

## STATEMENT

The 42<sup>nd</sup> UPR Pre-session on the Republic of Korea  
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Delivered by the National Human Rights Commission of Korea

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The National Human Rights Commission of Korea(NHRCK) is an independent statutory body established in 2001 to promote and protect human rights in the country.

For the 4<sup>th</sup> cycle of UPR, the NHRCK submitted its report to the UN in July 2022 which proposes 25 recommendations for Korea.

In consultation with civil society organizations, the NHRCK has chosen three issues to address in the UPR Pre-session:

- First, the legislation of Anti-discrimination Act
- Second, human rights protection in the military
- Lastly, the rights of migrants and foreigners in vulnerable situations

### **1. The Legislation of Anti-discrimination Act (Equality Act)**

Recognizing the absence of comprehensive anti-discrimination legislation in Korea, multiple States put forward recommendations on creating anti-discrimination law in the previous UPR review. However, the recommendations have not been fulfilled.

In Korea, the issue of anti-discrimination law often faces strong opposition from some religious or conservative groups denying equal rights of sexual minorities (LGBTQI+).

The NHRCK has called for the enactment of anti-discrimination regulations since 2006, and it proposed a draft of *Equality Act* to the National Assembly in 2020 for prompt legislation.

Currently, four *Equality Bills* are pending at the National Assembly. However, discussion on the bills by Assemblymen has not been active, and the Government's position over the equality legislation is not clear.

We propose the following recommendations to Korea:

### Recommendations

- Develop the Government strategy for enacting the *Equality Act*
- Pass the comprehensive *Equality Act* in an expeditious manner
- Establish policies and plans to eliminate discrimination and social prejudices against sexual minorities

## **2. Human Rights Protection in the Military**

The violence and ill treatment, sexual assault and harassment, and suicide in the military have been long-standing social concerns in Korea.

The military adopted several protection and prevention measures over the past few years. However, a series of recent sexual assaults against female soldiers and their suicide deaths indicate that the human rights system in the military does not function effectively.

In addition, it is also concerned that suicide is the leading cause of death in the military, accounting for 72% of all military deaths during the period from 2016 to 2021.

We propose the following recommendations to Korea:

### Recommendations

- Establish a transparent, fair and effective human rights investigation and remedial procedure in the military
- Prevent attempts to conceal the incidents of violence, retaliatory actions against reporters, and the victimization of the victims of abuses
- Identify the root causes of suicide in the military and intensify the efforts to prevent suicide

### 3. The Rights of Migrants and Foreigners in Vulnerable Situations

#### *Restriction on the Freedom to Choose Workplaces of Migrant Workers*

The Article 25 of the *Act on the Employment of Foreign Workers* restricts the grounds for migrant workers to change workplaces, allowing the change only in exceptional circumstances. In December 2021, the Constitutional Court ruled that this legal provision is not in breach of the Constitution, considering the necessity of effective management of labor migration.

However, it is concerned that the Court decision may exacerbate foreign workers' dependency on employers, weaken their bargaining power in employment relationship, and increase their vulnerability to exploitation and human rights abuses.

#### *Immigration Detention*

The 'protection' under the *Immigration Act* is an administrative measure to place a foreigner under protection during deportation process. However, this protection system functions as 'detention' in reality.

Furthermore, it does not provide the limit of detention period and the due process commensurate with that in criminal legal proceedings. Detainees in immigration detention centers are occasionally at risk of abuses such as ill treatment and solitary confinement.

We propose the following recommendations to Korea:

#### Recommendations

- Reduce or abolish the excessive restrictions on workplace changes of migrant workers, and support the migrant workers to seek their jobs freely
- Take measures for stronger human rights protection of migrants and foreigners in immigration detention, including laws and policies to limit the period of detention, guarantee the due process for detention, and prevent human rights abuses in immigration detention facilities.

Thank you for your attention.