KOREA

1. Discriminatory family code

The legal minimum age for marriage in the Republic of Korea is 18 years for both sexes even though the age of majority is set at 20 years. Minors aged 18 years and over therefore can get married, but need the consent of their parents or family council to do so. The vast majority of minors who marry are girls: 4,364 girls aged 15-19 entered into marriage for the first time in 2013, compared to 933 boys in the same age group. The United Nations (UN) reports that respectively 0.4% of females and 0.2% of males aged 15-19 were married, divorced or widowed in 2005. Although marriages involving teenage girls have decreased (5,078 and 4,658 girls aged 15-19 got married in 2011 and 2012 respectively), the practice of early marriage has not been fully eliminated, with the Korean Women’s Development Institute revealing that 15 girls under the age of 15 got married in 2013. Latest national statistics indicate a mean age at first marriage of 29.6 years for females in 2013, compared to 32.2 years for males.

Korea’s Civil Act provides for joint parental authority during marriage. Accordingly, both spouses have rights and duties to protect and educate their children. In addition, husbands and wives are required to “support and aid each other”.

The Civil Act contains gender-neutral provisions on inheritance. However, it is only since a landmark ruling by the Supreme Court in 2005 that married women have equal rights as men regarding the inheritance of family property.

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Latest figures indicate an overall fertility rate of 1.3 births per 1,000 women in 2012, and a constant adolescent fertility rate of 1.8 births per 1,000 girls aged 15-19 over the period 2010-
12. 2,917 girls aged 15-19 gave birth in 2012, while 29 girls of a younger age also became mothers for the first time that year.14

Women and men in the Republic of Korea have equal rights to initiate divorce,15 in which case child custody and support are regulated by an agreement between both spouses or by the Family Court in the event where the agreement harms the child’s welfare or no agreement can be reached.16 Social attitudes towards divorce vary, with 2012 data indicating that 11.3% of females and 15.4% of males are “never allowed” to divorce.17

A Korean Women’s Development Institute (KWDI) report reveals a significant gender gap in time spent on unpaid care work, particularly among married couples. Indeed, unmarried women and men respectively spent on average 53 minutes and 26 minutes per week on household affairs in 2009, while married women and men respectively spent 246 minutes and 47 minutes.18 In particular, married women spent 191 minutes per week on household chores (including 105 minutes cooking, serving and cleaning up), and 55 minutes caring for household members, compared to respectively 33 minutes and 14 minutes for their husbands.19 16.6% of the population considered mothers to be responsible for child caring, while 11.7% considered it to be the father’s responsibility.20 The Committee on the Elimination of Discrimination against Women (CEDAW) recently expressed concern in 2011 over these imbalances and urged the country to promote co-responsibility in the domestic sphere, through awareness-raising and education initiatives on the equal sharing of childcare and domestic tasks.21

2. Restricted physical integrity

Violence against women is of concern in the Republic of Korea, with latest national statistics indicating that females accounted for 83.8% of victims of “violent crimes” in 2011.22 Numerous measures have been taken to crack down on sexual and domestic violence in particular, including legislative amendments and the publication of guidebooks (e.g. Guidebook on the rights of and support for sexual crime victims; Crime Prevention Guide for Foreigners)23, and the recently elected Park Geun-hye government24 has committed to eradicating “four evils” from society, among which are domestic violence and rape.25

Sexual assault encompasses a wide range of crimes listed under s.2 of the Act on Special Cases concerning the Punishment of Sexual Crimes. The list includes, inter alia, the act of arranging for

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14 KWDI (2014)
15 Ibid., ss. 834 and 840 respectively
16 Ibid., ss.836-2 and 837
17 KWDI (2014)
18 KWDI (2014)
19 Ibid.
20 KWDI (2014)
21 CEDAW (2011)
22 Statistics Korea website
23 Korean National Police Agency website
24 President Park Geun-hye assumed office on 25 February 2013
25 Government of the Republic of Korea website
prostitution; public indecency; kidnapping to engage in an indecent act, sexual intercourse or for prostitution; rape; and pornography.

**Domestic violence** is criminalised and regulated by a specific Act and a comprehensive plan which were introduced in 2011. Accordingly, domestic violence encompasses a range of crimes between family members – such as assault, abuse, arrest, confinement and intimidation – which inflict physical, mental or property damage. Perpetrators of domestic violence face up to five years in jail and a fine of KRW seven million. Moreover, police officers can issue eviction orders or telecommunication bans on the spot or at the request of the victim, if there is a danger of domestic violence recurring and an immediate need for protection.

6,848 cases of domestic violence were recorded in 2011, compared to 13,770 in 2004, with 2012 statistics revealing that women represent the majority of victims (92.1%) and the minority of perpetrators (16.3%). 97% of offenders were arrested in 2011. 231 counselling centres and 63 care facilities offered specialised support to victims of domestic violence in 2012.

Special measures aimed at protecting and supporting female victims of violence include a 24 hour hotline, One-stop Support Centres – where women can receive medical, legal and investigation assistance –, shelters for women and “Centres for Women’s Human Rights”.

**Rape** is defined under s.297 of the Criminal Act as the act of using violence or intimidation to have sexual intercourse with a female. Marital rape is not specifically criminalised, despite the CEDAW Committee urging the country to take the necessary legislative steps to do so. However, s.304 of the Criminal Act criminalises sexual intercourse under pretence of marriage, and in a landmark decision the Supreme Court ruled on 16 May 2013 that forced sex on one’s wife constitutes rape, thereby recognising marital rape.

The Criminal Act distinguishes rape from “quasi-rape” and “indecent act by compulsion”. “Quasi-rape” is committed by taking advantage of the victim’s situation of unconsciousness or inability to resist the act, while “indecent act by compulsion” is defined as the use of violence or intimidation on a victim of either sex.

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26 Act on Special Cases concerning the punishment of crime and domestic violence; Comprehensive Plan to Prevent Domestic Violence  
27 Ibid., s.2 (no official translation could be found; summary definition available at: Immigration and Refugee Board of Canada (2009), Korea, Republic of: Domestic violence, including legislation, availability of state protection and support services for victims, KOR103305.E)  
28 US Department of State  
29 Ibid.  
30 Ministry of Gender Equality and Family website  
31 Ibid., “Victims of domestic violence (By Sex.Age)”  
32 Ibid., “Perpetrators of domestic violence (By Type of crime/Sex)”  
33 Ibid., “Occurrence and arrest of domestic violence (By Type of Crime/Sex)”  
34 Ibid., “Number of Sexual-Domestic Violence Counseling Centers & Protection Facilities(By Administrative district)”  
35 Ministry of Gender Equality and Family website, Women’s Rights protection, Outline of the policy  
36 CEDAW (2011)  
37 Criminal Act, s.299  
38 Ibid., s.298
The severity of the punishment for rape depends on the victim’s age and relationship to the perpetrator, and on the existence of aggravating factors. Indeed, non-aggravated rape carries a prison sentence of five years minimum where committed against a relative\(^{39}\) or a child under 19 years of age,\(^{40}\) and three years minimum when the victim is over that age.\(^{41}\) Relatives are understood as all relatives within the fourth degree of relationship by blood and within second degree of relation by marriage.\(^{42}\) Quasi-rape carries the same penalty as rape, while indecent act by compulsion is punished by a fine or a prison sentence of up to ten years.\(^{43}\)

Recorded acts of sexual violence are on the rise. 31,949 cases were recorded in 2012, compared to 29,439 in 2010, leading to 28,032 arrests in 2012 (arrest rate of 87.7 %),\(^{44}\) while 8 574 prosecutions were made in 2011.\(^{45}\) 19,998 females were raped in 2012, up from 17,858 in 2010, with most victims in the 21-30 year age group,\(^{46}\) and males accounting for the vast majority (95.6 %) of known perpetrators in 2012.\(^{47}\) 4,218 people were convicted for rape in 2013.\(^{48}\)

Victims of sexual violence can receive support through counselling centres and protective facilities, both of which were introduced in 2010 through the Act on the Prevention of Sexual Assault and Protection of Victims Thereof. Counselling centres support victims, inter alia, by accompanying them to medical institutions, courts, investigative agencies, or to protective agencies if they face difficulties leading a normal life or require urgent protection.\(^{49}\) Protective agencies not only provide protection, shelter and medical treatment to victims of sexual violence; they also assist them in regaining autonomy and finding employment.\(^{50}\) According to Korean Women’s Development Institute (KWDI), 176 counselling centres and 21 protection facilities were operating nation-wide in 2012.\(^{51}\)

**Sexual harassment** is regulated by several Acts: the Framework Act on Women’s Development, which contains a general definition and an obligation for preventive education; the Act on Equal Employment and Support for Work-Family Reconciliation, which criminalises sexual harassment in the workplace; and the National Human Rights Commission Act, which covers public education establishments.

Under s.4 of the Framework Act on Women’s Development, sexual harassment occurs when employers, employees or workers of public bodies use their position or duties to make someone feel sexual humiliation or aversion through verbal or physical behaviour of a sexual nature, or when they put someone at a disadvantage in employment for refusing such behaviour. A very

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\(^{39}\) Act on Special Cases concerning the Punishment of Sexual Crimes, s.7(1)

\(^{40}\) Ibid., s.8-2(1); Act on the Protection of Children and Juveniles from Sexual Abuse, s.7

\(^{41}\) Criminal Act, s.297

\(^{42}\) Act on Special Cases concerning the Punishment of Sexual Crimes, s.7(4)

\(^{43}\) Criminal Act, s.298

\(^{44}\) KWDI (2014)

\(^{45}\) KWDI (2014)

\(^{46}\) Ibid.

\(^{47}\) Ibid.

\(^{48}\) US Department of State (2013)

\(^{49}\) Act on the Prevention of Sexual Assault and Protection of Victims Thereof, ss.11-12

\(^{50}\) Ibid., ss.13-14

\(^{51}\) KWDI (2014)
similar definition is contained in s.3(3)(d) of the National Human Rights Commission Act and in s.2(2) of the Act on Equal Employment and Support for Work-Family Reconciliation. The latter specifically prohibits sexual harassment in the workplace (s.12) and obliges employers not only to conduct education on sexual harassment (s.13), but also to take all possible measures to prevent sexual harassment by clients (s.14-2), and to take disciplinary measures against sexual harassers without delay (s.14). Employers who dismiss sexually harassed workers or put them at a disadvantage in employment face up to three years in jail and a fine of up to KRW 20 million (s.37). Moreover, employers can be fined up to KRW three million for failing to conduct preventive education on sexual harassment; up to KRW five million for dismissing or otherwise disadvantaging workers sexually harassed by clients, or for failing to take disciplinary measures against sexual harassers; and up to KRW 10 million for committing sexual harassment in the workplace (s.39).

UN Women reports that 30 to 40% of women in the Republic of Korea experience sexual harassment in the workplace. Moreover, the National Human Rights Commission of Korea (NHRCK) reports that 25.7% of discrimination cases brought to its attention in 2013 (764 cases) were related to sexual harassment, and that two-thirds of victims did not go further by submitting formal complaints for fear that their case be made public. The Ministry of Gender Equality and Family has committed to transforming the “gender discriminating social structure”, including the perception that men who harass have only committed a mistake and that sexual harassment against females is due to their bad behaviour.

**Female genital mutilation** is not reported to be practiced in the Republic of Korea.

**More**

Although national data on antenatal care and unmet needs for family planning is unavailable, latest UN figures indicate that 100% of pregnant women were attended by a skilled attendant at birth in 2012. 70% of women aged 15-49 used some form of modern contraception in 2012, and the mean age of mothers at first birth rose from 28.3 years in 2002 to 30.5 years in 2012.

**Abortion** is not available on request but is legal in the event of threat to maternal life, rape, health concerns and foetal impairments. Indeed, voluntary abortion is criminalised under ss.269-270 of the Criminal Act. Accordingly, pregnant women who procure their own miscarriage face up to one year in jail and a fine of KRW two million maximum, while health professional face up to two years in jail for conducting an abortion upon request or with the consent of the pregnant woman, and seven years imprisonment otherwise. In its latest report (2011) the CEDAW Committee urged the country to remove the ban and to provide women with

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52 UN Women website
53 NHRCK website (2014)
54 Ministry of Gender Equality and Family website, Women’s Rights protection, Sexual harassment
55 UNICEF (2013)
56 UNFPA (2013)
57 UNFPA (2013), op. cit.
58 Statistics Korea website
59 UN Women (2011), Annex 3
access to quality services for the management of complications arising from unsafe abortions. An attempt to overturn the ban was made in August 2012, but the Constitutional Court upheld the ban. Latest statistics indicate a decrease in the overall rate of induced abortions (26% of married women in 2011 had experienced an abortion, compared to 17% in 2012).

3. Son bias

The male-to-female sex ratio at birth was 1.07 in 2012, and in the working age population it is 1.09. There is evidence to suggest that the Republic of Korea is a country of low incidence of missing women given elevated sex ratios at birth.

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Recent sex-disaggregated data indicates a slight gender bias in education against women. Indeed, although enrolment ratios were almost identical among both sexes across all levels of schooling in 2013 (elementary school, middle school, high school, college and university), latest data reveals that females don’t stay in school as long as males: fewer women than men had completed a Doctorate in 2013 (1.7 out of 10 000 women had a Doctorate, compared to 3.3 out of 10 000 men), and women over six years of age had received on average 10.9 years of education in 2012, compared to 12.4 years for males.

4. Restricted resources and assets

The Civil Act contains gender-neutral provisions on ownership (including land and matrimonial land and non-land property). However, the CEDAW Committee expressed concern in 2011 over the fact that equal sharing of marital property upon divorce only relates to tangible property, thereby urging the country to amend its legislation to recognise intangible property, such as pension and saving funds, as part of marital property. The Committee also expressed concern over the difficulties women face to own land and property. Indeed, the Committee noted that only 26.3% of family farms were owned by women, and that Government agricultural financial support and assistance is provided to heads of household, which are mainly men, meaning that women can only benefit from such assistance through their husbands or through other family members. The Committee therefore urged the country to implement gender-

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60 CEDAW (2011)
61 KWDI (2014)
63 KWDI (2014), Statistical Handbook, WOMEN in Korea 2013
64 Civil Act, Chapter III
65 KWDI (2014), Statistical Handbook, WOMEN in Korea 2013
66 Civil Act, Chapter III
67 Ibid., s.829
68 CEDAW (2011)
sensitive rural development strategies and programs, and to accelerate its measures to promote farming among young women.  

Moreover, 2011 data on financial inclusion provided by the World Bank reveals a slight restriction in women’s access to financial services, as fewer loans were issued to women (28.0% of women had taken out a loan in the past year, compared to 37.3% of men), although there were no striking differences among sexes in relation to opening an account in a formal institution or using credit/debit cards. Female entrepreneurial activity in 2012 was reportedly four times lower than male entrepreneurial activity.

5. Restricted civil liberties

The Constitution guarantees women’s access to public space through freedom of movement (s.14), speech, assembly and association (s.21), for women and men alike. Women’s groups are active in the country (e.g. Korean Foundation for Women, Korean Women’s Association United, Women Link) and no restrictions on women’s collective action could be found. Women can pass on citizenship to their children, although the CEDAW Committee expressed concern over the difficulties foreign women married to Korean men may face in acquiring Korean nationality if they do not have children and are not supported by their husbands to file a naturalisation application. There are no striking gender gaps in leisure activities according to 2009 data.

In terms of political voice, women make up 15.6% of the National Assembly (Parliament) in 2013, thereby placing the Republic of Korea in 92nd position in the World Classification of women in Parliament. Quotas have been established at the national and sub-national levels to strengthen women’s political participation, with s.47 of the Public Official Election Act requiring all parties to present at least 50% of female candidates for National Assembly elections and 30% for local council elections. Moreover, s.26 of the Political Fund Act stipulates that parties who nominate female candidates for the national elections shall receive subsidies. Korean Women’s Development Institute (KWDI) reports that women accounted for 93.6% of municipal assembly members in 2010.

Despite these legal provisions and other measures, such as the adoption of the Employment of Female Manager-Level Public Officers initiative, the CEDAW Committee expressed concern in 2011 over the “slow progress” made in strengthening women’s participation in decision-making, in particular within the Government, parliament, the judiciary, the diplomatic service, the

69 Ibid.
70 World Bank (2014)
71 GEM (2013)
72 Nationality Act, s.2(1)
73 CEDAW (2011), op. cit.
74 KWDI (2014)
76 KWDI (2014)
private sector and academia.\footnote{CEDAW (2011), op. cit.} According to latest statistics for 2012, women accounted for 42.7\% of government employees, 25.7\% of government committees, and 15.9\% of lawyers.\footnote{KWDI (2014)}

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The Act on Equal Employment and Support for Work-Family Reconciliation aims to foster gender equality in employment by, inter alia, prohibiting discrimination on grounds of gender and pregnancy (s.2), including in hiring (s.7), retirement and dismissal (s.11); establishing equal remuneration among both sexes for work of equal value (s.8); prohibiting sexual harassment at work (ss.12 – 14-2); providing for skills development and employment promotion for women (ss.15 – 17-2); granting maternity leave (s.18); and establishing work-family reconciliation measures (ss.19 – 22-3). Pregnant women in the Republic of Korea are entitled to 90 days of paid maternity leave,\footnote{Labor Standards Act, s.72} which equates to 100\% of their wages.\footnote{Act on Equal Employment and Support for Work-Family Reconciliation, s.18} Latest statistics indicate that 62 281 female employees took maternity leave in 2012,\footnote{Statistics Korea website} and that the number of childcare facilities increased from 1 919 in 1990 to 42 527 in 2012, thereby enabling 1 487 361 children to be looked after in 2012.\footnote{KWDI (2014)}

Although women recorded a lower unemployment rate than men in 2013 (respectively 2.9\% and 3.3\% in 2013),\footnote{Ibid.} women do face employment-related challenges, with latest figures indicating labour force participation rates of respectively 50\% and 73\% for women and men in 2013,\footnote{Ibid.} and particularly high gaps among married couples (a 50.1\% labour force participation rate was recorded for married women in 2013, compared to 82.9\% for married men).\footnote{Ibid.} Moreover, female wages equated to 68\% of male wages in 2013.\footnote{Statistics Korea website}

A slight gender gap is apparent in regards to access to ICT, with women spending on average 12.4 hours per week on the computer, compared to 15.3 hours for men.\footnote{KWDI (2014)}
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