

Republic of Korea

1. Discrimination in the family

The Constitution enshrines the principle of gender equality, and affirms that family life should be established and sustained on the basis of gender equality (Government of the Republic of Korea, 2014). With regard to marriage and family life, the Constitution emphasises that Marriage and family life should be entered into and sustained on the basis of individual dignity and equality of the sexes, and the State shall do everything in its power to achieve that goal (Constitution, 1987; Government of the Republic of Korea, 2014). The principle of equal family relationships and the Government's responsibilities in this regard has been further elaborated in a number of laws, including the Framework Act on Women's Development and the Framework Act on Healthy Families (Government of the Republic of Korea, 2014).

a) Overarching legal framework for marriage

The Civil Code provides women and men with the same right to enter into marriage (Civil Code, 1958, as amended). A marriage contracted without the agreement of both parties is considered null and void (Civil Code, 1958, as amended). Under the Criminal Act, fraud, deception and human trafficking for the purpose of marriage are punishable offences (Criminal Act, 1953, as amended).

Marriage in the Republic of Korea is a civil procedure and must be reported to administrative agencies to ensure legal recognition and protection (Government of Korea, 2014; Civil Code, 1958, as amended). Religious and customary marriages themselves are not recognised by the law (Government of Korea, 2014; Civil Code, 1958, as amended).

The law does not provide for official registration of informal or de-facto unions and there are no specific legal clauses recognising such unions. However, some laws treat de facto spouses equally as legal spouses, including the Public Officials Pension Act and Housing Lease Protection Act which regard informal unions and marriages equally (Government of the Republic of Korea, 2014). Certain legal effects of de facto unions are also recognised according to court precedents, such as the right to claim a division of property which preconditions communal life of husband and wife (Government of the Republic of Korea, 2014).

The pressures of cultural tradition have been reported to still influence the marital goals of women in the Republic of Korea (Yang (a), 2005). Social classes remain a major consideration, and the economic status of one prospective spouse's family is expected to closely match the other's or parental disapproval is very likely (Yang (a), 2005). Although they do not choose their child's partner, it is common for parents to arrange dates with prospective partners. Parents also generally have veto power over the child's choice of spouse (Yang (a), 2005).

b) Child marriage

While the age of majority is set to 20 years under the Civil Act, the legal age of marriage is 18 years for both women and men (Civil Act, 1958, as amended in 2007). However, a minor who wishes to enter into marriage can only do so with the consent of his or her parents or, when this is not possible, guardians (Civil Act, 1958, as amended).

The Criminal Act establishes legal sanctions for those that make an untrue statement to a public official, thereby causing a false entry to be made in a license, permit, registration certificate or passport, and imposes a punishment of up to three years' imprisonment or a fine not exceeding seven million won (Criminal Act, 1953, as amended).

There is no information on the existence of public measures to generate support for the enforcement of the minimum age of marriage. The law does not provide for awareness-raising or education programmes on the legal age of marriage, and there have been no budgetary commitments to this end.

According to the International Centre for Research on Women, the Republic of Korea has eliminated the practice of child and early marriage in little more than a generation (International Centre for Research on Women, 2005). There is no information to suggest that early marriage of girls and boys is still encouraged by customary, religious or traditional practices in the Republic of Korea.

c) Household responsibilities

In 2005, a decision of the Supreme Court put an end to the family-head system in the Republic of Korea (Yang, 2005). According to the Supreme Court, the Hojuje, or the head of the family system, was incompatible with the Constitution and its gender equality provisions, resulting in a revised Civil Act under which women and men have the same rights to be recognised as the head of household (Yang, 2005; Government of the Republic of Korea, 2015). Women are not required by law to obey their husbands.

As parents and regardless of marital status, women and men have the same rights and responsibilities with regard to their children (Civil Act, 1958, as amended; Government of Korea, 2014). Parents also have the same rights to decide the number and spacing of children (Government of Korea, 2014). The Framework Act on Healthy Families also establishes that family members shall jointly participate in the management of home life (Government of the Republic of Korea, 2014).

The freedom of residence and the right to movement are constitutional rights that are guaranteed to all citizens regardless of gender or marital status (Constitution, 1987).

While women and men have the same household rights and responsibilities, women tend to do the majority of the housework and childcare, correspondingly having less time for work in the labour market (Kim, Lee and Shin, 2016). In 2015, the Human Rights Committee expressed concern about the ongoing discrimination against women, including patriarchal attitudes and gender-based stereotypes concerning the role of women in the family and in society, and the widespread social stigma and discrimination against unmarried mothers, including their unequal treatment with respect to the provision of child allowance compared to adoptive parents (Human Rights Committee, 2016).

There is no information to suggest that women's legal rights to choose where to live or to be the legal guardians of their children are challenged in the country.

d) Divorce

Women have the same legal rights as men with respect to the dissolution of marriage. The Civil Act specifies that a husband and wife may get a divorce by agreement (Civil Act, 1958, as amended). If consensus cannot be reached, either of the parties may apply to the Family Court for a divorce under specified circumstances, including (i) if the other spouse has committed an act of adultery (ii) if one spouse has been maliciously deserted by the other spouse (iii) if one spouse has been extremely maltreated by the other spouse or his or her lineal ascendants (iv) if one spouse's lineal ascendant has been extremely maltreated by the other spouse (v) if the life or death of the other spouse has been unknown for three years; and (vi) if there exists any other serious cause for making it difficult to continue the marriage (Civil Act, 1958, as amended).

In the case of divorce, the parties are required to determine by agreement matters concerning custody over their children (Civil Act, 1958, as amended). Where agreement cannot be reached, the Family Court decides on the matter (Civil Act, 1958, as amended). The Court makes the decision with given priority to children's welfare, taking into consideration of children's intention and age, each parent's financial status, and other circumstances (Civil Act, 1958, as amended). Except for matters relating to custody, the agreement between the parents or the court decision does not change the parental duties of the parties (Civil Act, 1958, as amended).

In the past, divorce rates in the Republic of Korea were low, and divorced couples were stigmatised (Hooker and Choun, 2013). Recently, societal attitudes towards divorce have changed, although anchored in Confucian traditions that influence various roles in the Korean family structure (Hooker and Choun, 2013). The majority of divorces are initiated by women (Hooker and Choun, 2013). Nevertheless, stigma is still attached to divorce, and many women have reported to hesitate to initiate divorce out of fear of losing face and potentially harming their children's futures in view of the financial insecurities that follow divorce and the burden of single-parent child rearing (Hooker and Choun, 2013).

There is no information to suggest that there are customary, religious or traditional practices or laws that discriminate against women's legal right to initiate divorce or to be the legal guardians of their children after divorce. Custody cases are decided on their merits, with women often gaining custody (US Department of State (a), 2017).

With regard to foreign wives, non-governmental organizations have raised concerns that even if the Korean spouse is at fault for the divorce, there are many cases in which the Immigration Office conducts investigations on the sincerity of marriage and refuses to extend the visa, residence permit, or naturalization of the marriage migrant on grounds that the couple did not cohabit (South Korean Human Rights Organizations Network, 2015). They have also noted that when marriage migrants return to their countries of origin after divorce, there are instances where they are required to submit Korean divorce documents or family relation registration documents to the court or other relevant agencies in order for the divorce to be recognised in their home countries. However, migrant women

are not issued family relations registers in the Republic of Korea and this makes it difficult for them to obtain relevant documents (South Korean Human Rights Organizations Network, 2015).

e) Inheritance

Women have equal rights to inherit to land and non-land assets, both as widows and daughters (Civil Act, 1958, as amended). Women also have the same rights to write a will (Civil Act, 1958, as amended).

There is no publicly available information to indicate that there are customary, traditional or religious practices and laws that discriminate against women's legal right to inherit, as widows or daughters.

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On 26 February 2015, the Constitutional Court ruled that Article 241 of the Criminal Code, which stipulates imprisonment for up to two years for those who commit adultery, is unconstitutional on the grounds that it restricts the confidentiality and freedom of privacy guaranteed by the Constitution by intervening in sexual self-determination and the private realms of an individual's sex life (Government of the Republic of Korea, 2015). Following the Constitutional Court's rule, Article 241 of the Criminal Code was abrogated on January 2016.

Dating arrangements with the purpose of marriage are common in the Republic of Korea and are regulated under the Marriage Brokers Business Management Act (Government of the Republic of Korea, 2015). Following reports that foreign women were exposed to abuse by international marriage brokers, and ended up as sexual or domestic slaves in the household, this act was revised in 2012 to enhance the existing protection of the rights of those who pursue international marriages and ensure the validity of such marriages, including through the banning of illegal recruitment and brokerage of international marriages, requiring that the personal information of brokerage service users and their partners be notarised in their home countries; prohibiting the display and/or advertisement by marriage brokers of content that may violate human rights; and strengthening the penalties for violations of the law (Government of the Republic of Korea, 2015). A 2015 revision recommended the use of standard contracts for marriage brokerage services and stipulates the inspection of international marriage brokerage agencies at least once per year (Government of the Republic of Korea, 2015).

Civil society organizations have expressed concern at the limited support for unwed mothers, and noted that annually, approximately 90 % of international adoptees and 85% of domestic adoptees are born of unwed mothers (the Korean NGO Coalition, 2012). Unwed mothers are often forced to relinquish their children due to social stigma and financial difficulties resulting from societal attitudes (the Korean NGO Coalition, 2012).

2. Restricted Physical integrity

a) Violence against women

There is no stand-alone law addressing violence against women, and laws that cover acts of violence, including domestic violence, sexual assault and harassment, are gender-neutral in the Republic of Korea.

There is no law addressing honour-crimes, and there is no information to suggest that honour-crimes is an issue in the country.

b) Domestic violence

In South Korea, the prevention of and protection against domestic violence is covered by two main laws: the Act on the Prevention of Domestic Violence and Protection of Victims (the Prevention of Violence Act) and the Act on Special Cases Concerning the Punishment of Crimes of Domestic Violence (the Punishment of Domestic Violence Act), both adopted in 1997 and amended on several occasions.

The Punishment of Domestic Violence Act defines domestic violence as “activities involving physical or psychological harm or damage to property among family members” and covers physical, psychological and economic harm (the Punishment of Domestic Violence Act, 1997, as amended). In 2014, so-called quasi-rape was added to the crime of domestic violence (Government of the Republic of Korea, 2015).

The law specifies that the term “family member” means any of the following persons: a spouse (including persons in a de-facto marital relationship or former spouse), a person who is or was a lineal ascendant or descendant (including in a de-facto parent-child relationship by adoption), a person who is or was in a relationship between step-parents and offspring or in a relationship between a father’s legal wife and the child of a mistress, and a person who is in a relationship between relatives living together (the Punishment of Domestic Violence Act, 1997, as amended). A victim is defined as a “person who suffers direct damage from a crime of domestic violence” (the Punishment of Domestic Violence Act, 1997, as amended) and “a person who has been directly damaged by domestic violence.” There is some ambiguity as to the extent to which the definition includes relationships other than heterosexual relationships (Thomson Reuters Foundation, 2013).

Under the Acts, domestic violence can include any, or a combination, of the following forms: mental abuse (including intimidation, defamation, coercion, abandonment and maltreatment), physical violence (including bodily injury, false arrest and confinement), sexual violence (including involuntary sexual contact of any kind and rape) and economic violence, such as extortion and property damage (the Punishment of Domestic Violence Act, 1997, as amended; Thomson Reuters Foundation, 2013). Under the Criminal Act, these are all separate offences with differing degrees of punishment. Offenders may be sentenced to a maximum of five years in prison and fined up to seven million won (\$6,030) for domestic violence offenses (US Department of State, 2017).

There is no legal provision in the Acts prohibiting mediation in domestic violence cases. In 2015, the Human Rights Committee expressed concern that current practice appeared to channel victims of

domestic and sexual violence into alternative dispute resolution mechanisms (Human Rights Committee, 2015).

The Punishment of Domestic Violence Act provides for specific provisions for investigation, prosecution and punishment of offenders, including by imposing a positive obligation on judicial public officers to investigate a crime of domestic violence promptly and transfer such incidents to a prosecutor (the Punishment of Domestic Violence Act, 1997, as amended).

A revision to the Punishment of Domestic Violence Act in 2011 granted police officers the authority to impose a temporary separation of victims and offenders or a restraining order (Government of the Republic of Korea, 2015). It also introduced a system allowing victims or their legal agents to file for a victim protection order (Government of the Republic of Korea, 2015). Non-compliance with domestic violence restraining orders may result in a maximum sentence of two years in prison and a fine of up to 20 million won (\$17,230) (US Department of State (a), 2017). Authorities may also place offenders on probation or order them to see court-designated counsellors (US Department of State (a), 2017). When there is a danger of domestic violence recurring and an immediate need for protection, the law allows a provisional order to be issued ex officio or at the victim's request (US Department of State (a), 2017). This may restrict the subject of the order from living in the same home, approaching within 109 yards of the victim, or contacting the victim through telecommunication devices (US Department of State (a), 2017).

A Comprehensive Plan to Prevent Domestic Violence was introduced by the Government in 2011. The Plan aims, among other things, to strengthen the initial response taken by law enforcement personnel in cases of domestic violence (Government of the Republic of Korea (a), 2013). It also features measures to better protect victims, including enhanced training of investigation personnel and an increase in the number of shelters for victims (Government of the Republic of Korea, 2013).

The Prevention of Violence Act establishes a positive duty on the State and local governments to take measures to prevent domestic violence and to protect victims of such violence (Prevention of Violence Act, 1997, as amended). Discharging this duty requires, under the Act, to establish and operate a domestic violence reporting system, establish and operate protection facilities and other support services for victims, cooperating among related agencies to ensure coherent protection of and support for victims, and implementing and evaluating the various policies in place to prevent such violence and protect victims (Prevention of Violence Act, 1997, as amended). Such services are specified to cover protection facilities, medical support services including counselling, and telephone hotlines (Prevention of Violence Act, 1997, as amended). The Act establishes that in order to meet these requirements, in particular the establishment and operation of support services for victims, State and local government are expected to take budgetary measures (Prevention of Violence Act, 1997, as amended). Revisions to the domestic violence acts in 2014 also introduced measures to ensure the physical safety of victims who need to appear in court proceedings or who are exercising their child visitation rights (Government of the Republic of Korea, 2015).

The Ministry of Gender Equality and Family funds integrated support centres for victims of sexual violence commonly referred to as "sunflower centres" (US Department of State (a), 2017). These centres provide counselling, medical care and therapy, case investigations, and legal assistance (US

Department of State (a), 2017). As of July 2016, there were 36 “sunflower centres” and 100 smaller counselling centres operating nationwide (US Department of State, 2017). Other government-subsidised and nonsubsidised counselling centres operated across the country (US Department of State (a), 2017). These provided victims with free medical services, legal services, support during investigations and trials, and therapy and rehabilitation programs (US Department of State, (a) 2017). A number of the facilities offered specialised services for victims with disabilities (US Department of State (a), 2017). The Korean National Police Agency established a 24-hour centre staffed by police officers, counsellors, and nurses to provide comprehensive care to victims of sexual violence (US Department of State, (a), 2017). There were also protection facilities for victims of sexual violence, including for victims with disabilities and for child and juvenile victims (US Department of State (a), 2017). The government managed family protection facilities for domestic violence victims and their children over the age of 10 (US Department of State (a), 2017). The government also operated protection facilities and maintained a hotline for migrant women victims of domestic violence (US Department of State (a), 2017). The government supported group home facilities, which provided counselling, job referral, and vocational training for victims (US Department of State (a), 2017). The Support Centre for Migrant Women offers services in 13 languages (Government of the Republic of Korea, 2015).

Awareness-raising is also foreseen under the Act, including through research and educating the public on the prevention of domestic violence (Prevention of Violence Act, 1997, as amended). A 2013 national survey on domestic violence identified a need for more active promotion of victim support services and related systems designed to raise public awareness. In response, in August 2014 the Ministry of Gender Equality and Family designated the eighth day of every month for carrying out anti-domestic violence campaigns (Government of the Republic of Korea, 2015). In 2016, anti-domestic violence programs took place in all elementary and secondary schools and in local and national government offices (US Department of State (a), 2017). In addition, a revision on 21 January 2014 to the Violence Prevention Act allowed the provision of combined education on domestic violence, sexual violence, prostitution, and sexual harassment based on the perspective of gender equality (Government of the Republic of Korea, 2015). In compliance with the amended law, the Minister of Gender Equality and Family can conduct an annual inspection of the outcomes of domestic violence prevention education, mandate necessary measures (e.g. special education for administrators) for institutions and organizations that failed to meet standards, and publicise the results of inspection through the media (Government of the Republic of Korea, 2015).

A Domestic Violence Response Task Manual provides guidelines for professionals that deal with victims of domestic violence (Government of the Republic of Korea, 2014). The Task Manual covers all stages of the process, including police receipt of the report, dispatch to the site, and investigation (Government of the Republic of Korea, 2014).

Despite the protective measures in place, human rights monitoring bodies have noted with concern that the low rate of reported cases does not correspond to the actual extent of domestic violence in the country (CEDAW Committee, 2011).

The Korean Women’s Association United has noted that the victims of domestic violence are not fully protected under the existing legislation because violence at home is considered private, legal and

institutional safeguards for victims were poor, the police are non-responsive, public services focus on counselling for victims rather than the punishment of perpetrators and prosecutions are not always carried out (Thomson Reuters Foundation, 2013).

The patchy implementation of the preventative and protective measures has been ascribed to patriarchal views inherent in South Korean society that emphasises the faults of the victims rather than the guilt of the perpetrators (Thomson Reuters Foundation, 2013). In particular, despite moves towards strengthening women's rights both in society and within the home domestic violence continues to be considered a private family matter (COLCGH, 2012). The police response to domestic violence has at times been noted as a problem (Thomson Reuters Foundation, 2013).

Civil society organizations have noted that domestic violence legislation in the Republic of Korea has often been linked with the promotion of healthy families, which may take precedence over concerns for human rights (Thomson Reuters Foundation, 2013; Yang (b), 2011).

According to civil society organizations, the financial and economic dependence of the victims on the perpetrators is commonplace and makes it difficult for the victim to actively seek punishment of the perpetrator, and in many cases investigative agencies have abstained from punishing the perpetrator if the victim does not wish to press charges (South Korean Human Rights Organizations Network, 2015).

It has also been noted that women who avail of the services of a domestic violence shelter may face challenges in accessing medical services since the government only allows for the shelter to use the subsidy given for the women for medical care required directly as a result of the violence suffered (COLCGH, 2012).

Further, critics have noted that there have been shortcomings on the part of the Government to promulgate the laws (Thomson Reuters Foundation, 2013). The nature of the offences, as occurring between closely related individuals partly and covertly over a period of years, has meant that there have been difficulties by the police in fact-finding and obtaining evidence (Thomson Reuters Foundation, 2013).

Civil society has also noted that the Government's implementation of suspension of indictment on condition of counselling – an act which involves suspending the indictment of the domestic violence offender on the condition that the offender undergoes counselling – involves imposing measures such as restraining orders, community service and orders to attend a lecture, protective custody, treatment, consignment of counselling effectively reduces the act of domestic violence to a “non-crime” (South Korean Human Rights Organizations Network, 2015).

Domestic violence against migrant women entering South Korea through marriage is an emerging social problem (Choi and Byon, 2012). Such a problem takes place against a backdrop of a rapid increase in international marriages in the Republic of Korea, in particular between women from developing countries immigrating as spouses of Korean men (Park, 2011; COLCGS, 2012). Many of these marriages are arranged through marriage agencies, and the women generally do not speak the Korean language and therefore suffer discrimination within the marriage and within society because

of their inability to communicate and their perceived lower economic and educational background (COLCGS, 2012).

According to Korean Law a foreign spouse must have habitual residence in Korea for two years to obtain citizenship (COLCGS, 2012). This condition makes many women who are suffering from domestic abuse believe that they have no alternative than to remain with their husbands regardless of what they endure (COLCGS, 2012). According to civil society reports, a number of such cases have ended in the woman being murdered by the Korean husband or in her taking her own life (COLCGS, 2012). A 2004 amendment sought to address this problem and allow the foreign spouse to be granted citizenship even in cases where they divorce prior to the two-year limit if the divorce court rules that the Korean husband is at fault for the divorce (COLCGS, 2012). Nevertheless, this requires the foreign wife to prove the husband's abuse to the court and is reportedly very challenging, in particular in view of the language barriers and limited awareness on the part of the foreign wife of their rights (COLCGS, 2012).

c) Rape

Rape is a criminal offence under the Criminal Act (Criminal Act, 1953, as amended). The separate legislation addresses sexual violence is the Act on Special Cases concerning the Punishment, Etc. of Sexual Crimes (Act on Punishment of Sexual Crimes, wholly amended in 2012). This act, enacted in 2010, prescribes the obligations of the central and local governments in relation to the protection of and support for victims and related others, including education support and the establishment and operation of integrated support centres for victims of sexual assault (Government of the Republic of Korea, 2015).

In accordance with revisions to the Criminal Act in 2012, the definition of victim of sexual offences has been changed from 'girls and women' to 'individuals' (Government of the Republic of Korea, 2015).

The Criminal Act defines the crime of rape as "a person who, by means of violence or intimidation, has sexual intercourse with another". The penalty for rape ranges from a minimum of three years to life imprisonment depending on the specific circumstances (Criminal Act, 1953 as amended; US Department of State, 2017). The law provides for increased penalties for aggravated forms of rape, including if the act results in the death or injury of the victim, or if the victim is "feeble-minded" or has not reached 13 years of age (Criminal Act, 1953, as amended).

The Criminal Act defines rape as penile-vaginal rape only. A second, lesser crime of 'imitative rape' under Article 297-2 refers to a person inserting a sexual organ into another person's body part and attracts a lesser punishment (Criminal Act, 1953, as amended).

The Criminal Act does not cover spousal rape, although the Act on Punishment of Sexual Crimes provides that any person who, through violence or intimidation, has sexual intercourse with another person in a marital relationship shall be punished by imprisonment (Act on Punishment of Sexual Crimes, 2012). The definition of marital relationship also covers de-facto relationships (Act on Punishment of Sexual Crimes, 2012).

There is no information to suggest that there are customary, traditional or religious laws or practices that reduce sentences or escaping punishment if the perpetrator marries the victim.

The Criminal Act, the Act on Punishment of Sexual Crimes, and the Act on the Protection of Children and Juveniles from Sexual Abuse were all revised in 2012 to abolish the requirement that investigation and punishment of such offences had to be subject to complaint by the victim (Government of the Republic of Korea, 2015). With this elimination, law enforcement authorities no longer require a complaint from a victim in order to investigate and prosecute sex criminals (Government of the Republic of Korea, 2015).

Revisions in 2012 also expanded the list of crimes exempted from the period of prescription, introduced the crime of infiltrating into public places for sexual purposes, allowed adult victims to hire a lawyer for legal assistance as an enhanced victim-protection measure, dictated the installation and operation of witness support facilities and witness assistants to protect and assist victims and witnesses who come to the court for testimony, introduced a statement-assistance system designed to help victims with communicative difficulties during the investigation process, and extended the range of relatives subject to the law to include all 'cohabiting relatives' (Government of the Republic of Korea, 2015).

The Act on Punishment of Sexual Crimes does not in itself address protection or support services to victims of sexual violence. Such support and protection, and the State and local governments' responsibilities, are addressed in the Act on the Prevention of Domestic Violence and Protection, etc. of Victims (the Prevention of Violence Act) which also covers sexual violence.

In January 2016, the government launched a comprehensive action plan across several ministries to prevent sexual violence (US Department of State (a), 2017). The Korea National Police Agency's Sexual Violence Special Investigation Team expanded in March 2016 to become the Women and Juveniles Investigation Office, which included 240 police officers and involved 251 different police stations nationwide (US Department of State (a), 2017). In May 2016, the Ministry of Gender Equality and Family established new mandatory regulations in the Act on the Prevention of Sexual Violence to require central and local governments to implement preventive measures by November that year (US Department of State (a), 2017).

The Sexual Violence Response Manual, developed by the National Police Agency, to support first-line police officers with sexual violence related cases, includes 10 commandments to protect the rights of the sexual violence victims (Government of the Republic of Korea, 2014).

Revisions to the Act on the Prevention of Sexual Assault in 2014 established a legal basis for the provision of integrated education on sexuality, sexual violence, prostitution, sexual harassment, and domestic violence based on a gender equality perspective (Government of the Republic of Korea, 2015). The law has also strengthened the effectiveness of sexual violence prevention education by granting the Gender Equality Minister the authority to conduct an annual inspection of the results of education, take necessary measures (such as special education for administrators) directed at those institutions and organizations failing to meet standards, publicise the results of inspection through the media, and request that the results of inspection be included in organizations' performance

evaluations (Government of the Republic of Korea, 2015). Since 2011, diverse commemorative events and campaigns are held annually from 25 November to 1 December, designated as the “Sexual Violence Eradication Week,” to inform the hazard of violence towards women and children and to improve nationwide awareness (Government of the Republic of Korea, 2014).

With regard to the inconsistencies between the Criminal Act and the Act on the Punishment of Sexual Crimes on the matter of marital rape, close observers have noted that a first decision of the Supreme Court in May 2013 recognizing marital rape as rape only did so because it involved a severe level of violence, threats, and the use of a weapon (South Korean Human Rights Organizations Network, 2015). Although the level of physical violence and threats were high in the case at hand, the sentence was lean (South Korean Human Rights Organizations Network, 2015). In 2015, the Human Rights Committee requested the Government to explicitly criminalise marital rape under all circumstances, and define all forms of rape in terms of absence of consent rather than intimidation or violence (Human Rights Committee, 2015). It recommended the development and adoption of a comprehensive strategy to prevent and address gender-based violence in all its forms and manifestations, and to ensure that cases of marital rape are thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are adequately compensated (Human Rights Committee, 2015).

Concern has also been raised over the lack of action on the part of the Government to reform societal prejudices against the victims of sexual violence (Korean Women’s Association United, 2011). Such concerns take root in commonly held views that sexual violence is provoked by the victims themselves (Korean Women’s Association United, 2011).

Civil society organisations report that amendments to the Act on the Punishment of Sexual Crimes that increased the punishment for sexual violence led to public outcries by the police and investigation agencies that the amendment would cause an “increase in indiscriminate and false accusations” and give the accused excessive disadvantages (South Korean Human Rights Organizations Network, 2015). As a result, a number of district prosecutors’ offices around the country began crackdowns for false accusations of sexual violence, and many cases occurred where the victims of sexual violence were suspected of false accusations during the investigation and indicted accordingly (South Korean Human Rights Organizations Network, 2015).

d) Sexual harassment

Sexual harassment is addressed in the Act on Equal Employment and Support for Work-Family Reconciliation (Act on Equal Employment, 1987, as amended) and the Framework Act on Gender Equality (Framework Act, 2014).

The Act on Equal Employment defines sexual harassment at work as any situation where an employer, a superior or a worker causes another worker to feel sexually humiliated or offended by sexually charged words or actions by using their position in the workplace or in relation to work or gives advantages in employment for disregarding sexual words or actions or any other demands. As such, it only addresses sexual harassment in the workplace, and does not extend protection to sport establishments, public places or cyber stalking. However, the Act on the National Human Rights

Commission, also prohibiting sexual harassment covers public education institutions (National Human Rights Commission Act, 2011, as amended). Sexual harassment in the workplace is a punishable offence (Act on Equal Employment, 1987, as amended).

The Framework Act prescribes the obligations of the heads of public organizations to implement measures to prevent workplace sexual harassment (Framework Act, 2014). The Act on Equal Employment was revised in 2013 to mandate the announcement of the results of the related assessment and to enable requests for the punishment of violators and reflect this in the performance evaluation of the organization if it is confirmed that there have been repeated offences or attempts to cover up sexual harassment cases within the organization (Government of the Republic of Korea, 2015). The revision of the Enforcement Decree of the Framework Act on Women's Development in 2014 dictates the provision of annual anti-sexual harassment education for workers at state-run organizations and mandates that organizations with reported cases of sexual harassment must establish measures to prevent repeated occurrences (Government of the Republic of Korea, 2015).

While the Acts do not contain provisions on civil remedies for victims of sexual harassment, it has been noted that civil remedies are generally available for sexual harassment claims, as are administrative remedies at public institutions (US Department of State (a), 2017).

The National Human Rights Commission of Korea (NHRCK) has enhanced its efforts to monitor areas prone to sexual harassment by conducting a survey on sexual harassment/assault at universities (2012), a survey of the human rights status of servicewomen (2012), and a survey of sexual harassment during medical examinations (2013) (Government of the Republic of Korea, 2015). Based on the results, in 2013, the NHRCK recommended policies for preventing sexual harassment/assault and to enhance victim support in universities to both the Ministry of Education and the Ministry of Gender Equality and Family (Government of the Republic of Korea, 2015).

According to civil society reports, undocumented female migrant workers are particularly vulnerable to sexual harassment and avoid reporting cases of sexual harassment due to fear of deportation (South Korean Human Rights Organizations Network, 2015). While the Sexual Violence Prevention and Victims Protection Act also applies to foreigners, these cases usually end with the undocumented female migrant being deported (South Korean Human Rights Organizations Network, 2015).

e) Female genital mutilation

Female genital mutilation (FGM) is not addressed in the domestic regulatory framework. There is no information suggesting that FGM is practiced in the Republic of Korea.

f) Abortion

Abortion is considered to be a crime in South Korea, and any woman who undergoes an abortion is subject to up to one year of imprisonment or fines up to 2 million won (US 1 800 (US dollars)) (Human Rights Watch, 2017). Healthcare workers who provide abortions can face up to two years in prison (Criminal Act, 1953, as amended).

Exceptions are permitted only in cases of rape or incest, if the parents cannot marry legally, if continuation of the pregnancy is likely to jeopardise the pregnant woman's health, or when the

pregnant woman or her spouse has one of several hereditary disorders or communicable diseases that are designated by government decree (Mother-Child Health Act, 1986). Married women must have their spouse's permission to obtain an abortion, and all abortions, for any reason, are prohibited after 24 weeks of pregnancy (Mother-Child Health Act, 1986).

Human Rights Watch reports that these restrictions have led to high numbers of unregulated and clandestine abortions in the country (Human Rights Watch, 2017).

In 2016, the South Korean government threatened to restrict access to abortion further by toughening penalties on medical providers who perform abortions illegally (Human Rights Watch, 2017). Public protests opposing these changes took place in Seoul in October 2016 and at the time of this writing, no amendments had been adopted (Human Rights Watch, 2017).

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The Act on Livelihood Stability and Memorial Services, etc. for Sexual Slavery Victims for the Japanese Imperial Army provides a legal basis for the state to provide victims of sexual slavery by the Japanese Imperial Army with legal consultations and representation (Government of the Republic of Korea, 2015). Through a revision in 2013, central/local governments and social welfare foundations are allowed to operate shelters for sexual slavery victims of the Japanese Imperial Army (Government of the Republic of Korea, 2015).

The Republic of Korea is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labour (US Department of State, 2017 (b)). South Korean women are subjected to forced prostitution in South Korea and abroad (US Department of State, 2017 (b)). Some South Korean women enter destination countries on tourist, work, or student visas, and are forced into prostitution in salons, bars, restaurants, or through internet-advertised escort services (US Department of State, 2017 (b)). South Korean children are vulnerable to sex trafficking and commercial sexual exploitation through online recruitment (US Department of State, 2017 (b)). In need of money for living expenses and shelter, some runaway girls are subjected to sex trafficking (US Department of State, 2017 (b)). Some women from China, Vietnam, Thailand, the Philippines, and Cambodia who are recruited for marriage to South Korean men through international marriage brokers have been reported to be subjected to forced prostitution or forced labour after their arrival (US Department of State, 2017 (b)). South Korean men engage in child sex tourism in Vietnam, Cambodia, Mongolia, and the Philippines (US Department of State, 2017 (b)).

The Republic of Korea is party to the UN Convention against Transnational Organised Crime and the 2000 UN Trafficking in Persons Protocol. In 2016, authorities investigated 421 reported cases linked to human trafficking, indicted 146 cases involving 214 defendants, and obtained 64 trafficking convictions (US Department of State, 2017 (b)). The government conducted public awareness campaigns and maintained efforts to train public officials on anti-trafficking investigation procedures, victim identification, and victim protection (US Department of State, 2017 (b)). Despite the alignment of written law with anti-trafficking international standards, the government continued to narrowly define "trafficking" in practice, applying laws with lower penalties to trafficking crimes and failing to follow victim-centered procedures in law enforcement operations (US Department of State, 2017 (b)).

Stalking can be punished as consistent harassment under the Punishment of Minor Offenses Act, but, according to civil society reports, the punishment is minor considering the fear and distress experienced by the victim and is not enough to establish stalking as a social crime, as the punishment is a fine not exceeding 100,000 won (approximately 100 USD) (South Korean Human Rights Organizations Network, 2015). The lean punishment has been reported to agitate perpetrators to engage in retaliatory crimes against the victim (South Korean Human Rights Organizations Network, 2015).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

The country has not ratified International Labour Convention 169 on Indigenous and Tribal Peoples in Independent Countries (1989). There is no information to suggest that there are groups that self-identify as indigenous or tribal peoples in South Korea.

Women have equal rights to men to own, manage, make decisions about and use land and non-land assets (Constitution, 1987; Civil Act, 1958, as amended). The future spouses may enter into a marital property contract prior to the marriage (Civil Act, 1958, as amended). In the absence of a pre-nuptial agreement, the separate property rule apply (Civil Act, 1958, as amended). The default separate property arrangement holds that property acquired in the name of the husband or the wife during the marriage constitutes his or her own property, while property for which ownership cannot be ascertained is considered to be in co-ownership (Civil Act, 1958, as amended). As such, married women have equal rights to their husbands to administer marital property, and, in the case of their own property, to manage, use, make decisions about and use their individual property as collateral (Civil Act, 1953, as amended).

In the event of divorce by agreement, the Civil Act stipulates that one of the parties that does not have title of property may claim a division of property against the other party if the property has been acquired during the marriage (Civil Act, 1958, as amended). If an agreement is not reached, the Family Court will determine the shares of each party as part of the divorce proceedings (Civil Act, 1958, as amended).

It has been noted that the default marital property regime in the Republic of Korea disadvantages women, in particular as the husbands tend to hold the title over real property, especially concerning the marital home, which is the most important and valuable estate (Lee (a), 2008). According to the Government's reporting to the CEDAW Committee, tradition has been for property acquired during marriage to be registered under the husband's name, thereby restricting the wife's property ownership and rights (Government of the Republic of Korea, 2003).

Adding to the foregoing is also the fact that the Korean Supreme Court has ruled that the contribution of the parties is not valued financially unless he or she has contributed by money or financially to the improvement of real or personal property owned by the other spouse (Lee (a), 2008). Couples who register a contract for marital property is rare and, consequently, most married couples are subject to the marital property regime of individual property set by the Civil Act (Lee (a), 2008).

Amendments to the Civil Act in December 2007 sought to protect the rights of the spouse to have marital property restored in cases where the other spouse has disposed of the property before a court has taken a decision on its distribution (CEDAW Committee, 2011). In 2011, the Republic of Korea introduced divided pension (National Pension Act, Art. 64). Nonetheless, the equal sharing of marital property upon divorce relates only to tangible property (movable and immovable) and does not include intangible property such as pension and savings funds, and the equal sharing of tangible property is based on court precedent and is not legally binding (CEDAW Committee, 2011). The CEDAW Committee has noted with concern that “fault” of either party to the marriage may be taken into account in determining the division of assets in divorce cases, with adverse impacts on women in particular (CEDAW Committee, 2011).

While land titling is not a particular issue in the Republic of Korea, married couples could claim joint titles for land acquired during the marriage (Civil Act, 1958, as amended). The law does not provide for official registration of informal or de-facto unions and there are no specific legal clauses recognizing such unions. However, certain legal effects of de facto unions are recognised according to court precedents, such as the right to claim a division of property which preconditions communal life of husband and wife (Government of the Republic of Korea, 2014).

There is no information to suggest that there are public measures in place to protect women’s land and non-land property rights. The law and related policies do not promote legal literacy of women of their land and property rights.

Women represent more than half of the agricultural workers in the country (CEDAW Committee, 2011). To enhance their equality and influence over decision-making, the Government has put in place several measures, such as the Second 5-Year Plan Fostering Women Farmers and the Young Farmers Initiative Programme, which includes a 20 per cent quota for women (CEDAW Committee, 2011). In order to further increase women’s participation in agricultural and fishery management, the Fisheries Cooperatives Act has also been revised to mandate that regional cooperatives designate at least one female director if the proportion of female members reaches 30 per cent or more of total members (Government of the Republic of Korea, 2015). According to Government reporting to the UN in 2015, the Agricultural Cooperatives Act was also being revised to align with the Fisheries Cooperatives Act and its requirements for female representation at decision-making level. Nevertheless, a majority of family farms are still owned by men, with few owned by elderly widows (CEDAW Committee, 2011). In 2011, the CEDAW Committee expressed concern that the Government’s agricultural financial support and assistance are provided to heads of households, which are mostly men, and that women can therefore gain access to such assistance only through their husbands or other family members (CEDAW Committee, 2011).

b) Secure access to formal financial resources

There are no restrictions for married or unmarried women to open bank accounts at formal financial institutions and to obtain credit. Women are not required to obtain the signature and authority of their husband or guardian to access formal financial institutions.

There is no information to indicate that the Government has established gender-sensitive measures to expand women's access to formal financial services, including credit.

Recent research on women entrepreneurs in the Republic of Korea highlights their experiencing of obstacles in obtaining start-up capital and little support from families and the negative societal attitudes towards their involvement in entrepreneurial activities (Mbuh Delancey, 2014). Married women entrepreneurs lack a supporting atmosphere from family members which can be critical for their success as entrepreneurs (Mbuh Delancey, 2014). The challenges of securing timely financial capital through formal investment channels means women have to rely on personal savings or family members for the start-up capital which can also determine the industry and scale of their business (Mbuh Delancey, 2014). This presents a scenario where women entrepreneurs have to depend on the very family that does not support their business decisions (Mbuh Delancey, 2014). Through its Fourth Basic Plan for Women's Policy (2013-2017), the Government seeks to expand support for women's business start-ups and female entrepreneurs (Government of the Republic of Korea, 2015).

c) Workplace rights

The Republic of Korea has ratified ILO Conventions 100 (Equal Remuneration), 111 (Discrimination in Employment and Occupation) and 156 (Workers with Family Responsibilities). It has not ratified ILO Conventions 183 (Revision of Maternity Protection) and 187 (Domestic Workers).

The Equal Employment Opportunity and Work-Family Balance Assistance Act, prohibits discrimination in employment, its scope includes both direct discrimination, in which "the employer applies separate conditions for employment or work or other discriminatory measures to employees based on gender, marital status, family status, or pregnancy or childbirth, with no legitimate grounding" and indirect discrimination in which "although the employer applies equal conditions for employment or work to employees, the imbalance in the ratio of male and female employees who meet such conditions is severe, resulting in disadvantages to one gender and therefore making it impossible to justify the conditions" (Equal Employment Opportunity and Work-Family Balance Assistance Act, 1987, as amended). It covers recruitment and hiring, educational opportunities, assignments and promotions, retirement and dismissal. The National Human Rights Commission Act also prohibits discrimination on the basis of sex in employment, specified to include recruitment, hiring, training, placement, promotion, wages, payment of commodities other than wages, loans, age limit, retirement, and dismissal (National Human Rights Commission Act, 2011, as amended).

The Equal Employment Opportunity and Work-Family Balance Assistance Act prescribes equal pay for work of equal value (Equal Employment Opportunity and Work-Family Balance Assistance Act, 1987, as amended). Through inspection and deliberation, the Government can impose up to two million won in fines on companies practicing wage discrimination, and up to five million won on those discriminating in terms of fringe benefits (Government of the Republic of Korea, 2015). Nevertheless, according to the ILO Committee of Experts on the Application of Conventions and Recommendations (ILO CEACR), the gender wage gap has hardly improved and even widened in some industries in which women are predominantly employed (ILO CEACR, 2014).

The Committee also noted that the Equal Employment and Support for Work-Family Reconciliation Act only provides for equal wages for work of equal value “in the same business” and that Ministerial guidelines and recent jurisprudence limited the possibility of comparing work performed by men and women to “slightly different” work (ILO CEACR, 2014). It expressed concern over the continuous occupational sex segregation of the Korean labour market and the high gender wage gap in female dominated industries, and pointed out that occupational sex segregation tends to correlate with the undervaluation of “female jobs” in comparison of those of men who are performing different work and using different skills, when determining wage rates (ILO CEACR, 2014). It urged the Government to take immediate steps to examine the measures most urgently needed to reduce the gender wage gap in these sectors in an effective manner (ILO CEACR, 2014). It also urged the Government to take the necessary steps to ensure that the Act on Equal Employment and Support for Work-Family Reconciliation and related regulations ensure that men and women receive equal remuneration not only for work of a similar nature but also for work that is entirely different but nevertheless of equal value, and that the scope of comparison between men and women extends beyond the same establishment or enterprise (ILO CEACR, 2014).

The Labour Standards Act prohibits employers from employing women for work that could be hazardous and dangerous to their future pregnancy or childbirth and for any work inside a pit (Labour Standards Act, 1997, as amended). There are no restrictions for women to work the same hours as men. The law does not prohibit employers from asking about a woman’s pregnancy or her intention to have children during the recruitment or promotion process. Women are not required to have permission from their husbands or legal guardians to choose a profession or work, or to register a business.

The revision to the Labour Standards Act in 2014 extended maternity leave from 90 days to 120 days for female workers who are pregnant with two or more foetuses (Labour Standards Act, 1997, as amended).

Under the Equal Employment Opportunity and Work-Family Balance Assistance Act, male workers with a new-born baby are allowed three days of paid paternity leave which must be taken within 30 days of the birth of the child (Equal Employment Opportunity and Work-Family Balance Assistance Act, 1987, as amended). In the case of non-regular and dispatched workers, the number of days of paternity leave they take should be excluded from the period of their contract (Equal Employment Opportunity and Work-Family Balance Assistance Act, 1987, as amended). Paternity leave is paid entirely by the employer and at 100% of the wage (Equal Employment Opportunity and Work-Family Balance Assistance Act, 1987, as amended).

Childcare leave may be taken by both parents, until the child has reached the age of eight (Equal Employment Opportunity and Work-Family Balance Assistance Act, 1987, as amended). Leave benefits are paid at 45% of the worker’s monthly ordinary wage (Government of the Republic of Korea, 2015). If two parents use childcare leave consecutively one after another, the benefit for the first three months of the leave of the parent who uses the latter leave is raised to 100 % of the ordinary wage, up to 2 million won (Government of the Republic of Korea, 2015). Since this benefit is only offered when both parents take childcare leave, it serves as a strong incentive to men (Government of the Republic of Korea, 2015). In compliance with the revised State Public Officials Act and Local Public

Officials Act, from 2015 male public officials can take childcare leave for up to three years as can their female counterparts (Government of the Republic of Korea, 2015).

The dismissal of pregnant workers is prohibited, and women are, by law, guaranteed an equivalent position after their return from maternity leave (Labour Standards Act, 1997, as revised). Similarly, the Equal Employment Opportunity and Work-Family Balance Assistance Act prohibit employers from dismissing, or treating unfavourably, workers that take childcare leave, and requires that they be restored to the same work as before the leave or any other work paying at the same level of wages (Equal Employment Opportunity and Work-Family Balance Assistance Act, 1987, as amended).

Labour inspectors at regional Offices of Employment and Labour conduct prevention and inspection activities to ensure compliance with regulations on gender discrimination (Government of the Republic of Korea, 2015). In line with the Act on the National Human Rights Commission, the Commission also has the power to investigate, and facilitate access to remedy for, discrimination based on gender in employment opportunities (National Human Rights Commission Act, 2001, as amended). Organizations and companies that violate the principle of non-discrimination in employment are subject to a fine of 5 to 30 million won or criminal punishment (Government of the Republic of Korea, 2015).

In 2011, the CEDAW Committee noted with concern the disadvantages women face in the employment sector, including the concentration of women in certain low-wage sectors, the related lack of job security and benefits, in particular for non-regular workers (part-time and short-term), and the significant wage gap between men and women (CEDAW Committee, 2011).

While the law does not require companies to report on how they pay men and women, the Equal Employment Opportunity and Work-Family Balance Assistance Act enables the publication of a list of employers whose ratio of female to male employees has not met legal standards three consecutive times and are thereby identified as employers who have failed to implement affirmative action (Equal Employment Opportunity and Work-Family Balance Assistance Act; Government of the Republic of Korea, 2015).

To comply with this law, both public organizations and private enterprises surpassing a certain number of employees should annually submit to the Minister of Labour and Employment statistics on male and female employees by work type and position and their implementation plan for affirmative action (Government of the Republic of Korea, 2015). Incentives are provided to companies that show positive results from their affirmative action measures (Government of the Republic of Korea, 2015). With the 2013 revision of the Enforcement Decree of this act, the proportion of female employees, which is the baseline criteria for the selection of companies required to submit an implementation plan for affirmative action, has been raised from less than 60 per cent of the industry average to less than 70 per cent (Government of the Republic of Korea, 2015). The law has also established a legal basis for the publication of the list of companies failing to implement affirmative action measures (Government of the Republic of Korea, 2015). Since the introduction of affirmative action measures in 2006, the proportion of female workers in relevant public organizations has been on the rise (Government of the Republic of Korea, 2015).

In 2011, the Committee on the Elimination of all forms of discrimination against women raised concerns over the persistence of segregation in respect of fields of study in higher education and vocational training which ultimately results in sex-segregation in the labor market (CEDAW Committee, 2011). It was particularly concerned that this segregation is the result of persistent patriarchal attitudes and stereotypes regarding the roles and responsibilities of women and men in the family and in society (CEDAW Committee, 2011).

More

4. Restricted Civil liberties

a) Citizenship rights

Under the Nationality Act, unmarried and married women have the same rights to acquire nationality and to confer their nationality to their spouses and their children (Nationality Act, 1997, as amended). There are no restrictions for women to retain or change their nationality, although under the Act, foreigners that have attained Korean nationality are obliged to denounce the nationality of their home country (Nationality Act, 1997, as amended).

In 2011, the Committee on the Elimination of all forms of Discrimination against Women noted with concern the difficulties foreign women married to Korean men face in acquiring Korean nationality if they do not comply with the prerequisite of being supported by their husbands in order to file a naturalization application and if they do not have children (CEDAW Committee, 2011). It recommended that legislation be revised to remove all discriminatory provisions relating to the requirements for acquiring Korean nationality (CEDAW Committee, 2011).

Obtaining South Korean citizenship requires that one parent is a citizen at the time of birth (Nationality Act, 1997, as amended). Authorities also grant citizenship in circumstances where parentage is unclear or if the child would otherwise be stateless (Nationality Act, 1997, as amended; US Department of State, (a), 2017).

The law requires all children to be registered in family registries, and parents go to a district office to register their children's births (Act on the Registration, etc. of Family Relationship, 2007). Women have the same rights as men to register the births of their children (Act on the Registration, etc. of Family Relationship, 2007, as amended). Pursuant to the Act on the Registration, etc. of Family Relationship, a child's birth should be registered within one month from birth by submitting a birth report to a competent administrative agency (Act on the Registration, etc. of Family Relationship, 2007, as amended). The obligation to register a birth should be assumed by the father or mother if the child is born in wedlock, or by the mother if out of wedlock (Act on the Registration, etc. of Family Relationship, 2007, as amended). When both parents, or the mother, cannot do so, relatives living with the child, the doctor, the midwife, or any other person involved in the delivery are required to register the birth of a child (Act on the Registration, etc. of Family Relationship, 2007, as amended). A fine for negligence is imposed when the registration is delayed beyond the given time (Act on the Registration, etc. of Family Relationship, 2007, as amended).

The Constitution of the Republic of Korea does not recognise or prohibit multiple- and intersectional discrimination.

There are no legal or policy provisions requiring the promotion of women's awareness of their legal right to acquire nationality and confer it to their spouses and children.

According to the current legislation, birth registration of children is made possible only when the child is a citizen of the Republic of Korea (South Korean Human Rights Organizations Network, 2015). There are no official data on undocumented migrant children who were born and raised in the Republic of Korea (South Korean Human Rights Organizations Network, 2015). Also, there are children whose birth cannot be registered even at their own country's embassy due to various reasons such as; being children of refugees, being without citizenship, being imposed fines due to China's one-child policy, being refused of registration due to several embassies' attempts to reduce the number of its own undocumented nationals who are staying in the Republic of Korea, among other reasons (South Korean Human Rights Organizations Network, 2015). It is difficult to obtain related statistics or information on these undocumented children (South Korean Human Rights Organizations Network, 2015). In its review of the Republic of Korea, the Committee on the Rights of the Child has noted that birth registration is not insured consistently for persons seeking refuge, asylum-seeking or irregular migration situations and domestic legislation does not provide for civil status documentation for refugee and asylum-seeking children born on its territory (CRC Committee, 2011). It urged the Government to undertake measures to ensure that birth registration is available to all children, including children of refugees and asylum seekers, born within its territory regardless of their parents' legal status and/or origin (CRC Committee, 2011). In 2015, civil society organizations reported that the Government had yet to take such measures concerning birth registration of children of foreign nationality or stateless children (South Korean Human Rights Organizations Network, 2015).

In May 2016, the Ministry of Justice revised the family registration act to allow local governments to register children whose parents refused or failed to do so (US Department of State, (a), 2017). The revised law, designed to improve the accuracy of family registers and extend protection and benefits to children who would be otherwise unregistered, came into effect in November 2016 (US Department of State, (a), 2017).

Although marriage migrants have been allowed to maintain dual citizenship since 2012, when the Korean spouse dies or a divorce is obtained, the marriage migrant may not apply for dual citizenship and must select a single citizenship (South Korean Human Rights Organizations Network, 2015).

Married and unmarried women have equal rights to men to apply for and obtain ID cards (Enforcement Decree of the Resident Registration Act). There are no restrictions for married or unmarried women to apply for passport (Passport Act, 1961, as amended). There are no legal restrictions for women to acquire passports and other travel documents for their minor children.

The Constitution guarantees equal rights for men and women to travel outside and return to the country (Constitution, 1987).

There are no reports to suggest that there are customary, religious or traditional practices or laws that discriminate against women's legal rights to apply for ID cards and passports, for themselves or for their minor children, or to leave and return to the country.

There are no legal or policy provisions that provide for measures to increase access to birth registration in rural areas, or allow for late or delayed registration for unregistered adults or children.

b) Voting

Women enjoy the same rights to vote as men (Constitution, 1987). There is no information that suggests that there are customary, religious or traditional laws or practices that discriminate against women's right to vote. In 2013, the Government reported that in the legal profession, appointments of female judges and prosecutors was on the increase (Government of the Republic of Korea (b), 2013).

c) Political voice

The Constitution of the Republic of Korea prescribes that all citizens over twenty-five years old are eligible to run for election. Women have the same rights as men to hold public and political office, including in the legislature and executive branch and the judiciary (Constitution, 1987).

The Public Official Election Act establishes a 20% quota for female proportional representatives and the use of the "zipper system", which alternates male and female candidates on the ballot (Public Official Election Act, 1994, as amended). Following revisions to this act in 2005, parties are encouraged to nominate 50 per cent or more female candidates in elections for National Assembly proportional representative members and proportional local council members (Public Official Election Act, 1994, as amended, Government of the Republic of Korea, 2015). They are also expected to recommend female candidates for 30 per cent or more of all local constituencies in elections for local constituency-based National Assembly seats and local constituency-based council members (Public Official Election Act, 1994, as amended, Government of the Republic of Korea, 2015).

In March 2010, amendments to the Public Official Election Act mandate that parties nominate at least one female candidate for the *Gwangyeok* (major urban governments) or *Gicho* (small cities and provincial governments) councils in every local constituency (excluding *gun* districts). If they fail to do so, the party's entire candidate slate is nullified (Government of the Republic of Korea, 2015).

Sanctions apply if party lists do not meet the recommendation of female candidates, although these sanctions only apply to the election of the proportional representative local council members and not national elections (Public Official Election Act, 1994, as amended). According to civil society reports the quota system has shown to be ineffective at the national level, as there are no sanctions for violations of these measures for proportional representatives in the National Assembly, in contrast to local councils (South Korean Human Rights Organizations Network, 2015). They have called on the Government to establish legal mechanisms to effectively enforce the female parliamentary quota system by making it mandatory, rather than a recommendation, for political parties to recommend not less than 30 of 100 of the total number of the candidates to run in the election for nationwide constituencies from among women (South Korean Human Rights Organizations Network, 2015).

There is no specific body tasked with designing, implementing, monitoring, evaluating and enforcing the measures to enhance women's political participation, although, as noted, relevant constituency election commissions have the power to reject nomination lists for elections to local councils should these not meet the proportional representation of female candidates (Public Official Election Act, 1994, as amended).

Through the revision of the Political Fund Act, a subsidy system linked with the nomination of female candidates has been introduced as an incentive to encourage parties to meet the female candidate quota (Political Fund Act, 2005, as amended; Government of the Republic of Korea, 2015).

While the law does not provide for training for women to support their effective participation in political and public life, the Ministry of Gender Equality and Family has established the Academy for Promising Women in 2013, with a view to enhance women's political participation and appointment to high-level public posts (Government of the Republic of Korea, 2015). A Gender-Equal Recruitment Target System for governmental officials has also been established, followed by the adoption of five-year plans to increase the number of women at the managerial level are executed both at central administrative agencies and local governments (Government of the Republic of Korea, 2013).

In 2011, the Committee of Elimination of all forms of Discrimination against Women noted with concern the continuous under-representation of women in the political domain, in particular in decision-making positions in the Government, in parliament and the judiciary, and urged the government to formulate measures to increase women's representation in various political spheres. (CEDAW Committee, 2011). Civil society organizations report that the overall representation of women in the political spheres is limited, with very little growth in the number of parliamentarians, and low proportion of women leaders represented in local governments (Joint NGO submission, 2011). It has been noted that women in the country are viewed as apolitical, mainly due to gender role socialization through socialization agents such as family, school and mass media (Choi and Mbu, 2005).

d) Access to justice

The Constitution provides that all citizens are equal in front of the law and establishes that there shall be no discrimination on account of sex, religion or social status (Constitution, 1987). Women have the same legal capacity as men, both as unmarried and married (Constitution of the Republic of Korea, 1987), and there are no restrictions on their giving testimony or indications that their testimony carries less evidentiary weight as that of a man in civil, criminal, family courts and tribunals.

There are no specific measures in place to protect women from violence in political and public life. The law does not include any measures to ensure that women are able to exercise their right to sue, and the legal framework does not provide for the establishment of special courts to facilitate women's and girls' access to justice nor do procedural rules take into account the specific interests of women and girls. There is no legislation in place to address the situation of human rights defenders.

The National Human Rights Commission Act establishes the National Human Rights commission with a mandate to monitor the prohibition of discrimination, defined as "conduct favouring, excluding, segregating, or discriminating against particular individuals in regard to employment (recruitment,

hiring, training, deployment, promotion, wage and other benefits, financial loans, retirement, layoff, etc.), provision and utilization of products, services, transportation, commercial facilities, land, and housing facilities, and education and training in educational facilities and vocational training organizations, based on gender, religion, disability, age, social status, region of origin, country of origin, ethnicity, physical appearance, marital status, pregnancy or childbirth, familial situation, race, skin colour, ideology or political orientation, expired criminal record, sexual orientation, or history of illness, but with no legitimate grounding, as well as sexual harassment” (National Human Rights Commission Act, 2011, as revised in 2011). The Commission's functions include developing human rights policies through research and issuing policy recommendations, investigating discrimination and other human rights violations and facilitating access to remedy, promoting human rights education and raising public awareness, and promoting the national implementation of international human rights treaties (National Human Rights Commission Act, 2011, as amended).

In 2011, the Committee on the Elimination of all forms of discrimination against women expressed concern over the significant budgetary cuts to the Commission, which was seen as jeopardizing the independence of the Commission and its work (CEDAW Committee, 2011). There is no information available to indicate that the Commission's budget has increased.

The Statistics Act of 2007 governs the gathering and analysis of statistical data, including relating to gender (Statistics Act, 2007, as amended). According to Government reports, the Gender Impact Analysis and Assessment Act (enacted on 15 September 2011) requires that the enactment and revision of laws, mid-to long-term government plans that have their basis in law, and policies that are anticipated to create a significant impact on gender equality be subject to gender impact assessments (Government of the Republic of Korea, 2015). The criteria for assessment include gender statistics, gender analysis, and post-assessment improvement measures. The law stipulates a list of organizations subject to gender impact assessment and mandates the reflection of the results of assessment in policies, training of public officials, and support for gender impact assessment (Government of the Republic of Korea, 2015).

There is no information to suggest that there are customary, traditional or religious practices or laws that discriminate against women's legal rights to sue or be sued and their right to be judges, advocates or other court officers, or discriminate against women in terms of providing testimony in court.

More

The rate of women's participation in governmental committees under the ministries of the central government refers to the level of participation of women in committees established by law or Presidential decree among all government committees (Government of the Republic of Korea, 2015). Through the revision of the Framework Act on Women's Development in August 2013 (enforced from February 2014), the Ministry of Gender Equality and Family has recommended that the proportion of each gender among appointed members of government committees be limited to 60 per cent and mandated that women's participation reach 40 per cent by 2017 (Government of the Republic of Korea, 2015).

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