

**Joint NGO Submission on  
Minority Rights and Right to Development**

**The 28<sup>th</sup> Session of the Universal Periodic Review  
Republic of Korea**

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**Submitted by**

**South Korean NGOs Coalition (77 NGOs)  
for the 3<sup>rd</sup> Cycle of the UPR on the Republic of Korea**

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## **I. Background and Framework**

1. This submission was jointly written by 77 NGOs in the Republic of Korea (ROK). The submission aims to evaluate the implementation of the recommendations from the 2nd cycle of the Universal Periodic Review (UPR) and to raise awareness regarding the situation of human rights in the ROK since 2012, focusing on minority rights and right to development.

## **II. Implementation of International Human Rights Obligations**

### **A. Minorities (Persons with disabilities, migrants, refugees, asylum-seekers etc.)**

2. **Persons with Disabilities:** The disability judgment and grading system according to the Act on Welfare of Persons with Disabilities in the ROK relies only on medical evaluation in the provision of services and therefore, it does not cover various needs of persons with disabilities or include persons with intellectual disabilities and persons with mental health problems. As a result, this system limits the number of persons covered by welfare services, such as pensions for persons with disabilities and personal assistant services, according to their disability level. The Government even maintained the substitute decision making system like the adult guardianship system. **The Government should abolish the disability rating system and revise the guardianship system to a supported decision making system.**

The number of residential institutions and residents in the ROK is steadily increasing, indicating that the Government's deinstitutionalization strategy is not effective. There are not enough measures to integrate people with disabilities into the community, and there is a lack of policies for integration within the community, such as subsidized services, income security, housing security, and health insurance. In particular, the Government provides welfare services based on the income of the family rather than the income of the person with disabilities, resulting in that the disabled are excluded from welfare services. **The Government should provide concrete policies to integrate people with disabilities into the community and eliminate the Obligatory Providers system.**

Although Article 732 of the Commercial Act has been amended, but still persons with disabilities can buy the insurance, only if the person has "the mental capacity". **The Government should remove Article 732 of the Commercial Act and withdraw reservations on Article 25 (e) of the Convention on the Rights of Persons with Disabilities.**

**3. Protection of the rights of migrant workers (Recommendation 31, 32, 65, 69):** The Government restricts the number of workplace changes<sup>1</sup> so that many migrant workers are forced to work where they do not want, discriminated including unpaid wages.<sup>23</sup> The cases of workplace changes which the Government mentioned "the reason which is not attributable to a worker" is hardly applicable such as closure of workplace. **The Government should abolish restriction of the number of workplace changes.**

Female migrant workers frequently suffer from sexual harassment and sexual violence/abuses by employers.<sup>4</sup> However, the Government merely instructs visiting counselling centers if violation happened. There was no supporting system for migrant women who are not married to Korean, because the Multi-Cultural Family Information Hot Line and Shelters for migrant victims of violence mainly focus on migrant women who marry Koreans. **The Government should include detailed information on sexual harassment and sexual violence/ abuses including reporting system and possible remedies with detailed cases in the compulsory education courses which the migrant workers enter the country. Furthermore, the Government should take measures to restrict workers' dormitory provided by an employer which is easily exposed to violence and provide safe housing standards, and guarantee right to stay of victims of violence.**

The severe and inhumane crackdown on undocumented migrants has resulted in death or severe injuries. Currently police officers as well as immigrant officer's indiscriminately crackdown undocumented migrant workers at all time, with a new system to distinguish expired visa by mobile phone. **The Government should consider human rights of undocumented migrant workers while distinguish them and consider granting permit to stay to those migrants who have contributed to Korean society.**

**4. Undocumented Migrant Children (Recommendation 66):** Statistics of Ministry of Justice shows, as of February 2013, that the number of migrant children under the age of 19 who have fallen to the undocumented status due to the expiration of their legal

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<sup>1</sup> Act on the Employment, Etc. of Foreign Workers Article 25 (Permission for Change of Business or Place of Business)

<sup>2</sup> Survey on migrant worker's human rights situations in Chungchung-nam-do, 2016. pp. 88-89. Migrant workers who want to change working places are 62.8%. The reasons are 'unpaid wage or allowance(29.2%)', 'Too hard work(26.4%)', 'inconvenience of dormitory or working places' facilities(15%).'

<sup>3</sup> UN Human Rights Council, Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, 20 April 2015, A/HRC/29/46/Add.1, paras. 69

<sup>4</sup> Survey and Research on migrant worker's housing and sexual harassment and violence. 2013. Korea Support Center for Foreign Workers. 10.7% of female/women migrant workers experienced sexual harassment and violence. Categories of act/violence are 'rape(35.5%)', 'forced touching(35.5%)', 'pressuring drinking liquor or forced touching(29%)', 'obscene phone calls or displaying pornography(19.4%)', 'pressuring prostitution(12.9%)', and 'indecent exposure of the genitals or touching(9.7%)'. The survey represents the perpetrators are 'employer(88.9%) and 'manager(77.8%)'.

stay has reached 6,000.<sup>5</sup> Considering the numbers not included in the statistics, it is estimated that there are more than 20,000 undocumented children. The internal guideline of the Ministry of Justice has suspended the deportation of undocumented migrant children enrolled in elementary, middle, and high schools until the completion of the high school courses,<sup>6</sup> but in a year more than 100 undocumented migrant children under the age of 20 are being detained after deportation orders.<sup>7</sup> Article 19 and Article 75 of the Presidential Decree of the Elementary and Secondary Education Acts stipulate that enrolments of elementary, middle, and high school for undocumented migrant children are possible without the acquisition of legitimate residency status. However, these articles are only non-mandatory provisions, and Article 8 of the Basic Act on Education limits the beneficiaries of compulsory education only to the citizens and the admission to a school is up to the head of a school's discretion. The Ministry of Health and Welfare also vaccinates undocumented migrant children, but the information is difficult to access.

Some medical services are provided for undocumented migrants through “Medical Support Service for the underprivileged including foreign workers”, but it is limited to the hospitalization and operation costs. The number of medical institutions which enforce this service is limited and the application process is complex, making the accessibility hard and unstable. Undocumented migrant children are strictly excluded from Medical Insurance System. Even though Infant Care Act and the Child Welfare Act do not explicitly restrict the target of childcare support and child protection, the Government interprets migrant children as not being the target of law. Therefore, it is impossible to provide childcare support even if there are economic troubles, and protection measure cannot be provided when there is child abuse.<sup>8</sup> **The Government should refrain from deportation and detention of undocumented migrant children on the basis of international standard such as the CRC. Also, the Government should take necessary measures to enact and amend relevant laws without delay so that the undocumented migrant children can enjoy practical rights related to education, health, childcare, and child protection.**

**5. Immigration Detention:** The current Immigration Control Act defines ‘detention’ (in Korean, the word ‘protection’ is used to describe ‘detention’) as “immigration control official’s enforcement activities taking into custody or impounding a person having reasonable grounds to be suspected of falling under persons subject to deportation at

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<sup>5</sup> Guarantee of rights of migrant children, moved by Saenuri Party, Jasmine B. Lee, Saenuri Party, reason of move, 18 December 2014

<sup>6</sup> Internal Guideline of The Ministry of Justice, 7 September 2010

<sup>7</sup> Materials of disclosed information provided by the immigration office of Hwaseong, Cheongju, Yeosu, The Ministry of Justice (October 2015 ~ August 2016)

<sup>8</sup> Hwang, Pilkyu, Introduction to the Framework Act on the Protection and Promotion of Rights of Migrant Children, National Assembly Human Rights Forum, 3 April 2014, pp. 43~44

immigration detention room or immigration detention centre”. While being detained, detainees are provided with a 6-square meter-room only, and kept under strict discipline such as limited exercise hours. Nevertheless, the Ministry of Justice repeatedly states that there is no such thing as ‘arbitrary detention’ because the immigration detention is for people subject to deportation who always may leave the ROK instead. Since the Immigration Control Act lacks a time limit provision in terms of the length of detention, indefinite detention of asylum-seekers and refugees is possible without a judicial review. Some refugees have been detained in the immigration detention centre for years while waiting for the result of refugee application. **The Government should recognise that arbitrary immigration detention violates the right to life, liberty and the security of detainees. It should have a time limit provision of the length of detention in the law to make immigration-related decisions quickly, and take all measures to guarantee the human rights of detainees.**

**6. Human Trafficking (Recommendations 42, 43, 67):** The definition of human trafficking under the revised Criminal Act is still too narrow to cover people who should be punished as human traffickers under the Palermo protocol.<sup>9</sup> Moreover, because law enforcement officers fail to identify victims of human trafficking, migrants who were trafficked for labour and sexual exploitation cannot receive a proper protection. They regularly receive compulsive deportation orders, for the execution of which the migrants are put into immigration detention. E-6 (Culture and Entertainment) visa which has produced human trafficking victims for more than 10 years still exists, and the migrant fishermen working are frequently victimized. Migrant fishermen on vessels pay high recruitment fees and security deposit to come to the ROK. They work up to 20 hours a day only to be paid 500~1,200 USD, and suffer from violence and discrimination. Despite such atrocious working condition, migrant fishermen cannot leave the vessels because their passports are taken by ship owners, their workplace relocation is restricted, and their payments are overdue. **The Government should legislate a special law on human trafficking, establish identification index for law enforcement officers to discover victims of human trafficking, and regularly provide relevant education to the officers. The Government should take measures to regulate overcharged recruitment fees through consultation with the government of migrants' country of origin, and supervise the labour condition of migrant fishing vessels regularly. It should strictly punish the ship owners who illegally confiscate the workers' passports.**

**7. Refugees and asylum seekers (Recommendations 64, 68):** Even though the Government established the 'Immigration and Foreigner Service Center' in 2013 as a reception center for asylum seekers, only 100 asylum applicants and a few more have

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<sup>9</sup> Advocates for Public Interest Law, Human Rights Crisis at Shin-Ahn Salt Pan and the Need to Legislate a Special Law for Addressing Human Trafficking, 2 September 2015, <http://www.apil.or.kr/1798>

been accommodated annually. In several cases, refugees were rejected for naturalization due to irregular income even when they meet other criteria. Also, the disability registration is only available for citizens, as the Government does not let the recognized refugees with disabilities be registered as disabled persons for services. The family members of the recognized refugees have difficulties obtaining Korean visa, not to mention entering the country. Moreover, people with humanitarian status are excluded from the application of family reunification principle. Furthermore, only a small amount of budget was allocated to the living expenses for asylum seekers to cover all refugee applicants. Thus, only 373 out of 589 applicants received support in 2015.<sup>10</sup> As the situation of more than 30 Syrian asylum seekers who were under de facto detention in the deportation room of the Incheon airport for 8 months without proper supply of food and medical support suggests,<sup>11</sup> a majority of people who made refugee application at the airport have to wait in the deportation room under poor condition for a long time for the regular refugee status determination process. Refugee recognition rate is still very low in the country. In 2013, only 24 applicants (out of 1,574 applicants) were recognized as refugees setting aside the cases of family reunification, in 2014 only 74 were accepted as refugees (out of 2,896 applicants), and in 2015 only 62 were recognized (out of 5,711 applicants). **The Government should increase the budget for living expense support for refugee applicants in consideration of the massive number of asylum seekers. Also, the government should accept the naturalization of recognized refugees following the spirit of the Refugee Convention, and actively provide support for the entrance of recognized refugees' family to Korea. The Government should take legislative measures to prevent long-time de facto detention of refugee applicants in the airport under poor condition.**

## **B. Women and Children**

8. **Rights of the Child (Recommendations 17, 18, 19):** There is not enough child-rights related education and training offered by the Government. The child-rights education performed by the NHRCK and the Ministry of Education which is only a part of a comprehensive child policy, is not under any specific legal provision.<sup>12</sup> Thus, the

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<sup>10</sup> NANCEN, Treatment on Refugees (as of 31 December 2015), <http://nancen.org/1520>

<sup>11</sup> CNN, Migrants in limbo at South Korean airport, 1 June 2016, <http://edition.cnn.com/videos/world/2016/06/01/south-korea-refugees-in-limbo-hancocks-pkg.cnn>

<sup>12</sup> Although the accountability of the government and local self-governing bodies that conduct education necessary for promoting child rights under the Convention on the Rights of the Child is stipulated in Art. 4(5) of the Child Welfare Act and Art. 8-2(1) of the Framework Act on Juveniles, it is not the specific normative basis. Art. 31 on the Education of Safety of Children under the Child Welfare Act only contains individual protection areas including prevention of sexual violence and child abuse, precaution and prevention of disappearance and abduction, prevention of drug abuse, safety measures against disaster, and traffic safety. This article does not specify comprehensive child rights education. Art. 8-2(1) of the Framework Act on Juveniles (Education and Publicity) stipulates rights education against juveniles (Every juvenile-related institution and juvenile organization shall take educational measures concerning the rights of juveniles for juveniles). However, this act is only effective for persons aged 9 to 24; thus, it does not include persons under the age of 18. Article 23-2(3)

contents are arbitrarily influenced by the local governments or educational institutions. According to the survey on awareness of child rights, less than 50 % responded that they have experiences receiving child-rights education.<sup>13</sup> For awareness raising reasons, child-rights education should be included in the regular education curriculum.<sup>14</sup> **The Government should revise relevant laws to specify child rights education toward both children and adults who are working with children. In addition, the Government should enact the Framework Act on Rights Education and provide a consistent and comprehensive guideline on the contents of education. In consideration of increasing number of incidents of online hate speech against marginalised groups including children, women, and sexual minorities, the Government should take measures to conduct child rights education, highlighting non-discrimination as a basic principle of human rights.**

- 9. Child-friendly Juvenile Jurisdiction System (Recommendation 45):** The juvenile jurisdiction system of the ROK is not child-friendly, and the right of the child to be heard is limitedly recognized. The Civil Act provides an opportunity for children over 13 years of age during the adoption procedure to express their opinion on matters related to them.<sup>15</sup> However, there is no substantive law to guarantee the right to present opinion of children who are placed in juvenile protection institutions. There are no clear guidelines regarding the systems for victim's advocates (an intermediary), the defence lawyers or public defenders for victimized children from abuse and/or sexual violence, leading to confusion and inconsistencies.<sup>16</sup> **The Government should amend the Civil Act, the Family Litigation Act, the Act on Special Cases concerning Adoption, and other related laws to eliminate age limits in order to guarantee the right to participation, right to be heard in accordance with Article 12 of the CRC.**

Under the Current Juvenile Act, children may be placed at the Juvenile Classification Review Board, which is a de facto detention facility. The decision to place children at the Juvenile Classification Review Board can be made when there is relevant notice/opinion of guardians, which is against the principle of respecting that child's view.<sup>17</sup> Moreover, the judges of the Juvenile Court who can exercise discretion are not provided with adequate children-rights education, leading to the decisions without

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of the Infant Care Act specifies the contents of refresher education including human rights education on infants in order to improve the quality of infant care teachers, but there is no provision related child rights education.

<sup>13</sup> Survey on awareness of child rights Year 2014-2016

<sup>14</sup> UN Convention on the Rights of the Child, Concluding Observations: Republic of Korea, 2 February 2012, CRC/C/KOR/CO/3-4, paras. 23.,

<sup>15</sup> Civil Act Article 869(1), Act on Special Cases Concerning Adoption Article 12(4), Enforcement Rule of the Act on Special Cases Concerning Adoption Article 11(2), Supreme Court Rule on Enforcing Act on Special Cases Concerning Adoption Article 3, Family Litigation Act Article 45(8), Family Litigation Rules Article 62(1) and 62(3)

<sup>16</sup> Act on Special Cases Concerning the Punishment, etc. of Sexual Crime Article 27,

<sup>17</sup> Juvenile Act Article 4(1)(3)

considering the best interests of the child.<sup>18</sup> **The Government should amend Article 4 of the Juvenile Act, and set up the relevant guidelines for a child-friendly judicial system. In addition, the Government should allocate an appropriate budget, and obligate the Juvenile Court to undertake child-rights education and trainings.**

**10. Universal Birth Registration (Recommendation 29):** The current birth registration system in the ROK requires parents with Korean nationalities to report birth of their child.<sup>19</sup> The Act on the Registration, etc. of Family Relationships does not provide any monitoring mechanism to determine the parents' compliance with their birth registration obligations.<sup>20</sup> Also, the Government has refused to register births of children of foreign nationals. Parents may register through the embassies of their nationalities; however, refugees are often reluctant to approach to register their children's births at embassies of the government which in many cases have persecuted them, leading to their refugee status.<sup>21</sup> **The Government should have a clear understanding of the current state of unregistered children, and provide a system guarantees all children born within the jurisdiction of the Republic of Korea to be registered and provided birth certificates regardless of parent's nationality, race, religion, and socio-economic status.**

**11. Child Protection from Violence (Recommendations 38, 40, 41):** In the wake of a girl fleeing from abusive parents by climbing a gas pipe in 2015,<sup>22</sup> a total inspection of long-term absentee students at elementary and middle schools was cried out. The inspection disclosed a series of deaths of children at the hands of abusive parents<sup>23</sup>, but preventive measures against child abuse announced by the Government was not detailed enough, nor followed by any practical compilation of the budget. Although there was an amendment of the Child Welfare Act in 2015 to prohibit physical and mental punishment by the protector of children<sup>24</sup>, physical and psychological punishment has widely been regarded as part of the right to discipline, thus accepted by the society. **The Government should establish an appropriate child protection system to prevent child abuse and protect children from violence. Also, the Government should amend the current law, including Article 31 of the**

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<sup>18</sup> Juvenile Act Article 18(1)

<sup>19</sup> Act on the Registration, etc. of Family Relationships Article 46

<sup>20</sup> Act on the Registration, etc. of Family Relationships Article 46(4)

<sup>21</sup> Korea Joongang Daily, "Parents take extreme measures: Those with stateless children go as far as seeking adoption", 14 September 2015. <http://koreajoongangdaily.joins.com/news/article/article.aspx?aid=3009149>

<sup>22</sup> Korea Joongang Daily, "Ye-rin deserves better". 28 December 2015.

<http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=3013282>

<sup>23</sup> The Korea Herald, "Korea tightens child protection policy", 16 January 2016.

<http://www.koreaherald.com/view.php?ud=20150116000965>

<sup>24</sup> Child Welfare Act Article 5(2) Responsibility of Protectors, etc: All citizens shall respect the rights, interests and safety of children and rear them healthy.

**Enforcement Ordinance of the Elementary and Secondary Education Act, and Article 915(Right to Discipline) of the Civil Act to prohibit all forms of physical and humiliating punishment against children.**

12. **Adoption:** There are two kinds of adoptions under the current law, namely institutional adoption regulated by the Act on Special Cases concerning Adoption, and private adoption. The private adoption is adopting a child under the Civil Act by entering into an adoption agreement between individuals. Because a child adopted under the Civil Act does not amount to ‘the child in need of protection’ under the Child Welfare Act, the adoptive procedure is governed by a simple approval by the Family Court. The eligibility requirements under the Civil Act are less strict than those of institutional adoption. The adoptive parent following the private adoption procedure is not required to receive prerequisite training, nor subject to the follow-up management procedure. Thus, the rate of dissolution of adoption is far higher, and in 2016, there was a case of a couple with 10 criminal records who were approved by the Court to adopt a child, abused and murdered a privately adopted girl.<sup>25</sup> **The Government should take all necessary measures to cover, screen, and manage both institutional adoption and private adoption procedures. The Government also should prepare adequate follow-up management programme to guarantee the right to survival, protection, and development of all adopted children.**

13. **Elimination of Discrimination against Women (Recommendations 22, 25, 26):** The Framework Act on Gender Equality (FAGE), a basic legislation on gender policy in the ROK, contains contents based on the biological duality of sex rather than ‘gender’ equality. The Ministry of Gender Equality and Family takes the position that the FAGE does not apply to sexual minorities.<sup>26</sup> In the ROK, discrimination against women is a serious social issue. According to the 2016 Gender Gap Report of the World Economic Forum, the ROK ranked 116<sup>th</sup> out of 144 countries on the gender equality scale.<sup>27</sup> Indeed, a variety of misogynistic hate crimes have occurred, as the ‘Gangnam murder case in May, 2016’<sup>28</sup> demonstrates. Women constitute 90.2 percent

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<sup>25</sup> Korea JoongAng Daily, “Adopted girl dies from duct tape punishment”, 4 October 2016, <http://koreajoongangdaily.joins.com/news/article/Article.aspx?aid=3024455>

<sup>26</sup> For example, when some Christian communities filed complaints with the local government in August 2015, the Ministry ordered the Daejeon Metropolitan Government to delete the provisions on sexual minorities in its Framework Ordinance on Gender Equality on the grounds that the provisions were not compatible with the purpose of the legislation of the FAGE.

<sup>27</sup> World Economic Forum (2016), The Global Gender Gap Report, (<http://reports.weforum.org/global-gender-gap-report-2016/economies/#economy=KOR>)

<sup>28</sup> On May 17, 2016, a woman was brutally murdered by an unknown man inside a unisex toilet in a large commercial district (Gangnam) of Seoul. The perpetrator, aged in his 30s, stated during the police investigation that he killed the woman because women have always looked down on him. However, the police and authorities concluded that the case is not a misogynist crime but rather a random killing by a person with "mental illness", and announced a set of preventive measures, which includes the identification and isolation of people in the early stages of mental illness. Ignoring the fact that structural discrimination and violence against women are

of victims of violent crimes in the country.<sup>29</sup> Fifty-one percent of homicide victims are women, which is the highest percentage among the G20 countries.<sup>30</sup> **The Government should add contents in relation to policies solving gender discrimination in the FAGE, and enact a comprehensive anti-discrimination legislation which addresses prohibited grounds of discrimination against various social minority groups.**

As of 2015, the proportion of female civil servants take up 33.7 percent and further those who are in the Grade 5 or higher positions account merely 11.6 percent.<sup>31</sup> On top of that, the proportion of female members of the National Assembly is only 17 percent as a result of the 20<sup>th</sup> General Election in 2016, which has increased from 15.7 percent in 2012, and yet, it is still lower than 22.6 percent that is the average ratio of the member states of the Inter-Parliamentary Union(IPU).<sup>32</sup> **The Government should take on the action to increase the number of female civil servants in a management position at central and local administrations, as it has stated in the policy of “More Women in Higher Position”, and to make 30 percent gender quota, which assure women to be present in the committees to nominate executives of public bodies, mandatory. Also, the Public Election Act should be revised to make gender political quotas mandatory in a way in which the zipper system to allocate women under every odd number in proportional representation(PR) lists as well as 30 percent quotas for female candidates in single-member districts(SMD) elections in general elections should be implemented with enforcement measures.**

14. **Single Mothers (Recommendation 28):** Discrimination against unmarried mothers continues in the ROK, and their survival is being threatened by their insecure work life balance. Sometimes, they get fired from their companies because they are pregnant as unmarried mothers. In addition, teenage unmarried mothers often end up failing to finish their studies. **The Government should conduct mandatory non-discrimination education to public officials regarding unmarried mothers' families for resolving social discrimination and prejudice against them and campaign for enhancing public awareness of unmarried mothers' families. Moreover, if unmarried mothers are unfairly dismissed by schools or companies, the Government should be able to apply legal sanctions. Also, there should be centres for those unmarried mothers provide support based on the mothers' life cycle stages.**

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deeply rooted in society, the government has not only attempted to distort the nature of the incident, but also done so in a way that promotes hate and discrimination towards another group of social minorities, namely persons with psychosocial disabilities.

<sup>29</sup> Korean National Police Agency(2013), Statistics

<sup>30</sup> United Nations Offices on Drug and Crime (2008), Homicide statistics sex of homicide victims

<sup>31</sup> Statistics Korea, the Proportion of female public officers in local governments, [http://www.index.go.kr/potal/main/EachDtlPageDetail.do?idx\\_cd=1762](http://www.index.go.kr/potal/main/EachDtlPageDetail.do?idx_cd=1762)

<sup>32</sup> Statistics Korea, the Proportion of female members in National Assembly in member states of IPU and its ranking, [http://www.index.go.kr/potal/main/EachDtlPageDetail.do?idx\\_cd=1588](http://www.index.go.kr/potal/main/EachDtlPageDetail.do?idx_cd=1588)

## 15. Rights of women workers and sexual harassment in the workplace

**(Recommendation No. 48, 49):** The gender wage gap in the ROK is a very serious issue. Assuming that the average monthly wage of male regular employees is 100, female regular employees receive 69.4 percent; male non-regular employees receive 49.2 percent, and female non-regular employees receive a mere 35.8 percent. In addition, 53.8 percent of women workers are in non-regular jobs.<sup>33</sup> The percentage of female workers in low-wage jobs is 37.8 percent, two times that of male workers in this category.<sup>34</sup> 58.3 percent of the reasons given for the wage discrepancy between men and women were merely because of their sex.<sup>35</sup>

The Affirmative Action (AA) on improving women's employment contains a promise only that the Government releases the names of companies with more than 500 employees in which the proportion of female workers is lower than 70 percent of the average of other companies in the same industry. There is no employer reporting process on types of employment, wage gaps and occupational segregation by sex. The effectiveness of AA is therefore significantly low because of its cursory contents and assessment. The Government has increased low-quality part-time jobs for female workers to achieve an employment rate of 70 percent. Non-regular female workers are fundamentally excluded from the benefits of the maternity leave system intended for those giving birth or caring for children, and in 2016 only 8.5 percent of employees taking child care leave were men. **The Government should prepare fundamental measures to address the significant gender wage gap, to change wage structures in which women are paid less just because of their sex and to tackle the prejudices against women. An increase in the minimum wage, the adoption of punitive damages against employers who violate the minimum wage regulation, and enforcement of gender quotas are also needed. In addition, the government should limit the grounds on which non-regular workers can be used to reduce the number of non-regular workers.**

The Government has taken little action on the criminalization of sexual harassment in the workplace. When sexual harassment at work occurs, there is no provision that stipulates an employer's duties to investigate the case and to take measures to protect a

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<sup>33</sup> Kim, You-sun, Situation and Size of Non-Regular Workers, Issue Paper No. 4, Korea Labor & Society Institute, 2016 [http://klsi.org/sites/default/files/field/%5B2016-04%5D%20%EB%B9%84%EC%A0%95%EA%B7%9C%EC%A7%81%20%EA%B7%9C%EB%AA%A8%EC%99%80%20%EC%8B%A4%ED%83%9C\(%EA%B9%80%EC%9C%A0%EC%84%A0,2016%EB%85%843%EC%9B%94\).pdf](http://klsi.org/sites/default/files/field/%5B2016-04%5D%20%EB%B9%84%EC%A0%95%EA%B7%9C%EC%A7%81%20%EA%B7%9C%EB%AA%A8%EC%99%80%20%EC%8B%A4%ED%83%9C(%EA%B9%80%EC%9C%A0%EC%84%A0,2016%EB%85%843%EC%9B%94).pdf)

<sup>34</sup> Ministry of Health and Welfare (2017), Social Security Statistics in 2016 [http://www.mohw.go.kr/front\\_new/al/sal0301vw.jsp?PAR\\_MENU\\_ID=04&MENU\\_ID=0403&CONT\\_SEQ=338608&page=1](http://www.mohw.go.kr/front_new/al/sal0301vw.jsp?PAR_MENU_ID=04&MENU_ID=0403&CONT_SEQ=338608&page=1)

<sup>35</sup> Kim, Nan-ju (2015), Gender Wage Gap and Its Implications, Research Paper, Korean Women's Development Institute

victim immediately. Victims of sexual harassment who report the case often experience secondary victimization by perpetrators, employers, colleagues, or supervisors. **The Government should strengthen employers' responsibilities about sexual harassment cases; employers should take appropriate actions immediately, including providing paid leave and therapy for victims and segregating them from the perpetrators. In addition, the Government should make provisions which stipulate the contents of secondary damages and prepare measures to prevent them.**

### C. Right to Development

16. **Official Development Assistance (ODA):** Civil society has called for introducing the environmental and social safeguard such as international financial organizations have and demanded its application to all development projects, and governmental management and supervision to prevent loan assistance from affecting the rights and environment of local residents of partner countries. The Government initiated the safeguard revision at the end of 2011 and finally disclosed it in 2016.<sup>36</sup> The serious is the contents of the safeguard do not live up to international standards and are only applied to a few pilot projects while managing and supervising responsibilities are burdened on the partner countries.<sup>37</sup> Furthermore, the Government's management or supervision of safeguard implementation is absent altogether. The Government selected the Jalaur River Multipurpose Project (dam construction) in the Philippines as a first pilot project but this project now faces strong opposition from the indigenous people due to procedural legitimacy, human rights violation, and possibility of environmental destruction. The locals are raising issues because the measures for involuntary relocation are inadequate, the Free, Prior and Informed Consent (FPIC) process was violated and the dam construction site is at risk of earthquakes. However, the South Korean Government is not answering to these issues nor taking any action other than pushing forward with the project. **The Government should collect the various civil group evaluations on environmental and social safeguard, revise the safeguard contents, and specify compliance obligations for companies. Moreover, it should conduct the management and supervision of safeguard implementation.**

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<sup>36</sup> EDCF Safeguard Policy,

<https://www.edcfkorea.go.kr/site/homepage/menu/viewMenu?menuid=005001006003> (2016)

<sup>37</sup> The South Korean government's management or supervision of safeguard implementation is absent altogether. The Government selected the Jalaur River Multipurpose Project (dam construction) in the Philippines as a first pilot project but this project now faces strong opposition from the indigenous people due to procedural legitimacy, human rights violation, and possibility of environmental destruction. The locals are raising issues because the measures for involuntary relocation are inadequate, the Free, Prior and Informed Consent (FPIC) process was violated and the dam construction site is at risk of earthquakes. However, the Government is not answering to these issues nor taking any action other than pushing forward with the project.