

Mandates of the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls

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(Please use this reference in your reply)

22 May 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 50/7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the plan to **abolish the Ministry of Gender Equality and Family (henceforth, MOGEF)**.

According to the information received:

On 6 October 2022, following the campaign pledge of President Yoon Suk-yeol, the Government introduced a reform bill to the Government Organization Act. The reform bill included a plan to abolish the MOGEF, with a view to reorganizing and transferring the mandates of the MOGEF to other ministries or auxiliary and subsidiary bodies, including the Ministry of Health and Welfare, the Ministry of Employment and Labor and the Ministry of Justice. According to a statement by Minister of the Interior and Safety, Lee Sang-min, delivered on the same day, the plan aims to establish a comprehensive welfare policy framework by reducing "inefficiencies" caused by overlapping policies across ministries as well as to shift the policy focus from addressing women's rights to addressing gender equality. The reform bill was partially passed during the plenary session of the National Assembly on 27 February 2023 and subsequently by the Cabinet on 28 February 2023, excluding the plan to abolish the MOGEF, which remains to be formally passed at the National Assembly.

Under the proposed arrangement, the core function of the MOGEF will be decentralized and primarily carried out by a subsidiary body within the Welfare Ministry, with gender equality, civil rights, and family policies – including those targeting children, youth and older persons – falling under a newly established Population, Family and Gender Equality Agency. Matters concerning women's employment will be subsumed by the Ministry of Employment and Labor. The integrative plan is designed to harmonize policies on care, population, family, children and youth, as well as to strengthen the linkages between policies that address low birth rates and issues associated with the aging population. It has been predicted that under the proposed arrangement, core ministerial mandates of the MOGEF will be lost, such as its current role in (a) deliberations of and decisions on policies as a member of the State Council, and (b) proposing of bills and issuing ordinances concerning matters that are within its jurisdiction.

In response to concerns expressed by civil society organizations that these changes will dilute the effectiveness of policies addressing women, minority youth and family matters, the Gender Minister, Kim Hyun-sook said in a briefing on 7 October 2022 and at a meeting with the local women's groups on 10 October 2022 that all functions of the MOGEF will continue without any curtailment. However, there are indications that this may not appear to be the case. Even before the plan has been formalized or passed by the National Assembly, relevant functions and initiatives are reportedly being adversely impacted, as evidenced by the Government's proposals to cut back on the budget allocated to addressing digital sex crimes and attempts to make the definition of violence in public policies more general, whereby specific elements of sex- or gender-based violence will no longer be referred to or addressed. Moreover, the titles of the coordination and governing bodies of women's rights and gender equality within local governments have already changed or are set to change. For example, references to women are being removed entirely and the focus is shifting to family affairs: e.g., Division of Women, Youth and Families renamed as Division of Population and Families; Division of Welfare and Women renamed as Division of Social Welfare; Division of Women and Families renamed as Division of Family Policy. It remains unclear whether the relevant framework and related initiatives under the purview of the MOGEF, such as the Digital Sex Crime Victim Support Center established in 2018 and the specialized evaluation committee monitoring gender mainstreaming within the Gender Responsive Budget and Settlement Council, will continue to function effectively following the abolition of the Ministry.

The Korean title of the MOGEF directly translates to "Ministry of Women and Family Affairs," which has been deemed objectionable by multiple standards and critiqued by various actors. On the one hand, men's rights groups have criticized the Ministry as being solely focused on women's rights, while on the other hand, feminists have opposed the coupling and equating of women and family, as well as the premise that family policies are synonymous with gender equality. Notwithstanding the contentions concerning the title of the Ministry, the mandate of the MOGEF extends beyond women, youth and children, and encompasses the victims of domestic violence and sex trafficking, single-parent households, migrants and adolescents at risk or out-of-school. Under its broad remit, the MOGEF facilitates inter-ministerial cooperation on gender equality and oversees initiatives designed to improve gender-responsive health systems, gender wage gap, and the protection of victims of sexual- and gender-based violence and digital sex crimes.

Since its inauguration and despite persisting challenges, the MOGEF has been instrumental in advancing gender equality in the Republic of Korea, including in the abolishment of the *hoju* system, a family registry system that required all citizens to be registered under a male head of household, regardless of marital status. As part of the new third basic plan for gender equality policy (2023-2027) announced on 30 January 2023, MOGEF has also proposed to update the legal definition of rape in the penal code to include non-consensual sex, in line with international standards, which is currently defined as intercourse by means of "violence or intimidation" in article 297 of the Criminal Act. The proposal was ultimately rejected by the Ministry of Justice and the Office of the President and was removed from the 2023 action plan of

the above quadrennial plan. The third basic plan also proposed to expand the advisory role of the Gender Equality Committee under the Office of the Prime Minister, with a view to strengthening the enforceability of the Committee's decisions. The core role of the MOGEF in mainstreaming gender and contributing to gender equality in practice has been noted, including in the mid-term report of the third cycle of the universal periodic review of the Republic of Korea.

Despite its longstanding role in the operation of the Government and the extensive ambit of its mandate, the MOGEF has been operating with insufficient financial and human resources, with only 0.24 per cent of the total annual Government budget and 281 civil servants in 2022. Most of the MOGEF's budget is appropriated for family affairs and youth, and gender equality is assigned the least portion of the Ministry's operating budget, as evidenced in the annual plan for the fiscal year of 2023. The restrictive resource allocation to government bodies endowed with gender and women's rights mandates has continuously been cited as an area needing significant improvement, including in the recently concluded fourth cycle of the universal periodic review of the Republic of Korea ([A/HRC/WG.6/42/KOR/2](#)). During the same review cycle, there have been reports of serious escalation of gender conflict in the Republic of Korea in 2021-2022, including hatred and violent expression against women ([A/HRC/WG.6/42/KOR/3](#), para. 5). Issues that fall under the mandate of the MOGEF were also highlighted as areas that need strengthened action, such as gender disparities in employment and occupation ([A/HRC/WG.6/42/KOR/2](#)).

Without prejudging the accuracy of the information received, we also wish to express serious concern about the politicization and dissemination of a dangerous rhetoric by the administration through public and repetitive denial of the existence of systemic gender discrimination in the Republic of Korea, as well as through the characterization of gender discrimination and injustices as a 'personal issue', rather than a structural problem, for which the Government is accountable. We are also concerned about the President's pledges to introduce tougher penalties for false claims of sexual assault as well as the remarks that the plan to abolish the MOGEF was drafted, in part, to rectify the Ministry's treatment of men as 'potential sex criminals.' This harmful rhetoric delegitimizes and makes invisible the rights claims of affected persons, and calls into question the legislative intentions of the plan.

In light of the above and the persisting violence against women and girls in the Republic of Korea, it is our view that the abolition of the MOGEF at this moment in time would be particularly detrimental. Were the Republic of Korea to carry through its announced plans to abolish the MOGEF, the redistribution of its functions to other ministries and subsidiary bodies would, in our assessment, significantly deprioritize the Government's efforts on ensuring gender equality and protecting women and girls against all forms of violence. We wish to underline that a full-fledged abolishment of a gender ministry has rarely been evidenced in other jurisdictions.

We strongly recommend that the Government of the Republic of Korea maintain a dedicated government entity on gender equality and women's rights; strengthen the Ministry's mandate on gender equality and preserve the issue in its own right as opposed to annexing it as a part of family affairs; and provide the Ministry with sufficient financial, technical and human resources in line with the

recommendations of the Committee on the Elimination of Discrimination against Women, particularly those highlighted in its concluding observations on the eight periodic report of the Republic of Korea ([CEDAW/C/KOR/CO/8](#)). The above approach would also comply with the Republic of Korea's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women, particularly article 2, which establishes that the overarching obligation of States parties is to pursue, by all appropriate means and without delay, a policy to eliminate discrimination against women, including gender-based violence against women.

Should the Republic of Korea press ahead with the abolition or restructuring of the MOGEF, it would be imperative to develop a clear plan on how its responsibilities, particularly those concerning the deliberations and decisions on policies relating to gender equality and women affairs, as well as the development of draft bills and ordinances, will be managed and continued in an effective manner. More importantly, we strongly recommend that the Government of the Republic of Korea assess the negative consequences that may result from the dismantling of the MOGEF, and identify how these ramifications, particularly those affecting the rights of women and girls, will be mitigated.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information or comments in relation to the above-mentioned allegations.
2. Please provide clarifications on whether the Government plans to provide an objective assessment and evidence-based justifications for the proposed abolishment of the Ministry of Gender Equality and Family.
3. Please provide clarifications on how the Government intends to mitigate the negative consequences that may arise from abolishing the Ministry of Gender Equality and Family, should the plan go forward, and how the mandate of the Ministry of Gender Equality and Family will be properly assumed and continued by other entities of the Government.

This communication and any response received from you will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with you to

clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

Reem Alsalem

Special Rapporteur on violence against women and girls, its causes and consequences

Dorothy Estrada-Tanck

Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the international norms and standards applicable to the present case. We would like to first remind you of the legal obligations of States under international human rights law to respect, protect and fulfil women's rights and fundamental freedoms, including the rights to non-discrimination and equality set out in articles 3 and 26 of the International Covenant on Civil and Political Rights ratified by the Republic of Korea on 10 April 1990 and article 3 of the International Covenant on Economic, Social and Cultural Rights ratified by the Republic of Korea on 10 April 1990 and article 2 of the Convention on the Rights of the Child ratified by the Republic of Korea on 20 November 1991.

In addition to article 2 cited in the allegation letter, article 5 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) ratified by the Republic of Korea on 27 February 2001 requires States parties to "take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women." Furthermore, in resolution 41/6, the Human Rights Council urged States to remove barriers, whether political, legal, practical, structural, cultural, economic, institutional or resulting from the misuse of religion, that prevent the full, equal, effective and meaningful participation of women and girls in all fields.

In its general recommendation no. 35 (2017) on gender-based violence against women updating general recommendation no. 19 (1992) on violence against women, the CEDAW Committee underscored the need for States parties "to adopt legislation prohibiting all forms of gender-based violence against women and girls, harmonizing national law with the Convention," as well as to "to adopt and adequately provide budgetary resources for diverse institutional measures, in coordination with the relevant State branches [including] the design of focused public policies, the development and implementation of monitoring mechanisms," in accordance to articles 2 and 5 of the Convention ([CEDAW/C/GC/35](#), paras. 26(a) and (b)). The CEDAW Committee further urged States parties to "eliminate the institutional practices and individual conduct and behavior of public officials that constitute gender-based violence against women, or tolerate such violence" and stressed that "appropriate measures to modify or eradicate customs and practices that constitute discrimination against women, including those that justify or promote gender-based violence against women, must also be taken at the executive level" ([CEDAW/C/GC/35](#), para. 26(b)).

With regard to coordinating and monitoring and data on gender-based violence against women, the CEDAW Committee recommended States parties to "set up a mechanism or body, or mandate an existing mechanism or body, to regularly coordinate, monitor and assess the national, regional and local implementation and effectiveness of [data collection measures and to] allocate appropriate human and financial resources at the national, regional and local levels to effectively implement laws and policies for the prevention of all forms of gender-based violence against

women, provision of protection and support to victims/survivors, investigation of cases, prosecution of perpetrators and provision of reparations to victims/survivors, including support to women's organizations" ([CEDAW/C/GC/35](#), para. 34).

We would also like to recall the Political Declaration on the occasion of the twenty-fifth anniversary of the Fourth World Conference on Women adopted at the sixty-fourth session of the Commission on the Status of Women in 2020, in which Member States reaffirmed their commitment to the pledge to implement the Beijing Declaration and Platform for Action and the outcome documents of the twenty-third special session of the United Nations General Assembly by "strengthening the effectiveness and accountability of institutions at all levels to promote gender equality and the empowerment of all women and girls" and "matching commitments to gender equality and the empowerment of women and girls with adequate financing through the mobilization of financial resources from all sources" ([E/CN.6/2020/10](#), paras. 12(c) and (e)).

We wish to refer your Excellency's Government to the report of the Special Rapporteur on violence against women, its causes and consequences on State responsibility for eliminating violence against women, which takes note of the States' accountability towards social structural deficiencies and systemic challenges, such as ongoing gender discrimination ([A/HRC/23/49](#)). States need to take a life cycle approach in attending to the complex interplay of multitudinous barriers that contribute to violence against women and girls, as well as act with due diligence in recognition of its systemic-level responsibility to address the root causes and consequences of violence against women and girls.

The Working Group on discrimination against women and girls has consistently reiterated its call for the elimination of any laws, policies or practices that have a discriminatory effect on women and girls, and has committed to denouncing any rhetoric and actions that hinder the upholding of human rights standards, particularly regarding gender equality. The Working Group has also recommended States to give priority to establishing, strengthening and investing in institutions devoted to the advancement of women's rights and gender equality ([A/HRC/38/46](#), paras. 49 and 90), as well as counter "conservative narratives that perpetuate discriminatory gender and age-related stereotypes suggesting that women's and girls' role should be limited to the private sphere, family and procreation also affect their participation in public life" ([A/HRC/50/25](#), para. 9).