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## **A Study on the Meaning of Abolition of Adultery from Family Policy Perspectives and Future Policy Plans**

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On Feb. 26, 2015, the constitutional court scraped the criminal anti-adultery law, saying it was unconstitutional (Article 241 of the Criminal Code) (Constitutional Court 2015.2.26. 2009heonba17 ? 205 deng (consolidation) decision). Key controversy over the abolishment of the anti-adultery law has been centered on its judicial legitimacy and effectiveness since the court's review of the law started for the first time in 1990. However, as discussions have been mostly concentrated on relationship between individuals and the country, the social context of gender and families where an act of 'adultery' takes place are not fully considered.

The abolishment of the anti-adultery law is a social phenomenon that demonstrates changes in conjugal relations and family structure from family perspectives. As conjugal relations are individual relations as well as family relations at the same time, adultery, which has been governed through the Criminal Code, is being changed into one of the reasons for the break-up of

marital relations. This can be explained in the context of family changes. It relates to discussions on how Korean families are changing, what are the trigger factors, the nature of conjugal relations, which is the starting point of modern family, and direction of their changes.

This approach helps to understand the meaning of modern family and conjugal relations that have not been highlighted in the controversy over the abolishment of the anti-adultery law and evolves into discussions on what roles family policies should play and what support should be provided in order to respond to the direction of family changes. In addition, though there is a diagnosis by experts that there will not be a great deal of changes that the abolishment of anti-adultery law will bring about, there are mounting concerns over ‘rampant sexual misconducts,’ and ‘surging break-ups of families.’ This study intends to arouse public opinion by raising family issues that require policy intervention. Thus, this study seeks to explain the meaning of the abolishment of the anti-adultery law from family perspectives, developing the implications of family policies and future response initiatives. Key research methodologies include analysis of materials and literature, legal and family counseling experts, gender and family researchers, collective group meetings from the general public including female groups aged between 20s and 30s and male groups aged between 30s and 40s, and advisory meetings across the researches.

First, a look into issues of the abolishment of the anti-adultery law and limitation of discussions on the abolishment of the anti-adultery law from family perspectives shows the following results. Key issues of the abolishment of the anti-adultery law include ① the legitimacy of government intervention: regulations for the benefit of public welfare vs. protection of sexual self-determination rights, ② the adequacy of means: legal restriction vs.

individual moral law, ③ the effectiveness of criminal punishment. The constitutional court's ruling was based on ① 'criminal prosecution is no longer appropriate for extramarital affairs' ② the effectiveness of criminal punishment is doubtful as means of psychological restraint to help maintain a marriage or prevent adultery.

The court's decision brought legal disputes to an end. However, the needs for new disputes and discussions are raised. All the more so in that there have been limited discussions in relation to the abolishment of the anti-adultery law from family perspectives including conceptual issue of liberal sexual self-determination rights, children welfare that are in blind spots, and overlook from gender perspectives in extramarital affairs.

Second, efforts to define the nature of modern family and develop policy implications at the point of the abolishment of the anti-adultery law produce the following results. Korea's modern family is changing into an arena for close relations that individuals select and build up through mutual adjustment in communities with normative binding power. This indicates that there is a room for accelerated instability in relations.

An observation into extramarital affairs in the context of conjugal relations and issues reveals that there are families having difficulties in responding and adapting to such changes. In particular, such difficulties are discovered in conjugal relations that are unequal. They failed to smoothly address psychological burden and emotional difficulties in the course of divorce, and tended to project their conflict situations into their relations with their children.

Therefore, intervention of experts or organizations in the course of divorce and measures for support are required in order to appease conjugal-conflicts and

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smoothly handle the break-up for those who have difficulties in adjustment and mediation before and after divorce.