

National Human Rights Commission

結 定

The National Human Rights Commission's Note on the Climate Crisis and Human Rights

Abolition of the Death Penalty and Your Voice

The National Human Rights Commission expresses the following views to the Government of the Republic Of Korea (President) on the climate crisis and human rights.

1. As the climate crisis has a wide range of direct and indirect impacts on human rights, including the right to life, the right to food, the right to health, and the right to housing, governments should recognize the protection and promotion of the human rights of all people in the context of the climate crisis as a fundamental obligation of the state and improve relevant laws and institutions to approach and respond to the climate crisis from a human rights perspective.

2. Reflecting the aspects of climate change and social and geographical characteristics of Korea, we should categorize the vulnerable groups in the climate crisis, analyze the threats posed by climate change to the employment,

working conditions, housing, health, and sanitation of the vulnerable groups, and prepare measures to protect the vulnerable groups and strengthen their adaptive capacity.

3. Considering the international standards announced in the IPCC's 6th Assessment Report (2022), the 2030 national greenhouse gas emission reduction target of the Enforcement Decree of the Basic Act on Carbon Neutrality and Green Growth to Respond to the Climate Crisis is set to be increased, and reduction targets for 2030 and beyond are also set to reduce future taxes.

There is a need to clarify the obligation to mitigate to protect the fundamental rights of the cause.

4. When governments set GHG reduction targets, they should ensure the participation **and** input of those most vulnerable to the climate crisis, including farmers, fishermen, laborers, **people with** disabilities, migrants, **and** consumers, as well as businesses.

5. It is necessary to strengthen corporate responsibility and transparency by introducing systems and policies that can induce companies to reduce greenhouse gas emissions, such as strengthening corporate disclosure related to climate change.

6. Systematically and transparently disclose the results of climate change impact measurement and assessment, **and** information on greenhouse gas emissions through an integrated information provision system, so that everyone can quickly access climate change-related information.

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I. Overview

1. Background

The climate crisis is one of the greatest threats to human rights, negatively impacting human rights on a scale and scope unlike any other, and the international community, including the United Nations, is responding by

approaching the climate crisis as a human rights issue alongside efforts to identify the causes of climate change and prevent its harm. The UN Human Rights Council has adopted 12 resolutions on climate change and human rights.

In 2022, the 50th session of the UN Human Rights Council will consider the UN Secretary-General's report on protecting the human rights of vulnerable populations in the context of climate change, emphasizing the relevance of climate change to human rights obligations, State obligations, corporate responsibility, and international accountability.

In December 2020, 40 victims of the climate crisis filed a complaint with the National Human Rights Commission demanding a response to human rights violations caused by the climate crisis, and the National Human Rights Commission conducted a "Survey on Awareness of Climate Crisis and Human Rights and Domestic and International Policy Trends" in 2021. However, compared to the international trend of recognizing the violation of fundamental rights due to the climate crisis, it is judged that the awareness of this issue is not yet sufficiently formed in Korea.

Therefore, it was deemed necessary to review the human rights issues caused by the climate crisis, international trends, and domestic laws and limitations related to the climate crisis, and in accordance with Article 19 (1) and Article 25 (1) of the National Human Rights Commission Act, we reviewed the following.

II. Judgment and reference points

1. Judgment Criteria

Article 34, paragraphs 6 and 35 of the Constitution of the Republic of Korea (hereinafter referred to as the "Constitution"), and Articles 2, 3,

8, and 47 of the Basic Act on Carbon Neutrality and Green Growth in Response to the Climate Crisis (hereinafter referred to as the "Carbon Neutrality Act"), Article 3 of the Enforcement Decree of the Basic Act on Carbon Neutrality and Green Growth in Response to the Climate Crisis (hereinafter referred to as the "Carbon Neutrality Act Enforcement Decree"), the Paris Agreement (hereinafter referred to as the "Paris Agreement"), Articles 1 and 6 of the United Nations International Covenant on Civil and Political Rights (hereinafter referred to as the "International Covenant on Civil and Political Rights"), and the United Nations Covenant on Economic, Social and Cultural Rights.

Articles 1, 11, and 12 of the International Covenant on Economic, Social, and Cultural Rights (hereinafter referred to as the "Covenant") were used as the basis for judgment.

2. Reference Criteria

UN Human Rights Council (HRC) Resolutions

A/HRC/RES/7/23, A/HRC/RES/10/4, A/HRC/RES/18/22, A/HRC/RES/26/27, A/HRC/RES/29/15, A/HRC/RES/32/33, A/HRC/RES/35/20, A/HRC/RES/38/4, A/HRC/RES/42/21, A/HRC/RES/44/7, A/HRC/RES/47/24, A/HRC/RES/50/9, IPCC Fifth Assessment.

Interim Report (2014) and 6th WG Report (2022), IPCC Climate Change 2022: Impacts, Adaptation and Vulnerability (2022), the UN General Comment on Article 6 (Right to Life) of the International Covenant on Civil and Political Rights (2019), the UN Special Report on the obligation to protect the environment and human rights (2019), the Office of the High Commissioner for Human Rights (OHCHR) study on the links between climate change and human rights (2009), the Report of the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) to the Sixth Session (2010), and the Survey on Perceptions and Domestic Policy Trends on Climate Crisis and Human Rights (2021).

III. Judgment

1. Climate crisis and human rights

A. The need for a human rights-based approach

From a human rights perspective, the climate crisis is directly linked to the rights to liberty (right to life), social rights (labor, social security), and solidarity (right to a clean environment), and the individual fundamental rights that are being violated by the climate crisis are virtually all human rights, including the right to life, the right to food, the right to sanitation, the right to health, the right to housing, the right to self-determination, and the right to education.

The impacts of the climate crisis are disproportionately impacted by gender, race, social status, disability, occupation, place of residence, and generation, and as the climate crisis intensifies, these differential impacts are intersectionally exacerbated and reproduced. In this context, at the Sixth Conference of the Parties to the United Nations Framework Convention on Climate Change, Parties to the Convention agreed to fully respect human rights in all climate change-related actions, recognizing that a human rights-based approach addresses multiple social, cultural, political and economic challenges and empowers groups, including particularly vulnerable populations. The Special Report on the Obligation to Protect the Environment and Human Rights, presented to the 74th session of the UN General Assembly in 2019, also emphasized that "the climate crisis is violating the human right to the environment, the right to health and the right to life, including the right to drinkable water, food and to live in a sanitary environment, and that governments in particular must take a human rights approach to protecting climate-affected citizens."

On the other hand, the climate crisis creates so-called climate inequalities, in which countries or parties that bear little responsibility for its occurrence are more exposed to risks. The issue of the climate crisis should be examined from the perspective of the principle of equality, which addresses not only inequalities based on various group characteristics within the same generation but also inequalities with future generations, and a human rights-based approach should be taken in the formulation of relevant policies by stipulating responsibility for harm and protection.

B. Climate Crisis and Vulnerable Populations

While no segment of society is completely immune from the negative effects of the climate crisis, the impacts of climate change vary by region, group, and individual characteristics. According to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) in 2014, different groups are harmed by non-climate factors, multidimensional inequalities, and climate action.

It was noted that vulnerability and exposure to harm vary, and that marginalized people in marginal social, cultural, political, economic, and institutional contexts can be vulnerable to climate change. Therefore, it is necessary to define and categorize vulnerable people before policy-making, and to address climate inequality through policies that are appropriate for each group.

C. Status of climate-related laws and policies in South Korea

In 2020, the Korean government made a "2050 Carbon Neutrality Declaration" in its State of the Nation Address to the National Assembly to achieve carbon neutrality by 2050, and the Carbon Neutrality Act, which stipulates procedures and policy measures to achieve the national goal of 2050 carbon neutrality, was enacted in September 2021 and enforced in March 2022, making Korea the 14th country to legislate its carbon neutrality vision.

The purpose of the Carbon Neutrality Act (Article 1) is to strengthen measures to reduce greenhouse gas emissions and adapt to climate change, eliminate economic, environmental, and social inequalities in the process of transitioning to a carbon-neutral society, and promote harmonious development of the economy and environment through the promotion of green technologies and green industries. Article 8 of the Carbon Neutrality Act stipulates a goal of reducing greenhouse gas emissions by at least 35% of 2018 emissions by 2030 (National Greenhouse Gas Reduction Target, NDC), and Article 3 of the Enforcement Decree of the same Act raises the national greenhouse gas reduction target to 40% of 2018 emissions.

In accordance with the implementation of the Carbon Neutrality Act of 2022, the Korean government must establish a supplementary and detailed implementation plan for the National Climate Change Adaptation Plan by 2023, and the 2050 Carbon Neutrality and Green Growth Commission will release the National Carbon Neutrality and Green Growth Basic Plan in March 2023 in addition to the above measures.

2. International developments on the climate crisis and human rights a.

Paris Agreement

21st Conference of the Parties to the United Nations Framework Convention on Climate Change, Paris, France, 2015

In 2015, the United Nations Framework Convention on Climate Change (UNFCCC) signed the Paris Agreement, which replaced the Kyoto Protocol, to avert a global crisis of climate change and to prevent and address inequality, discrimination, and poverty caused by the climate crisis. The Paris Agreement imposes carbon reduction obligations on 197 countries, sets the goal of limiting the global temperature increase to well below 2°C above pre-industrial levels, and establishes the obligation to introduce and submit Nationally Determined Contributions (NDCs), thus imposing the first international legal obligations related to climate. In particular, the Paris Agreement emphasizes that climate change is a human rights issue, stating that it "recognizes that climate change is a matter of common concern to humanity and that Parties must respect, promote and take into account their respective obligations with respect to gender equality, women's empowerment and intergenerational equity, as well as human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations, and the right to development" when taking action to address climate change. The Republic of Korea ratified the agreement on November 3, 2016.

I. International organizations

In 2021, the Human Rights Council decided to appoint a Special Rapporteur on climate change in its resolution 48/14, and a report on the Special Rapporteur's mandate was presented to the 50th session of the Human Rights Council in 2022. The Special Rapporteur is responsible for developing recommendations on the promotion of human rights in the context of the climate crisis, identifying best practices and exchanging views on human rights-based approaches to the climate crisis. In 2018, the UN Committee on the Elimination of Discrimination against Women issued a recommendation on "Reducing Gender-Related Disaster Risk in the Context of Climate Change," and in 2018, the UN Committee on Social Rights issued a special statement on the human rights implications of the climate crisis.

In 2018, the UN Committee on Economic, Social and Cultural Rights issued a general comment that approached the relationship between the climate crisis and human rights as a matter of the traditional liberty right to life. In 2019, five UN treaty body committees - women, social rights, migrant workers, children and persons with disabilities - issued a joint statement on human rights and climate change.

The Asia-Europe Meeting (ASEM) held a three-day seminar on "Human Rights and Climate Change" in March 2022, which emphasized strengthening human rights mechanisms to address the climate crisis, making meaningful recommendations through a human rights approach, and collaboration among national human rights institutions through sharing best practices. In 2014, the European Commission (EC) issued a guideline requiring companies to disclose their initiatives, performance, views, and impacts on the environment and human rights when disclosing non-financial information. In response to the lack of consistent disclosure standards, the EC prepared a guideline with specific mandatory reporting requirements in 2021. In June 2022, the EU Council and European Parliament adopted the Corporate Sustainability Reporting Directive (CSRD), a directive that reflects the guidelines, and in June 2022, the EU Council and European Parliament decided to make the CSRD applicable from 2024.

C. National Human Rights Institutions

The Global Alliance of National Human Rights Institutions (GANHRI) has highlighted the role of national human rights institutions in addressing the climate crisis, including by hosting a symposium in

November 2021 on "The Role of National Human Rights Institutions in Addressing Accountability in the Climate Crisis," and by publishing "Practical Guidance for NHRIs on Addressing Human Rights and Climate Change" in July 2022, which highlights the practical role of NHRIs in protecting and promoting human rights. The

The Asia Pacific Forum (APF) announced at its 27th Annual Meeting in September 2022 that APF's special work for 2022-2023 will be to share experiences and best practices on climate change through collaboration among national human rights institutions.

In its 2021 "Opinion on the Climate Emergency and Human Rights," the French National Human Rights Commission made 31 recommendations to put human rights at the center of France's climate action, while the Honduran National Human Rights Commission called on the government of Honduras in 2018 to strengthen the capacity of farmers to identify the impacts of climate change on their farms and make changes to seeds, farming methods, and distribution methods. In 2017, the National Commission on Human Rights of the Philippines expressed concern over the government's failure to ratify the Paris Agreement and recommended that it implement climate adaptation measures in its climate policy, and in May 2022, it released a report that found that internationally, "large emitters of carbon" (carbon majors) are responsible for causing the climate crisis and human rights violations.

d. Key case law

In 2015, in a lawsuit brought by environmental groups and citizens of Urhenda, the Netherlands, alleging that the government's greenhouse gas reduction efforts were insufficient, the Dutch Supreme Court ruled that the government had failed to meet its 2020 greenhouse gas reduction targets, which were set at the level required by the international community (1990 vs. The court ruled that the state's obligation to protect its citizens under Articles 2 (right to life) and 8 (right to protection of private and family life) of the

European Convention ON Human Rights violated its obligation to raise its greenhouse gas reduction targets, and a similar lawsuit claiming that climate change damage constitutes a human rights violation under international human rights law was subsequently filed.

In 2021, the German Federal Constitutional Court ruled that the Federal Climate Protection Act aims to reduce greenhouse gas emissions by 55% below 1990 levels by 2030.

As the lack of a reduction target after 2031 is a violation of the basic rights of future generations, the court decided to unconstitutionally amend a part of the "Federal Climate Protection Act" by **December 31, 2022**.

E. Examples of climate change-related corporate disclosures

The U.K. released its **Green Finance Strategy** in 2019.

The UK adopted regulations requiring climate disclosure in 2021. In response, the UK Financial Conduct Authority

Starting in 2021, premium-listed companies on the London Stock Exchange will be required to include climate change information in their annual financial reports, **and by 2025**, all listed companies, including standard-listed companies, will be required to make climate disclosures.

In 2019, the Australian Accounting Standards Board (AASB) and the Auditing and Assurance Standards Board (AUASB) jointly issued guidance on climate risk disclosures, recommending that climate risk be specifically recognized, **that** the financial impact on the company be reflected in the financial statements, **and that the** external auditor consider climate risk as part of the financial statement risk.

3. How we can improve our domestic climate crisis response

A. According to a report released by the United Nations Environment Program, climate change is one of the causes of pandemic situations such as SARS, MERS, and COVID-19. The international community is emphasizing that governments should be based on a human rights approach when enacting laws and establishing policies to address the climate crisis. In

Korea, incidents of human casualties due to climate change are becoming more frequent, such as in 2022 when a typhoon and heavy rains flooded semi-underground houses and underground parking lots, resulting in deaths.

In light of these international developments, frequent disaster situations, and the nature of the climate crisis, which has a wide range of direct and indirect impacts on human rights, including the right to life, the right to food, the right to health, and the right to housing, governments should recognize the protection and promotion of all human rights of all people in the context of the climate crisis as a fundamental obligation of the state, and improve relevant laws and institutions to approach and respond to the climate crisis from a human rights perspective.

B. In addition, the degree of impact of climate change varies by group, and the ability to cope varies by age, socio-economic status, and other factors, so when the government establishes systems and policies to address the climate crisis, it should analyze the vulnerable groups and review human rights violations.

For example, Article 47(1) of the Carbon Neutrality Act stipulates that the government shall identify the status of regions and industries where social and economic inequality is intensifying, such as those vulnerable to the climate crisis, job losses, and the impact on the local economy, and prepare measures to support them and strengthen disaster preparedness capabilities. Accordingly, Article 48 of the Enforcement Decree of the same Act stipulates only the investigation of the impact of employment status, but does not stipulate specific support measures for vulnerable people in the climate crisis.

In addition, the policy for prioritizing the protection of vulnerable groups

in the Third National Climate Change Adaptation Plan (2021-2025) **focuses** only on tasks to protect shantytown residents and outdoor workers from heat waves, so it is difficult to say that this policy is a policy for protecting vulnerable groups.

Therefore, governments need to promote comprehensive measures to protect vulnerable people and strengthen their adaptive capacity, considering that the climate crisis has a wide range of impacts on their daily lives, including working conditions, housing, health, and sanitation, as well as employment issues.

C. Article 8 of the Carbon Neutrality Act stipulates a goal of reducing GHG emissions by at least 35% of 2018 emissions by 2030 (the National Greenhouse Gas Reduction Target, or NDC), and Article 3 of the Enforcement Decree of the same Act raises the NDC to 40% of 2018 emissions. However, even the increased target falls short of the enhanced reduction target in the IPCC's Sixth Assessment Report in 2022 (43% reduction of 2019 emissions by 2030). In addition, the current carbon neutrality law does not specify a GHG reduction target beyond 2030, which may lead to intergenerational inequality in the amount of reduction and may violate the protection of the fundamental rights of future generations in light of the German Federal Constitutional Court's precedents. Therefore, considering the proportionality of the burden of GHG reduction for current and future generations and the responsibility of Korea as a developed country, the government should set additional GHG reduction targets.

d. In addition, GHG emissions are generated in almost all sectors, including industrial activities and people's daily lives, so it is necessary to publicize and collect opinions through the participation of various members of society, such as farmers, fishermen, consumers, laborers, migrants, people with

disabilities, and consumers, to set reduction targets.

E. According to the National Greenhouse Gas Comprehensive Management System, greenhouse gases emitted from energy and industrial processes account for about 95.7% of total domestic greenhouse gas emissions, and in 2020

The GHG emissions of the top 11 groups by total assets account for about 64% of the total domestic emissions. Therefore, in order to achieve the national greenhouse gas reduction target, it is essential to introduce systems and policies that can induce carbon emission reductions from companies that emit large amounts of greenhouse gases, and it is necessary to strengthen corporate disclosure related to climate change in the plan to mandate sustainable management reports promoted by the Financial Services Commission.

b. The government should provide early warning information on the impacts of climate change, transparency on adaptation and mitigation measures, potential impacts, and financing, and ensure informed participation of citizens. However, Article 5(1) of the Enforcement Decree of the Carbon Neutrality Act does not contain any provisions related to participation, except for the stipulation that when establishing or changing the Carbon Neutrality National Plan, the opinions of stakeholders must be heard through public hearings, etc.

In addition, since climate-related information is dispersed and provided through various organizations such as the Korea Meteorological Administration's Climate Information Portal, the Ministry of Environment's Climate Change Promotion Portal, and the National Climate Risk Adaptation Center's Korea Climate Risk Information Portal, it is necessary to improve them by integrating them to facilitate access to information from the consumer side.

IV. Conclusion

For the above reasons, it is decided to express the opinion as ordered in accordance with Article 25, paragraph 1, of the National Human Rights Commission Act.