Affairs and Trade, Ministry of National Defense, Ministry of Unification, and Ministry of Gender Equality and Family are expected to prepare concrete strategies and plans. Although the Human Rights and Social Affairs Division within the Ministry of Foreign Affairs and Trade is in charge of implementing Resolution 1325, there is no system to coordinate activities related to Resolution 1325 among government ministries. Therefore, it is impossible to evaluate the Korean government's progress on implementing Resolution 1325⁵. Moreover, the Ministry of Gender Equality and Family is not even taking part in the implementation of Resolution 1325⁶.

10.1.11 In fact, because all mention of peace and reunification policies was deleted from the Third Basic Plan for Women's Policies, the Ministry of Gender Equality and Family does not have any institutional ground to implement Resolution 1325. Furthermore, the Ministry of Unification, Ministry of Foreign Affairs and Trade, and Ministry of National Defense are also not equipped with a system for the implementation of Resolution 1325.

The gender responsive budgets of the Ministry of Foreign Affairs and Trade, Ministry of Unification, and Ministry of National Defense are very small compared to those of other ministries (NG 3.35)

10.1.12 In 2011, the Korean government's gender responsive budget constituted 3.3% out of total government expenditures amounting to 309 trillion Won (US\$ 285,476,718,400). Among the ministries, the gender-responsive budgets of the Ministry of Foreign Affairs and Trade, the Ministry of Unification, and the Ministry of National Defense are

⁵ Korea Women's Associations United and Women Making Peace sent <List of questions regarding the Korean government's implementation of 'UN Security Council Resolution 1325 on women, peace, and national security'> to the Ministry of Foreign Affairs and Trade, Ministry of Unification, Ministry of Gender Equality and Family on 2nd November, 2010. Ministries, except the Ministry of Foreign Affairs and Trade, have not responded yet.

⁶ Jung Gyunglan of Women Making Peace confirmed the fact by phone calls with the Ministry of Foreign Affairs and Trade and Ministry of Gender Equality and Family.

particularly small. For the Ministry of Foreign Affairs and Trade, the gender responsive budget comprises only 2.3% of total budget annual expenditure of the Ministry of Foreign Affairs and Trade. For the Ministry of Unification the gender-responsive budget comprises only 2.3% of the ministry's total budget annual expenditure. For the Ministry of National Defense, the gender-responsive budget comprises only 0.02% of the ministry's total budget annual expenditure.

10.1.13 Comparing the budget in 2010 and 2011, the Ministry of Unification's reduction of its gender-responsive budget is particularly noticeable. This reduction was likely linked to the practical cessation of inter-Korean exchanges and economic cooperation due to the deteriorating inter-Korean relations.

Women's low participation in the national defense, reunification, and diplomacy policy making processes (NG 7.77, 80)

10.1.14 Female composition of public officials is very low in public sectors concerning reunification, national defense, and diplomacy. There is not a single female Minister or Vice Minister. The percentage of civil servants above the level of deputy director who are female is only 11.7% (Year 2009), 14% (Year 2009), and 18.3% (as of June, 2011) for the Ministry of National Defense, Ministry of Unification, and Ministry of Foreign Affairs and Trade, respectively. Even more troubling, the percentage of high-ranking public officials who are female is 4.8% for the Ministry of Unification, 1.2% (3 out of 251) for the Ministry of Foreign Affairs and Trade and 0% for the Ministry of National Defense, respectively.

10.1.15 The percentage of female members of government committees related to reunification, peace, and diplomacy is also very low. The committee within the Ministry of Unification shows a particularly noticeable decrease in the number of female members. The percentage decreased from 20.8% in 2006 to 8.0% in 2008. As for the Ministry of National Defense, it decreased from 28.8% in 2006 to 17.7% in 2008.

10.1.16 Resolution 1325, which emphasized the need to expand women's roles in the decision-making process for the prevention and resolution of disputes, is not being implemented by the government.

Women's Participation in Government Committees
Concerning Reunification, Peace, and Diplomacy

	Ministry of Unification	Ministry of Foreign Affairs and Trade	Ministry of National Defense
2006	20.8%	0	28.8%
2007	7.1%	0	27.8%
2008	8.0%	20.0%	17.7%

*Source: The responses to the questions by Women Making Peace on the Seventh Periodic Report of the Republic, Ministry of Gender Equality and Family, 2011.5.17 .

Women's low participation in the peace negotiation process

10.1.17 Since the Kim Dae Jung's administration took office in 1998, inter-Korean talks have taken place in various areas, including politics, defense, economic and humanitarian issues, and social culture. In the case of the promotion of reconciliation and cooperation between the two Koreas at the government level, there were lively inter-Korean talks and also much exchange and support. Women's participation in inter-Korean talks held at the government level were 0% in 2000, 3% in 2007 and 10% in 2010, respectively. However, as can be seen in the Table below, there was significant decrease in the number of the total participants after 2007, resulting in lesser room for women's participation.

Women's Participation in Inter-Korean Talks (number, %)

	Total	Women	Ratio
2000	94	0	0
2005	118	5	4
2007	209	6	3
2010	20	2	10

* Percentages of women's participation in inter-Korean talks concerning politics, military, economy, Humanitarian issues, social culture

*Source: Data from the Ministry of Unification, Responses to the question by Jung Gyunglan to e-People, 2010.11.5.

10.1.18 In 2007, a special entourage to the second Inter-Korean Summit included five women out of 47 people. Among those five, three women represented women's' issues. Before

the first and second Inter-Korean Summits, women's organizations requested women's participation in the entourage to represent women-related fields. Thanks to such efforts, one woman was included in the special entourage for the first Inter-Korean Summit, and the number increased to five for the second Summit. Although not many, it is appreciable that some representatives of women's issues were included in the delegation.

10.1.19 Inter-Korean talks are negotiations with visions of accomplishing peace in the Korean Peninsula, reconciliation, cooperation, and humanitarian support. Men comprise a majority of delegates for negotiations. The Korean government is not implementing Resolution 1325, which recommends the government to reconfirm the importance of women's roles in the prevention and resolution of disputes as well as in the reunification process, and which emphasizes women's equal and active participation in all efforts to maintain and promote peace and security.

Prohibition by the government of civil humanitarian support to North Korea and socio-cultural exchanges, and the collapse of partnerships with women's rights NGOs

10.1.20 Civil exchanges between South and North Korean women can contribute to the mitigation of hostility between the two Koreas, to the expansion of mutual understanding among people living under different political systems, and to the eradication of misunderstandings during the course of various exchanges.

10.1.21 Although it is impossible to exchange phone calls or faxes and to come and go between the two Koreas, both South and North Korean women have worked for reconciliation, cooperation, and peace between the two Koreas. Even before Inter-Korean Summit held in 2000, intermittent exchanges between South and Korean women took place on the problems regarding the Japanese Military Sexual Slavery of Women and through the "Forum on Peace in Asia and The Roles of Women." Since the Summit in 2000, more exchanges between South and North Korean women have taken place. Women from the two Koreas met one another in joint South and North Korean events. Especially since 2005, the Women's Division of The South Korean Committee for 6.15 Joint Declaration Implementation and The Women's Subcommittee of The North Korean Committee have held joint events regularly every year.

10.1.22 Since the Lee's administration took office, the government has prohibited civil humanitarian support to North Korea and socio-cultural exchanges. Due to the government's disapproval, the following two events, The South and North Korean Women Representatives Conference which was to be held in Pyeongyang in 2009 and The South and North Korean women's meeting to resolve the problems regarding the Japanese Military Sexual Slavery of Women which was to be held in 2010, could not be held.

10.1.23 The index (S/2010/173) presented by the United Nations to evaluate the implementation of Resolution 1325 demands that governments promote women's active and significant participation in the peace process and improve partnerships with regional women's organizations. However, the government is not supporting women's participation in the peace process. The government is actually prohibiting such participation by women. Furthermore, the government is not promoting its partnership with women's organizations in the fields related to reunification, national defense, and diplomacy.

Increase in national defense expenditures, but decrease in the South-North Cooperation Fund

10.1.24 The Beijing Platform for Action E emphasizes that the states should reduce excessive national defense expenditures and regulate the possibility of armament. The United Nations Security Council Resolution 1325 confirmed the importance of women's roles in the prevention and the resolution of conflicts as well as in the peace-building process.

10.1.25 However, the Korean government has consistently expanded national defense expenditures. According to the annual budget expenditures on national defense in 2011, expenditures on national defense increased by 6.3% compared to the last year. On the other hand, the implementation rate of the South-North Cooperation Fund⁷ has consistently decreased. Expenditures of the South-North Cooperation Fund composed about 7.7% of working expenses, which is the lowest rate since 2000. Amid deteriorating

⁷ Fund for South and North Koreans' travel between the Koreas, South and North Korean economic cooperation and socio-cultural cooperation, and humanitarian support

inter-Korean relations, although the South-North Cooperation Fund is available for implementation, the government is not making use of the fund. In particular, civil humanitarian support projects for North Korea should be supported by the government without any conditions. However, the government is prohibiting even civil humanitarian supports, except for some projects for infants in North Korea.

10.1.26 The current administration is seeking security by strengthening the U.S.-Korea alliance and military power, not by enhancing reconciliation, economic cooperation, and socio-cultural exchanges between the two Koreas. Such an aggressive North Korean policy only aggravates mutual distrust and leads to military conflicts.

<Recommendation>

10.1.27 The Korean government should establish national action plans for the implementation of Resolution 1325. As a member nation of the Friends of 1325, it should prepare comprehensive national plans specifying focus areas, objectives, activities, and agents responsible for the implementation of Resolution 1325.

10.1.28 The Ministry of Gender Equality and Family should coordinate, supervise, and report on the implementation of Resolution 1325 among government ministries. In order to realize gender mainstreaming plans, the Ministry of Gender Equality and Family should plan and promote policies for women's equal participation and the sharing of responsibilities in state management and also throughout the society. Furthermore, as the Ministry in charge of the crucial role to set up more dynamic and varied women's policies for sustainable gender equality, the Ministry of Gender Equality and Family should administer the implementation of Resolution 1325.

10.1.29 Women's participation in the peace, reunification, and diplomacy process should be expanded. Women should comprise a greater proportion of the high-ranking officials participating in the policy making process regarding such areas. Such expansion of women's participation in these areas would contribute to gender-balanced policy that would incorporate women's understandings and demands. In order to realize women's dynamic and active participation, the government should prepare an institutional mechanism to expand women's participation and roles. Until 2020, the proportions of

female public officials above rank 5 (deputy director level) in the Ministry of Unification, Ministry of Foreign Affairs and Trade, and Ministry of National Defense and the proportions of female members in government committees within these Ministries should be expanded to 30% and 50%, respectively.

10.1.30 As for women's participation level in the peace negotiation process, the government should expand women's participation in South and North Korean negotiations and the Six-Party Talks as official representatives and observers. Through women's participation in peace negotiations, the issues of women's rights and concerns would be incorporated and addressed. Security Council Resolutions 1325, 1820, 1888, and 1889 all requested women's participation and representation in the peace process. Although women have participated in unofficial programs seeking peace, women could almost never participate in the official processes. Peace achievement process and peace agreements are crucial opportunities and catalysts for change. Women's complete participation during the initial peace achievement process would enhance awareness of and responsiveness to women's rights and needs. Through women's participation, provisions concerning gender issues would be included in peace agreements and gender equality in areas such as politics, economy, law, and national security would be promoted.

10.1.31 The Korean government should promote a cooperative system with women's organizations and civil society organizations during the preparation of national action plans for implementation of UN Security Council Resolution 1325, peace negotiations, and national security and peace policy decision-making processes. In addition, the government should seek cooperation with women's organizations and civil society organizations when administering South-North Cooperation Fund and Overseas Development Assistance (ODA). Exchange of information, the development of agendas, mutual cooperation during peaceful reunification and cooperative development between the government and women's organizations are of great importance and urgency for reconciliation, cooperation, and peace between the two Koreas.

10.1.32 Both South and North Korea should comply with the agreements and reduce excessive national defense expenditures. The governments should redistribute these resources to improve general welfare and resolve gender gaps. In addition, the South-

North Cooperation Fund should be administered and the Fund should be increased for exchanges and joint projects between South and North Korean women, and civil humanitarian support projects for North Korea.

10.2 Human Rights of ‘Displaced Women out of North Korea’

<Backgrounds>

Current conditions of ‘Displaced Women out of North Korea(hereinafter “the Displaced Women”)’ and Support Systems⁸

10.2.1 Current conditions regarding the displaced women

Approximately 20,000 displaced people resided in South Korea as of September 2010. Women have composed 80% of those who are displaced since 2007. The percentage of recipients of National Basic Living Security among the displaced women is 80.2%, with 85% of these recipients being female and 72.9% being male. While approximately 70% of the displaced men(male) participate in economic activities, only 41% of the displaced women do. The average earned income of the displaced women is only 79% of the displaced men’s average earned income.

10.2.2 Support systems for the displaced person

The “Basic Fund for Settlement” provides cash subsidies for basic livelihood needs to the displaced person, totalling 19 million Won (US\$ 17,500) per one-person family. “Subsidies for Settlement,” totalling a maximum of 21.4 million Won (US\$ 19,700), are available to the displaced person who have completed more than 500 hours of job training or who have obtained a job-related certificate. An “Additional Payment for Settlement” may provide increased payment for other conditions, including advanced age, disability and illness. Housing support is also available, as access to permanent rental apartments and

⁸ Kim, Suk-hyang, 2010, Socio-cultural Unification of North and South Korea: Support and Solidarity for Displaced Women out of North Korea, Supports of Women’s Human Rights, p. 14.

public rental apartments constructed by the central and local governments is granted to the displaced person on a priority basis. Rental housing deposits (at a maximum of 13 million Won (US\$ 12,000) for one-person household) may also be provided. Employment support is provided as well via the assignment of relevant officers in employment support centers, the offering of employment counseling and assistance in job-finding, job training opportunities, and the provision of employment-support funds to employers of the displaced person. Social Welfare Support is granted via the provision of living expenses assistances under the National Basic Living Security Act. Additionally, the displaced person are designated as Type 1 beneficiaries under the Medical Care Assistance Act.

Violations of the Displaced Women’s Human Rights by Respective Areas

Area	Area characteristics	Human rights conditions / Patterns of violations
North Korea	<ul style="list-style-type: none"> • Diversification, expansion, and establishment of a government structure that systematically structuralization of human rights violations in their types, size and method along with “Unstopping economic crisis” since 1990s • Treatment of women as second-class citizens under the political structure and gender-based social hierarchy of North Korea • Discounting of women’s social status and economic contributions occurs in North Korea’s male-centered resource distribution system • Women’s opinions are discounted due to a male-centered national ideology and a national vision based on paternalism 	<ul style="list-style-type: none"> • North Korean women are exposed to discrimination, violence, mobilization and exploitation by the state and North Korean men since 1990s economic crisis • Women receive unequal opportunities in education and labor. They have no social mobility because their social class is fixed under North Korea’s political system • Women experience forced economic participation as they must work in markets to securing the family’s livelihood • Economic and sexual exploitation by men and North Korean bureaucrats, subsisting off the earnings of women in the markets • Aggravated conditions create more domestic violence and less maternal health protection after North Korea’s economic crisis
China & the Third Country	<ul style="list-style-type: none"> • North Korean women are seen as “illegal entrants” or “illegal aliens” and not recognized as refugees • The women experience very dangerous situations, as Chinese officials track down, regulate, and deport the displaced 	<ul style="list-style-type: none"> • North Korean women who displace to China are stateless. It is impossible to receive a government identification document. Women are chased by the Chinese Public Security and deprived of the right to work, along with being taken

	<p>person from North Korea</p> <ul style="list-style-type: none"> • The women have insecure livelihoods due to the illegality of their migration 	<p>advantage of by brokers who abuse them because they lack protection as illegal aliens</p> <ul style="list-style-type: none"> • The women experience a daily deprivation of their human rights and a denial of their identity. This often results in inhumane treatment, verbal abuse, and deprivation of their basic necessities, such as food, clothing, and shelter. • Finally, the women experience trauma related to their gender. Their maternal rights are infringed, they experience sexual violence or trafficked marriage, and are victims of human trafficking
<p>South Korea</p>	<ul style="list-style-type: none"> • The displaced women must go through the South Korean government's system for settlement, including civic re-education. • The women are treated as an inferior minority who do not contribute their "human capital." • Their life is full of physical and psychological trauma 	<ul style="list-style-type: none"> • Human rights conditions during the "Making Citizen" civic reeducation process are questionable. The stigma and trauma caused during the investigation process can be severe, and there is no treatment or support system for such trauma or for difficulty in adaptation. Furthermore, reliance on governmental support system only encourages passive attitudes in the women • The women experience discrimination and exclusion in their daily lives. The South Korean people are not knowledgeable of many things about North Korea. The displaced women are seen as burdensome to the society, untrustworthy people, or people who are a drain on national resources. They also experience the continuation of patriarchal gender roles.

<Analysis>

The conditions of the displaced women, including poverty and extensive violence against women, are aggravated by social exclusions and discrimination against the displaced person

10.2.3 On top of hardships experienced by women, like sexual violence, domestic violence, sexual trafficking and gender-based discrimination, the displaced women are subject to economic poverty, bearing double burdens as they manage both work and childcare, and

fragile physical and mental health conditions. Furthermore, as the displaced person, these women experience exclusion and discrimination. They are not welcomed into the society as people with the same ethnic roots, but rather they experience frustration due to negative public feelings springing from a prolonged history of national division, a lack of understanding between different cultures, and an indifference found within younger generations.

10.2.4 <Case> When approximately 1,000 the displaced person moved to reside together in Junggye-dong, Nowon-gu, Seoul in 2008, residents in that area put up placards and held campaigns for the deportation of the displaced person. The displaced person held North Korean food sharing events and struggled to resolve misunderstandings and conflicts.

Many displaced women experience a worsening of poverty after entering South Korea in the course of helping their separated family members' and relatives' displacement from North Korea

10.2.5 Many displaced women in their 30s or 40s have left their children in North Korea and they experience deepening poverty right after entering South Korea, because they must provide money (like payment to brokers) to finance their family members' displacement from North Korea. Moreover, as many displaced women experience pressure to send living expenses to their family members and relatives in North Korea, they often overwork themselves. Such conditions lower the quality of life for the displaced women.

10.2.6 <Case> After fleeing to China in 1999, a displaced women worked at a restaurant, living with her husband and older son who had displaced after her arrival in South Korea. In April 2000, she asked a Chinese tradesperson who visits North Korea to bring her younger son when she heard that he trafficks children from North Korea. In early May, she was able to speak briefly on the telephone with her younger son after hearing that the Chinese tradesperson brought her child to China. However, she soon lost contact with her son after the smuggler took the reward and disappeared. She currently lives in South Korea but still does not know about the whereabouts her son.

Severe trauma experienced in the course of displacing from North Korea

10.2.7 The majority of the displaced women have experienced severe violence and the death or disappearance of family or friends. Furthermore, they have experienced human trafficking, forced marriage, and other various human rights violations. These include sexual violence, domestic violence and forced prostitution while entering South Korea through China or other third countries. Such experiences cause severe physical and mental harm and negatively influence their lives in the long-term. However, there is no treatment provided for such trauma.

10.2.8 <Case> “If my relation with them goes bad due to some conflicts, South Koreans report to the police. Thus, I had to lose to them and had difficult time living in such circumstances. Even the family members tend to look down on me. Although I gave birth to a child, they do not treat me as a human being. I am not the only one suffering from such circumstances. Everyone suffers the same.”

The displaced women experience identity confusion due to the differences between North and South Korea and have difficulties as they are required to criticize North Korea

10.2.9 The displaced women have internalized North Korean culture, which is very different from that of South Korea due to a prolonged history of national division. Thus, as these individuals settle in South Korea, they experience an identity crisis in various ways: a migrant vs. a member of society with the same ethnic roots; a betrayer of their previous political system vs. a supporter of a new political system; a social welfare beneficiary vs. a person with equal rights and status.

10.2.10 In such circumstances, the women are compelled to criticize North Korea while receiving compulsory education required to resettle in South Korea or engaging in activities afterwards (such as speaking at talks as the displaced person). Such practices bring about adverse effects to the displaced women’s integration into South Korea and to the peaceful socio-cultural unification of North and South Koreans.

Distinctive position of the displaced women sensitively influenced by the level of political tension and conflict between North and South Korea

10.2.11 The condition of the displaced women is heavily influenced by the level of political tension and conflict between North and South Korea, due to from the countries' prolonged national division. It often aggravates discrimination against the displaced women. Such experiences might cause anxiety and strong distrust of South Korean society and threaten the quality of life for the displaced women.

10.2.12 <Case> A day after the "Won Jung-Hwa espionage incident," Ms. A who was working as an accountant could not stand her colleagues at work talking behind her back. When she asked them why, they asked her whether she was also a North Korean spy. The CEO fired her saying it is because of the company atmosphere.

<Recommendation>

10.2.13 Public policy and diplomatic measures should be provided to minimize violations of human rights experienced by the displaced women as "illegal border crossers."

10.2.14 Counseling support is needed based on the understanding of the displaced women's life-long histories and backgrounds and continuation circumstances of their family members' displacement. In addition, medical support should be provided for the treatment of trauma suffered in the course of displacement, as well as health care programs for the displaced women.

10.2.15 Small loan programs specially designed for the displaced person should be provided.

10.2.16 Education and activities with the objective of contributing to a peaceful socio-cultural unification of North and South Korea should be supported.

10.2.17 Human rights issues concerning the displaced person settling in South Korea should be given more attention.

IV. Article 2 : Newly Enacted and Amended Legislation

A. Newly Enacted Legislation

■ Act on Mandating Electronic Positioning Devices on Certain Criminals (NG 2.10)

11. Preventive policies against sexual violence should shift their focus from the reinforcement of punishment on sex offenders to “the supervision of potential sex offenders, prevention of recidivism, and effective means for the protection of victims”

<Analysis>

The Korean government has issued new policies for the reinforcement of punishment on sex offenders

11.1 A court may issue an attachment order of an electronic positioning device such as an electronic anklet for a certain period after the sex offender’s release from imprisonment. The period shall not exceed 30 years according to the amendment on April 15, 2010 and the Act also sets the minimum period of attachment.

11.2 Chemical castration has been adopted in 2010 for use on sexual deviants with a high risk of recidivism as an additional measure to imprisonment or medical treatment in custody.

11.3 New policies were enacted to extend the period of a personal information registration of child sexual violence convicts and its availability to the public for up to 20 years. The government may also send personal information about such convicts by mail to local residents.

11.4 Furthermore, the maximum period of imprisonment was extended to 30 years. (If the punishment is aggravated, the period may be extended up to 50 years.)

However, there are problems with the reinforcement of these punishment policies

11.5 Most of the new punishment policies were enacted without sufficient review or a social consultation process on the effectiveness and the side effects of such policies. Furthermore, the effectiveness of these newly enacted policies on the treatment and the prevention of recidivism is not yet proven.

- 11.6** The Act on the Electronic Monitoring of Specific Sex Offenders sets the minimum period for attachment of an electronic positioning device depending on the type of sexual violence committed. However, the minimum period of attachment for certain crimes is as long as 20 years, raising concerns over excessive punishment. There was an instance in which the criminal, sentenced to 30 months imprisonment, was ordered the attachment of an electronic positioning device for 20 years after release. Furthermore, the measure was extended to the crimes like the kidnapping of minors or murder, and attempts are being made to further apply it to other crimes such as robbery. Such an expanded application causes concern on the government's abuse of supervision policies.
- 11.7** The bill proposed by the Ministry of Justice adopting chemical castration was passed at the National Assembly in just one day without any prudent review. According to the Act, the chemical castration can be imposed by a court decision without the consent of a person subject to the measure. Moreover the drugs to conduct chemical castrations have not even been decided yet.
- 11.8** Since the electronic anklets attachment and chemical castration are to be executed after release from imprisonment, there is much controversy regarding the potential for double punishment. Furthermore, the effectiveness of these newly enacted measures on the treatment or the prevention of recidivism is not proven yet in Korea or abroad. Facing extreme forms of recent sexual violence crimes against minors, public opinion demanded stronger punishment of child abuse convicts. The recent policies are viewed as only catering to the public's sentiment without sufficient review of their effectiveness.
- 11.9** Despite the fact that 70% of sex crimes against minors are committed by acquaintances, such policies create a distorted view on sexual violence as to be committed by strangers. The policies also reinforce "the politics of fear and anxiety." Furthermore, since sexual violence should be perceived in the context of gender discrimination and women's human rights, as stated in the General Recommendation No. 19 by CEDAW in 1992, a narrow view on sexual violence as a crime committed simply because of men's sexual desire or recidivism by a certain group of ex-convicts is problematic.
- 11.10** While the Ministry of Justice's budgets on "electronic positioning devices" increased by 145%, from 2.2 billion Won (US\$ 2,024,850) in 2010 to 5.4 billion Won (US\$ 4,970,087), in 2011, the budgets for the treatment and rehabilitation of sex offenders increased only by 0.5% over last year, totalling only 860 million Won

(US\$ 791,532). The 5.4 billion Won budget for electronic positioning devices is even higher than the combined budget for the assistance for 60 sexual violence counseling centers nationwide (2.9 billion Won, US\$ 2,669,121) and 17 “one-stop supporting centers” nationwide (2.3 billion Won, US\$ 1,840,773). It is questionable whether the supervision and control of a partial group of sex offenders would be more effective and important than the assistance for survivors and treatment and rehabilitation of ex-convicts. The current budget compilation should be reconsidered.

11.11 Therefore, the recent reinforcement of punishment policies are to be regarded as merely catering to the public’s sentiment and demands for stronger punishment of child abuse convicts after recent atrocious sex crimes against minors, even though the effectiveness of such policies is questionable.

<Recommendation>

11.12 It is inappropriate to regard the causes of sexual violence as either male sexual desires or ex-convicts’ recidivism. The Korean government should shift its approach to sexual violence in accordance with the General Recommendation No. 19 by CEDAW in 1992, which approaches sexual violence in the context of gender discrimination and the violation of women’s human rights.

11.13 In order to supervise potential child abuse convicts and to prevent recidivism, the offenders on jail terms should receive a professional examination and diagnosis to discover the causes behind their crimes and undergo a systemic program for treatment, correction and education.

11.14 The Elementary and Secondary Education Act should be amended to thoroughly control and guarantee the security of students. Also, plans to establish a community coordination network and to protect children who lack proper care after school should be prepared. Especially, there is a need for plans to protect more vulnerable children such as those living in poverty or migrant families from sexual violence.

■ **Support for Multi-Cultural Families Act (NG 2.11, 16.146)**

12. Support for immigrant women should not be provided by a “family-oriented” approach, but instead by focusing on upholding each immigrant woman’s human rights

<Analysis>

12.1 The Act applies only to a family composed of an immigrant married to a Korean (by birth or naturalization). Thus, the Act excludes many other multi-cultural families residing in Korea such as families comprised of immigrants only, which shows the ethnic nationalism inherently underlying the Act. Furthermore, since the Act limits its applicability to “legal” foreign residents under the Framework Act on Treatment of Foreigners Residing in the Republic of Korea, it is very limited in its scope and may not provide sufficient protection or be applicable to support multi-cultural families.

12.2 As the purpose of the Act is to “help multi-cultural family members to enjoy stable family living,” the support provided by the law is actually a way to assimilate immigrant women into the Korean patriarchal family system and culture. The Act lacks a perspective to uphold each immigrant woman’s human rights.

<Recommendation>

12.3 The definition of a multi-cultural family should be expanded to include every immigrant residing in Korea.

12.4 Support for immigrant women should be provided not by forcing a family-centric approach, but instead by focusing on upholding each immigrant woman’s human rights.

■ Marriage Brokerage Control Act (NG 2.12, 5.59)

13. The international marriage brokerage industry should be regulated and victims should be regarded as victims of human trafficking

<Analysis>

- 13.1** Although there are currently about 1,300 international marriage brokerage agencies in Korea, only 400 agencies are registered. Even though there are increased cases of international marriage brokerage through acquaintances and relatives by unregistered individuals who themselves have experienced international marriage, there are no exact statistics to help clarify the actual conditions of these marriages. It is urgent to investigate the damage caused by unregistered marriage brokerage agencies and take effective supervisory measures.
- 13.2** The amendment of the Act in November 2010 required international marriage brokers to ensure the exchange of personal information between both parties after translating information obtained from both. Failure to meet these requirements will result in a penalty, such as the suspension of a business and a fine. However, the effectiveness of such legislation is questionable due to the lightness of the penalties under these provisions.
- 13.3** Although the Ministry of Gender Equality and Family is mainly in charge of regulating international marriage brokerage agencies, the responsibility for supervising brokerage businesses was transferred to respective local governments in Si/Gun/Gu. However, since local governments have operated the “International Marriage Encouragement Program for Unmarried Men in Rural Areas (a program providing commission fees on international marriage for unmarried men in rural areas by local governments)” in order to increase rural area populations and to reinvigorate rural areas, the program inevitably requires cooperation between local governments and international marriage brokerage agencies. Thus, such cooperative relation renders the supervisory function of local governments fruitless.
- 13.4** Even if the Korean government regulates international marriage brokerage agencies in Korea, there are fundamental limitations since it cannot control illegal acts committed by brokerage agencies in foreign nations where commercial international marriage is criminalized. Thus, although there are a high number of female victims by brokers abroad, there is no system for protecting of such victims. Recently, a foreign underage woman, who was not of legal age to marry, was introduced to a man she subsequently married and gave birth to a child in her country. Although she sought legal advice in Korea to confirm

her parental relationship after childbirth, no legal support could be given to her because her identity was not registered in Korea.

<Recommendation>

13.5 Measures to effectively supervise unregistered international marriage agencies should be prepared as soon as possible and strong punitive provisions should be adopted in order to ensure that brokers provide accurate personal information for each spouse before marriage. Furthermore, local governments responsible for supervising international marriage brokerage agencies should stop the subsidy program for unmarried men's international marriages in rural areas and properly perform its duty to supervise brokerage agencies.

13.6 Whereas concluding comments of the CEDAW in consideration of the fifth and sixth periodic reports of the Republic of Korea paragraph 22 also urged the Korean government to develop policies to regulate international brokerage agencies, the current Marriage Brokerage Control Act does not provide any legal mechanism to protect victims of brokerage agencies. Brokers not only in Korea but also abroad should be regulated and women victimized by individual brokers or by brokerage agencies should be defined as victims of human trafficking under the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United National Convention against Transnational Organized Crime." They should be guaranteed the right to stay and work in Korea if they wish. Thus, the Korean government should enact legislation on prevention of human trafficking based on international standards.

B. Amended Legislation

■ Act on Punishment of Sexual Violence Crimes and Protection of Victims (NG 2.20) (Responses to the list of issues and questions 12)

14. The presence of a person having "reliable relations" with a victim during the sexual crime investigation and trial process is mandatory under the Act for the victim

protection, but this requirement is often ignored, especially in the investigation process

<Analysis>

14.1 During the sexual crime investigation and trial process, the presence of a person having “reliable relations” with the victim is compulsory under the Act. However, police officers and prosecutors are often not aware of the provision and exclude such person’s presence. Moreover, since the phrase "a person having reliable relations" is ambiguous in its meaning and scope, NGO workers are sometimes treated as not having such "reliable relations" with a victim. There are also instances in which family members or lawyers of a victim are denied their attendance. The NGO workers who support sexual violence survivors often must inform police officers of the relevant provisions in order to be present with a victim in the investigation process. However, victims who are not assisted by civil sexual violence counseling centers are not even informed of such a provision’s existence.

<Recommendation>

14.2 In case of sexual crimes committed by known acquaintances, such as family members or relatives, NGO workers are often the only supporters for the victims. Sexual violence counseling centers in Korea play important roles in order to safeguard victims’ rights during the investigation and trial procedures and to prevent any secondary damage to the victims. Therefore, effective guidelines should be set up to allow NGO workers to be present with victims as persons with reliable relations to the victims during the investigation process.

15. The victims are often susceptible to secondary damage since the officials in charge of investigations and trials are not adequately aware of the provisions related to the protection of sexual crime victims

<Analysis>

15.1 Although the Act on the Punishment of Sexual Crimes and Protection of Victims stipulates many protective measures for victims, as well as the Supreme Prosecutors'

Office guidelines, the officials in charge are often not adequately aware of such contents and lack a proper understanding of sexual crimes, which results in insufficient protection of victims. Specifically, there were instances when investigators reproached and insulted victims during the investigation, required victims to reenact the posture of rape, and conducted repeated interrogations due to the lack of preparation of their video recording devices. Also, the address and contact information of victims was often disclosed to offenders by the staff of the court. Among such instances, the State was held liable to compensate for damage to the victims in some cases.

<Recommendation>

15.2 In order to prevent any secondary damage suffered by the victims of sexual crimes during the investigation and trial processes, detailed educational programs, guidelines and performance evaluation mechanisms should be developed to enhance awareness of the responsible officials on the issue.

■ Act on Prevention of Domestic Violence and Protection of Victims (NG 2.21)

16. The provision granting a preferential right to public rental housing to victims of domestic violence should be amended to offer more realistic assistance

<Analysis>

16.1 The victims of domestic violence who are given priority access to public rental housing are the women who have entered domestic violence protection facilities more than 6 months ago or women who resided in housing support facilities or “group homes” for more than two years and left those facilities not more than two years ago.

16.2 However, although granted a preferential right to reside in public rental housing, there are victims of domestic violence who find it difficult to move because they cannot afford to pay even a deposit. Since victims sheltered in protection facilities need considerable time for mental and physical treatments, as well as for filing suits against offenders, there is insufficient time for them to earn their economic independence. Therefore, the provision under the Act which specifies “a period not exceeding two years after leaving or being discharged from facilities” is unrealistic, considering the substantial amount of

time needed for victims of domestic violence to earn money for a public rental housing deposit, which is between 8 and 15 million Won (US\$ 7,363 – 13,805) on average.

<Recommendation>

16.3 The provision which specifies “a period not exceeding two years after leaving or being discharged from facilities” should be amended to extend the time period for victims of domestic violence to have sufficient time to develop their economic independence and to prepare their deposit for public rental housing.

17. The government should provide shelter to a migrant woman who, even though she did not become naturalized as a Korean citizen, is a victim of domestic violence by giving her priority access to public rental housing

<Analysis>

17.1 The Act on the Prevention of Domestic Violence and Protection of Victims (amended on May 8, 2009) requires the central and local governments to provide shelter to victims of domestic violence who have left home to escape such violence by giving them access to public rental housing on a priority basis. However, the Act does not apply to every woman in Korea, as shown by the treatment of migrant woman. In application, the Act only applied to a married migrant woman who became naturalized as a Korean citizen, but it would not apply to a migrant woman who retains her foreign citizenship.

<Recommendation>

17.2 The Act’s provision should explicitly specify “migrant women” in order to provide shelter to migrant women who are not naturalized as Korean citizens, but who are still victims of domestic violence and thus should have priority access to public rental housing. A system should be established to give priority to people in disadvantaged groups, such as migrant women.

■ Remedial Actions against Gender Discrimination (NG 2.31)

18. The formulation and enactment of an anti-gender discrimination act is needed

<Analysis>

18.1 With the abolishment of the “Act on the Prohibition and Remedy for Gender Discrimination” in 2005, a concrete legal ground to identify gender discrimination was also abolished. Currently, the National Human Rights Commission is in charge of investigation and the recommendation of remedies on gender discrimination cases based on National Human Rights Commission Act. However, such the Commission’s recommendation is not binding and should the other party (the perpetrator) choose not to follow it, the claimant (the victim) has no other option but to file a lawsuit with the court. Since the “National Human Rights Commission Act” only mentions “gender discrimination” as an example of what would constitute discrimination as defined in the Act, and does not provide any concrete criteria to identify such gender discrimination, courts are having difficulties in determining whether a certain action can be identified as gender discrimination or not.

18.2 At the time it was decided that functions regarding sexual harassment matters were to be transferred from the Ministry of Gender Equality to the National Human Rights Commission, Korean NGOs were skeptical as to whether the Commission would actively reflect in their decisions the circumstances and experiences peculiar to women which are easily lost behind general (male-oriented) human rights values. Given the recent situation of the National Human Rights Commission, it has become even more doubtful whether the Commission is capable of impartial investigation and fair decisions.

18.3 The National Human Rights Commission has not been functioning properly since its president was replaced with a pro-government figure who has no expertise in human rights matters. He handled cases dogmatically and without any regard for democratic principles, even more so in cases which involved criticism of the present government. Eventually, a number of experts who had worked with the Commission since its establishment resigned. In February 2011, a gender discrimination investigator who had worked at the Commission since its establishment was dismissed without due cause. It has become known that the reason behind her dismissal was that she continuously criticized the improper management of the National Human Rights Commission.

<Recommendation>

18.4 The formulation and enactment of an anti-gender discrimination act is needed as a comprehensive and systematic law on the prohibition of gender discrimination. At present, Korea has separate acts on the prohibition of discrimination based on disability and age, namely the “Act on Prohibition of Discrimination based on Disability” and the “Act on Prohibition of Discrimination based on Age,” but no separate act on the prohibition of discrimination based on gender. Individual acts should be enacted on each kind of discrimination which is based on factors like gender, disability, race, and age.

18.5 According to the Responses to the list of issues and questions by the Korean government question 2, the government will decide whether to push for the enactment of a general anti-discrimination act through discussions held by a special subdivision committee. However, it has become known that any actions for the enactment of such act have been postponed indefinitely. The Korean government should enact an anti-discrimination act as a general framework along with an anti-gender discrimination act, adjusting the interests and conflicts of various social groups.

V. Article 3 : Department in Charge of Women's Policies, Gender Mainstreaming Policies

■ The Third Basic Plan for Women's Policies (NG 3.33)

19. Since the Basic Plan for Women's Policies is a comprehensive national plan with a vision to realize gender equality, the plan should not be contingent on the change of the administration or department in charge of women's policies

<Analysis>

19.1 Since the Framework Act on Women's Development was enacted in 1995, a Basic Plan for Women's Policies has been developed and implemented every 5 years. The First and the Second Basic Plans for Women's Policies succeeded in establishing a framework to reduce elements of gender discrimination in law and policies and to pursue gender equality. On the basis of such achievements, the Third Basic Plan for Women's Policies was issued in December 2007, but was modified only a year after the current administration took office in 2008.

19.2 According to the modification of the Plan, the two bureaus within the Ministry of Gender Equality and Family were transferred to the Ministry of Health and Social Welfare, and the Ministry of Gender Equality and Family was downsized and reorganized into the Ministry of Gender Equality. Due to such changes in the department implementing women's policies and the decrease in its jurisdiction, the basic plan's objectives, domain and tasks were modified. However, the Basic Plan is a comprehensive plan at the national level, requiring the cooperation of every department and local government, rather than a plan that is carried out solely and independently by the Ministry of Gender Equality. Therefore, the Basic Plan's objectives and domain should be neither expanded nor downsized in response to the change of department responsible for women's policies. If not, the fundamental course of action and objectives for the promotion of gender equality will become ambiguous. Modification of the Basic Plan by segmenting its tasks according to the jurisdiction of the Ministry of Gender Equality would cause confusion in implementing gender-equality policies.

19.3 The Third Basic Plan for Women’s Policies before the modification included “women’s active participation in the management of the nation” and “socially-shared responsibilities for caregiving” as important policy objectives. However, the modified Third Basic Plan downscaled the importance of these objectives. It weakened the strategic plans to promote substantial gender-equality by encouraging active participation by women in the public sphere beyond nominal level. Also, it disregarded the importance of the strategy to increase new job opportunities in social service areas through the division of caregiving labor in a society where caregiving has traditionally been women’s work.

<Recommendation>

19.4 In order to develop a comprehensive Basic Plan for the Women’s Policies at the national level and to achieve its effective implementation to enhance substantial gender equality, close cooperation between governmental departments and branches should be reinforced, particularly for policy adjustment, overall management, and coordination functions.

19.5 A systemic framework should be established to enable policy experts and women’s rights NGOs to participate in the development and implementation process of the Basic Plan for Women’s Policies, so that the Basic Plan’s implementation is not carried out solely by the public officials, protecting the Basic Plan from remaining as a mere administrative formality.

■ **Reorganization of the Ministry of Gender Equality (NG 3.34) (NGO Report Five Key Issues No. 1)**

20. The department in charge of women’s policies should be strengthened and its general administrative and coordinating functions should be systemically institutionalized

<Analysis>

Weak status of the department in charge of women’s policies

20.1 When the current administration took office in 2008, it tried to eliminate the Ministry of Gender Equality and Family, but facing enormous oppositions, only downsized the department into the Ministry of Gender Equality. In March 2010, without any clear

explanations by the government, the Ministry of Gender Equality took over tasks related to family and children policies and became once again the Ministry of Gender Equality and Family. As the functions and tasks were modified 3-4 times in just 4-5 years, it inevitably generated much confusion, not only among the public officials in charge of implementing the policies, but also among the beneficiaries of the policies. In addition, the status of the Ministry of Gender Equality and Family became much more controversial.

Weak general administrative and coordinating functions

20.2 Since the task of childcare services has not been transferred from the Ministry of Health and Welfare to the Ministry of Gender Equality and Family under the current administration, the Ministry of Gender Equality and Family has not been able to effectively implement policies to support balancing women's work and family life. Furthermore, the Ministry of Gender Equality and Family is not able to spearhead developing women's employment policies, which are essential for ensuring women's livelihood, because the Ministry would need to work in cooperation with other departments such as the Ministry of Labor. Moreover, as shown in the NGO Report's Five Key Issues No. 2, the Korean government's prohibition of abortion and its rigid enforcement of regulations against illegal abortions to raise the birth rate have seriously threatened Korean women's rights to health and life, due to the likely increase in underground abortion operations. Nevertheless, since the Ministry of Health and Welfare had been in charge of women's reproductive rights, the newly-consolidated Ministry of Gender Equality and Family was in no position to play any role. Therefore, the Ministry of Gender Equality and Family's general administrative and coordinating ability is considerably weak, as it is not able to manage cross-departmental issues that fundamentally affect women's lives.

Reversion of women's policies into familism

20.3 The agenda of the Ministry of Gender Equality and Family for the year 2011 is "Happy Citizens, Warm Society and Proud Korea." The agenda for 2010 was "A Society Where All the Family Members Are Happy / An Equal Society Sharing Together." These agendas of the two consecutive years have caused a question about the department's

identity. They spread false beliefs that the gender-equality issues are not important anymore or have been already resolved. Furthermore, as the objective of Ministry of Gender Equality and Family were transformed into actively fighting the low birth rate and family disorganization, the basis of the policies is regressing from the women's human rights and equality to the traditional familism.

<Recommendation>

20.4 The Ministry of Gender Equality and Family's ability to coordinate women and family related policies should be systemically institutionalized. The Government Organization Act should be amended to include the functions of the Ministry of Gender Equality and Family, namely its mandate to "develop, coordinate and administrate over women's policies," so that the department can effectively encourage, coordinate and supervise women's policies of respective governmental departments.

20.5 Policy experts and NGOs that promote women's rights should be able to actively participate in developing national women's policies on a systemic basis.

■ **Gender Mainstreaming (Gender Responsive Budgeting, Gender-Impact Assessment, Gender-Sensitive Statistics) (NG 3.35-38)**

21. For effective implementation of gender mainstreaming policies, the government should readjust and reinforce execution procedures, develop an effective monitoring system, and continuously research and improve relevant mechanisms

<Analysis>

21.1 The Korean government legally mandated a system of gender-sensitive budgeting by obligating the submission of "gender-responsive budgetary documents" and "gender-responsive balance sheets of the settlement of accounts" along with government budgetary documents and government balance sheets of accounts to the National Assembly. However, since the government's gender-sensitive budgetary document is prepared by simply adding information about the benefits allotted to each gender within each project, such information is difficult to characterize as a substantial gender analysis.

21.2 Furthermore, whereas gender-sensitive budgetary documents should be submitted to the National Assembly by law, they are only attached as accompanying documents to the budget and are not subject to separate review by the National Assembly. Moreover, deliberation procedures within the National Assembly on gender-responsive budgets are not prescribed clearly. Thus, deliberation on gender issues and the budget depends on the individual interests of a few members of the National Assembly.

21.3 The Ministry of Gender Equality and Family, the body in charge of implementing gender-mainstreaming policies, is currently in charge of general administration over gender analyses (gender-impact assessment) of every project of all government ministries. However, the Ministry of Gender Equality and Family does not have adequate political negotiating power. Unless a system is not developed to thoroughly apply gender analyses to gender responsive budgetary documents, gender-impact assessment as well as gender responsive budget will only remain as mere formalities, providing no substantial impact on gender mainstreaming.

21.4 Since the government is spearheading gender-responsive budgets and gender-impact assessment, it is very difficult for NGOs to be involved in the procedures. Most local governments tend to treat these important assessments as mere formalities. Although public officials in charge of compiling gender-impact assessment reports must undergo gender-sensitiveness education, most of these officials disregard this task.

<Recommendation>

A link between gender-impact assessment and gender-responsive budget development should be systematically established

21.5 A strong cooperation system between the Ministry of Gender Equality and Family, the body in charge of gender-impact assessments, and the Ministry of Strategy and Finance, the body in charge of gender-responsive budget development, should be designed.

21.6 Since public officials, who are not professionals on the field, are in charge of both gender-impact assessments and gender-responsive budget development, the procedures might be too simple or become mere formalities. Continuous research and development,

especially inquiries into the link between gender-impact assessment and gender-responsive budgets, should be conducted.

21.7 The forms of gender-impact assessment and gender-responsive budgetary development should include diverse ways to effectively analyze and implement projects.

21.8 The government should allow NGOs to be involved in the implementation process of gender-mainstreaming policies. As applying successful policies would require close cooperation among various organizations to promote gender equality, the contribution of NGOs on the overall process of gender mainstreaming is critical. In particular, NGOs' role of monitoring government policies and the budget should be actively encouraged.

■ **Cooperative Systems between the Central and Local Governments Promoting Policies on Women (NG 3.39-40)**

22. The status of institutions in charge of women's policies within local governments should be strengthened to enable them to cooperate with the central government with autonomy and independency

<Analysis>

22.1 Korea's current administrative organization system allows local governments to perform with partial self-governing administration in order to promote decentralization. However, sufficient autonomy cannot be guaranteed to local governments since they depend on the central government financially. Under such circumstances, assigning specific regional institutions to be in charge of gender-impact assessments could be effective in forming a cooperative system between the central and local governments to implement policies on women. However, there are not enough incentives for the regional institutions and the relevant local governments, so cooperative gender policy implementation is not appealing work to local entities.

22.2 The local governments still define women's policies merely as "policies targeting women" centered on women's welfare, support for community activities and women's social education. They tend to perceive women's policies as providing benefits to help

women as social minorities or second-class citizens. The local governments lack political will to empower women and dissolve patriarchal social structure and practices.

22.3 Most local governments have an official institution named “The Committee on Women’s Development” in order to discuss and mediate policies on women, especially with the private sector. However, most of the Committees do not function as institutions for consultation and mediation, but only provide advice and review the projects proposed by local governments. The Committees mainly focus on reviewing the management of Women’s Development Fund (such as selection of fund recipients) and the plans for “healthy family” initiatives. There is a controversy over its overlapping functions with GO-NGO joint consultative groups that support victims. Such controversy raises improper questions about the appropriateness of institutions in charge of women’s policies.

<Recommendation>

22.4 The institutions in charge of women’s policies should be strengthened and a gender-equality bureau should be set up within local governments. Since the central government limits each local government’s size and its maximum number of public officials, it opposes the establishment of an additional institution within a local government. However, in order to empower local governments to cooperate with the central government with autonomy and independence, a gender equality bureau should be set up in spite of such limit.

22.5 The policies promoting gender equality should be implemented, not by a single department in charge of women’s policies, but by all departments that carry out projects with gender-sensitive perspectives. Thus, the government should mandate each local government to set up a special institution to play a comprehensive role in consultation and mediation between departments working to promote gender equality. Moreover, the involvement of NGOs should be guaranteed to fight against the male-centric status quo that marginalizes women in many regional societies.

VI. Article 4 : Expansion of Women's Participation in the Public Sector

23. Active measures should be taken to increase the proportion of female high-ranking public officials, as well as of the proportion of female professors in national and public universities. (NG 4.42-43, 46)

<Analysis>

23.1 A glass ceiling that restricts the promotion of female public officials still firmly exists.

According to data compiled by the Ministry of Public Administration and Security, 22 out of 41 central administrative agencies did not employ a single female high-ranking public official (meaning a public official of rank 5, deputy director level, or above) in 2009. Also, that same year, there were only 40 female officials out of 1,428 high-ranking officials in 41 agencies in total, amounting to only 2.8% female participation in high-ranking government positions⁹. Whereas the proportion of female high-ranking public officials increased in general between 2003 and 2007 (1.8%→2.0%→1.6%→3.0%→2.7%), the increase stagnated in 2008-2009 since the Lee's administration took office (2.4%→2.8%).

23.2 According to the Report on the Affirmative Action for Women's Employment¹⁰, the female workers comprised 34.89% of workers in civil enterprises, but only 30.14% of workers in public organizations. Also, the proportion of women in managerial positions was 16.09% in civil enterprises and only 9.93% in public organizations. Furthermore, the composition of female public officials at an executive level in public institutions was 3.13% in 2010, which is a 0.87% decrease from the 4.0% reported in 2006. As the government could directly improve female employment in the public sector, as opposed to the private sector, the lower female employment rate in the public sector demonstrates that the government is not introducing and implementing effective policies for gender equality in employment.

⁹ Kim Kyung-Hee, 2011, Debate Forum: Evaluation of women's policies during the three years of Lee Myung-bak Administration and Future Challenges.

¹⁰ Women's Association Forum on the Affirmative Action for Women's Employment, 2010, Ministry of Employment and Labor / Korea Labor Foundation.

23.3 The proportion of female professors in national and public universities was 11.6% in 2008, which is a slight increase from the 11.0% reported in 2006. However, the proportion of female professors in private universities during the same period increased from 18.8% to 19.7%. Since the government should be able to more easily increase the number of female professors in national and public universities through active recruitment and retention policies, the lower female proportion of female professors in national and public universities demonstrates a lack of government's will to address this issue.

<Recommendation>

23.4 A substantial reformation of employment policies should immediately take place to improve systems of personnel assignment, fair personnel management and gender equality in employment.

23.5 More efforts are needed to enhance women's participation in the public sector.

VII. Article 5: Sexual Violence, Domestic Violence

A. Sexual Violence (NG 5.56-57)

24. Korea should not require a victim's complaint in order to prosecute crimes of sexual violence. (Implementation of the previous concluding observations of the Committee Article 5 Paragraph 18)

<Analysis>

24.1 Although the Seventh Period Report of the Republic of Korea states that through the amendment of the Act on the Protection of Children, Youths from Sexual Violence, such a requirement was eliminated for certain types of crimes involving sexual violence, the scope of the elimination is very limited (it only includes certain types of sexual violence crimes against victims between the ages of 13 and 19). The prosecution of sexual violence crimes should not be subject to a victim's complaint, regardless of the victim's age. Such a limited range of revision shows that the amendment was made to cater to the strong public sentiment opposing sexual violence against minors and thus, cannot be regarded as an attempt by the government for a complete elimination requiring a victim's complaint to prosecute sexual violence crimes.

24.2 The victims of sexual violence in Korea are being pressured and threatened by the offenders to drop their complaints. There is a widespread view that sexual violence crimes are not serious crimes, but merely unfortunate sexual encounters. Furthermore, on many occasions, victims who have sought help from investigation officers have been simply advised to take a settlement from the offender, to not to file charges, or to drop the complaint.

24.3 Currently, Korea's Criminal Act is being amended for the first time in 35 years. "The Special Committee on the Amendment of the Criminal Act" was set up in June 2007 and a public hearing was held in October 2010. A bill containing a comprehensive revision of the Criminal Act was drafted and submitted to the National Assembly on 25 March 2011. Had the Korean government demonstrated its willingness to implement the United Nation's recommendation to eliminate the requirement of a victim's complaint, this issue

would have been included in the Amendment. However, the issue was never discussed, and thus was not included in the bill amending the Criminal Act.

<Recommendation>

Establishment of plans to eliminate the requirement of a victim's complaint to prosecute crimes of sexual violence

24.4 Before the Amendment to the Criminal Act (which was submitted to the National Assembly in 2011) passes the National Assembly, the Korean government should publicize the need for eliminating such a requirement and must include this issue in the Amendment. If not, specific plans to eliminate the requirement should be established in near future.

25. Expedient policies regarding the victims of sexual violence without long-term plans and perspectives

<Analysis>

25.1 As can be seen in the Responses to the list of issues and questions with regard to the consideration of the Seventh Period Report by the Korean government, since a number of high-profile sexual violence crimes against young children occurred from the mid-2000s onward, the reinforcement of punishment policies and the amendment of relevant legislation have focused on sexual violence crimes specifically against young children. However, policies regarding juvenile victims, who are minors just like young children, are not as promptly implemented as policies directed towards young child victims. Oftentimes juvenile victims are protected by the law after the policies addressing crimes against young children are established, and the age boundary is extended to include other minor victims who may not be young children. Furthermore, such policies do not encourage the effective prevention of sexual violence crimes and the protection of children from immigrant families, along with the protection of children who have developmental and mental disabilities. Therefore, the recipients of support from the victim protection policies are limited.

25.2 In Korea, crimes of sexual violence against adults require a victim's complaint to be prosecutable, except in certain types of cases, like an aggravated rape with a use or threat

of use of a weapon or an aggravated rape involving two more perpetrators. Adults comprise 63%¹¹ of the victims of sexual violence, including cases not brought to trial. However, adult victims have been isolated from victim protection policies since the mid-2000s. Such is the result of the government's expedient policies, focused only on preventing sexual violence against young children and the lack of a concrete long-term plan. For example, the Korean government has not worked to reform public prejudices against the victims of sexual violence. People tend to assume that certain sexual violence cases are caused by women who wore provocative clothing or had drinks with men until late hours or that a woman may file charges for other reasons after consenting to a sexual encounter. Such prejudices are found mostly in adult victim cases. Such public perception problems, which are one of the most urgent issues to be dealt with, have not been included in the government's agenda. Therefore, the government's current policy against sexual violence, which narrowly focuses on "the protection of children," should include sexual violence in a broader context and take measures to combat the pervasive attitudes that normalize sexual violence in Korean society.

<Recommendation>

Establishment of policies on the prevention of sexual violence from a perspective that guarantees women's human rights

25.3 Policies concerning the prevention of sexual violence should be centered on upholding women's human rights. However, the Korean government's current policies focus on post-crime measures and do not take a standpoint that appropriately emphasizes women's human rights. The government's policies, such as 'Support for Building Women-friendly Cities' as explained in the Seventh Period Report of the Republic of Korea Article 3 Paragraph 41, are based on a perspective that views women as passive objects needing governmental protection. The Korean government should review and rearrange the overall framework of amendments to legislation and improve the relevant systems, as well as measures for GO-NGO cooperation, to incorporate perspectives that prioritize women's human rights alongside effective policies to prevent sexual violence.

¹¹ Korea Sexual Violence Relief Center, Conselling statistics(2008~2010)

Developing concrete educational programs for anti-sexual violence education in public schools

25.4 Public education should be designed to enhance sensitivity for gender-issues and violence prevention in order to eliminate sexual violence in the long-term. Currently, Korean society and the government claim that gender discrimination and gender-related problems are disappearing in public education, based upon female students' academic achievement and female students' entrance rate into higher education and their admission to prestigious schools. However, school regulations based on gender bias still exist in public education, and violence and military-like discipline are deemed as conventions in Korean public education. When the Seoul Metropolitan Office of Education prohibited using corporal punishment on students in December 2010, the Korea Federation of Teachers' Associations, along with many consulting groups and the media, took opposing positions. Therefore, the government should work harder to reform the current educational culture that approves of violence. Also, anti-sexual violence education and sex education are being given at each school's discretion and most materials simply educate students on secondary sex characteristic. Therefore, the Korean government should amend legislation related to public school sex education to systemically educate students on gender discrimination, sexual violence and gender-sensitivity.

26. Ineffectiveness of the statistics and data on sexual violence cases by the Korean government (NG 5.57, Table 11) (Responses to the list of issues and questions no. 9)

<Analysis>

26.1 Table 10 on the number of sexual violence-based crimes in the Seventh Periodic Report of the Republic of Korea comes from the data provided by the Korean National Police Agency. Since the investigation and prosecution of crimes of sexual violence is subject to a victim's complaint, the actual number of sexual violence cases would greatly exceed the number given by the government report, as there are a significant number of cases not brought to the police by victims and cases in which a victim dropped her complaint following a settlement with an offender. As can be seen in the Korean government's survey on nationwide sexual violence cases, the rate of complaints by sexual violence

victims is only 12% in rape (i.e. forced penetration under the Korean criminal law) and forced sexual contact (i.e. sexual assault other than rape) cases.

26.2 The prosecution rate for crimes involving sexual violence in the Seventh Periodic Report of the Republic of Korea Paragraph 57 is different from the statistics published by the Prosecutor’s Office. The government needs to identify the exact source of such statistics. According to the official data compiled by the Prosecutor’s Office every year, the prosecution rate for sexual violence-related crime is not much higher than the prosecution rate for other crimes, and shows similar fluctuations to the overall prosecution rate of all crimes.

26.3 According to the “Judiciary Yearbook” of the Supreme Prosecutor’s Office, the prosecution rate for sexual violence crimes generally decreased for five years beginning in 2005, along with an overall decrease in the prosecution rate of all crimes. Excluding the cases sentenced to aggravated punishment under the Special Act on Sexual Violence, the prosecution rate for rape and other forced sexual contact is approximately 12% lower than the overall prosecution rate of all crimes. Furthermore, although sexual violence against disabled persons falls under the Special Act on Sexual Violence, the prosecution rate for such crimes is lower than the overall national prosecution rate by approximately 10%. The government, according to the Seventh Periodic Report of the Republic of Korea Paragraph 57, states that the prosecution rate for sexual violence crimes would be higher if data from the cases that were not prosecuted due to the absence of a victim’s complaint were included. However, such a statement shows that a number of sexual violence crimes are not being prosecuted and punished due to the provision requiring a victim’s complaint in order to bring a case. This clearly demonstrates a fundamental problem in Korea’s Criminal Act, which prohibits the prosecution of sexual violence crimes in the absence of a victim’s complaint.

The Prosecution Rate of Sexual Violence Crimes among the Reported Cases (2005-2009)

	Criminal Act	Special Act			
	Crimes of rape & sexual contact	Rape of minors under the age of 13	Quasi-rape of disabled persons	All sexual violence crimes	Entire crimes

2005	31.9	62.6	37.0	57.7	47.0
2006	34.3	62.7	37.8	58.6	44.3
2007	33.4	58.0	29.9	57.9	46.6
2008	33.6	61.2	40.8	58.3	47.1
2009	31.4	56.2	36.9	54.4	41.4
Average	33	60.1	36.5	57.4	45.3

*Supreme Court “Judiciary Yearbook” 2005-2009

26.4 The statistics on sexual violence in Korea show large differences depending on the organizations that compiled the data, and these discrepancies generate much confusion on the reality of sexual violence. The occurrence rates of sexual violence in statistics compiled by the government are always lower than those rates compiled by NGOs. Therefore, such distorted government statistics may lead sexual violence victims to mistakenly judge their experiences of victimization as rare exceptions. Thus, they might become more reluctant to report on their cases to the police.

<Recommendation>

26.5 The Korean government should make use of statistics and data compiled by NGOs and experts in the field, and not solely rely on limited statistics prepared by governmental branches, in order to more accurately characterize sexual violence in Korean society.

27. Improvement of the “One-stop support center” through a victim-oriented approach

<Analysis>

27.1 “One-stop support centers,” introduced by the Korean government as a system in accordance with the General Recommendation 19, contract their operations out to nationwide general hospitals. It can be a helpful facility for sexual violence victims who decide to file a complaint and preserve medical evidence soon after the crime.

27.2 However, although sexual violence victims file their complaints at one-stop supporting centers, actual legal assistance and psychological counseling are often provided by NGOs for women’s rights. Furthermore, in many cases, the police officer that first interviewed

the victim does not take charge of the case throughout the process, so the victim has to make repetitive statements to several police officers.

27.3 Moreover, the government's budget allotment and investment in education for personnel in these one-stop support centers is far from adequate. Moreover, although an abortion in case of pregnancy by rape is lawful, one-stop support centers tend to be reluctant to offer support for sexual violence victims asking about abortion. One-stop support centers should be improved in a way to guarantee the legal rights of sexual violence victims.

<Recommendation>

27.4 Since one-stop support centers have rapidly expanded nationwide in a short time, there is a significant lack of personnel and material resources, especially in rural areas. The establishment of the centers is not sufficient by itself. Additional fiscal support and a human resource management system are required to enhance the quality of the services offered by the centers. Furthermore, one-stop support centers should not only focus on "the early receipt of the case," but also endeavor to establish a cooperative network with civil counseling centers for sexual violence victims to make use of diverse women's rights services offered by both governmental and civil organizations. However, the one-stop support centers are in great need of financial support, since the Korean government concentrates its budget and resources only on new policies that cater to public opinion, such as the attachment of electronic monitoring devices or chemical castration. There should be a social consultation process where NGOs can participate in deciding the appropriate apportionment of the budget for implementing the government's sexual violence policies.

B. Domestic Violence (NG 5.58)

28. Adoption of the "Arrest First" Principle in Domestic Violence Cases

<Analysis>

28.1 According to a national survey on domestic violence undertaken by the Ministry of Gender Equality and Family in 2010, the domestic violence rate within marriages during the last year totaled 53.8% and the rate of abusive physical violence in marriages over the

last year came to 16.7%. After marriage, the incidence of physical violence in families was reported to be 23%. Other rates of abuse included 50.7% reporting psychological violence; 13.9% reporting financial abuse; and 13.5% reporting sexual abuse.

28.2 Nevertheless, victims requested help from the police in only 8.3% of instances, which shows a very low rate of reliance on the judiciary system compared to the overall rate of domestic violence. The national survey reported respondents' reasons for not reporting their cases to the police: 29.1% answered that "violence by their spouse was not serious enough," 26.1% "felt embarrassed to disclose domestic affairs," 14.1% were "unable to report one's spouse to the police." and 10.9% did not report "for their children's sake." The majority of reasons were related to social norms, but 9.3% of the responses answered that "reporting to the police would be useless," indicating distrust in the judicial system.

28.3 The grounds for distrusting the judiciary system to effectively address domestic violence become clear when looking at the measures taken by the police upon receiving a report. According to the survey responses, 50.5% of participants indicated that "the police just returned after visiting [their houses], saying that domestic disputes should be resolved within [the family]," and 17.7% of the responses stated that "the police did not even bother to come to the crime scene, saying that domestic disputes should be resolved by themselves." Therefore, 68.2% of the domestic violence victims received no help from the police. Furthermore, 61.3% indicated that domestic violence continued or even was aggravated after reporting their cases to the police.

28.4 Even in the cases reported to the police, most resulted in "the suspension of prosecution on the condition of counseling" by the prosecutor or were transferred as a "family protection case" with the offenders generally receiving very lenient sentences. Such practices obstruct public awareness of domestic violence as a crime. Moreover, since the execution rate of temporary special measures is very low and no punishment is imposed when the offender violates the special measures, victims are in lack of security and in fear, even when they report their cases to the police.

28.5 The Ministry of Gender Equality and Family announced the "Comprehensive Plan for the Prevention of Domestic Violence" in May 2011. The plan allows the police an authority to execute urgent temporary measures to isolate an offender or to prohibit him

from approaching a victim within 100 meters (including telecommunication) when the police decide that there is a risk of second offense. In addition, the plan allows for a victim to directly request protective measures apart from standard judicial procedures, such as isolation of an offender, prohibition of access and restraints on parental custody.

28.6 However, the basic framework of the plan upholds the suspension of prosecution on the condition of counseling, which demonstrates that the government regards domestic violence as solvable by counseling and treatment, and not as a serious criminal act that can threaten a victim's life.

<Recommendation>

28.7 According to a national survey on domestic violence by the Ministry of Gender Equality and Family in 2010, 85.3% of married women and men negatively rated the effectiveness of the government plan on prevention of domestic violence. The policy identified as the greatest area of need by the respondents was "rigid enforcement of punishment on the perpetrators of domestic violence."

28.8 As can be seen from the results of the Minneapolis domestic violence experiment, which attempted to discover the most effective means to lower the second conviction rate of domestic violence, this rate decreased substantially when the offender was arrested on the spot.

28.9 The emergency and temporary measures under the current Act and the urgent temporary measures which will be adopted in near future all state that the offender should be separated or isolated from the victim. However, such measures are different from "arresting" the offender.

28.10 Strong social intervention is required to protect victims of domestic violence and to stop recidivism. The adoption of the "arrest first" principle will not only demonstrate a strong societal will to crack down on domestic violence, but also will be a basic step to help victims of domestic violence trust society.

29. Need for an effective educational policy to ensure rigid enforcement of initial measures against domestic violence and complete eradication of domestic violence

<Analysis>

- 29.1** Initial measures are very important in domestic violence cases. However, as stated above, although victims report to the police, no special measures are taken in most cases as police officers take no action because of the errant belief that “domestic disputes” should be resolved within a family.
- 29.2** Since March 2011, the Ministry of Gender Equality and Family started a “gender equality and human rights education program” for investigative officers with the intent of eradicating domestic violence through enhanced awareness of domestic violence and by reinforcing initial measures against domestic violence. The program will be given regularly as a formal education program for prosecutors and investigators.
- 29.3** However, the education program is only a three-hour program, constituting of two ninety-minute sections, “gender-equality sensitivity training” and “the course and the role of investigation and intervention into domestic violence.” The effectiveness of such a short program is questionable.

<Recommendation>

- 29.4** Although dispatched to the scene after receiving a report on domestic violence, many police officers are not well aware of protective measures available for victims under the Special Procedure Act on Punishment of Domestic Violence and are also unaware of the seriousness of domestic violence. Therefore, educating investigative officers who deal with domestic violence firsthand is very important. However, according to the current plan, such a large-scale education program might be a mere formality. Therefore, increasing the hours of educational training and closely cooperating with NGOs that directly support victims are required to develop more effective educational programs.
- 29.5** Furthermore, a practical manual for police officers dispatched to domestic violence incidents should be developed. In addition, certain mechanisms such as rewarding investigative officers who handled the case well should be provided to motivate investigative officers to more actively engage in domestic violence cases.

29.6 In order to enhance the reporting of domestic violence and the following judicial procedures, the government should endeavor to raise public awareness that domestic violence is a serious social crime which can be eradicated. The respondents of the survey on domestic violence regarded mass media, such as TV and radio, as the most effective means of enhancing awareness on domestic violence. However, although the Ministry of Gender Equality and Family secured budgets of the year 2011 for producing public service advertisements, these have yet to exist. The government should produce and broadcast nationwide public service advertisements on the prevention and eradication of domestic violence at the earliest time possible.

30. Statistics showing the actual conditions of judicial procedures on domestic violence should be provided

<Analysis>

30.1 The decisions made by the Prosecutor's Office on domestic violence cases and the rate of prosecution presented by the government are based on the data compiled by the Supreme Prosecutor's Office. The official statistics provided by the judicial branch are currently based on the "Crime Analysis" statistics of the Supreme Prosecutor's Office and the "Judiciary Yearbook" of the Supreme Court. However, these official statistics are problematic, because they do not show the exact number of reported domestic violence cases and the ways these cases were processed.

30.2 Only the cases processed under the Special Procedure Act on Punishment of Domestic Violence are recognized as domestic violence cases in these statistics. According to the "Crime Analysis" of the Supreme Prosecutor's Office in 2008, only 20 cases were processed in that year under this Act. Thus, it can only be roughly assumed that most domestic violence cases are being processed under the Criminal Act.

<Recommendation>

30.3 Unless processed under the Special Act, domestic violence cases are included with crimes of assault, bodily harm, threat, and extortion according to the current statistics.

Thus, it is difficult to tell the actual number of domestic violence crimes, the decisions made on these cases, the characteristics of the offender and the offender's relation to the victim. A precise understanding of the characteristics of a crime is a basic and indispensable step for complete eradication of the crime. Therefore, statistics indicating the actual conditions of domestic violence crimes should be prepared separately.

VIII. Article 6: Prostitution, Youth Prostitution, Human Trafficking, and Migrant Women

A. Prostitution (NG 6.61-67)

31. There should be a comprehensive reestablishment of governmental measures for the reduction of sex industry with a sufficient labor force and budget

<Analysis>

31.1 The government has been pushing two Acts on prevention and punishment of prostitution and the Comprehensive Action Plan to Prevent Prostitution. However, since 2008, measures and inspection on this matter has not proceeded beyond mere formalities and the government has not been able to respond to the matter. For example, the “Assessment of Clean Index” over local governments for the prevention of prostitution has not been conducted since the beginning of 2008, and thus there has not been a specific plan to improve cooperation with local governments and the evaluations of the effectiveness of the Assessment’s execution. Moreover, prevention of prostitution through cooperation with other government departments has been passive, and no comprehensive plan has been adequately carried out.

<Recommendation>

31.2 Detailed long-term measures with a sufficient workforce and budget for the prevention of prostitution must be prepared in order to reduce demands of the sex industry and to protect the human rights of women.

31.3 The policy of preventing prostitution should be continuous and consistent, and more effort should be made in order to increase the professionalism of relevant public officials.

31.4 Participation of expert civil organizations in the field should be expanded.

32. The Acts on prostitution should be amended to decriminalize women in prostitution

<Analysis>

- 32.1** In sex industry, physical, economic and psychological coercions (like threats to a woman, her family members, and supporting NGOs) by brothel owners and pimps drive women to prostitution. Moreover, private moneylenders force women to borrow money to finance individual debts (through issuing high-interest private loans, in violation of the Interest Limitation Act) along with binding other women under a joint guarantee obligation. This chain of debts hinders women from getting out of prostitution. This existence of a private loan makes women look as if they engage in prostitution voluntarily, which is committing a criminal act under the law.
- 32.2** This situation makes it difficult for women to report their cases. Even when a case is reported, the investigative agency treats the woman not as a victim, but as a suspect. The situation is made worse as the burden of proof in a forced prostitution case falls upon the woman.
- 32.3** Since the organizations in charge of prostitution regulation change frequently, the law enforcement officers face confusion in conducting their investigations. Furthermore, the investigation is usually centered on criminalization, rather than protection of the human rights of victims. The number of cases where women in prostitution are not relieved as victims, but punished as criminals, is increasing.

<Recommendation>

- 32.4** The Act on the Punishment of Procuring Prostitution and Associated Acts should be amended to ensure the decriminalization of women in prostitution.
- 32.5** The investigative agency should not shift the burden of proof onto the women in prostitution. The current investigative method, which often results in punishing a victim as a criminal when she/he is not able to prove the existence of coercion in prostitution, must be changed.
- 32.6** There should be an expansion of the consistent employment assistance policy and protective measures to ensure the social and economic independence of victims of prostitution.
- 32.7** Professionalism and consistency are important in the investigation and regulation of prostitution. In order to protect the human rights of victims of prostitution and to punish offenders, the tasks must be taken by specialized governmental agencies with expertise.

33. The concept of prostitution should be expanded to include “acts of sexual exploitation” and should punish the procurers of prostitution more rigidly

<Analysis>

33.1 Incidents of serial suicides of women in the adult entertainment establishment concentrated area in the southern part of Korea (Pohang-si) from July 2010 to March 2011, have shocked society. Women who worked at entertainment establishments could not handle their vast debts and committed suicide, followed by consecutive suicides of women who had “joint-guarantee obligations” for these debts. In the case of a woman who committed suicide in March 2011, her will could have revealed the debts chains of sex industry, including the reality of forced prostitution and the violence and coercion she experienced from her pimps. However, the national government, local governments, and the judiciary tried to cover up the incidents by regarding them as personal loan cases rather than investigating the debts chains of the sex industry.

33.2 Despite the reality, where the sex industry is transforming and tactfully changing in its methods, investigative agencies are not taking adequate actions and the crackdown on prostitution is not showing any effectiveness. When the actual owners of prostitution businesses put up others (like managers or bar hostesses) as business owners, only those managers or bar hostesses often get punished while the actual owners are acquitted.

<Recommendation>

33.3 The concept of prostitution should be expanded to include “acts of sexual exploitation,” since the current concept only perceives prostitution as intercourse or quasi-intercourse based on coercion.

33.4 There should be rigid punishment against those who procure prostitution, including forfeiting all of their criminal profits. A thorough investigation of the leaseholders of prostitution establishments is necessary in order to determine if the leaseholders provided money, land or buildings with the knowledge that the property would be used for prostitution. If so, the leaseholder should also be punished.

33.5 In order to prevent the expansion of sex industry, measures should be taken to the extent that illegal businesses should be forced to close. Rigid administrative sanctions should be levied to enable prompt measures to expose criminal enterprises and close the businesses.

34. There should be strong countermeasures against new variants of prostitution and recidivist sex buyers should be rigidly punished

<Analysis>

34.1 There are insufficient governmental responses to the new variants of prostitution such as the “kiss room,” “hand play room,” “fetish room,” and “outcall massage,” which are so-called “free type sex businesses,” (referring to businesses which can be operated only if the owners register their business at the local tax office, without additional governmental permission, supervision and regulation. In short, they are unregulated forms of sex commerce under the current legal system. Hereinafter, these will be referred to as “unregulated sex commerce.”) Moreover, newly emerging diverse forms of prostitution are not being addressed adequately, including prostitution involving displaced women out of North Korea or migrant women, prostitution of the elderly, and internet prostitution.

34.2 The rate of suspension of prosecution on the condition for enrolling in the “John School” program for male clients of prostitution is about 71.5% (according to a survey done by the Ministry of Gender and Family, 2010). In other words, most male clients are being exempted from punishment. The rate of the suspension of prosecution for purchasing sexual service from minors is 56.4%. While women in prostitution must undertake a 40-hour education program, the John School program is only 8 hours, which is an unreasonably lenient measure for offenders.

<Recommendation>

34.3 For more effective responses to the new types of sex businesses (unregulated sex commerce), which were created to evade legal regulation, new legislation is needed to address and prohibit such business ventures.

34.4 A more effective system is needed to prevent recidivism of those purchasing sexual services. In relation to the increasing rate of the suspension of prosecution against sex buyers, the number of hours of the “John School” program should be extended, and penal provisions on prostitution must be amended to punish recidivists more rigidly.

35. The law which legalizes receptionists at adult entertainment establishments should be repealed because it takes the sexual exploitation of women for granted

<Analysis>

35.1 According to the current Food Sanitation Act, adult entertainment establishments are allowed to hire “*women* that serve alcohol and entertain people” and the owners are required to manage a roster of these women and conduct mandatory checkups on them for sexually transmitted diseases. This is the legal acknowledgment that these women are exploited as a means of entertainment and sexual services.

<Recommendation>

35.2 The provision of the Food Sanitation Act, which legalizes receptionists at adult entertainment establishments, fundamentally collides with the Act on the Prevention of Prostitution and Protection of Victims and the Act on the Punishment of Procuring Prostitution and Associated Acts. The provision should be abolished and regulations over the sexual entertainment industry should be reinforced.

35.3 The system of maintaining a list of women subject to regular checkups for sexually-transmitted diseases should be repealed, since it condones and supports the various forms of sex commerce, such as adult entertainment establishments, massage parlors, and female servers of “Dabang” (a teahouse that provides sexual services from its female employees who deliver tea to customers).

B. Youth Prostitution (NG 6.70-71)

36. The law lacks a proper perspective that regards youth as victims of sexual exploitation

<Analysis>

36.1 Instead of using a term “sexual exploitation” of children and adolescents, the Act on Protection of Youth Sexuality uses a term of “purchasing sexual services,” and the Act on the Prevention of Prostitution and Protection of Victims adopts a term of “youth prostitution.” In the context of protecting the sexuality and human rights of children and

adolescents, it is appropriate to use the international term, “sexual exploitation.” The “sexual exploitation of youth” signifies the act of purchasing sexual services from minors, enlisting youth in prostitution services, producing and distributing obscene materials that involve adolescents, or engaging in acts of sexual violence against youth.

36.2 Current legislation related to the protection of minors prohibits purchasing sexual services from youth under the age of 19. However, since the law applies only to the cases in which buyers had a prior knowledge of the involvement of an adolescent in prostitution, many buyers of youth prostitution receive relatively light punishments according to the Act on Punishment of Procuring Prostitution and Associated Acts. The victims of sexual exploitation of children and adolescents are usually between the age of 15 and 18, but there is a tendency of decreasing age in the victims.

Present Condition of Sexual Exploitation of the Adolescents by Age

Year	Under 12	13-14	15-16	17-18	All
2001	9 (0.8)	142 (12.9)	511 (46.4)	440 (39.9)	1,102 (100.0)
2002	20 (1.6)	187 (15.3)	503 (41.2)	511 (41.9)	1,221 (100.0)
2003	5 (0.4)	163 (12.4)	611 (46.4)	537 (40.8)	1,316 (100.0)
2004	19 (1.2)	268 (16.8)	666 (41.7)	646 (40.4)	1,599 (100.0)
2005	14 (1.2)	246 (21.9)	477 (42.5)	387 (34.4)	1,124 (100.0)
2006	10 (1.4)	88 (12.1)	348 (47.7)	283 (38.8)	729 (100.0)

*Source: National Police Agency

36.3 Sexual exploitation of the youth is carried out through websites, chatting and “phone room. In particular, prostitutions through internet have been rapidly increasing, due to its convenience and anonymity. According to the report of the “Reporting Center of Unsafe Meetings” done by the Korea Communications Standards Commission, there were 12,264 reports of prostitution in 2007, which was 4.6 times the 2,648 reports in 2006. However, when adolescents get involved in prostitution through internet chatting or other

“conditioned meetings,” (a pattern for youth prostitution) they are considered as engaging in voluntary prostitution and not as victims of sexual exploitation.

36.4 “Youthkeeper,” (similar to the UK grooming law, which reports and punishes the act encouraging the prostitution of a child) is good, but does not contribute much to police investigations. Due to the complexity of the process, limited understanding of the act of luring and the I.D. verification process, the public does not have adequate access to the system.

<Recommendation>

36.5 For preventing the sexual exploitation of children and adolescents, cooperation between governmental departments (such as Ministry of Education and the Human Resources Development and the Ministry of Gender Equality and Family) is necessary in order to prepare national plans to address the issue.

36.6 More detailed plans are necessary for the protection and empowerment of adolescent victims of sexual exploitation. In addition, personal information about these victims should be thoroughly protected to secure a safe life for them.

36.7 Rigid administrative countermeasures are needed, such as closing internet sites related to the sexual exploitation of children and adolescents.

C. Provisions against Human Trafficking (NG 6.72)

37. The Act on the Punishment of Human Trafficking should be enacted immediately

<Analysis>

37.1 Korea’s relevant investigative agencies are reluctant to apply and enforce the rules that are listed in the government report to punish human trafficking. Even though immigrant women in the sex industry have accused their employers or “business owners/businesses dispatching or using foreign entertainers” (Paragraph 68 of the Seventh Periodic Report) of “kidnapping or luring of persons for profit” under the Criminal Act or of “human trafficking for prostitution” under the Act on Punishment of Procuring Prostitution and Associated Acts, the relevant investigation agency decides not to prosecute without comprehensively investigating the entire immigration process as applied to these women. Thus, these rules are not being

applied to most human trafficking cases involving immigrant women.

37.2 The Statistics on Victims of Crimes of Kidnapping and Inducement from Paragraph 13 of Responses to the list of issues and questions does not represent the number of victims of human trafficking. This is because under “crimes of kidnapping and luring” from Part 2, Chapter 31 of the Criminal Act, only “kidnapping of a minor” is usually applied and enforced while the “trafficking of women” or “kidnapping for marriage” provisions have proved useless. The reluctance of investigation agency to apply these provisions under the Criminal Act to human trafficking cases has also contributed to inaccuracy of the statistics.

37.3 Furthermore, the statistics on the victims of kidnapping submitted by the government is inconsistent with those reports of cases with guilty verdicts for kidnapping that are found in trial courts. The number of cases under kidnapping and luring provisions in Chapter 31 of the Criminal Act, totals only 17 in 2006, 23 in 2007, 39 in 2008, 43 in 2009, and 50 in 2010. Even after considering the fact that the Statistics on Victims of Crimes of Kidnapping and Inducement does not clarify sources and is based on the number of victims, and not cases, the number of cases that have guilty verdicts in trial courts is incompatible with the number of victims of kidnapping listed in the government response (specifically: 127 victims in 2006, 259 in 2008, 298 in 2009, and 205 in 2010).

Decisions of Trial Courts on “Crimes of Kidnapping and Luring”

Year	Compl-aints	Total	Conviction					Acquittal	Dismissal of Indictment	Sent to Juvenile Department	Others
			Imprisonment for a limited term	Life Imprisonment	Probation	Pecuniary Sentence	Suspension of Sentence				
2006	27	19	3	.	13	1	.	1	.		1
2007	23	25	7	.	14	1	1	.	1		1
2008	55	48	15	.	22	.	2	2	3		4
2009	54	47	14	.	26	.	3	1	.	2	1
2010	55	63	18	.	31	1	.	2	8		3

*Edited from Supreme Court “Judiciary Yearbook” 2006-2010

37.4 The actual conditions of human trafficking identified by NGOs will be covered in the “Prevention of Prostitution of Migrant Women and Remedies for Damage.” (NGO Report

Paragraphs 40.1-17)

37.5 Currently, three bills addressing the punishment of human trafficking and protection of victims have been submitted to the National Assembly.

<Recommendation>

37.6 The government should find a way to ensure the prosecution and punishment of human trafficking, via a way to improve the certainty of criminal punishment. In order to achieve this, law enforcement agencies should actively interpret and enforce the provisions of “kidnapping or luring for profits” under the Criminal Act and “human trafficking for prostitution” under the Act on the Punishment of Procuring Prostitution and Associated Acts.

37.7 Additionally, the government should enact a law on the prevention of human trafficking which incorporates the comprehensive definition of human trafficking, as found in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United National Convention against Transnational Organized Crime, in order to find a way to identify and punish human trafficking crimes which cannot be punished under the existing domestic law.

D. Immigrant Women’s Human Rights

38. Overview: Limitations of the Seventh Periodic Report

Women migrant workers, not appearing in statistics

38.1 Although the Seventh Period Report of the Republic of Korea explains various policies for immigrant women, these policies only focus on married immigrant women and there is no policy for the prevention of discrimination against female migrant workers. Furthermore, there is insufficient data that indicates the actual conditions regarding the human rights of immigrant women residing in Korea. Thus, the report does not adequately reflect the realities of life for immigrant women.

38.2 Although every statistic is required to be included in the gender-based index in Korea, statistics on immigration control do not show gender-based statistics, except for married immigrant women. Thus, a gender-impact assessment on policy implementation is

impossible and the actual conditions regarding women migrant workers (including overseas Koreans with H-2 visas) cannot be identified.

Immigrant women's poverty conditions

38.3 According to a survey on internationally-married immigrant women by the Korean government in 2005, 52.9% of married couples were living in extreme poverty (with a regular income that is less than the legal minimum cost of living). Also, although the number of married immigrant women who became female heads of household after a divorce due to the Korean husband's fault has increased, the actual conditions regarding this issue have yet to be grasped. Since a married immigrant woman who became a female head of household is not Korean, she cannot be guaranteed even basic social security services if she does not have a child with her Korean spouse.

38.4 Furthermore, even if a woman migrant worker wishes to have her baby adopted after giving birth in Korea because she cannot afford to raise the child, she cannot look to adoption agencies because her baby's identity is not registered in Korea society. Thus, a mother would have no choice but to make an extreme decision to abandon the baby in order to save the baby's life. Also, in the case of an immigrant woman who is recognized as a refugee, if she cannot register her baby's identity in her homeland, the baby would become a stateless person and would not be able to enjoy basic rights, such as rights to health and education. This issue was not reflected at all in the Seventh Periodic Report.

Limitations of the legal system in addressing immigrant women's human rights

38.5 Although the legal system's capability to address immigrant women's human rights is better when compared to the last session, there is still a lack of basic awareness on the protection of immigrant women's human rights. For example, the Integrated Network for Social Welfare Management, when applied to welfare facilities in Korea, has also been applied to facilities for protection of immigrant women's human rights and has required the input of immigrant women's personal information. If such requirement is not observed, government aid would be suspended. Thus, facilities are put under pressure and the autonomy of facility management is being infringed.

38.6 Korea's immigrant women policies are applied on the basis of the "Framework Act on Treatment of Foreigners Residing in the Republic of Korea" enacted in 2007 and

implemented based on the “Basic Policy on Foreigners” of 2008. Thus, family-based social integration, rather than each individual immigrant woman’s human rights, is being emphasized.

39. Prevention of Domestic Violence against Immigrant Women (NG 5.59-60)

<Analysis>

39.1 The amendment of the Act on the Prevention of Domestic Violence and Protection of Victims in 2006 included “foreigner” in the provisions. According to the Act, shelters for immigrant women victims of domestic violence were prepared and eighteen shelters are currently in operation nationwide. These are multipurpose shelters, providing various supports to victims of sexual violence and domestic violence. It is true that the government enhanced the protection of immigrant women’s human rights by establishing shelters for immigrant women victims of domestic violence and by making emergency support centers with a hotline. However, since such shelters’ operational guidelines were set up based on the past experiences regarding shelters for Koreans, without a sufficient understanding of immigrant women’s situations and needs, it is difficult to provide effective and practical support for immigrant women using the shelters. Furthermore, many immigrant women in need of help from the shelters cannot be provided with such support due to the government tendency to limit domestic violence to physical violence cases.

Violation of the autonomy of facilities set up for the protection of domestic violence victims

39.2 The Korean government supports the operation of eighteen shelters nationwide that have been set up for protection of married immigrant women victims of domestic violence. However, due to the collapse of GO-NGO governance system, there have been an increasing number of governmental interferences with the shelters’ management that are tantamount to human rights violations. Only victims of physical assault are qualified to enter the shelter. Also, if women victimized by psychological or verbal violence are provided with services in the shelters, the government has pressured the shelters to send victims back to their respective families or even to notify the husbands. Since such

measures are not taken by the shelters for Korean domestic violence victims, the practices are discriminatory. The policy is regarded based on maintaining Korea's patriarchal family system, rather than the enhancement of immigrant women's human rights. Such policies resulted in a case where a Vietnamese woman was murdered by her Korean husband. The murder took place on May 24, 2011, only six months after Hoang Thi Nam, a Vietnamese married immigrant woman, returned home from a shelter that she had entered due to violence from her mother-in-law. The husband repeatedly stabbed Hoang with a knife and killed her, who gave birth to her baby only 19 days before the murder.

39.3 Another problem is the absence of a specialized counseling center for immigrant women victims of domestic violence. Due to limitations, such as language difficulties and differences in legal support systems, it is difficult for immigrant women to use counseling center services for Koreans. Since the legal support for rights to stay in Korea and divorce requires counseling with the husband, separate counseling centers are needed. However, the Ministry of Gender Equality and Family in charge of domestic violence problems is still not considering the establishment of counseling centers for immigrant women.

39.4 The Special Procedure Act on Punishment of Domestic Violence defines a "crime of domestic violence" as any act against other family members involving assault, bodily harm, abandonment, abuse, arrest, confinement, or threat that causes physical, psychological, or financial harm. However, the Immigration Office holds married immigrant women responsible for providing evidence concerning the causes of their marriage dissolution (namely that the cause is the fault of the husband). Therefore, immigrant women, who are victimized by psychological, financial and sexual abuse which are difficult to prove, have a very insecure residential status in Korea.

<Recommendation>

39.5 Operational guidelines of immigrant women shelters should be set up with consideration to immigrant women's respective language, culture, family culture, relation with her homeland, and independence after leaving the shelter. Furthermore, the shelter should be prepared to offer counseling in accordance with the immigrant women's unique characteristics by setting up specialized counseling centers for immigrant women.

39.6 A broader range of domestic violence should be applicable to married immigrant women, at least at the same level as applied to Korean women. Not only physical violence but also

psychological violence, verbal abuse, sexual harassment, and threat should be treated as domestic violence and should be applicable causes for justifying a marriage breakdown in order to secure an immigrant woman’s stay in Korea.

39.7 The autonomy of shelters for victims of violence should be guaranteed. As according to the statement announced by the Shelter Council in 2011, “shelters should not function as temporary refuges before returning to families, but should play a role as a social safety net for immigrant women.” Appropriate policies should be prepared to enable the shelters to play such an important role for immigrant women.

40. Prevention of Prostitution of Migrant Women and Remedies for Damage (NG 6.68-69)

<Analysis>

Prostitution and human trafficking of migrant women

40.1 The following table states the statistics for the nationalities and immigration statuses of the foreign victims of prostitution and human trafficking that have been counseled by the four organizations including Support Center for Foreign Victims of Prostitution.¹² Although the data is not comprehensive, it reflects the reality that most of the victims of prostitution and human trafficking are Philippine women with E-6-2 Visas (Arts/Entertainment visas).

Year	Nationality		Immigration Status	
	2008	Philippines	50	E-6-2
Russia		1	F-2-1	0
Vietnam		0	C-3	0
Others		0	Others	0
Total		51	Total	51
2009	Philippines	114	E-6-2	112
	Russia	2	F-2-1	3
	Vietnam	0	C-3	1
	Others	0	Others	0
	Total	116	Total	116

¹² Durebang Facility for Foreign Women Victims of Prostitution, Legal Guide for Foreigner Victims of Human Trafficking Brought into Sex Industry, p. 34-35. 2010.

2010 (until July)	Philippines	65	E-6-2	62
	Russia	0	F-2-1	2
	Vietnam	0	C-3	1
	Others	0	Others	0
	Total	65	Total	65

40.2 According to the statistics provided by the Korea Immigration Office in 2009, the number of entertainers from the Philippines with E-6 visas is 2,505 (See the table below)¹³. It is worth noting that the statistics of entertainers reported by the Korean government are different from those reported by the government of the Philippines. The Philippine government considers that only those who went through both the employer accreditation process by Philippine Overseas Labor Office (POLO) at the Embassy of the Philippines in South Korea and the entertainer registration process of the Philippine Overseas Employment Administration (POEA) are legal migrant workers. In contrast, the Korean government allows for the entry of Philippine entertainers in Korean agencies who did not pass the entertainer registration process of POEA, which causes a discrepancy in statistics.

Entertainers Registered under Philippine Overseas Employment Administration (POEA) and Foreign Entertainers who Entered Korea as Reported by the Korea Immigration Office

Year	Total Number of Entrants (1)	Number of Philippine Entrants (1-1)	Number of POEA-registered Philippine Entertainers (2)
2006	4,518	1,900	487
2007	4,185	2,048	1,350
2008	4,845	2,332	1,020
2009	4,577	2,505	865

*Source: (1), (1-1) from the statistics of Korea Immigration Service of the Ministry of Justice (Korea Immigration Office) and (2) from the statistics of POEA

How women with E-6-2 visas enter into the sex industry

40.3 The process of how Philippine women with E-6-2 Visas (Arts/Entertainment visas) become implicated in prostitution is as follows: An agency in a sending country recruits women by

¹³ Ibid., p. 37-38.

advertising that “one can be a singer in Korea.” A Korean promoter (the primary employer) signs a performance contract with performance establishments (the secondary employers) such as foreigner-only clubs in Korea. The Korean promoter applies for a recommendation from the Korea Media Rating Board for “foreigner performance in Korea” for a foreign woman. Such a recommendation is a requisite for the E-6 visa application and the Korea Media Rating Board evaluates her performance by watching a video CD of her (of which the review standard is known to be very low.) The woman receives a visa issuance certificate from the Korea Immigration Office of the Ministry of Justice and receives an E-6 Visa (Arts/Entertainment visa) from a Korean embassy abroad after her visa application. When she enters Korea, although she is supposed to perform (sing or play an instrument) in establishments like foreigner-only clubs according to her labor contract, in reality, she works as receptionist, providing sexual services and even entering into prostitution. In some of foreigner-only clubs, prostitution takes place in the name of “the second round” or “bar fine.”

Problems of E-6-2 visa system

40.4 The fact that E-6-2 visa (a visa for performance at foreigner-only clubs) system of the Korean government is used to supply “foreign receptionists” (or so called hostesses), and not to introduce foreign artists or entertainers for performances, can be inferred from the following observations. The documents required to be submitted by foreign women for an E-6-2 visa issuance included a “Certificate of HIV-negative Test Results,” which should not be necessary for E-6-2 visa holders who came to Korea for performances. NGOs had made continuous criticism that the E-6-2 visa system is being used by the government as a means of importing foreign sexual receptionists, not performers. In November 2010, the government finally excluded a HIV-negative certificate from the list of documents needed for the visa issuance. However, after entry to Korea, the women with E-6-2 visa are still subject to medical examinations designed for sexual receptionists by their labor contract provisions or their employers’ coercion.

40.5 The administrative system managing Korean primary and secondary employers, who hire foreign women, is also so scattered as to be ineffective. The Ministry of Labor and Employment deals with employment contracts and the permissions for temporary-workers who are foreign entertainers with E-6-2 visas, and the Ministry of Health and Welfare manages entertainment establishments exclusively designed for foreigners (the so-called

foreigner-only clubs). The Korea Media Rating Board, under the Ministry of Culture, Sports, and Tourism, recommends foreign performers and evaluate their performance videos. The Korean Immigration Office, under the Ministry of Justice, is in charge of visa issuance and immigrant administration. The Korean investigation agency deals with reports of prostitution victims. As all these related tasks are scattered among different ministries, immigrant women are exposed to the risk of human trafficking and prostitution and are not protected properly.

40.6 In many cases, before women claim that they are victims of human trafficking and prostitution, they first make claims for overdue wages, confiscation of passports, violence, frequent employment transfers, and burdens from the Korean “quota system.”¹⁴ They ask for counseling and support to escape from their workplace. Because they experience severe poverty from overdue wages and labor exploitation, these women are escaping from their workplaces even though this means losing their E-6-2 visas which leads them into illegal residence status.

Entry of women migrant workers and marriage-immigrants into the sex industry

40.7 Other than E-6-2 visa holders, there are an increasing number of cases in which women migrant workers or marriage-based immigrant women who are overstaying their visa in Korea enter into the sex industry through human trafficking brokers. Currently, about 8% of marriage-based immigrant women are overstaying their visas, and some of them are presumed to have entered into the sex industry.

Law enforcement agencies’ lack of understanding about human trafficking

40.8 As opposed to what is written in Paragraph 17 of the Responses to the list of issues and questions, Korean law enforcement officials actually have little understanding of human trafficking, and thus only investigate whether immigrant women have actually worked as prostitutes in establishments. The officials do not understand the immigration process for these women within their home countries that led them to come to Korea and how the people

¹⁴ In this system, employers set a sales quota on the amount of juice women should sell every month. If the women reach the quotas, employers give women 20-30% commissions for the sales. These women sell juice by asking customers to buy juice for other women. The saleswomen are constantly pressured to meet the quotas, and if they do not reach the quotas, then they do not receive any income. Thus, in order to meet such quotas, they enter into prostitution. (The clients pay the owner for prostitution, and the owner usually counts one act of prostitution as selling 20-30 glasses of juice.)

involved in this process undertake human trafficking. Korea's investigation agency only focuses on prostitution and prosecutes traffickers only for arranging sexual commerce. Police officers and public prosecutors do not perceive the act of the recruitment, transportation, transfer, harboring or receipt of persons, through fraud, deception, or the abuse of power or of a position of vulnerability, as instances of human trafficking.

Immigrant women who are victimized by prostitution and human trafficking are reluctant to report their cases

40.9 In response to Paragraphs 16 and 17 of Responses to the list of issues and questions, the Korean government answers that “when foreign women victims of prostitution and women who have already lost their E-6 visa statuses report their cases to police offices, the women are allowed to stay and work in Korea until the cases are confirmed and remedial processes via lawsuits are completed” and that “foreign victims of human rights violations are allowed to stay and work in Korea until they receive remedial measures.”

40.10 Immigrant women victims of prostitution's stay in Korea can be extended temporarily with Miscellaneous (G-1) visas during investigation and trial processes. However, foreigners with Miscellaneous (G-1) visas are not allowed to officially participate in economic activities. In the case of victims of human rights violations, although the Ministry of Justice has adopted an exception to allow them to work during investigation process since 2008, counselors in the shelters for victims have not noticed any change in practice. In fact, there was a case in which a victim was employed but subsequently received a fine in violation of the Immigration Control Act.

40.11 Also, the women whose cases are in the investigation or trial phase must be recognized as “victims of prostitution” in order to receive special accommodations for a maximum of three months and to receive support for returning to their home countries. This is in accordance with Article 11 of the Act on Punishment of Procuring Prostitution and Associated Act. However, foreign women victims of prostitution have difficulty being recognized as such, since Korean law practices require “force” or “confinement” in prostitution to be recognized as a victim. It is also difficult to be recognized as a victim of human trafficking for the purpose of prostitution. Instead, most of the cases are treated as voluntary prostitution, which makes a woman into a criminal and face deportation.

40.12 As a result, immigrant women in sex industry have difficulty being recognized as victims

of human trafficking even after they report violations to the police, and the temporary suspension of deportation is effective only during their investigation and trial procedures. Thus, these women become reluctant to report their cases to investigation agencies.

<Recommendation>

40.13 The government should fully review the E-6-2 visa system, which leads foreign women to work as sexual receptionists instead of performing. The visa system should not be a means to make immigrant women enter into the sex industry. Before the revision of the system is completed, the government should consider reviewing the employer accreditation status of the Philippine Overseas Labor Office (POLO) and the entertainer registration status of the Philippine Overseas Employment Administration (POEA) before issuing E-6-2 visas. Also, the government should strictly administer and manage the Korean agencies for foreign entertainers and the entertainment establishments hiring foreign women.

40.14 For immigrant women with E-6-2 visas who escape from their workplaces and are victims of prostitution and human trafficking, the government should provide a unified specialized office that comprehensively deals with diverse problems faced by these women, such as overdue wages and problems maintaining their legal residency status.

40.15 Investigative agencies, when investigating immigrant women in the sex industry, should understand that the overall processes of dispatch, transfer, and entry of immigrant women into Korea may constitute human trafficking and thus these agencies should actively enforce the current laws which are applicable to human trafficking.

40.16 The government should guarantee legal residency for those identified as victims of human trafficking regardless of their judicial processes (investigation and prosecution). At the same time, the government should respect the needs and desires of the victims. Temporary legal residency for reflection period, legal residency for a certain period of time for victims who want to stay in Korea after their reflection period, and possibilities for permanent residence with employment eligibility or naturalization should be guaranteed for human trafficking victims.

40.17 Not only shelter or support for living, but also personnel support for the remedial program should be provided to the victims of human trafficking. This program should include language or vocational training, in addition to basics like medical care, psychological counseling, and legal support.

41. The Working Environment of Women Migrant Workers (NG 6. 72-73)

<Analysis>

41.1 Although the number of female migrant workers has purportedly increased, the number actually decreased, except for overseas Koreans from China and the former Soviet Union entering Korea with Working Visit visas (H-2 visas for unskilled migrant workers of Korean origin) after the adoption of the Employment Permit System. A majority of women migrant workers work in the manufacturing industry, and women who entered Korea with H-2 visas work in restaurants, nursing and housework. Although workers in the manufacturing industry are recognized as workers and are eligible for employment insurance and health insurance, the female workers in caregiving services, such as housework and nursing, are not recognized as workers and thus must take care of insurance needs by themselves.

41.2 The Seventh Periodic Report Paragraph 74 stated the following: “women migrant workers are also eligible for maternal health care benefits. In the case of undocumented women migrant workers, their maternity can also be protected, when they work for businesses where the Labor Standards applies.” However, this is a false account of the conditions of women migrant workers. It is difficult even for Korean non-regular female workers to apply the Labor Standards Act Article 68 (prohibition of night or holiday shifts), Article 69 (work after regular working hours), and Article 71 (menstrual leave). Even women migrant workers with a legal residency rarely take menstrual leave as specified in the Labor Standards Act. In such circumstances, it is not possible in practice for undocumented migrant workers to exercise their rights under those Act provisions. Moreover, even if the Act on Punishment for Sexual Violence Crimes and Protection applies to women migrant workers, the case would inevitably end with the forceful deportation. Thus, the act offers no practical solution.

<Recommendation>

41.3 Migrant worker’s caregiving labor and domestic labor should be recognized as official labor under the Labor Standards Act.

41.4 Gender-based statistics on all migrant workers entering via the Employment Permit System (E-9 visa) and the Working Visit (H-2) visas should be compiled and made available to the public. Also, a gender-impact assessment on the policy implementation process should be conducted.

41.5 Beyond nominal maternal protections for women migrant workers, effective and practical maternal protections for all female migrant workers, including undocumented migrant workers, should be provided.

42. Sexual Violence against Women Migrant Workers (NG 6. 72, 74)

<Analysis>

42.1 Although there were lawsuits on sexual violence and sexual harassment cases concerning immigrant women, the Government rarely pursued cases that came from a victim's complaint. Although foreign women residing in Korea can be legally protected, undocumented women migrant workers often become the main targets of sexual violence since they cannot report their cases to the police because of their illegal residency status. Even if they report their cases to the police, the case would end with the women's forced deportation.

42.2 Workplaces employing migrant workers in Korea are equipped with both male and female room and board facilities (the dormitories are usually unregistered housing facilities of very low quality). However, since both genders are assigned to use the same entrance or both facilities are often located on the same floor, women migrant workers are exposed to sexual violence. In many cases of sexual violence among migrant workers, male workers insist that sexual intercourse took place via a mutual agreement. The government tends to make only nominal effort in addressing such cases, and regards them as unimportant happenings amongst migrant workers.

42.3 The companies employing foreigners via the "Basic Policy on Foreigners" are required to conduct an educational program on the prevention of sexual harassment, as well as on-the-spot surveys. However, not a single company has conducted such an educational program or survey.

<Recommendation>

42.4 Companies employing foreigners should be mandated to conduct an educational program on the prevention of sexual harassment and this requirement should be thoroughly supervised.

42.5 An educational program on the prevention of sexual violence is needed for male migrant workers entering via the Employment Permit System (E-9 visa).

42.6 If women migrant workers report sexual violence after being victimized, they should be protected in the shelters. After the investigation process, these women should not be forcefully deported because of their illegal residency status. Instead, appropriate supplementary measures should be provided, such as transferring them into the Employment Permit System, to permit for temporary employment for the victims.

43. Problems of the Policy Requiring the “Submission of a Pledge in Acknowledgement of Liberal Democracy at the Time of Evaluating a Foreigner’s Eligibility for Naturalization”

<Analysis>

43.1 In February 2011, the Korean government announced a new policy that would require the “submission of a pledge in acknowledgement of liberal democracy at the time of evaluating foreigner’s eligibility for naturalization.” Emphasizing the need for stronger security policies due to “the heightened importance of national security following North Korean threats in 2010,” the government relates this pledge to the national security concerns because “more than 93% of immigrant women are from socialist states.” Immigrant women from socialist states are thus stigmatized as potential risks for national security and they are regarded as needing to convert to the Korean system of thought.

43.2 The “pledge” induces hostility against naturalized foreigners and is a racially discriminatory policy. Considering that 90% of married immigrant women are from socialist states, such as China and Vietnam, the policy promotes hostile attitudes and discrimination against immigrant women from socialist states.

<Recommendation>

43.3 The policy requiring the “submission of a pledge” should be abolished because the policy raises serious concerns about inducing hostility against persons from socialist nations.

44. NGO’s Counterarguments against the Responses to the List of Issues and Questions by the Government

Question 16

44.1 Refer to “40. Prevention of Prostitution of Migrant Women and Remedies for Damage”

Question 17

44.2 The “Marriage Brokerage Control Act” reinforced the supervision of international marriage brokerage agencies, such as the need to provide accurate personal information to both parties to a marriage, and adherence to the related foreign law, and the prohibition of brokerage business by persons with a criminal history involving human trafficking. The government argues that it tries to prevent damage committed by marriage brokerage businesses by Immigration Control officials visiting marriage brokerage agencies and requiring the submission of documents, and by issuing visas of foreign spouses via “e-consul system abroad.” However, practical limitations still exist.

44.3 Although registered brokerage agencies could be regulated, it is difficult to protect victims who suffered damage from individual brokers. Furthermore, since there is no legal system to regulate brokers abroad, no protective measure can be taken against damage caused by such brokers.

44.4 An attempt to use the screening process of F-2 visas issued to foreigners married to Korean citizens is not an appropriate way to control the brokerage agencies. Since the visas are issued to permit the entrance of persons who are already married to Korean citizens, an attempt to supervise brokerage agencies through visa screening process would not prevent damage. It would only limit the entrance of married immigrant women into Korea.

Question 22 (Nationality)

44.5 The Korean government responded that, when addressing the rights and treatment of foreign spouses, at no point is a Korean husband's sponsorship or approval required for a foreign wife to acquire Korean nationality. However, the response is not true. Although a reference by a Korean "citizen" is needed according to the law, a reference by a Korean "spouse" is required in practice.

44.6 The legal residency status of foreign wives in Korea has been ensured in the cases of separation or divorce where it has been proven that the marriage breakdown was the Korean spouse's fault. The acquisition of nationality for the foreign wife is made possible after a certain period of time passes. However in reality, the acquisition of nationality is very difficult and time-consuming for foreign wives, unless they are supporting a child that she had with a Korean spouse.

Question 29 (Concerning the mitigation of requirements for immigrant women victims of domestic violence to apply for naturalization and measures to protect women migrant workers)

44.7 The government responded that immigrant women victims of domestic violence are not disadvantaged and are not discriminated against when applying for citizenship. However, in reality, immigrant women who have children with Korean spouses are permitted naturalization on a priority basis. Thus, it is very difficult for immigrant women without a child to be naturalized. Furthermore, unless immigrant women enter shelters due to domestic violence, it is difficult for them to be offered protection.

44.8 The response states that women migrant workers are not discriminated against in Korea, but treated like Korean workers. However in reality, women migrant workers are defenseless when exposed to sexual harassment. First, women migrant workers are not aware that they can be protected according to the Korean law if they are sexually harassed. Also, although immigrant women can be also legally protected, in practice women migrant workers cannot report sexual harassment in fear of reprisal (via actual threats and psychological anxiety). Even if immigrant women victims attempt to report sexual harassment or sexual violence, this reporting is not an easy task because they are responsible for providing evidence. There are also cases where the victims withdraw their reports due to procedural difficulties.

44.9 If a women migrant worker with illegal residency status reports to the police, she is able to stay during her investigation and trial. However, since she would be forcefully deported thereafter, she finds it very difficult to report to the police.

Question 33 (Measures to strengthen the protection of the rights of foreign female spouses)

44.10 The legal resident status of foreign wives in Korea has been ensured in the cases of separation or divorce where has been proved that the marriage breakdown is the Korean spouse's fault, and also in the cases of the spouse's death or disappearance where there is a child or family in need of support. However, it is very different in reality.

44.11 In the case of the spouse's death, the legal residency status of the foreign wife is not always guaranteed. In the case of the early death of a husband, the foreign wife would find it difficult to obtain legal resident status without the consent of the decedent's parents.

44.12 In the cases of separation or divorce where it has been proved that the marriage breakdown is due to the Korean spouse's fault, the wife's legal residency status would be ensured if she is supporting a child she had with the Korean spouse. Although it would also be possible for her to apply for permanent residency or naturalization, the result is unpredictable if she only has visitation rights with her child.

44.13 There is a tendency to recognize only physical violence as the husband's fault in divorce or legal separation. Even if the court's judgment states that the divorce is due to the husband's fault, the immigration control office does not easily grant legal residency and only grants temporary stay visas to married immigrant women.

44.14 In the case of an immigrant woman supporting a child, it is possible for her to acquire a resident visa, permanent residency, or Korean nationality. However, this only applies to a woman who has a child with the Korean spouse. In the case of supporting her child whom she brought to Korea after marriage in a form of adoption, she would not be eligible to apply for such procedures.

IX. Article 7 : Expansion of Women’s Participation in Politics and Government Committees

■ **Gender Ratio of Elected Officials (NG 7.75~76)**

45. In order to guarantee women’s political participation, the number of proportionally elected seats in the National Assembly and in local councils should be increased. Also, it should be mandated by law that each political party should recommend women candidates for at least 30% of the total number of candidates in directly-elected seats

<Analysis>

45.1 The amendment of the Political Parties Act in March 2004 helped increase the number of female members in the National Assembly and in local councils. The amendment mandated that each political party recommend not less than 50% of its candidates from women. Additionally, parties should place women candidates as every odd number in the candidate roll if the party intends to recommend its members as candidates for both the proportional representative National Assembly election and the proportional representative local council election. However, the female composition of the overall members is only 13.7% for the National Assembly, 14.8% for the Special Metropolitan City/Metropolitan City/Do local councils, and 21.6% for the Si/Gun/Gu local councils.

45.2 Such a low percentage of female members in the National Assembly and in local councils can be explained by two reasons. First, as can be seen in the table below, the ratio of proportionally-elected seats for which half of the candidates should be women is low, when compared to the overall number of seats. Therefore, the provision’s positive effect on the increase of overall female members has been insignificant.

The Number of Members in Respective Councils and the Ratio of Proportionally Elected Seats

Type	Full number of members(A)	Number of seats of local constituency	Number of proportionally elected seats(C)	(C/A)
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		(directly-elected seats)(B)		
National Assembly	299	245	54	18.1%
Local council (Special Metropolitan City/Metropolitan City/Do)	761	680	81	10.6%
Local council (Si/Gun/Gu)	2,888	2,512	376	13.0%

45.3 The second reason is that the provision under the Act on Elections for Public Offices, which states that each political party should try to recommend not less than 30% of the total number of the candidates to run in the election for local constituencies (seats directly elected by people) from women candidates, is not being effectively implemented by the political parties. There is no legal mechanism to mandate each political party to implement affirmative action for the expansion of women’s participation as members of local constituencies (directly elected seats). Importantly, local constituencies provide more than 80% of the number of candidates in elections at all levels of government.

45.4 In 2008, the percentage of female candidates running for National Assembly from local constituencies was only 11.8%. In 2010, female candidates running in the election for Special Metropolitan City/Metropolitan City/Do local council members from a local constituency composed 8.7% of candidates, and 9.5% of candidates for Si/Gun/Gu local council members. The female composition of candidates in the election for Si/Gun/Gu local council members increased double-fold from 4.9% to 9.5%, due to the amendment of the Act on Elections for Public Offices. This partially adopted the policy that mandated each political party to nominate female candidates in the election for local council members. However, this provision is only an expedient measure. The provision requiring each political party to try to recommend at least 30% of the total number of candidates from women in local constituency elections is not well respected.

<Recommendation>

45.5 In order to guarantee gender-balanced political representation, the number of proportionally-elected seats should be greatly increased.

45.6 The Act on Elections for Public Offices should be amended to mandate the provision that directs each political party to slate women as not less than 30% of the total number of candidates for local constituency elections.

■ **Women's participation in various government committees (NG 7.80)**

46. Concrete plans should be prepared in order to increase the women's participation rate in government committees to 40%

46.1 Although the goal was to increase women's participation rate in government committees to 40% by 2007, women still comprised only 27.0% in 2008. Concrete policy plans to accomplish the 40% participation rate should be prepared.

XIII. Article 11: Labor, Work-Family Reconciliation

■ Backgrounds : Reality of Female Labor

47. The current government's large-enterprise-friendly policies have resulted in persisting insecure lives

The "business-friendly" policies resulted in a severe income gap between genders and created a high proportion of low-income workers

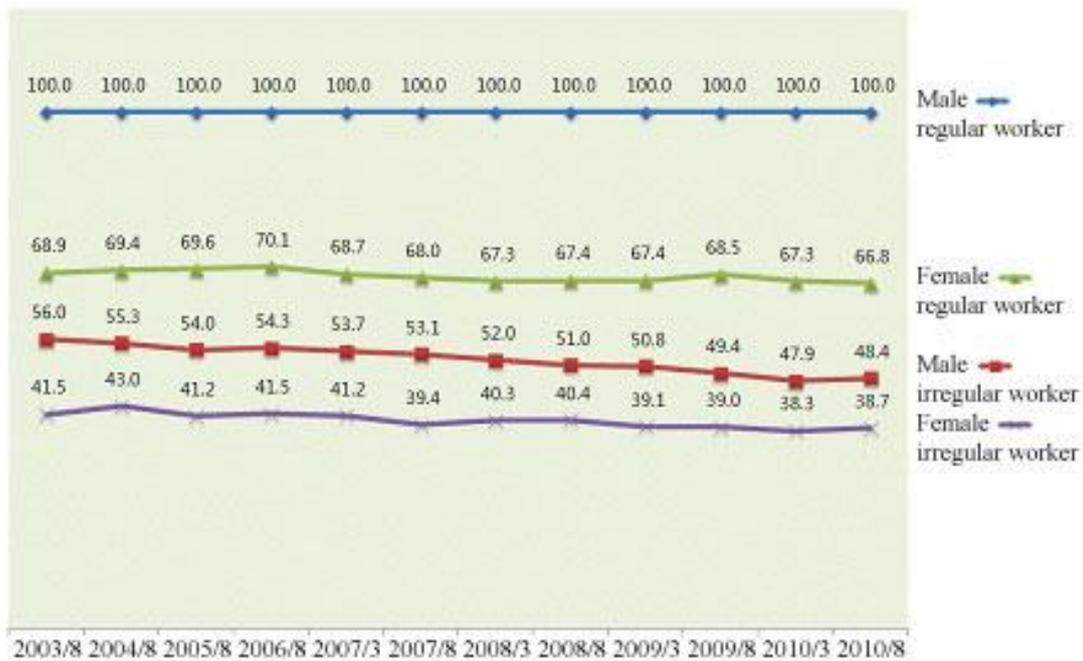
47.1 Since taking power in 2008, the current government has implemented pro-large-enterprise policies under the guise of being "business friendly." The government reasoned that if large corporations were given advantages, investment and employment would increase and the economic condition of ordinary people would improve via the trickle-down effect. These expectations, however, did not materialize in reality. According to 2011 data prepared by the Fair Trade Commission, the average revenue of 55 conglomerates increased by 17.7% compared to the last year, and the net profit per term increased 60.2%. Yet, the proportion of low-income workers and the income gap between men and women in Korea is the most severe among those of OECD member countries.

Korea - the worst case of gender gap in income

47.2 The income disparity between regular and non-regular workers and between men and women in Korea is significant. Assuming the income of a male regular worker in 2010 was 100, female regular workers earned 66.8, male non-regular workers 48.4, and female non-regular workers 38.7. The income of non-regular workers was 46.8% of that of regular workers, in an all-time low. The seriousness of this income gap is highlighted particularly when considering that 63.4% of women workers are non-regular workers (August 2010, Statistics Korea). The wages of women are 38% less than men in Korea, followed by Japan (33.0%), Germany (23%), Canada and the UK (21.0%), the US, Switzerland, and Finland(19%). This income gap surpasses twice the average income disparity of OECD

member countries, which is 17.6%. [Women News no. 1134, *Women: Earn 1,120,000 Won less per Month than Men*]

Male and Female Comparative Income Disparity by Employment Type
(Based on wages per hour, male regular workers = 100)



*Source: State of Non-Regular Workers and Countermeasures, 2011, Yoo Sun Kim

Labor flexibility policy is institutionalizing non-regular work and deteriorating working conditions and wages

47.3 The policy of promoting labor flexibility in the name of increasing productivity and improving competitiveness is one of the key contents of the current government's labor policies. This policy includes, with the aim to increase and institutionalize non-regular workers, amending the Act on the Protection of Fixed-Term and Part-Time Workers and the Act on the Protection of Temporary Agency Workers, increasing part-time work and expanding the flexible working hours policy, fostering privately-owned employment brokerage and the temporary agent dispatch industry by subcontracting employment business in the public sector, pursuing the amendment of the Labor Standards Act to make layoff requirements more lenient, attempting to promote regular corporate restructuring, and

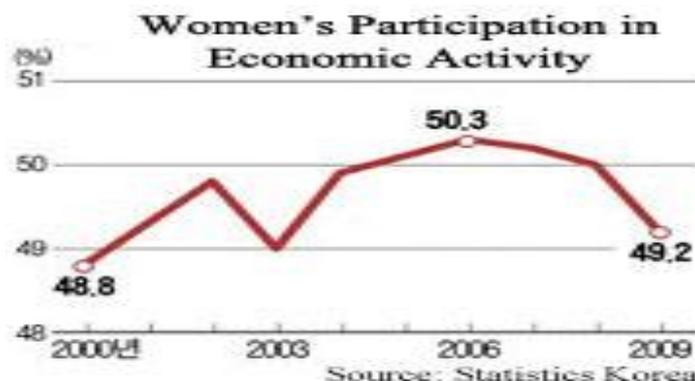
reducing employment in the public sector. The non-regular job positions which were created inevitably after the IMF crisis are now becoming permanent, and their working conditions and wages are becoming worse and worse.

Pro-business government policies transfer economic burdens to ordinary workers

47.4 In these circumstances, the government's crisis management measures are: ▲ increasing simple labor jobs in public works and construction to develop the Four Rivers Project, accused of ravaging the nation's environment; ▲ decreasing human resources in the public sector by 10%; ▲ operating youth internships for 6 to 10 month terms; ▲ cutting college-graduate entry-level salaries for 104 public enterprises by 15 to 30%; ▲ attempting to extend the two-year employment requirement to four years for worker type conversion from non-regular to regular; and ▲ Considering two-year suspension of the application of the Minimum Wage Act. The government, while purporting to share in the pain, has actually forced the burden onto workers.

The government also deems labor movements unreasonable and regards the citizens of this nation as subjects for rule and enlightenment. As a result, the government is repeatedly oppressing workers' strikes through violent measures with the use of force. The current regime in Korea stands by the pro-business government and has abandoned its duty to protect the rights of workers.

48. The policy toward women's employment is even more severe, making female workers into the biggest victims of the 2008 financial crisis



Female workers, the biggest victims of the 2008 financial crisis

48.1 The 2008 financial crisis that started in the US took a painful toll on Korean society, particularly on female workers in Korea. In February 2009, women's participation in economic activity dropped as low as 47.5%. This rate is much lower than the average rate for OECD member countries, 61.5%, and almost the same as the 1998 rate of 47.1% in the aftermath of the 1997 IMF crisis. In particular, although the number of women employed in other age ranges increased, the number of women who were employed in their twenties and thirties decreased by 225,000, leading to the conclusion that victims were concentrated in women of those ages. The number of men who were employed decreased by 2,000 compared to the past year, while the number of women who were employed decreased by 139,000 in the same period, which is 70 times more than the male equivalent. [February 2009, Statistics Korea].

The poverty rate of female heads of households in Korea is the worst among OECD member countries

48.2 Korea's relative poverty rate in 2008 was 14.3%, which is 3.8% higher than in 2000 [Analysis of Trends of and Reasons for Poverty in Korea, 2009, KDI]. This rate is much higher than the average rate of OECD member countries. The instability and polarization of the labor market has weakened the Korean economy, exacerbating the economic recession and employment crisis. In particular, the poverty rate of female heads of households in Korea was 40.2%, the highest among the 18 OECD member countries aside from Turkey and the East European Bloc. This rate is five times the rate of the first runner-up, Finland. The poverty rate of female heads of households over 65 years old is 67.2%, three times the average rate of OECD member countries. The poverty rate of male heads of households is 13.6%, which is 26.6% lower than the female equivalent. This gap is the highest rate among OECD member countries. In terms of the absolute scale of poverty and the relative difference in scale between genders, the poverty of Korean female heads of households is so extreme that it cannot be compared with that of other countries. [A Comparative Analysis on the Poverty of Female Householders in Korea, 2009, Sujeong Kim].

The purported increase in women's jobs actually led to an increase in jobs for the elderly

48.3 The government alleges that it expanded its Hope and Work Project, which supposedly has provided social services jobs and public-interest jobs appropriate for women during the economic crises, but in reality this was not the case. The 2009 Hope and Work jobs were 6-month short-term contract jobs, and of the 231,609 participants, 73.1% were over 50 years old; in effect, they were jobs for the elderly. The project did not create social service jobs for the biggest victims of the economic crisis, women in their twenties and thirties, but was an enterprise for creating short-term contract jobs for the elderly. [2010 Status Examination on the Current State of the Hope and Work Project, 2010, People's Solidarity for Participatory Democracy].

There has been non-regularization of employment and a devaluation of women's labor

48.4 The core problem of female labor in Korea is the non-regularization and devaluation of women's labor. The patriarchic male breadwinner model is long gone, but women are still not completely considered to be contributors of labor. Female labor is devalued, and work done by women is categorized as low-wage jobs. The severe difference in labor conditions and wages between regular and non-regular workers is also a key factor supporting the wage gap between genders.

<Recommendation>

Creation of an employment safety net for all workers

48.5 Korean society has already entered a state of high unemployment, and the dangers of unemployment and poverty are becoming structuralized. Therefore, to minimize the dangers of unemployment, establishing an employment safety net for all citizens is imperative. ▲ The range of people covered by the unemployment benefit system, the insured period, and the insurance payment period must be adjusted to conform with the actual conditions of the labor market: ▲ unemployment assistance should be implemented for the people whom the unemployment insurance does not address, such as small business employers and the young unemployed; and ▲ a practical employment safety net should be provided to vulnerable

classes who are eligible for but do not have unemployment insurance, by reducing social insurance premiums for the owners of small businesses and low-income workers.

Create stable high-quality jobs in the public sector for women

48.6 Korea currently continues “growth without employment.” In this reality, it is necessary to increase social service jobs in the public sector. Stable high-quality jobs for women should be created in the public sector. In particular, policies from a gender-sensitive perspective to prevent the poverty of female heads of households are in need. Special measures are required for women of “the working poor,” a new class of the poor who remain in poverty even though they are working.

■ Readjustment of the Minimum Wage to Reflect Reality

49. Among OECD member countries, Korea has the largest number of people in the low-income class and must readjust the minimum wage to reflect this reality in order to guarantee the right to make a living to Korean female workers (who comprise the majority of this low-income population)

<Analysis>

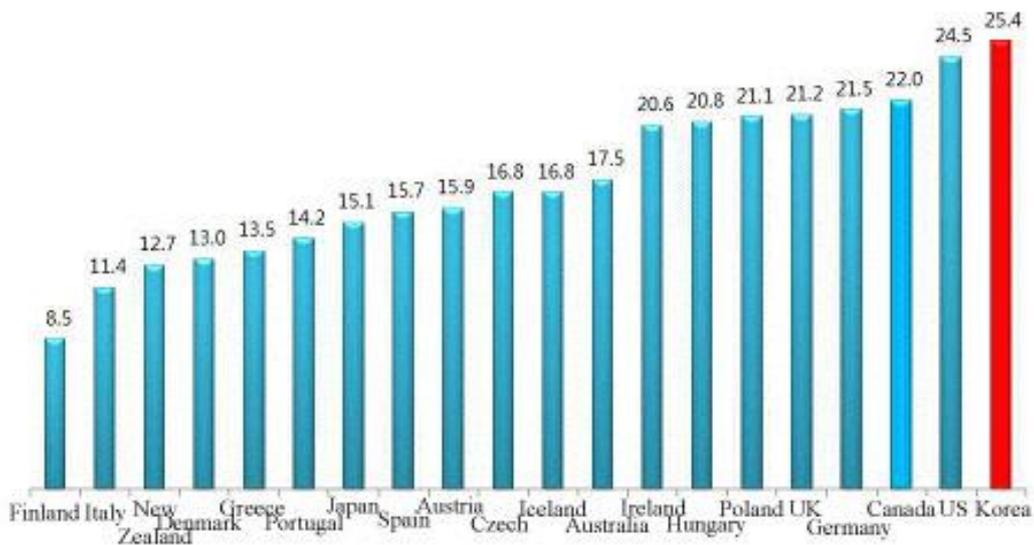
49.1 Among the OECD member countries, Korea has the largest number of people in the low-income bracket, and has the severest wage inequality (P9010, income of the lowest paid 10% compared to the income of the highest paid 10%).

49.2 As of August 2010, the number of people who earn less than the legal minimum wage per hour (4,110 Won, US\$ 3.78) was 1.96 million, and among them 1.85 million (94.3%) were non-regular workers and 61.5% were women [2010 Supplement to the Economically Active Population Survey, Statistics Korea].

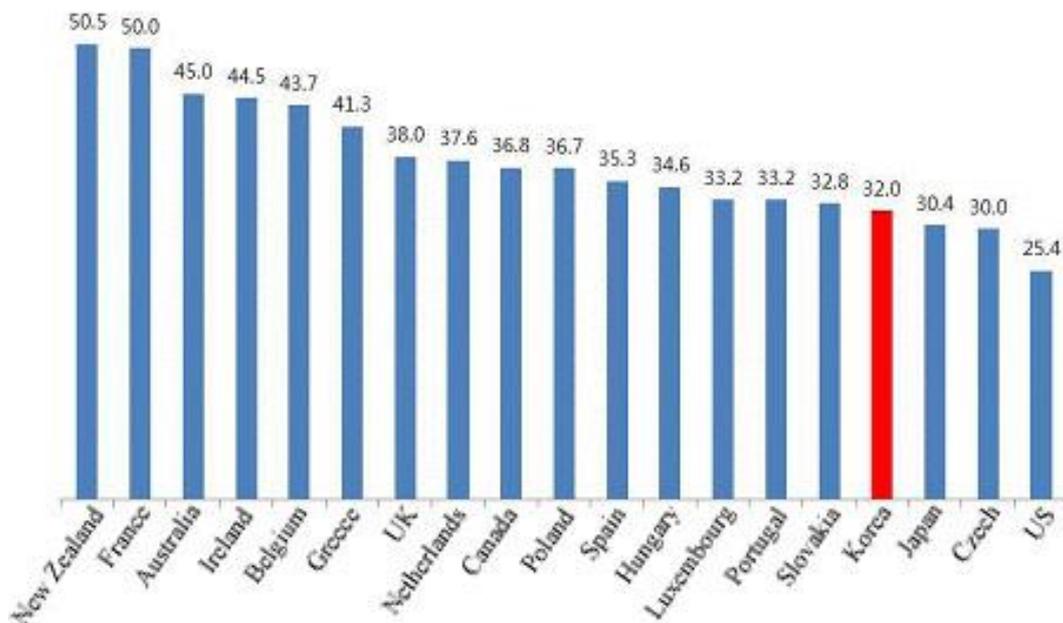
49.3 The rate of people earning less than legal minimum wage was 6.9% in 2007 (750,000 people), 6.8% in 2008 (740,000 people), and increased to 8.4% in 2009 (950,000 people), [Survey Report on Labor Conditions by Employment Type, Ministry of Employment and Labor].

49.4 In 2010, the increase rate of legal minimum wage was 2.8%. This increase rate was far behind not only the sum of the rate of increase in productivity and the inflation rate (10.0%) but also the average wage increase rate (4.0%) and the consumer price inflation rate (2.9%), and was the lowest since the minimum wage was implemented.

Proportion of People in the Low-Income Class (2008, %)



Minimum Wage Compared to Average Wage (%)



<Recommendation>

- 49.5** The minimum wage should be increased to 50% of the average wage in order to improve income disparity.
- 49.6** The government should reinforce labor inspection to oversee wages lower than the minimum wage and impose stronger penalties.
- 49.7** The annual minimum wage should be decidedly higher than the rate of the sum of the economic growth rate (rate of increase in productivity) and the inflation rate.

■ Adoption and Implementation of Affirmative Action (NG 11.94-95) (List of Issues and Questions with regard to the consideration of the Seventh Periodic Report No. 6)

50. To improve the effectiveness of affirmative action, specific plans must be made, such as extending affirmative action to smaller companies and adding a penal clause

<Analysis>

- 50.1** The Affirmative Action for Women's Employment does not have specific provisions on penalties or incentives, thus is rather nominal. Its range is limited to companies with more than 500 employees. Moreover, contents for inspection do not include the quality of female employment.
- 50.2** Because only the total number of employment is inspected, and not quality issues such as whether the positions were non-regular or regular, affirmative action measures do not provide practical support for improving the quality of female employment. The government announced from its inspection that the average proportion of female employees was 34.01% in 2009. However, this percentage does not show the true nature of their employment, such as whether they were regular or non-regular, but rather focuses on an increase in total numbers, suggesting that improving the quality of female improvement is not one of the government's concerns.

<Recommendation>

50.3 Diverse measures are required to improve the effectiveness of affirmative action, such as extending affirmative action to smaller companies, establishing a penal clause, making the results of inspections public and adding incentives to carry out action plans.

50.4 The inspection of the implementing status of affirmative action should include provisions to examine whether the job positions are regular or non-regular and whether employees are guaranteed maternity and parental leave.

■ **Work-Family Reconciliation System / The 2nd Plan for Low Fertility Rate and Aging Society (NG 2.27, 11.90-93) (List of Issues and Questions with regard to the consideration of the Seventh Periodic Report No. 25-26)**

51. Backgrounds

51.1 Korea's fertility rate is the lowest among OECD member countries (1.22 in 2010), and the government announces its Plan for Low Fertility Rate and Aging Society every 5 years. The 2nd Plan, announced in 2011 mentions creating an environment favorable for giving birth and raising children, and presents a fixed rate of 40% of monthly wages for parental leave allowance, a 3-day maternity leave for spouses of expectant or new mothers, and the expansion of the flexible working hours policy. Because the Plan for Low Fertility Rate and Aging Society is announced as a component of the work-family reconciliation support policy, this report will discuss both policies together.

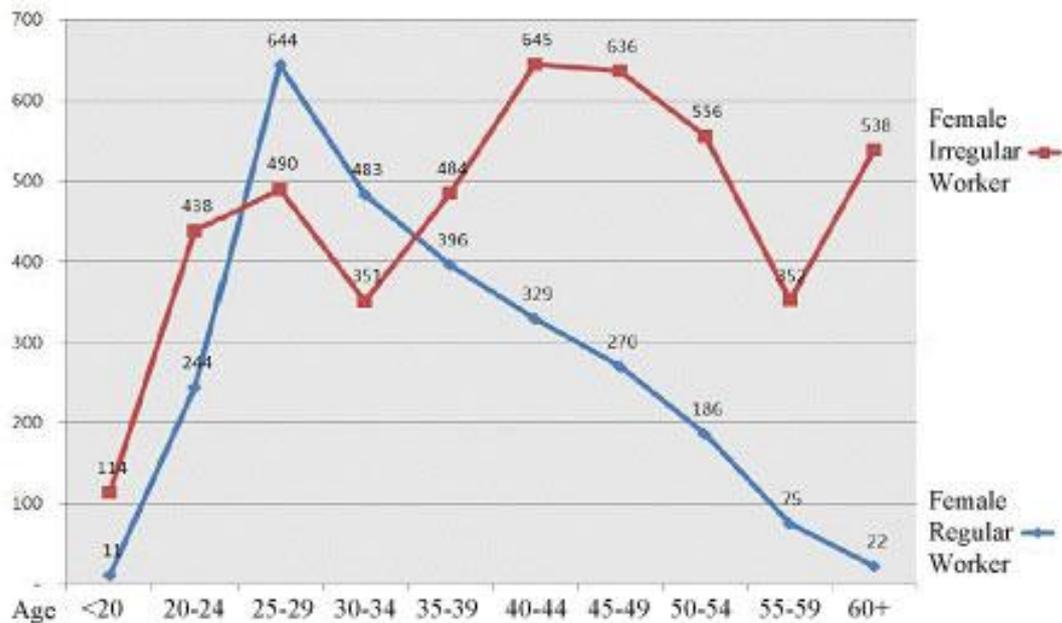
51.2 In order for male and female workers to reconcile work and family, policies regarding the following issues, among others, must be harmonized: 1) employment security; 2) maternity protection policies, such as maternity and parental leave; 3) reliable childcare environments; and 4) a decrease in working hours and male participation in childcare. Because issue 1 was already discussed above in detail, issues 2 to 4 will now be discussed.

51.3 The current economic participation of women in Korea draws an M-curve. Only two countries, Korea and Japan, among the OECD member countries exhibit this trend. Women's economic participation rate hits a low when they are 30 to 34 years old, when they give birth and raise children. Women who enter the labor market later on have a gap in their career and

are incorporated as non-regular workers, becoming subject to low income and harsh working conditions.

Age Distribution by Employment Type

(Unit: 1,000 people)



*Source: August 2010 Economically Active Population Survey, Statistics Korea

51.4 There are many reasons for this M-curve (as seen in the graph above): ▲ women (and not men) are exclusively responsible for childcare; ▲ women choose to take care of their children for themselves due to their low income and high childcare costs; ▲ maternity leave is not guaranteed; and ▲ there are not enough child care facilities women can trust with their children. This trend illustrates in brief how difficult it is for women in Korea to reconcile their work and life.

51.5 However, Korean government's policy to resolve this M-curve is based on the patriarchal family system. The policy to create an environment favorable for the reconciliation of work and family by increasing part-time jobs is a typical policy which only reinforces the stereotype that childrearing is work for women. There is a need for careful consideration of fatherhood rights, such as a policy or program to promote father's participation in childrearing.

52. There is a discrepancy between legislation and the reality of maternity protection policies

<Analysis>

52.1 Korea is relatively well-equipped with laws regarding maternity and parental leaves. However, the problem is that these laws do not function properly in real life. Many women are forced out of the labor market before they receive maternity leave.

Maternity Protection Policies in Korea

		Women	Men	Other
Maternity Leave		15 weeks (90 days), maximum 1.35 million Won (US\$ 1,242)	3 days, paid	Large scale corporations support up to 1.35 million Won for 30 days.
Parental Leave	Duration	52 weeks (12 months) for each child under age 6 and not enrolled in school.	Same as women	For each child, men and women can use 1 year each.
	Wage	Minimum of 500,000 Won (US\$ 460) up to 40% of monthly wage during parental leave.	Same as women	

52.2 The current parental leave allowance is a minimum of 500,000 Won (US\$ 460) to a maximum of 40% of the worker do not function properly in real life. Many women are forced due to the much too low income replacement rate. As can be seen through the reality that the male parental leave rate is only 1.4%, it is even more difficult for men, who earn more income than women, to take parental leave.

52.3 Non-regular workers are forced out of the labor market through contract termination, contract expiration, or other means before they receive maternal leave and have no legal grounds to confront this. There are almost no female non-regular workers who receive parental leave. Because a large proportion of female non-regular workers in Korea are not enrolled in employment insurance, the way to receive maternity leave allowance from employment insurance is fundamentally blocked.

Non-Enrollment Rate for Employment Insurance by Gender and Age

(Unit %)

	Regular Worker			Non-regular Worker								
	Insured	Uninsured	Total	Male						Female		
				Insured	Uninsured	Total	Insured	Uninsured	Total	Insured	Uninsured	Total
Age 20s	76.9	23.1	100	51.4	48.6	100	50.6	49.4	100	52.1	47.9	100
Age 30s	75.1	24.9	100	45.1	54.9	100	51.6	48.4	100	37.2	62.8	100

*Source: Statistics Korea, 2009, <Supplement of the Economically Active Population Survey> Original data, Eunmi Sung (2010). Reproduced.

52.4 Post-maternal Employment Continuation Grants, supported by the government, for female workers who return to the workplace after giving birth also have a low track record.

Post-Maternal Employment Continuation Grant Record

(Unit: 1 million Won, 1 person)

	Number of Workplaces (Actual Workplaces)	Number of People (Actual People)	Amount Granted	Amount Granted per Person
2006	16(8)	17(9)	13	400,000-600,000Won (US\$ 368-552), 6 months
2007	27(58)	291(66)	174	400,000-600,000Won, 6 months

52.5 The Korean government, while purporting its inclination toward small government, merged the Equal Employment Divisions established in each local branch of the Ministry of Employment and Labor. As a result, the divisions and people in charge of work such as sexual harassment and maternity protection in each local branch ceased to exist, and such work degenerated to the tasks of individual labor supervisors. Afterwards, female workers who called the local branches of the Ministry of Employment and Labor regarding denial of maternity leave at work have been met with responses that there is nothing can be done now so that they should “come after they are fired.” Privately-run equal employment counseling centers have experience in preventing layoffs, through preliminary measures linked with the local branches of the Ministry of Employment and Labor, when female workers were at risk of being fired instead of receiving maternity leave.

<Recommendation>

52.6 The government should increase the minimum parental leave allowance to the minimum wage level.

52.7 The government should increase the number of professional labor supervisors empathic to female workers, and thoroughly manage and supervise problems at the workplace.

52.8 Legislative measures should be taken to increase the social insurance enrollment rate of female non-regular workers. State-run social insurance may be considered for low-income workers as in the German model.

52.9 The government should guarantee that female non-regular workers can take maternity leave.

53. There is a problem of providing excessive funding to private childcare centers and resulting polarization of childcare facilities, in lieu of an expansion of public childcare centers

※ See Part II. Five Key Issues No. 5

54. Korea has the longest working hours amongst OECD member countries and has inadequate policies to ensure men's right to provide childcare

<Analysis>

54.1 According to the OECD announcement in May 2010, Korean workers are working an average of 2,256 hours a year, 492 hours more than the OECD average of 1,764 hours, keeping the first place for 14 consecutive years since joining the OECD. Excessively long working hours are detrimental to workers' health and act as a threat to work-life balance.

54.2 The long working hours are especially critical for parents rearing children. Due to excessive working hours fathers cannot participate in child rearing, and childcare responsibilities are structurally passed on to women. This phenomenon acts as a primary cause of an environment in which female workers are forced out of the labor market.

54.3 Korea's parental leave system nominally allows both men and women one year parental leave for each use, but due to unfavorable social sentiment against men's use of parental leave, a consequential decrease in income per household and obstacles to promotion in workplace, only 1.4% of people who take parental leave are male. (2010, White Paper of Employment and Labor, Ministry of Labor). In addition, paid parental leave for men amounts to only 3 days. Actual use of parental leave is inevitably low due to the "Law of Social Pressure More Menacing than Actual Law" (from the January Hankook Ilbo news feature of the same name) and the consequential decrease in household income if men, who usually earn more wages than women, take leave. In consequence, this system reinforces the social stereotype that child rearing is a women's role.

<Recommendation>

54.4 The government should make efforts to create a social impetus for the decrease of working hours, set an example of starting and ending work on schedule in public institutions first, and spread this culture to the private sector.

54.5 The government should uphold men's right to childcare by guaranteeing men the free use of parental leave, increase the minimum parental leave allowance to the minimum wage, and provide means to improve socio-cultural awareness on the issue.

55. Support for the Education and Employment of Mentally/Physically Challenged Women

55.1 See Article 13: these issues are dealt in Article 13, along with the economic activity and sexual violence issues of mentally/physically challenged women.

XI. Article 12 : Women's Health and Reproductive Rights

※ Refer to the following for respective issues.

Abortion: Five Key Issues No. 2; Cosmetic Surgery and Women's Rights to Health: Five Emerging Issues No.8

XII. Article 13: Women’s Welfare and Protection of the Disadvantaged Groups

■ Revision of the Single-Parent Family Welfare Act (NG 13.120, 122-123)

56. The Act should be amended for unmarried mothers to raise their children and to stand on their own

<Analysis>

56.1 According to a report by the National Assembly Research Service in 2010¹⁵, 1,374 out of 2,491 unmarried mothers in 2009 placed their children up for adoption, which is about 55.2%. The percentage of unmarried mothers selecting adoption was 68% in 2005, 60.9% in 2006, 55.4% in 2007, and 58.3% in 2008, respectively. Although the rate has decreased over the past years, the reality in which more than half of unmarried mothers request adoption has not changed. Unmarried mothers picked child support expenses and education costs (63.1%) as the heaviest burden when raising a child. Negative attitudes in society against unmarried mothers were the second highest reason.

56.2 Economic support for unmarried mothers is provided according to the Single-Parent Family Welfare Act. However, providing care facilities for unmarried mothers, childrearing subsidies (50,000 Won (US\$ 46) per month) and education fees for children are the only supports. Whether unmarried mothers will be provided with the minimum cost of living subsidy depends on whether or not they enter the care facilities. Those who enter the facilities for unmarried mothers, which are established and run according to the Single-Parent Family Welfare Act Article 19, can receive the minimum cost of living subsidy under the National Basic Livelihood Security Act. However, since unmarried mothers who do not enter or left the facilities are considered to have a person who has a legal duty to support them (the unmarried mother’s parents or the child’s father), they are not eligible for the subsidy under the National Basic Livelihood Security Act. However, for most unmarried mothers, relations with the persons who have a legal duty to support

¹⁵ Cho Joo-eun, *Actual conditions and Suggestions for Improvement of Policies concerning Childrearing Unmarried Mothers*, National Assembly Research Service, 2010. p.8.

them are not amicable because of pregnancy and childbirth outside of marriage. Most of them cannot receive any help from those who have a legal duty to support them, but such a reality is not taken into account by the law. Childcare support services are also provided only to unmarried mothers who have entered the facilities.

56.3 According to a survey by the Korean Women's Development Institute in 2009¹⁶, unmarried mothers are perceived as the group suffering the most severe discrimination second only to LGBT persons in Korean society. Institutionally by the Labor Standards Act, unmarried pregnant women are guaranteed maternal leave and childcare leave just like pregnant women in marriage. However, unmarried mothers cannot disclose their pregnancy and childbirth due to the prejudice against unmarried mothers at the workplace and society. Thus, unmarried mothers cannot but quit their work before people find out about their pregnancy. Such discrimination against unmarried women in turn causes the poverty of single-mother families. However, although improving social awareness of unmarried mothers is urgent, the Korean government is still not taking any measures.

56.4 Facilities for unmarried mothers are the major channels for coordinating adoptions. About 40% of facilities for unmarried mothers are run by social welfare foundations which operate adoption agencies as well. According to a study, it was revealed that some unmarried mothers were denied entrance to facilities, if the mother stated her intention to raise the child. Also after entering the facilities, unmarried mothers were pushed to choose adoption although they did not wish to do so. The fact that more than 90% of children adopted domestically and abroad are from single-mother families¹⁷ demonstrates the link between facilities for unmarried mothers and adoption agencies.

<Recommendation>

56.5 Both the Single-Parent Family Welfare Act and the National Basic Livelihood Security Act should be amended to provide the minimum cost of living subsidy to all unmarried mothers, regardless of their employment level or wage, until a certain period after childbirth and whether or not the unmarried mother has a person with a legal duty to

¹⁶ Kim Hae-young & Ahn Sang-soo, *Improvement of Social Awareness on and Support for Unmarried Mothers*, Korean Women's Development Institute, 2009, p. 14.

¹⁷ Huh Nam-soon, *The Era of Low Birth Rate & Right Course of Adoption Policy, The Era of Low Birth Rate, Documents of the Forum on the Direction of Unmarried Mother's Childrearing and Adoption Policies*, National Assembly Women and Family Committee, 2010, p. 9.

support her. Such amendments should be enacted in order to enable unmarried mothers to raise their children and to stand on their own. Furthermore, the provision of the childrearing subsidy of 50,000 Won (US\$ 46) per month under the Single-Parent Family Welfare Act is nominal, since even the costs of baby formula cannot be covered by the subsidy. In order to offer practical help in childrearing, the Single-Parent Family Welfare Act should be amended to provide universal single-parent benefits to unmarried mothers regardless of their entrance into care facilities and the mothers' economic condition.

56.6 If a person who has a legal duty to support the child does not live with the child (namely the child's father) and is incapable of performing the duty to support, the government should adopt a system to provide childcare subsidies to single-mother families and then exercise the right to indemnity against the person who has failed in their duty to support.

56.7 In order to reduce discrimination against unmarried mothers, the government should conduct campaigns and publicity activities. Also, the government should strengthen the supervision by the Ministry of Labor in order to prohibit discrimination against unmarried mothers at the workplace.

56.8 In order to enable unmarried mothers to make prudent decisions regarding adoption and childcare in psychologically-comfortable environments, facilities for unmarried mothers should offer impartial services. If a facility is found to have recommended unmarried mothers to request adoption or rejected entrance to the facility for unmarried mothers who stated the preference to raise the child on their own, countermeasures like suspension of government aid should be taken against this facility.

■ **Human Rights of Women with Disabilities (NG 11.103, 13.127)**

57. The UN Convention on the Rights of Persons with Disabilities should be implemented in order to protect the human rights of women with disabilities who suffer discrimination

<Analysis>

57.1 The Act on the Prohibition of Discrimination of Persons with Disabilities and the Remedy against Infringement of their Rights Chapter 3 concerns women with disabilities and states the government's responsibilities to effectively safeguard their rights and

interests. According to the Act, the government should empower these women and increase their opportunities for social participation. It also provides that women with disabilities should not receive any unreasonable treatment based on the ground of gender. The proportion of women with disabilities has generally increased every year (women composed 41.3% of all registered persons with disabilities as of late December 2009). Women with disabilities experience multi-layered discrimination: discrimination against women, discrimination against persons with disabilities, and multiple social discrimination in education and employment, along with impediment to their access to information and culture and economic resources.

57.2 According to the Welfare of Persons with Disabilities Act Article 7 (Protection of Interests of Women with Disabilities), a provision concerning women with disabilities is included. However, it only concerns childbirth and childcare, limiting women with disabilities to roles with maternal functions without sufficient measures for social participation. This approach hinders the overall social integration of women with disabilities.

<Recommendation>

57.3 A concrete survey on multifaceted social discrimination against women with disabilities should take place. Various measures to raise social awareness are necessary.

57.4 The government should implement the UN Convention on the Rights of Persons with Disabilities through programs and policies with human rights sensitivity and use a contextual understanding of women with disabilities in this implementation.

57.5 The budget related to persons with disabilities should be expanded and half of the budget should be secured for benefits for women with disabilities.

57.6 The government should take more active measures to support women with disabilities' social participation. In order to increase the low education rate of women with disabilities, the government should expand the opportunities available for regular education, life-long education, and vocational education.

58. Effectiveness of the legal action without requirements of a victim's complaint for the women disabled, which is coded in the Act on Punishment of Sexual Violence Crimes and Protection of Victims, should be ensured. Sexual violence counseling centers and

facilities for the protection of victims should be expanded for women with disabilities who are victims of sexual violence

<Analysis>

- 58.1** The cases of sexual violence against women with disabilities have consistently increased. They include a case of sexual violence by eight male adults against 27-year-old mentally challenged woman in a rural village and a case of sexual violence by a minister in charge of a facility against 47-year-old woman with a physical disability who eventually could not take the continued sexual violence and escaped from the facility. According to statistics on counseling compiled by the Ministry of Gender Equality and Family, the number of sexual violence victims with disabilities more than doubled from 2,327 in 2008 to 4,603 in 2009. Considering that the statistics are based on about the 3% of sexual violence cases against women with disabilities that are actually reported to the police, the number of undisclosed sexual violence cases against women with disabilities is likely considerably higher.
- 58.2** Currently, there are only 14 sexual violence counseling centers for women with disabilities nationwide. Thus, sexual violence victims in small and medium-sized cities and small towns lack these services. Four facilities cannot accept any more victims because they are already full. Preventive measures against sexual violence and support measures for sexual violence victims are insufficient compared to the increase in sexual violence crimes and the seriousness of damage.
- 58.3** Requiring a victim's complaint in order to prosecute crimes of sexual violence under the Criminal Act has put psychological pressure on victims, since imposition of a penalty depends on victims' participation. Furthermore, the requirement exempts sex offenders from being punished for the crime. In addition, the requirement of victim's incapability of resistance under the Act on the Punishment of Crimes of Sexual Violence Article 6 is too strictly applied.
- 58.4** Although the law prohibits sexual violence against women with disabilities, investigative offices and courts do not properly possess responsive perspectives on persons with disabilities. Thus, the safety of women with disabilities is not being safeguarded against damage from sexual violence crimes. Violence against women with disabilities is serious and is increasing continuously, often taking the form of group rapes.

However, the issue of sexual violence against women with disabilities gets almost no attention from society compared to other forms of sexual violence.

<Recommendation>

58.5 The requirement of a victim's complaint in order to prosecute crimes of sexual violence under the Criminal Act should be eliminated. Furthermore, the requirement of victim's incapability of resistance under the Act on the Punishment of Crimes of Sexual Violence Article 6 should be applied taking into account special characteristics of persons with disabilities. Furthermore, provisions regarding sexual violence crimes against persons with disabilities are in need of systemic reorganization.

58.6 Sexual violence counseling centers and facilities for the protection of victims of sexual violence should be expanded for women with disabilities.

58.7 In order to prevent women with disabilities from being exposed to sexual violence, an integrated support system should be set up in order to provide living environments that are safe from sexual violence crimes.

58.8 In order to eradicate sexual violence against women with disabilities, human rights education and education on the prevention of sexual violence against women with disabilities should be provided in regional societies.

59. In order to promote women with disabilities' participation in economic activities, an employment quota system for women with disabilities should be implemented

<Analysis>

59.1 According to the Employment Promotion and Vocational Rehabilitation of Persons with Disabilities Act, Article 3 Paragraph 2 and Article 21, the State and local governments should continuously promote the employment of women with disabilities and give incentives to business owners who employ women with disabilities. However, in 2010, women with disabilities had an economic participation rate that was as low as 24.6%, which was only about half of the rate of men with disabilities' economic participation at 48.4%.

59.2 Such conditions can be related to the poverty experienced by women with disabilities. Currently, Korea is implementing an Obligatory Employment System for Persons with

Disabilities. The percentage of persons with disabilities working in the State, local governments, public enterprises, and quasi-government organizations is 3%, and 2.3% for companies employing more than 50 permanent workers. As for civil enterprises, the obligatory employment rate for persons with disabilities will be increased to 2.5% until 2012-2013, and to 2.7% from 2014.

59.3 The Minimum Wage Act enacted in December 1986 has a provision to exclude persons with substantially low working abilities due to mental or physical disabilities from the safeguard of the minimum wage limit provisions. Looking at the education rate of women with disabilities in 2008, those below the primary education level composed 67.3%, which shows significantly defective educational opportunities for these women. Their economic participation rate was as low as 25.5%, which was only about half of the rate of economic participation by men with disabilities at 52.18%. Furthermore, the unemployment rate for women with disabilities was 1.7% higher than that of men with disabilities. The gender ratio in enterprises employing persons with disabilities indicates that 12.9% women with disabilities are employed in comparison to 87.1% of men with disabilities. Thus, women with disabilities are experiencing significant gender discrimination in employment.

<Recommendation>

59.4 The obligatory employment rate of persons with disabilities should be increased. Also, the employment quota system for women with disabilities which prescribes that women comprise 50% of the obligatory employment should be implemented.

59.5 In order to promote women's employment, job training specialized for each type of disability should be developed. Obligatory educational opportunities should be guaranteed.

59.6 Since most women with disabilities are unemployed and live in poverty, active national measures should be taken, including guaranteeing National Basic Livelihood benefits to women with disabilities, even if they have jobs.

XIII. Article 15 : Marital Rape (NG 15.138)

60. Punitive provisions on marital rape should be provided

<Analysis>

60.1 The Seventh Period Report of the Republic of Korea states that the government made use of the Committee's general recommendation to designate marital rape as a crime and provides two examples suggesting that marital rape is punishable under the Criminal Act. However, in one of the two cases, the husband was convicted of the crime of "forced sexual contact resulting in injury," and not rape. Furthermore, these two example cases came from the lower courts and one case was when the couple was in separation.

60.2 According to a national survey on domestic violence by the Ministry of Gender Equality and Family in 2010, the rate of sexual abuse between spouses involving forcing sexual intercourse or forcing certain types of intercourse was 10.4% during the recent year, showing a serious rate of marital sexual abuse. The survey, focused on the victims of domestic violence, reveals even more grave circumstances with 70.4% of the respondents reporting sexual abuse during the past year. Nevertheless, marital rape remains an unspoken issue due to firm social prejudices regarding sexual violence and unreasonable social norms of "sexual relations as a duty in marriage."

<Recommendation>

60.3 The government should amend the Special Procedure Act on the Punishment of Domestic Violence in order to more actively engage in protecting the victims of marital rape and enforcing punishment against offenders. The definition of "domestic violence" should include "sexual harm" and the Criminal Act Article 297 (Rape), Article 298 (Forced Sexual Contact), Article 299 (Quasi-Rape, Quasi-Forced Sexual Contact) should be included in the categories of "crimes of domestic violence" in order to expressly stipulate marital rape as punishable by law.

XIV. Article 16 : Equality within Marriage and Family Relationship

■ Right to choose the child's family name (NG 16.139)

61. Limitations on the right to choose the child's family name should be entirely eliminated

<Analysis>

61.1 The Civil Act, amended in 2005, states that “children, in principle, inherit the father’s surname and origin of surname but, if spouses agree at the time they report their marriage, the children may inherit the mother’s surname and origin of surname.” (An “origin of surname” is an identifier that indicates the particular geographic location in Korea where one’s family originated.)

61.2 The amended provision still maintains the principle of inheriting the father’s surname and origin of surname and regards inheritance of the mother’s surname and origin of surname as an exception.

<Recommendation>

61.3 The current provisions that normalize inheriting the father’s surname and origin of surname should be eliminated in order to allow for the inheritance of either the father’s or the mother’s surname and origin of surname according to the spouses’ agreement at the time that they file their child’s birth report.

■ Enactment of Act on the Registration of a Family Relationship (NG 16.145)

62. The Act on the Registration of a Family Relationship should be amended in order to prevent the unnecessary disclosure of private information, as is possible with the current registration system, which may lead to infringement of the rights of women

<Analysis>

62.1 Following the elimination of the family-headship system, the Act on the Registration of a Family Relationship adopted the “registry by purpose system.” This created five kinds of registrations that are categorized by the type of certificate issued: a certificate of family relations, a basic certificate, a certificate of marital relations, a certificate of adoptive relations, and a certificate of full adoption relations. The “registry by purpose system” was designed to prevent private information from being disclosed for purposes irrelevant to specific verification needs and to limit the grounds for requesting verification by certificates. In practice, however, many requests are made for family relations-based certificates that are irrelevant for some purposes, such as employment. Such practices may result in the undesired disclosure of private information in the workplace and society, including a person’s divorce history, a person’s change of sex, and a change in a person’s parental custody. Improperly using family-related certificates, for purposes beyond verifying the content of the documents, may lead to prejudice and discrimination.

<Recommendation>

62.2 In order to prevent the current family relationship registration system from unnecessarily disclosing private information, the following amendments and additional provisions should be enacted: unless required for special purposes, the family-relations certificates should not specify irrelevant private information such as divorce, change of sex, change in parental custody, or similarly private personal information. If specially needed, the private information including changes of such statuses should be specified in separate documents, but not in ordinary family-relations certificates. The requests for family-relations certificates containing private information that is irrelevant to the purpose of issuance should be prohibited. Additionally, a new provision is needed to prohibit a person or an entity from penalizing or discriminating against a person who refuses inappropriate requests for their private information.

<End>

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