

# Defend Abortion Rights and Abolish Anti-abortion Law in East Asia

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**The application of anti-abortion law in the East Asia region varies from country to country. Anti-abortion and restrictive laws still exist or are not abolished completely in many. Violations of women's self-determination and reproductive rights at the convenience of the state have threatened their health and lives.**

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The application of anti-abortion law in the East Asia [1] region varies from country to country. In China, the "one-child policy" introduced in 1979 sometimes enforced abortion by public authority. On the other hand, the "two-child policy" introduced in 2016 has put anti-abortion laws into effect in some areas. As a result, many women were forced to have illegal abortions. "Childbirth control at one time and abortion control at another time" is due to the convenience of the nation and it has nothing to do with the right to self-determination.

Like China, South Korea has also managed women by applying the anti-abortion law and adjusted population as required. In South Korea, the anti-abortion laws enacted in 1953 was effectively invalidated in 2019 at the discretion of the Constitutional Court. But the Moon Jae-in regime effectively revived the de facto anti-abortion law by allowing restrictive abortion. This is just another attack against women's right to abortion.

Anti-abortion laws still exist or are not abolished completely in many countries of East Asia, and restrictive abortion laws based on week of pregnancy and spousal consent are also permitted. Violations of women's self-determination and reproductive rights at the convenience of the state have threatened their health and lives.

## China

Abortion policy in China has been coordinated with population planning of the Chinese government [2]. The Chinese government has abusively and forcibly controlled and managed the bodies and sexuality of women and regulated the population. And the Chinese government has recently forced "childbirth control at one time and abortion control at another time" against population. Abortions, including compulsory abortions by public authority, had been widespread in China for decades. With the introduction of the "one-child policy" in 1979, abortions by public authority were sometimes enforced. The "one-child policy" even forced women into forced abortion in late pregnancy.

In addition, China's traditional and strong preference for sons had increased abortions aiming at sex selection. When abortions were performed for the purpose of sex selection, daughters were aborted in many cases. As a result, the sex ratio was significantly distorted.

The "one-child policy" was abolished in 2015, but the problems of rapidly aging population and shrinking labor forces arose. Recognizing that these problems were threatening the country's economic growth, the Chinese government had changed its policy 180 degrees in the last decade. The "two-child policy" was launched in 2016, limiting abortion in some provinces. In 2018, Jiangxi Province banned abortion for non-medical purposes after more than 14 weeks had passed. And several other provinces had subsequently enacted similar rules.

In China as a whole, the introduction of anti-abortion law was discussed and there is growing concern about further control of the female body by the state [3]. In 2021, the "three-child policy" was launched. And a government-led promotion campaign to encourage women to give birth was started. And at the end of September of the same year, a new policy of the Chinese government aiming to reduce abortion for non-medical purposes was announced, which inflamed fierce opposition.

The State Council of China's long-term plan for women's empowerment, announced in September 2021, also mentioned "reduction of abortion medically unnecessary". And the China Family Planning Association, which has been involved in the government's birth control, has stated that it will implement special actions to intervene in the abortion of unmarried people in the priority work announced at the end of January 2022 this year. These policies of the government are aimed at improving the competitiveness of the Chinese people in the future with the aim of fighting for hegemony against the United States. The policies are also for "China's potential growth rate".

## South Korea

In South Korea, the anti-abortion laws were virtually nullified in April 2019 for the first time in 66 years. The Constitutional Court [4] already ruled that criminalizing abortion in South Korea is unconstitutional [5]. In January 2021, the relative measures were passed to declare the anti-abortion laws as unconstitutional and the previous laws have been repealed.

Before January 1, when the anti-abortion laws became nullified, Korean women counted down the invalidation of the laws through SNS. The center-left liberal daily newspaper *Hankyoreh*, which had supported the abolition of the anti-abortion laws, set up a special web page [6] to support the movement. This is the result of a radical wave of courageous women's solidarity movements, including the "Black Protest" [7] which was held in Seoul in 2016.

In the following year, the movements to abolish the anti-abortion laws were promoted by organizations in various fields such as human rights, medical care, and labor. On the other hand, powerful conservative churches/other reactionaries organized backlash against the women's movements [8]. It symbolized structural women's oppression in the South Korean society. And the South Korean government is reluctant to amend the laws. Former Moon Jae-in chose to put the anti-abortion laws on the shelf of "restrictive abortion" instead of abolishing it succumbing to the pressure of authoritarian and conservative reactionaries.

In October 2020, the Korean government announced that a bill would be drawn up to decriminalise abortion up to 14 weeks. And restrictive abortion as a result of rape would be permitted between the 15<sup>th</sup> and 24<sup>th</sup> weeks. There is also the issue of rejection of abortion due to doctors' personal beliefs. Although the anti-abortion laws seemed to have been nullified, they have not been replaced by laws

ensuring access to safe self-managed abortions. In the legislative process, the voices of women who have been ruthlessly oppression and discriminated for 66 years were intentionally ignored. On the contrary, the South Korean government deliberately arose prejudice against women and drafted legislation based solely on groundless rumor intentionally created.

### **Other east Asian countries**

Restrictive abortions are permitted under the conditions such as week of pregnancy and spousal consent in East Asia countries other than China and South Korea. The Eugenic Protection Law enacted in 1985 allowed restrictive abortions in Taiwan. But the purpose of the law was to control population. The anti-abortion laws still exist and conditions such as spousal consent are required for abortions. Illegal abortions are still being performed for women who do not meet the conditions. The situation of Japan on abortion is similar to that of Taiwan which has anti-abortion laws. Also, morning-after pills have not yet been approved in Japan.

In 2016, Committee on the Elimination of Discrimination against Women recommended Japan to remove the requirement of spousal consent for pregnant women to obtain an abortion, which was based on the women's reproductive health and rights which was called for in the International Conference on Population and Development (ICPD) 1994 meeting held in Cairo [9].

In Mongolia, many strict restrictions are imposed on abortions, and safe abortions are not always guaranteed. Abortions are required to be carried out in government-approved medical facilities, which severely limits medical services. Due to bureaucratic procedures in government hospitals and long waiting times, Mongolian women are practically forced to have illegal abortions in unlicensed private clinics. However, it is virtually impossible for low-income women especially living in rural areas to access high-cost illegal abortion services. It is estimated that this will be about the same or even worse for the most vulnerable populations in North Korea in which extremely bureaucratic procedures must be followed in government hospitals.

### **For the right to women's bodily autonomy**

Many countries in East Asia still have de facto anti-abortion laws which allow only restrictive abortion or criminalisation of abortion. Also, the political and economic reasons of nations such as "population control" infringe on the right to have her bodily autonomy in relation to reproductive rights. Power of punishment has sometimes been used as a means of arbitrary population adjustment by the state, which has nothing to do with the right of women to self-determination and reproductive rights. A woman may terminate her pregnancy if the pregnancy would threaten her health or life. If she may not want or be able to continue her pregnancy, access to safe abortion and required medical care should be accessed without interference by the state. In many cases, making a decision to undergo an abortion is a very difficult experience for a woman and is the last resort.

We must implement legislation to decriminalise abortion and to protect the right to reproduction, instead of risking women's reproductive health or lives. Protection of women's rights by law is also important from the historical perspective related to women's fighting for their welfare in many East Asian countries. We believe another mass social protest like #BlackProtest actions will take place in East Asian countries and international solidarity is spreading to guarantee women's bodily autonomy and the rights of individuals such as free access to the medical abortion services including developing policies to reduce the number of those who refuse to offer the services using conscientious objection.

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## Footnotes

[1] The geographical term “East Asia” used in this article shall include China, South Korea, Taiwan, Japan, Mongolia, and North Korea.

[2] In 1991, the “100-day zero birth campaign” was launched in Shandong Province to reduce the birth rate for the year.

[3] LUO Ruihong, Meiji University Academic Repository (2022-02-25), “Änderungen der gesetzlichen Bestimmungen zum Schwangerschaftsabbruch in China”

[4] Former President Park Chung-hee who seized power in a military coup d'état in 1961, made two Constitutions in 1962 and in 1969 which repealed the Constitutional Court. After many years, democratization of 1988 enabled foundation of the Constitutional Court.

[5] An obstetrician-gynecologist who had been officially charged for performing 69 abortions from 2013 to 2015 asked for the legal case to be considered.

[6] <http://www.hani.co.kr/arti/delete>

[7] On 3 October 2016, thousands of Polish women in black clothing went on strike to oppose the law for a total ban on abortion. The black clothing was for condolences on deprived self-determination.

[8] For example, the Catholic Bishops' Conference of Korea (CBCCK) expressed concerns over the court ruling in 2019.

[9] United Nations Press Release, 16 February 2016, “Committee on the Elimination of Discrimination Against Women examines reports of Japan”.