Committee on the Elimination of Discrimination against Women
Forty-ninth session
11-29 July 2011

Concluding observations of the Committee on the Elimination of Discrimination against Women

Republic of Korea

1. The Committee considered the seventh periodic report of the Republic of Korea (CEDAW/C/KOR/7) at its 987th and 988th meetings on 19 July 2011 (see CEDAW/C/SR.987 and 988). The Committee’s list of issues and questions is contained in CEDAW/C/KOR/Q/7 and the responses are contained in CEDAW/C/KOR/Q/7/Add.1.

Introduction

2. The Committee expresses its appreciation to the State party for its seventh periodic report, which generally followed the Committee’s guidelines for the preparation of reports and included a section with information on the implementation of the recommendations contained in the Committee’s previous concluding observations (CEDAW/C/KOR/CO/6). The Committee also expresses its appreciation to the State party for its oral presentation, the written replies to the list of issues and questions raised by the pre-session working group and the clarifications to the questions posed orally by the Committee, although responses to some of the questions were not adequate.

3. The Committee commends the State party for its high-level delegation, headed by the Minister of Gender Equality and Family, which included representatives from various ministries and departments and women representatives from the National Assembly. The Committee appreciates the constructive dialogue that took place between the delegation and the members of the Committee.

Positive aspects

4. The Committee notes with appreciation that, since the consideration of its sixth periodic report (CEDAW/C/KOR/6) in 2007, the State party has enacted and revised numerous laws and legal provisions aimed at eliminating discrimination
against women and promoting gender equality in order to achieve compliance with its obligations under the Convention. In particular, it welcomes the adoption of the amendment of:

  (a) The Civil Act (December 2007), setting the minimum age of marriage at 18 years for both men and women;

  (b) The Act on Protection of Children and Youths from Sexual Violence (April 2010), establishing ex officio prosecution for sexual violence offences against children;

  (c) The Life Ethics and Safety Act (2008), establishing the requirement of informed and written consent in cases of donations or harvesting of eggs for reproductive purposes and limiting the frequency and number of donations per woman.

5. The Committee welcomes the launch of a comprehensive plan to prevent domestic violence (2011), which focuses on strengthening the initial action against cases of domestic violence and on better protection for victims.

6. The Committee appreciates the State party’s efforts to integrate a gender dimension into its development cooperation programmes and to promote women’s human rights within that framework.


Principal areas of concern and recommendations

8. The Committee recalls the State party’s obligation to systematically and continuously implement all the provisions of the Convention and views the concerns and recommendations identified in the present concluding observations as requiring the State party’s priority attention between now and the submission of the next periodic report. Consequently, the Committee urges the State party to focus on those areas in its implementation activities and to report on the action taken and the results achieved in its next periodic report. The Committee calls upon the State party to submit the present concluding observations to all relevant ministries, the National Assembly and the judiciary, to ensure their full implementation.

National Assembly

9. While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the State party’s obligations under the Convention, the Committee stresses that the Convention is binding on all branches of Government and invites the State party to encourage its National Assembly, in line with its procedures and where appropriate, to take the necessary steps with regard to the implementation of the present concluding observations and the Government’s next reporting process under the Convention.

Reservations

10. While the Committee acknowledges the information provided regarding the State party’s ongoing consultations on the withdrawal of its reservation to article 16,
paragraph 1 (g) of the Convention on the same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation, it expresses its concern about the lack of a clear time frame to end those consultations and withdraw the reservation.

11. The Committee reiterates its previous recommendation (see CEDAW/C/KOR/CO/6) and urges the State party, in its consideration, to separate issues related to article 16, paragraph 1 (g) from those related to paragraph 1 (d) and thereby expedite its efforts towards the withdrawal, within a concrete time frame, of its reservation to article 16, paragraph 1 (g) of the Convention.

Visibility of the Convention and its Optional Protocol

12. The Committee takes note of the information provided during the dialogue regarding the large-scale meetings to share the Committee’s previous concluding observations among government offices, judicial authorities, non-governmental organizations and the Korean Women’s Development Institute. It also notes the State party’s efforts to disseminate the Convention and its Optional Protocol among the National Assembly, media organizations and legal professionals. However, the Committee is concerned that these initiatives have not targeted judiciary and law enforcement officials. It is particularly concerned that women themselves are not aware of their rights under the Convention or of the complaints procedure under the Optional Protocol and thus lack the capacity to claim the full promotion, protection and fulfilment of their rights on an equal basis with men.

13. The Committee encourages the State party to continue to create awareness of and adequately disseminate the Convention, its Optional Protocol, the procedures under the Protocol and the Committee’s general recommendations among all stakeholders, including Government ministries, parliamentarians, the judiciary and law enforcement officers, to create awareness of women’s human rights. The Committee urges the State party to undertake educational and awareness-raising campaigns targeted at women and the judiciary to enhance women’s awareness of existing provisions to protect their human rights, thereby ensuring that women can avail themselves of the procedures and remedies under the Optional Protocol for violations of their rights under the Convention.

Discriminatory laws

14. While the Committee notes that the consultations on the adoption of the Anti-Discrimination Bill and on the effectiveness of some 90 pre-existing laws on discrimination conducted by the Subcommittee on Anti-Discrimination Laws were concluded at the end of 2010, it regrets the lack of information on the results of those consultations and the slow progress in the adoption of the Anti-Discrimination Bill in the State party, which has been on hold since May 2008.

15. The Committee calls on the State party to take urgent steps towards the adoption of a comprehensive Anti-Discrimination Act, in line with articles 1 and 2 of the Convention and the Committee’s general recommendation No. 28 (2010), that includes a clear prohibition of all forms of discrimination, both direct and indirect, and takes into account article 2 (4) of the National Human Rights Commission Act (Korea, 2005), which prohibits discrimination on the grounds of sexual orientation.
National machinery for the advancement of women

16. The Committee takes note of the increase in the human and financial resources allocated to the Ministry of Gender Equality and Family since the reinstatement of the Ministry’s mandate in March 2010 as the Government body responsible for overseeing all policies relating to women, youth and family. However, the Committee is concerned that merging family affairs and gender equality in a single mandate may directly or indirectly reinforce traditional patriarchal norms and undermine the achievement of gender equality. Furthermore, while the Committee notes that gender mainstreaming is guaranteed through gender-impact assessments, carried out by the Ministry of Gender Equality and Family, of public policies and programmes in place across all levels of government, it is concerned that the assessments are used as an ex post facto rather than an a priori tool and that the Ministry’s influence in respect of the actual formulation, design and implementation of such public policies and programmes is therefore small. In addition, the Committee notes the absence of a clearly defined coordinating mechanism to ensure horizontal and vertical coherence in the implementation of gender equality programmes. It is also concerned that despite the mandatory character of gender-responsive budgeting for Government bodies, as indicated in the National Fiscal Act, the amount of financial resources allocated to women’s empowerment from the overall public budget is very limited.

17. Recalling its general recommendations No. 6 and the guidance provided in the Beijing Platform for Action, in particular regarding the necessary conditions for the effective functioning of national mechanisms, the Committee recommends that the State party:

(a) Clearly define the mandate, responsibilities and allocation of human and financial resources of the three portfolios (gender, youth and family) of the Ministry of Gender Equality and Family and institute a clear coordination mechanism for ensuring horizontal and vertical coherence in the work of the Ministry;

(b) Strengthen the capacity of the Ministry of Gender Equality and Family to use gender-impact assessments to inform the formulation and implementation of legislation and policy measures in the field of gender equality and to inform gender-responsive budgeting at all levels of government and provide advice on, coordinate and monitor such measures.

18. The Committee takes note of the adoption of the Third Basic Plan for Women’s Policies (2008-2012) which, inter alia, contains two policy objectives, women’s active participation in the management of the nation and the improvement of women’s economic capacity. However, it is concerned about the negative impact that the removal of women’s policy units and gender equality officers from some ministries and Government bodies may have on the overall implementation of the Plan.

19. The Committee recommends that the State party take the necessary measures to ensure the full implementation of the Third Basic Plan for Women’s Policies (2008-2012), including by reinstating the women’s units and gender equality officers.
Violence against women

20. While taking note of the various measures in place to protect victims of sexual violence and domestic violence, such as the launch of an emergency hotline and the existence of State-run counselling centres and shelters for victims of violence, including specific centres for foreign wives who are victims of domestic violence, the Committee is concerned that the low rate of reported cases does not correspond with the actual number of cases of domestic violence occurring in the State party, despite the obligation for education and health-care professionals and social workers to report such cases, in conformity with article 4 of the Special Procedure Act on the Punishment of Domestic Violence. It is also concerned about the Criminal Code provision requiring adult victims of sexual violence to file a complaint in order to have their cases prosecuted and about the consequent low number of victims who present charges and low number of prosecutions and convictions. The Committee also expresses its concern about the limited number of women police officers available to deal with cases of sexual and domestic violence. It reiterates its regret that marital rape is not criminalized in the State party’s legislation but only in case law.

21. The Committee calls upon the State party to:

(a) Take the necessary measures to encourage the reporting of domestic and sexual violence cases, including by ensuring that education professionals, health-care providers and social workers are fully familiar with relevant legal provisions and are sensitized to all forms of violence against women and are capable of complying with their obligation to report cases;

(b) Review and amend the Criminal Code and other relevant legislation to remove provisions that require adult victims of sexual violence to file a complaint in order to have their cases prosecuted;

(c) Take measures to increase the number of women police officers and steps to enhance their capacity to deal with cases of violence against women in a gender-sensitive manner;

(d) Conduct awareness-raising campaigns for women, including foreign women, to make them aware of their rights and avenues of redress, including available measures for protection against and prevention of domestic violence;

(e) Take all legislative measures necessary to criminalize marital rape, defined on the basis of lack of consent of the wife;

(f) Collect data and conduct research on the prevalence, causes and consequences of all forms of violence against women, including violence in the domestic sphere, in line with the Committee’s general recommendation No. 19 (1992), and use such data as the basis for further comprehensive measures and targeted interventions. The Committee invites the State party to include statistical data and the results of measures taken in its next periodic report.

Trafficking and exploitation of prostitution

22. The Committee is concerned that the State party lacks a comprehensive statute dealing with trafficking of human beings and reiterates its concern about the persistence of trafficking and exploitation of prostitution and the lack of data on these phenomena. It is particularly concerned about women migrant workers, who enter the country under an E-6 entertainment work visa, and foreign wives, who
enter the country through international marriage brokerage agencies, since information received indicates that many of these women fall victim to trafficking and exploitation of prostitution. The Committee is also concerned that even though women engaged in prostitution in the State party may have access to counselling centres, they must prove their status as victims in order not to be prosecuted for the offence of prostitution. Further, the Committee is concerned that the State party has signed but not ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

23. Reiterating its recommendation to fully implement article 6 of the Convention (see CEDAW/C/KOR/CO/6), the Committee urges the State party to:

(a) Adopt a comprehensive law on trafficking in human beings and amend relevant legislation, such as the Criminal Code, to include trafficking as an offence;

(b) Take measures to enhance its current initial screening procedure of entertainment companies who recruit foreign women and to establish an effective in situ monitoring mechanism of the establishments where women under an E-6 visa work to ensure that they are not being subjected to exploitation of prostitution;

(c) Take legislative and other measures to ensure effective implementation of the Marriage Brokerage Control Act, in order to protect foreign women against exploitation and abuse by marriage brokers and traffickers and by their spouses;

(d) Review its prostitution policy and relevant legislation, including the Criminal Code, with a view to decriminalizing women’s involvement in prostitution and ensuring that women involved in the sex trade are not punished;

(e) Take further measures to protect and support women and girls who are victims of trafficking and to address the root cause of trafficking;

(f) Take appropriate measures to suppress the exploitation of prostitution of women, including by discouraging the demand for prostitution, and to provide rehabilitation and economic empowerment programmes for women and girls exploited in prostitution, thereby facilitating their reintegration into society;


Participation in political and public life

24. The Committee expresses its concern about the slow progress in increasing women’s participation in political and public life, in particular in decision-making positions in the Government, in parliament, the judiciary, the diplomatic service and the private sector, and in academia as high school principals and university professors, despite measures in place to increase the number of women in these spheres, such as the Employment of Female Manager-Level Public Officers Initiative.
25. The Committee urges the State party to strengthen its efforts to increase the representation of women in political and public life through, inter alia, the implementation of temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee’s general recommendation No. 25 (2004), in order to accelerate the realization of women’s substantive equality with men. It calls upon the State party to consider using a range of possible measures, such as quotas, benchmarks, targets and incentives, in particular with regard to the accelerated implementation of articles 7, 8, 10, 11, 12 and 14 of the Convention. The Committee requests the State party to provide data and information on the representation of women, in political and public life, in the private sector, academia and the diplomatic service in its next periodic report.

Nationality

26. The Committee acknowledges the written and oral information provided on the eligibility requirements for acquiring Korean nationality. However, it is concerned about the difficulties foreign women married to Korean men may 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.

27. The Committee recommends that the State party revise its legislation governing nationality with a view to removing all discriminatory provisions relating to the requirements for acquiring Korean nationality, in accordance with article 9 of the Convention.

Education

28. While taking note of measures such as the Act on Supporting Women in Science and Technology that have long been in place to encourage women’s participation in non-female traditional fields such as science and technology, the Committee is concerned about the persistence of segregation in respect of fields of study in higher education and vocational training, which ultimately results in sex segregation in the labour market. It is 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. The Committee is also concerned about the limited information provided during the dialogue on the degree of compliance by academic institutions with the compulsory 10-hour course on sexual education for students.

29. The Committee recommends that the State party enhance its compliance with article 10 and raise awareness of the importance of education for the empowerment of women. It encourages the State party to institute measures to revise textbooks used at all levels to eliminate gender stereotypes and to introduce mandatory gender training for teachers in an effort to overcome patriarchal attitudes and gender role stereotypes that create discriminatory barriers to the education of girls and women. The Committee further recommends that girls and women continue to be actively encouraged to choose non-traditional fields of study and professions. It recommends that the State party establish an effective monitoring mechanism to ensure that students are provided with the 10-hour compulsory course on sexual education and that it
consider introducing a more comprehensive, age-appropriate programme on sexual and reproductive health and rights for both girls and boys as a regular part of the curriculum at the elementary and secondary levels.

Employment

30. The Committee is concerned about the lack of adequate disaggregated data on which to determine the precise positioning of women in the formal and informal labour markets. It is further concerned about 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. The Committee remains concerned about the lack of effective monitoring mechanisms and complaints procedures for women to claim their rights and the consequent possible reluctance of women to seek remedies in cases of sexual harassment in the workplace.

31. The Committee urges the State party, in its next periodic report, to present disaggregated data on labour market indicators. The State party is also urged to diligently monitor the situation of women in the labour market and to increase the number of women in regular work by ensuring that enterprises provide more opportunities for women to gain access to full-time and regular employment and to protect those in non-regular work by extending benefits, including paid maternity leave, to part-time and short-time workers, the majority of whom are women. The Committee calls upon the State party to enforce the provisions of the Equal Employment Act in regard to equal pay for work of equal value. It also calls upon the State party to ensure that effective monitoring mechanisms are in place to achieve compliance with existing legislation and that there are procedures in place for women to file complaints in respect of violations of their labour rights, in particular in cases of sexual harassment.

32. While noting the State party’s legislative and policy efforts such as the Act on Gender Equality in Employment and Support for Work-Family Reconciliation, the Basic Plan on Gender Equality in Employment and Work-Family Reconciliation (2008) and other measures to improve the balance between family and work life, the Committee is concerned that domestic and family responsibilities are still primarily borne by women, as reflected in one of the expected outcomes of the Basic Plan, namely the acceleration of the low fertility rate and the consequent interruption of women’s careers or their engagement in part-time jobs to meet family responsibilities. It is also concerned about the limited number of men taking parental leave. The Committee is concerned about the negative impact, in terms of social security benefits, of the increased and ongoing conversion of women’s contracts from regular workers to non-regular, part-time or short-term workers. It is further concerned about the limited number of State-run childcare centres, the trend to privatize such facilities and the high fees charged by private childcare centres, which make them inaccessible to many working women, in particular those in low-income, female-headed households.

33. The Committee encourages the State party to promote co-responsibility in the domestic sphere and to step up its efforts to assist women and men in striking a balance between family and employment responsibilities through,
inter alia, additional awareness-raising and education initiatives for both women and men on the equal sharing of childcare and domestic tasks and by ensuring that part-time employment is not taken up almost exclusively by women. The Committee urges the State party to strengthen its efforts to improve the provision and affordability of childcare facilities for children in different age groups, in particular those in female-headed households, and to encourage more men to avail themselves of parental leave.

Health

34. The Committee is concerned about the lack of detailed information on measures in place to address the deteriorating mental health situation of women, including depression. It is particularly concerned about the increasing suicide rates among women, which is the second cause of death among women in the State party. It is also concerned about the higher morbidity rates and poorer health status among women with lower income levels compared to women with higher income levels, even though there is universal health insurance coverage. The Committee also expresses its concern that, even though abortion is allowed under certain circumstances, including rape and incest, in accordance with articles 14 and 15 of the Mother and Fatherless Childcare Act, abortion is still a punishable offence under articles 269 and 270 of the Criminal Code of the State party.

35. The Committee urges the State party to take the necessary measures to address the deteriorating mental health situation, in particular depression. It also encourages the State party to fully implement its suicide prevention policies (2009-2013) and to provide information in its next periodic report on the policies and results achieved. The Committee recommends that the State party pay special attention to the situation of older women with low income levels, to ensure that they have full access to health-care and social services. It also urges the State party to consider reviewing legislation relating to abortion, in particular the Criminal Code, with a view to removing the punitive provisions imposed on women who undergo an abortion, and to provide them with access to quality services for the management of complications arising from unsafe abortion, in accordance with the Committee’s general recommendation No. 24 (1999).

Rural women

36. The Committee notes that women represent 53.3 per cent of the agricultural workers in the State party and that there are measures in place to achieve rural women’s substantive equality with men, such as the Second 5-Year Plan Fostering Women Farmers. It also takes note that the Young Farmers Initiative Programme includes a 20 per cent quota for women. However, the Committee is concerned that 70.3 per cent of family farms are owned by men while only 26.3 per cent are owned by elderly widows, which shows that it is difficult for women to own land and property. It is also concerned that Government 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.

37. The Committee recommends that the State party continue its efforts to improve the situation of rural women through both legislative and practical
measures and to ensure that all policies and programmes aimed at promoting gender equality reach the rural areas and are fully implemented, including to facilitate women’s ability to own land and property, as well as to provide financial support and assistance. The Committee also recommends that the State party implement gender-sensitive rural development strategies and programmes and that it accelerate its measures to promote farming among young women, ensuring the full participation of rural women in their formulation and implementation.

Marriage and family relations

38. While the Committee acknowledges the amendment to the Civil Code (December 2007), which seeks 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, it is concerned that in the State party 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 that the equal sharing of tangible property is based on court precedent and is not legally binding. The Committee is further concerned that “fault” of either party to the marriage may be taken into account in determining the division of assets in divorce cases.

39. The Committee recommends that the State party take the necessary legislative measures to recognize both tangible and intangible property, such as pension and savings funds, as part of marital property and to incorporate a rule of equal distribution of marital property upon divorce in its legislation, in line with article 16 of the Convention and the Committee’s general recommendation No. 21 (1994) on equality in marriage and family relations. The Committee further recommends that legislative measures be taken to eliminate consideration of “fault” in the determination of the division of assets in divorce cases.

National Human Rights Institution

40. While appreciating the contribution of the National Human Rights Commission of Korea to the reporting process and the data on the number of human rights violations and discrimination petitions filed before the Commission per year, the Committee shares the concern of the Committee on Economic, Social and Cultural Rights (see E/C.12/KOR/CO/3) that the Commission was downsized by 21 per cent, whereas all the other ministries were downsized by 2 per cent at the most and that recent developments in the State party have put the independence of the Commission at risk.

41. The Committee reminds the State party of its responsibility to ensure that the National Human Rights Commission of Korea remains compliant with the Paris Principles, in particular with respect to its independence. It urges the State party to allocate to the Commission adequate human and financial resources, including human rights experts, in accordance with the National Human Rights Commission of Korea Act, and to strengthen its monitoring functions, including in the area of gender and women’s rights, with a view to regaining credibility, public confidence and legitimacy.
Beijing Declaration and Platform for Action

42. The Committee urges the State party, in the implementation of its obligations under the Convention, to fully utilize the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.

Millennium Development Goals

43. The Committee emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Goals and requests the State party to include information thereon in its next periodic report.

Dissemination

44. The Committee requests the wide dissemination in the Republic of Korea of the present concluding observations in order to make the people, Government officials, politicians, parliamentarians and women’s and human rights organizations aware of the steps that have been taken to ensure formal and substantive equality of women and of the additional steps that are required in that regard. The Committee recommends that this dissemination include the local community level. The State party is encouraged to organize a series of meetings to discuss progress achieved in the implementation of the observations. The Committee requests the State party to continue to disseminate widely, in particular to women’s and human rights organizations, the Committee’s general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly on the theme “Women 2000: gender equality, development and peace for the twenty-first century”.

Ratification of other treaties

45. The Committee notes that the adherence of the State party to the nine major international human rights instruments\(^1\) would enhance the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. It therefore encourages the Government of the Republic of Korea to consider ratifying the treaties to which it is not yet a party, namely, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.

\(^1\) The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance and the Convention on the Rights of Persons with Disabilities.
Follow-up to concluding observations

46. The Committee requests the State party to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 15 and 21 above.

Preparation of next report

47. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next report, and to consult a variety of women’s and human rights organizations during that phase.

48. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. It invites the State party to submit its eighth periodic report in July 2015.

49. The Committee invites the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, approved at the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (see HRI/MC/2006/3 and Corr.1). The treaty-specific reporting guidelines adopted by the Committee at its fortieth session in January 2008 must be applied in conjunction with the harmonized reporting guidelines on a common core document. Together, they constitute the harmonized guidelines on reporting under the Convention on the Elimination of All Forms of Discrimination against Women. The treaty-specific document should be limited to 40 pages and the updated common core document should not exceed 80 pages.