

**4th Universal Periodic Review (UPR) of Republic of Korea
42nd Session of the UPR Working Group**

Joint Stakeholder Report Submission By:

Asia Pacific Forum on Women, Law and Development (APWLD)



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Anti-discrimination bill; Universal access to abortion services and care; Cyber sexual violence against women and girls; Attacks on women's human rights movements

Executive Summary:

1. This CSO stakeholder submission has been jointly drafted by Korea Women's Associations United (KWAU), Korea Center for United Nations Human Rights Policy (KOCUN) and Asia Pacific Forum on Women, Law and Development (APWLD) ahead of Republic of Korea's 4th Cycle of Universal Periodic Review (UPR). The submission focuses on discrimination against women and girls, digital and cyber sexual violence against women and girls, universal access to abortion services and care, and the recent attacks on feminist and women's human rights movements in the country.
2. Republic of Korea has emerged as one of the largest economies in the Asia region and has seen significant improvement in terms of social and economic inclusion of women and girls in the last few decades. But despite these improvements, women and girls continue to experience structural and systemic inequalities and discrimination which are deeply rooted in the patriarchal social norms of the Korean society. Gender pay gap has remained consistent over the years and women continue to experience structural discrimination at workplace and in political corridors, yet there are no comprehensive laws in the country to provide protection to women and girls against these discriminatory practices. Moreover, recent efforts towards adoption of a comprehensive anti-discrimination law have not been successful.
3. Deep-rooted patriarchy and harmful gender stereotypes have created an enabling environment for cyber sexual violence against women and girls. The instances of digital sexual crimes against women and girls have been on a rise in the country, yet the attempts to provide women protection from these crimes have remained inadequate.
4. Harmful gender stereotypes have also affected the laws and regulations on women's reproductive health and rights, including women's access to safe abortion services and care. Despite the Constitutional Court's ruling in 2019 – that declared the Criminal Code provisions against abortion null and void – the national legislature has failed to adopt bills to fully decriminalise abortion services and care. In the absence of a comprehensive legal and policy framework on access to safe abortion, there is widespread confusion among service providers and healthcare professionals about the legality of abortion services and women are still not able to effectively access abortion services.
5. Republic of Korea has also recently appointed the newly elected President Yoon Suk-yeol who ran a contentious election campaign during which he attacked women's human rights movements and made a public pledge to eliminate the Ministry of Gender Equality and Family (MGEF). While the President-elect has backtracked his pledge in recent statements after taking over the presidential office, his statements against women's human rights movements and his consistent denial of discrimination against women in economic and social spheres are deeply concerning.

Human Rights Situation in Republic of Korea:

A. Failure to Adopt the Anti-discrimination Bill

6. Discrimination against women and girls is prevalent in many sectors in Republic of Korea. Despite the country's extensive investment on education and economic development, it has fallen behind in terms of ensuring gender equality and providing protection to women and girls who often experience patriarchal oppression in both public and private spheres of their lives. The World Economic Forum (WEF) ranks South Korea 102 out of 156 on its gender equality scale.¹ The country has recently achieved the status of 11th largest economy in the world, yet women continue to experience significant disparities economically. The country has the highest gender pay gap among the developed countries, according to OECD.² Women routinely experience discrimination during the recruitment process – according to a survey, an astounding number of 74 percent of working women responded that they experienced “some form of gender discrimination, including sexual harassment and wage discrimination” at workplace.³ Women have repeatedly reported being asked invasive questions by recruiters about their plans to get pregnant, with some companies openly telling female candidates that it would be challenging for them to recruit women because the company does not want to pay for maternity leave.⁴

7. Women experience gender-based discrimination in political domains as well. Out of 300 seats at the Parliament, women hold just 57 seats (19%), which sadly is more women in Parliament than ever before.⁵ Lack of representation of women in political leadership positions is a reflection of deep-rooted patriarchal norms in the society that limits women's participation in the society to their reproductive capacities.⁶

8. A new anti-discrimination bill was presented in August 2020 to Republic of Korea's National Assembly which failed to receive majority voting. The National Assembly has failed to adopt numerous bills on similar subject in the last 14 years, despite recommendations from the UN international human rights mechanisms and the National Human Rights Commission of Korea. The Constitution of Republic of Korea has several provisions that provide protections from discrimination on various grounds. Republic of Korea is also party to several international treaties that call for the right to equality and non-discrimination. Yet a more comprehensive law is needed to regulate discrimination based on race, gender, ethnicity, nationality, class, language, religion, sexual orientation, gender identity, sex characteristics, marital or other family status, age, health or disability, or any other status. Furthermore, government should also establish a

¹ World Economic Forum. (2021). *Global Gender Gap Report 2021*. Retrieved from https://www3.weforum.org/docs/WEF_GGGR_2021.pdf

² Yon-se, K. (2021, November 16). *Korea to top OECD Gender Pay Gap, again*. The Korea Herald. Retrieved July 12, 2022, from <http://www.koreaherald.com/view.php?ud=20211116000430>

³ Shim, E. (2020, March 2). *South Korea survey: 74 percent of women face discrimination*. UPI. Retrieved July 12, 2022, from https://www.upi.com/Top_News/World-News/2020/03/02/South-Korea-survey-74-percent-of-women-face-discrimination/7791583174371/

⁴ McCurry, J., & Kim, N. (2021, January 15). *'luxuries I can't afford': Why fewer women in South Korea are having children*. The Guardian. Retrieved July 12, 2022, from <https://www.theguardian.com/world/2021/jan/15/luxuries-i-cant-afford-why-fewer-women-in-south-korea-are-having-children>

⁵ Lee, Y.-I. (2020, May 11). *Analysis | five things to know about women and South Korea's 2020 elections*. The Washington Post. Retrieved July 12, 2022, from <https://www.washingtonpost.com/politics/2020/05/11/five-things-know-about-women-south-koreas-2020-elections/>

⁶ Ujayli, L. (2021, April 13). *The plight of gender inequality in South Korea*. Inkstick. Retrieved July 12, 2022, from <https://inkstickmedia.com/the-plight-of-gender-inequality-in-south-korea/>

comprehensive framework to receive complaints and to provide effective redressal for victims of discrimination. Immediate passage of the anti-discrimination bill will also ensure fulfilment of several recommendations received by Republic of Korea during the last three Universal Periodic Review (UPR) cycles.⁷

B. Digital Gender-based Violence and Cyber Crimes Against Women and Girls

9. Deep rooted patriarchy and harmful gender stereotypes have also contributed to a rise in gender-based violence against women and girls. Of particular concern is the recent rise in cyber-crimes against women and girls, including sexual violence, harassment and bullying on digital platforms such as Telegram and on social media. According to a recent report by Human Rights Watch, cyber sexual crimes “involve images captured and shared in a variety of ways. Some images are captured covertly by strangers. Others are captured by an acquaintance, colleague, friend, or intimate partner without consent. Some survivors agreed to an image of them being captured, or took images of themselves, but did not consent to the images being shared. Some images are faked or manipulated. Other are captured during the course of a sexual assault.”⁸ Perpetrators of these cyber sexual crimes use the images to earn money by selling them online, or to harass, threaten and malign the reputation of victims at their educational institutions or workplaces. Some perpetrators are voyeurs and use the non-consensual images for their own purposes.⁹

10. According to a report by Amnesty International, there has been an eleven-fold increase in prosecution of digital sexual crimes cases involving non-consensual photography and filming. A significant increase in the rate of digital sex crimes has been noted in the country between 2003 and 2020. Most recently, a well-known expose of cyber-sex crimes has unveiled how dozens of women—including minors— were allegedly being blackmailed into capturing non-consensual, sexually explicit images and videos of themselves.¹⁰ The footage was shared and sold via online chat rooms—known collectively as the “Nth Room”—on the Telegram messaging app, where users paid in cryptocurrency to access the footage from 2019 to 2020. It has been estimated that around 260,000 people allegedly paid up to around US\$1,500 to see the footage and that over 100 women, including 26 minors, were forced into what authorities called “virtual enslavement.” According to the authorities, about 60,000 individuals used similar websites.

11. To make the matters worse, victims are often traumatised further and become “immersed in the abuse” by encounters with police and other justice officials, and by the expectation that they should gather evidence and monitor the internet for new appearances of images of themselves.¹¹

⁷ *Universal periodic review - Republic of Korea*. OHCHR. (n.d.). Retrieved July 12, 2022, from <https://www.ohchr.org/en/hr-bodies/upr/kr-index>

⁸ Human Rights Watch. (2021). “*My Life is Not Your Porn*”: *Digital Sex Crimes in South Korea*. Retrieved from, <https://www.hrw.org/report/2021/06/16/my-life-not-your-porn/digital-sex-crimes-south-korea>

⁹ Ibid.

¹⁰ Kim, S. (2022, May 18). ‘*Cyber hell*’ only scratches surface of South Korea’s sex crime crisis. Newsweek. Retrieved July 12, 2022, from <https://www.newsweek.com/netflix-cyber-hell-documentary-sex-crimes-south-korea-sexual-abuse-1707702>

¹¹ Human Rights Watch. (2021). “*My Life is Not Your Porn*”: *Digital Sex Crimes in South Korea*. Retrieved from, <https://www.hrw.org/report/2021/06/16/my-life-not-your-porn/digital-sex-crimes-south-korea>

12. In response to the exposé of heinous cyber sexual crimes against women and girls, the National Assembly passed the "Nth Room Prevention Act" in 2020, which went into effect in December 2021. The Act subjects online platforms to criminal punishment if they do not stop the circulation of digital content involving sexual crimes on their platforms. It also requires them to appoint a person in charge of preventing the circulation of such content. The South Korean Ministry of Justice also established a digital sex crime taskforce, which published a set of recommendations including provision of support to victims of cyber sexual crimes, including a commitment towards more severe punishments of perpetrators of digital sex crimes and establishing a government-led support system for the victims. However, it was not effectively implemented, and the support centres remained understaffed or did not have the trained staff to provide the required support to victims. There were no measures taken by the relevant authorities to collaborate with international social media platforms to stop the sharing and further distribution of non-consensual pictures and videos.¹²

13. Additionally, victims of cybersex crimes have reported that they were not able to receive effective redressal due to flaws in the prosecution processes, and inadequate punishments for cases that did result in convictions. According to the Human Rights Watch (HRW) report, many cases are dropped by prosecutors. In 2019, prosecutors declined 46.8 percent of sex crime cases, while only around 30 percent of homicide cases and nearly 20 percent of robbery cases were dropped. For the prosecutions that do result in convictions, the sentences were reported to be "relatively light." According to the HRW report, just under 80 percent of individuals convicted of capturing non-consensual intimate images received a suspended sentence, a fine, or a combination of the two—while just over half received only a suspended sentence.^{13 14}

C. Lack of Access to Safe Abortion Despite Constitutional Court Ruling

14. On April 11, 2019, South Korea's Constitutional Court ruled that the criminalisation of abortion under Articles 269 Paragraph 1 and Article 270 Paragraph 1 of the Criminal Code was unconstitutional and called on the National Assembly to revise the 66-year old anti-abortion provisions by 31 December 2020. The Court also ruled that if the National Assembly fails to amend the law or pass a new law that decriminalises abortion by 31 December 2020, Article 269 and 270 will become null and void. The historic decision of the Constitution Court came after years of advocacy efforts of local women's rights and feminist groups, doctors' organisations, disability rights groups, youth activists, and religious groups in South Korea, who collectively formed the Joint Action for Reproductive Justice in 2017.¹⁵ A new bill was tabled in National Assembly in October 2020 that aimed to revise the Criminal

¹² Ibid

¹³ Kim, S. (2022, May 18). 'Cyber hell' only scratches surface of South Korea's sex crime crisis. Newsweek. Retrieved July 12, 2022, from <https://www.newsweek.com/netflix-cyber-hell-documentary-sex-crimes-south-korea-sexual-abuse-1707702>

¹⁴ Human Rights Watch. (2021). "My Life is Not Your Porn": Digital Sex Crimes in South Korea. Retrieved from, <https://www.hrw.org/report/2021/06/16/my-life-not-your-porn/digital-sex-crimes-south-korea>

¹⁵ A win for women's rights: South Korea decriminalizes Abortion Care. IPPF. (2021, April 5). Retrieved July 12, 2022, from <https://www.ippf.org/news/win-womens-rights-south-korea-decriminalizes-abortion-care>

Act and the Mother and Child Health Act to allow abortion until the 14th week of pregnancy and conditionally allow abortion until the 24th week of pregnancy if the social, economic and health situation of the pregnant woman does not allow her to continue the pregnancy. Subsequently, four additional bills were submitted in the National Assembly on the same subject. However, the National Assembly failed to pass any of the bills by 31 December 2020, and as a result, under the court ruling, Article 269 Paragraph 1 and Article 270 Paragraph 1 became null and void on 1 January 2021.¹⁶

15. While the court ruling is a significant achievement, there has been no policy and programming progress since the court ruling and there is widespread confusion among service providers as to how and at what stage during a pregnancy abortion can be obtained.¹⁷ Further, there is no provision of abortion services in public health facilities and government has cited lack of concrete legal basis as lack of programming to provide comprehensive abortion services and care.¹⁸

16. Medical abortion costs are still very expensive. While abortion consultations are covered by public health insurance¹⁹, the cost of receiving a medical abortion is still not covered by the public health insurance, making it unaffordable for many. Further, the social stigma around abortion persists. There is limited access among public about adequate post-abortion medical care, and lack of insurance coverage makes it an economic burden for women who are financially vulnerable.²⁰

D. Attacks on Women’s Human Rights and Gender Equality by the President-elect Yoon Suk-yeol

17. Yoon Suk-yeol, the candidate of the People Power Party (PPP) – one of the major conservative parties of the country, won the presidential election on March 9 2022 in South Korea. In January, Yoon Suk-yeol [pledged in a Facebook post to abolish South Korea’s Ministry of Gender Equality and Family](#) (MOGEF) that aims to design and implement policies to promote gender equality. Yoon claimed that the Ministry failed to perform its gender equality function properly and has “treated men as potential sexual criminals.”²¹ Yoon also blamed feminism for country’s low birthrate. The president-elect tapped into the anti-feminist sentiments among young men and validated their feelings about being disadvantaged by government’s affirmative policies to promote gender equality.

18. The public pledges of the president-elect to abolish the Ministry of Gender Equality and Family (MOGEF) and his anti-feminist remarks pose a huge threat to already fragile women’s

¹⁶ *South Korea: Abortion decriminalized since January 1, 2021*. The Library of Congress. (n.d.). Retrieved July 12, 2022, from <https://www.loc.gov/item/global-legal-monitor/2021-03-18/south-korea-abortion-decriminalized-since-january-1-2021/>

¹⁷ Human Rights Watch. (2021). “*My Life is Not Your Porn*”: *Digital Sex Crimes in South Korea*. Retrieved from, <https://www.hrw.org/report/2021/06/16/my-life-not-your-porn/digital-sex-crimes-south-korea>

¹⁸ Hyo-jin, L. (2021, August 3). ‘*Abortion consultation*’ included in *Health Insurance*. The Korea Times. Retrieved July 12, 2022, from https://www.koreatimes.co.kr/www/nation/2021/08/113_313299.html

¹⁹ Ibid

²⁰ Inputs from Korea Women’s Association United (KWAU)

²¹ Jang, B. (2022, May 17). *Yoon Suk-yeol needs to change the Way South Korea treats women*. Amnesty International. Retrieved July 12, 2022, from <https://www.amnesty.org/en/latest/news/2022/05/yon-suk-yeol-needs-to-change-the-way-south-korea-treats-women/>

rights and gender equality movement in the country. As shared in the sections above, the country is grappling with significant challenges in relation to ensuring equal opportunities for women's economic participation, to provide protection to women and girls from gender-based violence and to enable women and girls to exercise their sexual and reproductive health and rights. President-elect Yoon's claims that gender discrimination does not exist will promote structural and legal laxity to address these issues with concrete legal, policy and normative measures.

Relevant Recommendations in Previous UPR Cycles and Their Implementation Status

19. During its 3rd UPR, Republic of Korea received several recommendations from reviewing member states on improving women's human rights and to eliminate gender-based discrimination. More specifically, Republic of Korea received recommendations to enact anti-discrimination laws with specific provisions to prohibit racial and sexual orientation and gender identity-based discriminations during its 3rd UPR Cycle (132.32, 132.35, 132.36, 132.38, 132.39, 132.40, 132.43, 132.62).²² All of these recommendations were noted by the government. Several recommendations called on the country to remove all penalties for women to access safe abortion services (132.114 and 132.115).²³ A number of recommendations called on the government to take measures to ensure increased gender balance in economic and political spheres and in the labour market (132.17, 132.18, 132.70, 132.113).²⁴ Republic of Korea also received some recommendations on eliminating gender-based violence, including domestic violence and sexual violence (130.27, 130.28, 130.29, 130.30).²⁵ At the end of the four-year cycle of the 3rd UPR, the Republic of Korea has failed to fully and effectively implement the recommendations related to anti-discrimination laws and elimination of gender-based violence.

Recommendations for Action:

- **Adopt the Anti-Discrimination Bill**
 - 20.** Immediately adopt the Anti-discrimination bill and provide comprehensive policy framework and budget for its effective implementation.
 - 21.** Reduce gender inequality in society by taking urgent steps to increase women's participation in the legal and law enforcement sectors, political representation, public life, and the private sector especially at higher levels; end the gender pay gap; increase equity in caregiving; reduce violence and harassment against women; and act to end sexist attitudes.

- **Take Concrete Measures to Eliminate Cyber Sexual Crimes**
 - 22.** Take measures to eliminate cyber sexual violence including by revising legal provisions on sexual violence to deal with the online sexual exploitation platform operators plotting, organising, inducing others to join a criminal ring.
 - 23.** Provide sufficient funding to support services for all victims of digital sex crimes, including help to have the images removed and to provide legal assistance and psychosocial support to victims.

²² *Universal periodic review - Republic of Korea*. OHCHR. (n.d.). Retrieved July 12, 2022, from <https://www.ohchr.org/en/hr-bodies/upr/kr-index>

²³ Ibid

²⁴ Ibid

²⁵ Ibid

24. Provide legal provisions to deal with online sexual harassment as a form of sexual violence, with a view to prosecute perpetrators and bring them to justice, as well as treating victims as those of sexual violence and providing appropriate support to them.

25. Establish appropriate measures to create an enabling environment for women to access justice, report crimes and actively participate in criminal justice processes, and take measures to prevent retaliation against or the revictimisation of women seeking justice.

26. Recognise the transnational nature of online gender-based violence and encourage domestic and international private intermediaries (including international social media platforms and international legal authorities like Interpol) to take all appropriate measures to eliminate all forms of discrimination and violence in cyber and digital spaces.

27. Revise the definition of rape under the Act on Special Cases Concerning the Punishment of Sexual Crimes and include absence of consent in the definition of rape, in accordance with international human rights law and human rights standards.

- **Introduce Adequate Programmes & Services to Allow Women’s Universal Access to Safe Abortion Services and Care**

28. Design and implement policies and programmes with adequate budget to provide safe, accessible, and quality abortion services to all women. These services should be provided with an aim to respect and promote women’s reproductive rights as opposed to “control population”.

29. Revise the public health insurance system to include the cost of medical abortion services and post-abortion care.

30. Adopt legal/policy system to guarantee the sexual and reproductive health and rights of social minority groups’, including sexual and gender minority groups, migrant women, women in disabilities, etc.

- **Strengthen National Ministries on Gender Equality**

31. Immediately withdraw the pledge to abolish the MOGEF and take measures to strengthen the capacity of national machineries that have the mandate to promote gender equality, including by reinforcing their mandate and the role of the MOGEF and creating a department exclusively dedicated to women’s human rights and gender equality policy in all ministries.

32. Promote gender equality through implementation and promotion of affirmative actions and by eliminating the drivers of discrimination against women, such as harmful gender stereotypes through mass awareness raising and sensitisation campaigns.