

Supplemental Brief for the Constitutional Complaint (3)

Violation of the Prohibition of Blanket Delegation Principle and infringement of the right to equality resulting from the provisions subject to this Constitutional Complaint

Case 2020-hunma-389 Declaration of Unconstitutionality of Article 42 Section
 1 Subparagraph 1 of the Framework Act on Low Carbon, Green Growth

Petitioners Do-Hyun Kim and 18 others

Respondents 1. National Assembly of the Republic of Korea
 2. President of the Republic of Korea

The legal counsel for the Petitioners submits this Supplemental Brief for the Constitutional Complaint.

1. Introduction

In his Reply filed in October 29, 2020, the Respondent President of Republic of Korea asserts to the effect that (i) no ‘legislative obligation’ to set greenhouse gas reduction targets can be derived from the Constitution (page 11), (ii) all the statutes and enforcement decrees subject to this Constitutional complaint are only “declarative provisions” (page 13), (iii) the statutes subject to this petition only stipulate the ‘responsibility’ of the government and do not ‘delegate’ establishment of a greenhouse gas reduction targets, and the provision from the Enforcement Decree subject to this Petition is merely an ‘Executive Decree,’ to which the Prohibition of Blanket Delegation Principle does not apply (page 37) and that (iv) the subject matter provisions not only do not violate the Prohibition of Blanket Delegation Principle, but also do not infringe

on the right to environment, right to life, the right to pursue happiness, and the right to equality (page 39-48).

All the above claims made the Respondent President, however, are against the basic Constitutional principles. It is also deeply disappointing and worrying because such claims disregard 'accumulation of greenhouse gas,' the major factor that is most severely threatening the basic rights such the right to life and the environmental right enjoyed by the people including the Petitioners, and disregard the nation's obligation to protect the basic rights from serious 'climate change' resulting from 'accumulation of greenhouse gas'.

The seriousness of climate change caused by greenhouse gas emissions has already been discussed in detail by the Petitioners in the previously filed written submissions, and is also experienced in everyday life and encountered via media everyday by people across the nation. Accepting the President's assertion, however, leads to a conclusion that even with exacerbating infringement of basic rights of the Petitioners and other citizens caused by serious climate change, (i) no constitutional obligation to enact 'laws' to protect the basic rights of the people by way of 'regulating greenhouse gas emissions' can be established in Korea, (ii) the existing current laws and the Enforcement Decree thereunder at issue are merely 'declarative' provisions that do not have any 'legally binding effect', thus people are not legally protected or guaranteed at all, (iii) the Respondent President can arbitrarily change or discard the greenhouse gas reduction target adopted by the Enforcement Decree at issue without any legal restrictions, and that (iv) people including the Petitioners must bear infringement of the basic rights such as the right to life and the environmental rights in a passive manner, and cannot demand any protection from the State.

Needless to say, this conclusion is unacceptable, and the Petitioners have explained in detail about the unconstitutional infringement on the basic rights by the subject matter provisions by submitting the Complaint and the Supplemental Brief for the Constitutional Complaint (2) of January 26, 2021 to the Constitutional Court.

This Supplemental Brief (3) for the Constitutional Complaint now will state the Petitioners' specific opinions especially focusing on the facts that (i) the laws and the Enforcement Decree thereunder at issue are 'underprotecting' the basic rights of the Petitioners by violating the Prohibition of Underprotection Principle, and that (ii) the said provisions subject to the Constitution Petition are violating the 'equal rights protection' of the Petitioners.

2. Violation of the Prohibition of Underprotection Principle by the statutes and the Enforcement Decree at issue

A. The State's obligation to protect basic rights with respect to 'greenhouse gas reduction targets'

(1) The State's obligation to protect basic rights to regulate the greenhouse gas reduction target by 'law'

(A) The Respondent President argues that no constitutional 'legislative obligation' can be drawn with regard to reducing greenhouse gases, and further contends under the assumption that the laws and the Enforcement Decree thereunder at issue are 'declarative' regulations, to the effect that there is no issue of violation of the 'Prohibition of Underprotection Principle' by the statutes and Enforcement Decree of this case.

This argument, however, is head-on against the Constitutional Court's leading precedent on noise regulation of the Public Office Election Act (the Constitutional Court's decision No.

2006-hunma-711, hereinafter referred to as ‘Precedent on the noise regulation of the Public Office Election Act’).

The above Precedent on the noise regulation of the Public Office Election Act ① with respect to the petitioners’ ‘environmental rights’ as an comprehensive basic right being violated by the ‘noise’ from the use of loudspeakers by the public office candidates, ② recognized the State’s obligation to protect basic rights by ‘law’ and ③ rendered a decision of constitutional nonconformity of the provisions of the Public Office Election Act based on the reasons that the provisions subject to the petition are underperforming its obligation to protect basic right as they violate the ‘Prohibition of Underprotection Principle.’

In the instant proceeding, however, ① the Petitioners’ ‘environmental right’ as a comprehensive basic right is being violated by the emission of ‘greenhouse gas,’ which causes serious climate change, and ② as a result, it is obvious that the State’s obligation to protect basic rights by way of ‘law’ must be recognized, and that ③ as the Petitioners already have stated, the laws and the Enforcement Decree at issue are violating the Petitioners’ basic rights by violating the ‘Prohibition of Underprotection Principle.’ The unconstitutionality of the laws and the Enforcement Decree at issue, therefore, should also eventually be recognized based on the same constitutional jurisprudence of the Precedent on the noise regulation of the Public Office Election Act.

(B) Specifically, in this proceeding, the point that the State’s obligation to protect the basic rights by regulating greenhouse gas reduction target by ‘law’ is clearly recognized also by

the decision of the above Precedent on the noise regulation of the Public Office Election Act with regard to Article 10 and Article 35(2) of the Constitution.

First, regarding Article 35(2) of the Constitution, the above precedent states, “While the specific content of the environmental right and the way to exercise such right are to be stipulated by law (Article 35(2)), the purpose of this provision of the Constitution is to allow the legislature to decide the specific content of the environmental right in compliance with the intent of the Constitution. It does not mean that the legislature can arbitrarily decide the content or refuse to make any law at all even in those circumstances where the environmental right become completely meaningless. Therefore, when certain conditions are met, a petition to the Constitutional Court may be brought for an infringement of people’s environmental rights caused by complete legislative omission or by significantly insufficient legislation to protect the environmental right.” Such decision made it clear that Article 35(2) of the Constitution stipulates the State’s obligation to protect by defining by ‘law’ the people’s environmental rights, which is ‘constitutionally’ recognized, and that the legislative omission or legislative condition where legislation is significantly insufficient which each violates the environmental right clearly constitutes a case in violation of Article 35(2).

The above decision also clearly declares, under the assumption with regard to the “State’s obligation” to guarantee environmental rights that the state has an obligation stemming from Article 10 of the Constitution to actively take measures in response to the infringement of legal interest by a private person, that “considering that the State has an obligation to actively guarantee the basic rights of its people, that Article 35(1) lays on the State and its people the duties to make efforts to preserve the environment, that it is necessary that the legislator

determine a limit for environmental violation for it is often caused by a private person, and that environmental damage can lead to violation of important legal interests such as protection of life and bodies, **the state has an obligation to actively take measures in response to infringement of its people’s environmental rights by a private person, who is a third party.**”

The above decision especially made it clear that “it is necessary that **the legislator** determine a limit for the environmental violation for it is often caused by a private person”, and this also clarified with regard to infringement of the environmental right that the State’s obligation that the legislator must regulate by ‘law’ must be recognized.

However, because ‘Greenhouse Gas Reduction Target’ in question in this proceeding (i) sets the nationwide and mid-long term emission limit on ‘greenhouse gases,’ the number one factor causing climate change, it is the most important issue to deal with to protect the people from the infringement of the environmental rights caused by greenhouse gas emissions and climate change resulting therefrom, and (ii) ‘infringement on the environmental rights by private persons’ is much more problematic since greenhouse gas emission in the private sector is much higher than it is in the public sector, **it is apparent that the State has an obligation that ‘the legislator’ must ‘sufficiently’ protect basic rights ‘by law’ with regard to ‘greenhouse gas emissions.’**

The President’s claim that there is no constitutional ‘legislative obligation’ concerning greenhouse gas reduction targets, that the statutes and Enforcement Decree at issue are ‘declarative’ provisions, or that they simply stipulate the state’s ‘responsibility’ fundamentally has no grounds.

(2) Implausibility of the President’s claim that it merely is a declaration of the Government’s ‘responsibility’

In particular, the President’s claim (page 37 of the Government’s Reply) that the statutes at issue is merely a ‘declaration’ of the government’s ‘responsibility’ to set targets for reducing greenhouse gas emissions and to seek necessary measures is not only fundamentally unacceptable in light of the state’s obligation concerning greenhouse gas emissions, but also cannot be accepted in terms of the text of the Low Carbon Act.

Article 42 of the Act, which stipulates "climate change response and energy target management" including greenhouse gas reduction targets, stipulates the government’s duty to establish specific policy measures and to execute such policies in order to realize low carbon society in conjunction with Article 40 “establishment of basic plans in response to climate change” and Article 41 “establishment of energy basic plans” in Chapter 5 which specifically stipulates ways to “realize low carbon society,” and it does not ‘declaratively’ stipulate the State’s ‘responsibility’ free from legally binding force. According to the Government’s assertion, it follows that the provisions at issue such as Article 42 of the Act would become meaningless directory provisions or invalidated provisions where all the laws exists but the rights of people and the obligation of the State do not exist.

If the provision of the law in this proceeding is seen as a provision that ‘declares’ the government’s ‘responsibility’, it would lead to a conclusion that none of the laws including the Act existing in Korea stipulates for legally binding provisions regarding ‘greenhouse gas reduction targets,’ and this itself would be the same as an self-acknowledgment by the President of violating the State’s responsibility to protect the basic rights.

A. Violation of the Prohibition of Blanket Delegation Principle of the statutes and the Enforcement Decree at issue

(1) Limitations of delegated legislations (the Prohibition of Blanket Delegation Principle)

As long as the obligation of the State to regulate the greenhouse gas reduction targets ‘by law’ is recognized, it is obvious that the specific details of the greenhouse gas reduction targets should be delegated in compliance with the ‘limitations of delegated legislations’ of Article 75 of the Constitution even if the enactment of the specific contents of greenhouse gas reduction targets were to be delegated to the lower statutes.

Regarding the ‘limitations of delegated legislations’, the Constitutional Court also clarified, “According to the Principle of Legislation by the National Assembly under the Constitution, legislative power is an exclusive power within the limits of the Principle of Legal Basis, thus delegated legislations must have certain limits. Otherwise, if general and comprehensive delegation is allowed, there is practically no difference from blank delegation of legislative power, denying the Principles of Legislation by the National Assembly or the Rule of Law, and risking unjust arbitrary exercise of power and unlimited infringement on the exercise of basic rights. Accordingly, Article 75 of the Constitution stipulates that ‘the President may issue presidential decrees concerning matters delegated to him/her by the law with a specifically defined scope’ and provides for the scope and the limitation in addition to basis of the general delegated legislation.” (The Constitutional Court’s decisions such as No. 2011-hunba-390)

Also, with regard to ‘the Prohibition of Blanket Delegation Principle,’ another expression for ‘limitations of delegated legislations’, the Constitutional Court assures that “Article 75 of the Constitution provide constitutional basis for delegated legislation by stating that ‘the President

may issue presidential decrees concerning matters delegated to him/her by law with a specifically defined scope and also matters necessary for enforcing the law,' while making it clear that general and comprehensive delegation is not allowed as it is limiting the scope of matters that can be stipulated by presidential decrees to 'matters delegated by the law with a specifically defined scope'." (The Constitutional Court's decisions such as No. 2011-hunba-390)

(2) Specific content and the standard of review of the Prohibition of Blanket Delegation

Principle

In the Prohibition of Blanket Delegation Principle, (i) "“matters delegated by the law with a specifically defined scope’ means that basic contents about the substance and the scope to be stipulated by the presidential decree are already stipulated in the law so that anyone can predict the general matters to be stipulated in the presidential decree as delegated by the law”, (ii) and “such predictability shall be assessed based on the inter-reliant/systematical and comprehensive interpretation of the relevant statutes, not just based on a single provision at issue, and should be assessed in accordance with the specific/individual nature of the subject matter statutes.” (The Constitutional Court's decisions such as No. 2011-hunba-390).

(3) Violation of the Prohibition of Blanket Delegation Principle of the statutes at issue

Upon reviewing the statutes of this proceeding in accordance with this standard review of the Prohibition of Blanket Delegation Principle, however, it is clear that the statutes at issue are in violation of the Prohibition of Blanket Delegation Principle because there is no ‘predictability’ whatsoever about the rough content and the degree of ‘greenhouse gas reduction targets’ even with the inter-reliant/systematical and comprehensive interpretation of the relevant statutes.

(A) There is no ‘predictability’ whatsoever about the rough content and the degree of ‘greenhouse gas reduction targets’ even with the inter-reliant/systematical and comprehensive interpretation of the relevant statutes.

First, Article 42 (1) of the Low Carbon Act, which delegates establishing ‘Greenhouse Gas Reduction targets’ to the government stipulates as follows:

Article 42 (Low Carbon Act) (1) The Government shall set up medium and long-term targets attached to each particular phase for the following matters and seek active measures necessary for accomplishing the targets in order to cope with the global reduction of greenhouse gases and to promote low carbon, green growth efficiently and systematically:

1. Greenhouse gas Reduction Target

However, the above provisions leave establishment of mid- to long-term and step-by-step “greenhouse gas reduction targets” in Subparagraph 1 to “the government”, and do not provide any ‘structure’ or any rough ‘content’ or ‘degree’ of greenhouse gas reduction targets. The provisions only vaguely states the purpose of greenhouse gas reduction targets as “to cope with the global reduction of greenhouse gases and to promote low carbon, green growth efficiently and systematically,” but it does not need a lot of explanation to show that such general and abstract content are not sufficient to predict the content of the greenhouse gas reduction targets to be stipulated in the lower statutes.

Second, Even if the entire relevant provisions are inter-reliantly, systematically and comprehensively reviewed, it does not change the fact that there is no ‘predictability’ for the rough content and level of the ‘greenhouse gas reduction targets’.

First to take a look at Paragraph 2 and the following paragraphs of Article 42 of the Act, **Paragraph 2** stipulates that “the Government shall, when it establishes targets under paragraph 1,

take into consideration the domestic conditions and trends in other countries.” But because factors such as considering “the domestic conditions and trends in other countries” also are extremely general and abstract, it is of course impossible to gauge from such factors the specific content and the degree of greenhouse gas reduction targets. It is also impossible to know what it means to “consider” it and to reflect on the greenhouse gas reduction targets.

Additionally, **paragraph 3** requires ‘hearing and adopting opinions by holding public hearings’ when ‘changing’ greenhouse gas reduction targets by stipulating that “when changing the greenhouse gas reduction targets, (the Government) shall hear the opinions of relevant experts and interested parties through holding public hearings and others” and “when the opinion is deemed reasonable, it should be reflected”. This, however, is only a ‘procedural’ provision about ‘changing’ greenhouse gas reduction targets and cannot be a standard to gauge the ‘substantive’ content and degree of the greenhouse gas reduction targets, and that this provision’s leaving what makes an opinion raised in public hearings ‘deemed reasonable’ entirely up to the government is effectively same as if there is no limit on the Government’s discretionary power with respect to changing greenhouse reduction targets.

Meanwhile, **Paragraphs 4 through 12** set forth a detailed means of implementation to achieve greenhouse gas reduction targets under the assumption that greenhouse gas reduction targets has been adopted under paragraph (1) 1, and none of the provisions contains a substance which can predict the specific content and degree of greenhouse gas reduction targets.

In addition, even if the scope of consideration is expanded to the entire Act, none of the provisions of the Act can provide a rough estimate of the specific and level of greenhouse gas reduction targets.

Consequently, even if the entire Act is examined inter-reliantly and systematically, paragraph 1 and paragraph 2 of Article 42 of the Act might only be providing the general and abstract content on the purpose and considerable factors of ‘greenhouse gas reduction targets’, it is clearly can be seen that the Act blanket-delegated establishing greenhouse gas reduction targets without providing any substantive standard that can be used to vaguely predict specific content and degree.

To examine the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, both of which are international treaties that the Korean government ratified, (i) Article 2 of the UNFCCC states that the ultimate objective of the UNFCCC is “to achieve stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system” and Article 3 clearly states the principle that the Parties bear responsibility to protect the climate system “on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities”. (ii) Article 2 of the Paris Agreement clearly states that the objective of the Paris Agreement is “**(to hold) the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels**”. (iii) In addition, the quantitative standard from an objective scientific perspectives for reduction of greenhouse gas emissions to achieve the above goal also has been objectively provided through reports such as the Special Report on Global Warming of 1.5°C published by the IPCC, which is an ‘Intergovernmental Panel on Climate Change’.

As such, in order for the Act, a legislation which stipulates greenhouse gas reduction targets in Republic of Korea, to be evaluated as fulfilling the State’s obligation to protect the

basic rights ‘at the very least’ in accordance with the Constitutional principles such as the Prohibition of Blanket Delegation Principle, the minimum standard must be provided ‘by law’ so that greenhouse gas reduction targets in accordance with the above universally accepted international norm and the position of climate science can be established, even if the specific establishment of greenhouse gas reduction targets was to be delegated to the lower statutes. As discussed before, however, no such standard can be found throughout the entire Act including the statutes at issue.

As such, a serious danger, caused by the statutes’ blanket-delegation of establishment of greenhouse reduction targets to the Government without any standard, already has been revealed also by the situation where the Respondent President abandoned, gave up, and discarded the existing ‘2020 Greenhouse Gas Reduction Target,’ which was not implemented at all, and set the almost same figure simply with the delayed target year as ‘2030 Greenhouse Gas Reduction Target’ through the amendment of the Presidential Decree in 2016. Unless the status of the Blanket Delegation created by the unconstitutional statutes at issue is corrected, it will be impossible to stop the Government from arbitrarily changing anytime without implementing at all such targets, as well as to prevent significantly insufficient reduction targets, which are significantly inadequate for protecting the people’s basic rights just as much as the current 2030 Greenhouse Gas Reduction Target, from being established.

(B) Greenhouse gas reduction targets require clarity and specificity of delegation because they might directly limit or infringe on the people’s basic rights.

‘Greenhouse Gas Reduction Targets’ established under Article 42(1)1 of the Act have functions of both (i) ‘guaranteeing the basic rights’ to prevent serious climate change caused by

greenhouse gas emissions and infringement of various basic rights of people and to protect/guarantee all sorts of basic rights such as the environmental rights, and (ii) 'limiting the basic rights' of the people whose production of greenhouse gas emissions are limited to achieve the above goal. Both of these aspects all belong to a case where "the people's basic rights might be directly limit or infringe on", thus it belongs to a case where the need for the delegation's "clarity and specificity is strengthen, and the requirements for and the scope of delegation need to be more strictly narrowly stipulated" (The Constitutional Court's decision No. 1996-hunba-92).

First, to examine the aspect of 'guaranteeing the basic rights' of greenhouse gas reduction targets, climate change caused by greenhouse gas emissions, as previously discussed, is the most critical risk factor threatening and violating all sorts of basic rights including the people's right to life and the environmental right. In such a situation, the State must stipulate greenhouse gas reduction targets by law in order to actively protect the people's basic rights including the environmental rights from the threat of climate change. Accordingly, if greenhouse gas reduction targets were to be established at an insufficient level which is unable to protect the people's basic rights, that itself will result in "directly limiting or infringing on" the people's basic rights.

Second, to examine the aspect of 'limiting the basic rights', greenhouse gas reduction targets as showed in the above inevitably perform a function of limiting the basic rights (e.g. freedom of business of corporations that emit greenhouse gases) of the people who produce greenhouse gases in order to protect the basic rights of the ordinary people, thus from this perspective might also "directly limiting or infringing on" the people's basic rights.

As a specific example, Paragraph 6 of Article 42 of the Act stipulates that the Government shall set up and manage goals for each "management companies (greenhouse gas

emitting companies and energy consuming companies that emit more than the standard amount of greenhouse gas stipulated in the Presidential Decree)” to achieve the Government’s goal under “Subparagraph 1 of Paragraph 1 (Greenhouse Gas Reduction Targets)” , and the Act stipulates in Paragraph 7 that such management companies are obligated to comply with the targets and to report their performance, that the Government may issue an improvement order to the management companies that do not meet the goals in Paragraph 9, that management companies are obligated to report and disclose the results following the improvement orders in Paragraph 10, and that administrative fines are imposed on management companies who violate these obligations (Subparagraph 1~3 of Paragraph 1 of Article 64).

As another example, Article 46(1) of the Low Carbon Act states that “a system for trading greenhouse gas emissions rights can be operated to achieve the national greenhouse gas reduction target”, providing a basis for the ‘greenhouse gas emissions trading system’ to achieve the ‘greenhouse gas reduction target’. Accordingly, Subparagraph 3 of Article 2 of the Act on Allocation and Transaction of Greenhouse Gas Emission Rights defines that “emissions rights’ of Article 42(1) of the Act is the greenhouse gas emissions allowance allocated to individual greenhouse gas emitters within the scope of the total greenhouse gas emissions allowance established pursuant to Article 5 (1) 1 of the Act in order to achieve the greenhouse gas reduction target (hereinafter referred to as the “National Greenhouse Gas Reduction Targets”)”, stipulates the allocation and transactions of these emission rights, and imposes administrative penalties (Article 33 of said Act), criminal penalties (Article 41), or administrative fines (Article 43) for violations of these regulations.

As such, greenhouse gas reduction targets might also “directly limit or infringe on the basic rights” of the people who emit greenhouse gases.

Therefore, considering both aspects of how greenhouse gas reduction targets operate, the requirement of ‘specificity’ and ‘clarity’ for the law that delegates the establishment of greenhouse gas reduction targets in lower statutes should be strengthened.

(C) International legislative cases: legislative cases on greenhouse gas reduction targets in the developed countries.

While the Petitioners were researching international legislative cases with regard to greenhouse gas reduction targets, it was very impressive that the current legislations of the developed countries, as demonstrated below, directly stipulate the countries’ greenhouse gas reduction targets in the law without delegating it to lower statutes (Exhibit 7-1 through 7-8: Original texts from the foreign legislations and the Korean translations thereof).

In light of the legislative cases of each of the advanced countries which directly stipulate greenhouse gas reduction targets in the laws, under the circumstance where countries all over the world are currently facing serious crisis of climate change caused by greenhouse gas emissions together, and where the constitutional principles with respect to the state’s obligation to protect the basic rights to respond to climate change by reducing greenhouse gas are similarly established all around world, it is clear also in a comparative legal approach how the Korean statutes at issue, which are blanket-delegating establishment of greenhouse reduction targets to the lower statutes without providing the specific scope and the standard, are stipulated in such an irresponsible context with regard to the State’s obligation to protect the basic rights concerning climate change and greenhouse gas reduction.

- Germany, the Federal Climate Protection Act: specifies **2030 reduction target** and carbon neutrality by 2050 in the law (Exhibit 7-1)

- UK, the Climate Change Act: specifies reduction target by 2050 in the law (Exhibit 7-2)

- Finland, the Climate Change Act: specifies reduction target by 2050 in the law (Exhibit 7-3)

- New Zealand, the Zero Carbon Amendment Act: specifies carbon neutrality by 2050 in the law (Exhibit 7-4)

- France, 2019-1147 the Energy and Climate Act: specifies **2030 reduction target** and carbon neutrality by 2050 in the law (Exhibit 7-5)

- Denmark, the Climate Act: specifies **2030 reduction target** and carbon neutrality by 2050 in the law (Exhibit 7-6)

- Norway, the Climate Change Act: specifies **2030 reduction target** and 2050 reduction target in the law (Exhibit 7-7)

- The Netherlands, National Climate Act: specifies **2030 reduction target** and 2050 reduction target in the law (Exhibit 7-8)

To closely examine the Federal Climate Protection Act (Exhibit 7-1) of Germany, a country recognized for its well-developed constitutional protection for its people’s basic rights, (i) Article 1 of said Act stipulates the goal of limiting the increase in temperature under ‘the Paris Agreement’ and achievement of ‘carbon neutrality by 2050’ as the purpose of the Act, (ii) Paragraph 1 of Article 3 specifies that greenhouse gas emissions must be ‘gradually reduced **in**

comparison with their levels in the year 1990’ and that **‘the reduction to be achieved by the target year 2030 shall be at least 55 per cent’**, while stipulating in Paragraph 3 that ‘Climate targets may be raised but not lowered’, and (iii) Paragraph 1 of Article 4 provides specific references for stipulating ‘annual emission targets’ by setting ‘annual emission budgets for the respective sectors: energy, industry, transport, buildings, agriculture, waste and others’ to achieve ‘national reduction targets’ and individually specifies in Annex 2 the annual emission budgets for each sector for each year, while (iv) provisions following Paragraph 1 of Article 4 states clearly that such annual emission budgets are ‘legally binding’, and strictly limits the amendment thereof.

In comparison with the content of Paragraph 1, Article 3 of Germany’s Federal Climate Protection Act which stipulates the specific figure of the 2030 greenhouse gas reduction targets in the law, it seems more obvious how loosely the Korea’s Framework Act on Low Carbon, Green Growth regulates ‘greenhouse gas reduction targets’ to the point that it is almost ‘blank.’

In comparison with the legislative cases in the developed countries, it can be clearly confirmed that the current Act does not directly states the greenhouse gas reduction targets or contain any substantial content with regard to delegating such targets.

(4) Deviation of the Enforcement Decree at issue from the limitations of delegated legislation

(A) The Eforcement Decree of this case is an unconstitutional provision that deviates from the limitations of delegated legislation by setting greenhouse gas reduction target based on the blanket delegation of the higher law.

In the Constitutional Court’s decision (Constitutional Court’s decision No. 2003-hunma-715) which ruled unconstitutionality of Article 3(1) of the previous Masseurs Regulation granting masseurs licenses only to the those with visual impairments, the Court **declared unconstitutionality of Article 3(1) of the previous Masseurs Regulation** (enforcement decree of the Ministry of Health and Welfare), **which was stipulated based on the delegation of the higher statute that violated the Prohibition of Blanket Delegation Principle** for the following reasons: “The provisions at issue limit the freedom of choice of jobs for the general public as the regulations enacted by Minister of Health and Welfare stipulate that non-blind people are not allowed to work in massage business under Article 61(4) of the Medical Law, which is unclear or overly comprehensive in terms of the standard and scope of delegation. In other words, violations of the system of the law with respect to the restriction of basic rights of the people, i.e., deviations from the limitations of delegation legislation, occur not only in the form of a mandate in the higher law, but also in the delegated regulations of this case” and that “the provisions of the Decree of this case clearly violate the limitation of delegated legislation since the provisions of this Decree stipulate the matters that have not received delegation from the higher law with a specifically defined scope as the reasons for limiting the basic rights.”

Therefore, as examined before, the provision of the Enforcement Decree of this case stipulating the above greenhouse gas reduction targets in accordance with the provisions of the Act, which comprehensively delegated to the government to set the ‘greenhouse gas reduction target’ in violation of the Prohibition of Blanket Delegation Principle, clearly also is an unconstitutional provision in violation of the limitations of delegated legislation.

(B) The provisions of the Enforcement Decree of this case are not “Executive Decrees” but “Delegated Decrees” that deviated from the limitations of delegated legislation.

On the other hand, the Respondent President, presupposes that the legal provisions in this case are merely provisions that ‘declare’ the government’s ‘duties,’ and argues that the provisions in this case did not ‘delegate’ the greenhouse gas reduction target to the lower statute, and that the provisions of the Enforcement Decree at issue are merely ‘Executive Decrees,’ which stipulated matters necessary for executing laws in accordance with Article 75 of the Constitution, thus violation of the Principle of Blanket Delegation is not an issue (the above Reply page 37). Such a claim, however, is extremely implausible.

First, Article 1 of the Enforcement Decree of the Framework Act on Low Carbon, Green Growth stipulates that “the purpose of this Decree is to stipulate **matters delegated from the Framework Act on Low Carbon, Green Growth**, and the matters necessary for enforcing the Act”, thus makes it clear that the provisions are stipulated in ways that “matters delegated” from Act are stipulated as Delegated Decrees and other matters are stipulated as Executive Decrees which define “matters necessary for enforcing” the Act. As previously discussed, however, Article 42 (1) of the Act clearly delegates the ‘greenhouse gas reduction targets’ stated in Subparagraph 1 to the Government, and Article 25 (1) of the Enforcement Decree of the Act established greenhouse gas reduction targets in accordance with such delegation, it is clear that Article 25 (1) is a Delegated Decree regarding “the delegated matters” mentioned in Article 1 of the Enforcement Decree. All presidential decrees contain a text stating that the presidential decrees stipulate the matters delegated from the higher law (Delegated Decrees) and stating the matters necessary for enforcing them (Executive Decrees) in the same manner.

Second, as discussed before, the ‘Greenhouse Gas Reduction Target’ is a matter that must be regulated by ‘legislators’ and ‘by law’ in terms of the State’s obligation to protect basic rights under the Constitution. As such, even if the entire specifics are not determined in ‘law’ and are delegated to the lower statute, it must be determined by Delegated Decrees in compliance with the ‘Principle of Blanket Delegation’ of Article 75 of the Constitution. Therefore, it cannot be allowed under the above constitutional principles to ‘declare’ only the government’s ‘duties’ that are not legally binding by law with regard to greenhouse gas reduction targets, and set the targets in the lower statutes that are not laws to be set autonomously in the form of ‘Executive Decrees’ without any legal limitations.

Third, the Constitutional Court ruled clearly that (i) “Executive Decrees are subordinate to the higher law and can only stipulate the detailed rules necessary for realistically enforcing the parent law within its scope, therefore unlike Delegated Decrees, it cannot prescribe new rights and obligations” (Constitutional Court’s Decision No. 2000-hunma-604), and ruled that (ii) in declaring unconstitutionality of the provisions of the Enforcement Decree of the Sentencing Act prohibiting ‘writing’ during the period of imprisonment of prisoners, “the enforcement decree of this case regulates the freedom and rights of those subject to the ban of writing during the prohibition period, so it cannot be seen as an executive decree, therefore it is hard to say that legal basis and delegation from the higher statutes are not required.” (Constitutional Court’s Decision No. 2003-hunma-289)

As previously stated, however, the ‘Greenhouse Gas Reduction Target’ functions as (i) actively guaranteeing the basic rights of the people, such as the environmental rights recognized by the Constitution and as (ii) restricting the basic rights of the people who emit greenhouse

gases, and acts as a legal norm that directly affects the rights and obligations of the people, it is not permissible to regulate these matters in the form of ‘Executive Decrees’ without the basis or delegation from the higher law.

Fourth, Article 42 (1) of the Act also states, “The government shall set goals and shall seek necessary measures...for the following matters. 1. Greenhouse Gas Reduction Targets.”

Therefore, (even if the delegation itself is a blanket delegation) it is clear from the text that an ‘obligation’ to establish ‘greenhouse gas reduction targets’ is imposed on ‘the government’ and the act of establishment is ‘delegated,’ and Article 25 (1) of the enforcement decree thereunder also stipulates that “greenhouse gas reduction targets pursuant to 42(1)-1 of the Act shall be...”, making it clear that it is establishing greenhouse gas reduction targets based on the delegation of Article 42(1) of the said Act. Therefore, it is clear that the enforcement decree of this case is a ‘delegated decree’ considering the format and structure of such regulations.

As a reference, an example of an ‘Executive Decree’ relating to the greenhouse gas reduction targets in the Enforcement Decree of the Act is Article 25 (2) of the Enforcement Decree of the Act. This provision stipulates detailed methods and the scope for calculating performance in achieving greenhouse gas reduction targets as determined in Article 1 by stipulating “when calculating the performance in achieving reduction target under paragraph 1, reduction in foreign countries utilizing the international carbon market and others, and reduction utilizing carbon sinks under Articles 55 (2) and (3) of the Act are included”. These requirements are only technical matters necessary for the enforcement of the Act, and can therefore be regarded as an Executive Decree that can be prescribed without any legal delegation.

(5) Summary

Both the provisions of the Act and the Enforcement Decree therefrom at issue are unconstitutional provisions that deviate from the limitations of the delegated legislation stipulated in Article 75 of the Constitution, and while the above provisions are ‘procedurally’ unconstitutional, they ‘substantively’ ‘underprotect’ the Petitioners’ basic rights such as the right to life and the environmental rights. Therefore, the provisions of the Act and the Enforcement Decree therefrom at issue must be declared unconstitutional for violating the Petitioners’ basic rights that are guaranteed under the Constitution.

3. Infringement of right to equality by the provisions subject to this proceeding

The Principle of Equality, the highest principle of the Constitution about guaranteeing the basic rights of the people, is “the standard to be followed by the State when legislating, or when interpreting or enforcing laws, and also is the right of all citizens to demand not to treat unequally without a justifiable reason and to demand equal treatment of the State.” (Constitutional Court’s Decision No. 88-hunga-7) Therefore, there should not be unjustifiable discrimination or unequal treatment in fulfilling the state’s obligation to protect the basic rights against the violation of the basic rights caused by climate change.

The Petitioners are teenagers, the generation who will live until the end of the 21st century, which is the normal predicted range of climate science, and are the generation most susceptible to full-scale damages caused by climate change.

In addition, as the Respondents abandoned, gave up and discarded the 2020 Greenhouse Gas Reduction Target without meeting the target, and set the 2030 Greenhouse Gas Reduction

Target at a level that is extremely insufficient, the burden of greenhouse gas reduction and the damages caused by climate change borne by the Petitioners has greatly increased. This is an unjustifiable discrimination and unequal treatment that are not allowed under the Constitution.

The Constitutional Court decides whether there is a violation of the Principle of Equality based on the following standards: ① whether the comparison targets which are essentially the same in nature are treated discriminatorily and ② whether there is a justifiable reason for such discrimination. (Constitutional Court's decision No. 2007-hunma-444) Below is an explanation of the fact that the current and future generations are being treated in a discriminatory manner and that there is no justifiable reason for this discrimination.

(1) Climate change and 'intergenerational equity'

Climate change is characterized by long-term and irreversible environmental problems on a global level. Unlike the usual environmental problems in which the consequences of cause behavior such as air pollution and water pollution occur immediately, **the characteristics of climate change clearly reveal the difference in interests between generations.** This is because climate change, caused by greenhouse gases that are currently being emitted, and the resulting damages do not occur immediately but occur progressively over decades.

For example, the IPCC points out that 'even if greenhouse gas emissions are completely stopped immediately, the temperature rise does not stop immediately, and it takes about 10 years to slow down the rise'. (Exhibit no. 4, IPCC Fifth Assessment Report, page 125) Just as a giant ship sailing on the sea cannot stop its engine immediately because of inertia, there is a significant

time gap between ‘the change in the concentrations of greenhouse gases’ and ‘the change in temperature’ because of the vast thermal inertia trapped in the Earth’s surface and the ocean.

Such a characteristic (time delay between cause behavior and consequences) of climate change inevitably gives rise to problems of generational inequality related to climate change.

Because greenhouse gases produced to meet the economic needs of the current generation did not have a visible immediate effect on the current generation, the current generation relaxed their minds and did not make enough effort required for responding to climate change corresponding to the current generation’s responsibility. Consequently, large amounts of excess greenhouse gases were continuously released, and as a result, humanity now stands at a crossroads with regard to catastrophic damages humanity would face unless a full immediate response to climate change is taken. Although the Petitioners of the future generation never participated in the above decision-making and never had the opportunity to participate, they have to endure a catastrophic level of damages as a generation.

International law on climate change also clearly recognizes that intergenerational equity with regard to climate change response must be critically considered. The United Nations Framework Convention on Climate Change (UNFCCC) states in its preamble that the Parties to this Convention “determined to protect the climate system for the benefit of present and future generations” and proclaimed as the first principle of the Convention that “the Parties should protect the climate system for the benefit of present and future generations of humankind” (Article 3(1)). The Paris Agreement signed in 2015 also states in its preamble that “[...] should respect, promote and consider intergenerational equity [...] in responding to climate change.” The

UN Framework Convention on Climate Change and the Paris Agreement are treaties ratified by the Republic of Korea's National Assembly and have the same legal effect as domestic law.

Korean law also calls for consideration of intergenerational equity. The Framework Act on Sustainable Development, enacted in 2007. 8. 3. (law No. 8612) which provided ‘sustainable development’ as guiding ideology for environmental law defines “sustainability” as “achieving harmony and balance between generations to meet the needs of the current generation without wasting economic, social and environmental resources that the future generation will use or compromising the conditions” (Subparagraph 1 of Article 2), and also defines the term “sustainable development” as “development in which economic growth, stability and integration of society, and preservation of the environment are balanced based on sustainability” (Subparagraph 2 of Article 2). The Framework Act on Low Carbon, Green Growth subject to constitutional review in this proceeding was enacted as a law that inherits the status as a framework act of the Framework Act on Sustainable Development, and embrace the concept of “sustainable development” in Subparagraph 8 of Article 2, and has a separate chapter for “realization of green life and sustainable development.” As such, the notion of sustainability “to achieve balance between the needs of present and future generations” is included in the purpose and definition of the Framework Act on Low Carbon, Green Growth including the provisions subject to adjudication.

The Constitutional Court ruled that whether the comparison targets that are essentially the same in nature are treated discriminatorily shall be judged in accordance with “the relevant constitutional provisions, and meaning and purpose of the relevant laws and regulations” (Constitutional Court’s decision No. 2007-hunma-444). The Petitioners, who are the future

generation, as citizens of the Republic of Korea equally have the right to life, right to health, environmental right, and pursuit of happiness under the Constitution as much as the current generation does, and have right to the same level of protection that the current generation receives from the State with regard the said basic rights.

In particular, taking into consideration the fact that domestic laws, including international treaties relating to climate change and the provisions subject to adjudication in this proceeding, explicitly require balancing the interests of the current and the future generations regarding damages caused by climate change, **the future and the current generations are essentially the same considering the meaning and purpose of the relevant laws and regulations, thus deserve an equality treatment.**

Contrarily, the Respondent President argued in his Reply dated October 29, 2020 that “current situation” and “uncertain future situation” cannot be targets to be compared to discuss discrimination and are not the same types of comparison targets set forth in Article 11(1) of the Constitution.

As previously discussed, however, the concept of sustainability that requires a "balance between the needs of current and future generations" is clearly adopted as a guiding principle of environmental law through the Sustainable Development Act and the Framework Act on Low Carbon, Green Growth, and enough predictability, at which level legal decisions can be made with respect to the future situation caused by climate change, has been secured by scientific research. In addition, Article 11(1) of the Constitution stipulates that “there shall be no discrimination in **any of** political, economic, social or cultural life” to the effect that **discrimination in all areas is banned, rather than areas limited to political, economic, social**

or cultural life. Therefore, the government’s claim that “future conditions” cannot be a comparison target to discuss equal treatment does not have reasonable grounds, and cannot be accepted for it leads to a conclusion that disregards an important legal interest already being protected by law.

To sum up the above discussion, the current and future generations are the same groups with essentially the same interest that have the right to be protected from the threat of climate change, and discrimination between the two groups fall under the category of discrimination banned by the constitution and laws.

(2) Existence of ‘discrimination’

The core issue of discrimination the Petitioners face as the future generation is that ① due to a current lack of response to climate change, the risk of damage caused by climate change is significantly greater for the future generation than is it for the current generation and ② the economic and social burden of reducing greenhouse gases to prevent such damages is skewed toward the future generation. The Korean government is responsible for exacerbating this risk and burden on the Petitioners by discarding the 2020 Reduction Target without achieving it and replacing it with the 2030 Reduction Target that is far lacking.

(A) Skewed damages of climate change

Scientific research on climate change predicts that damages caused by climate change such as abnormal climate, extreme weather and destruction of ecosystem will continuously increase and will reach a serious level in the second half of the 21st century.

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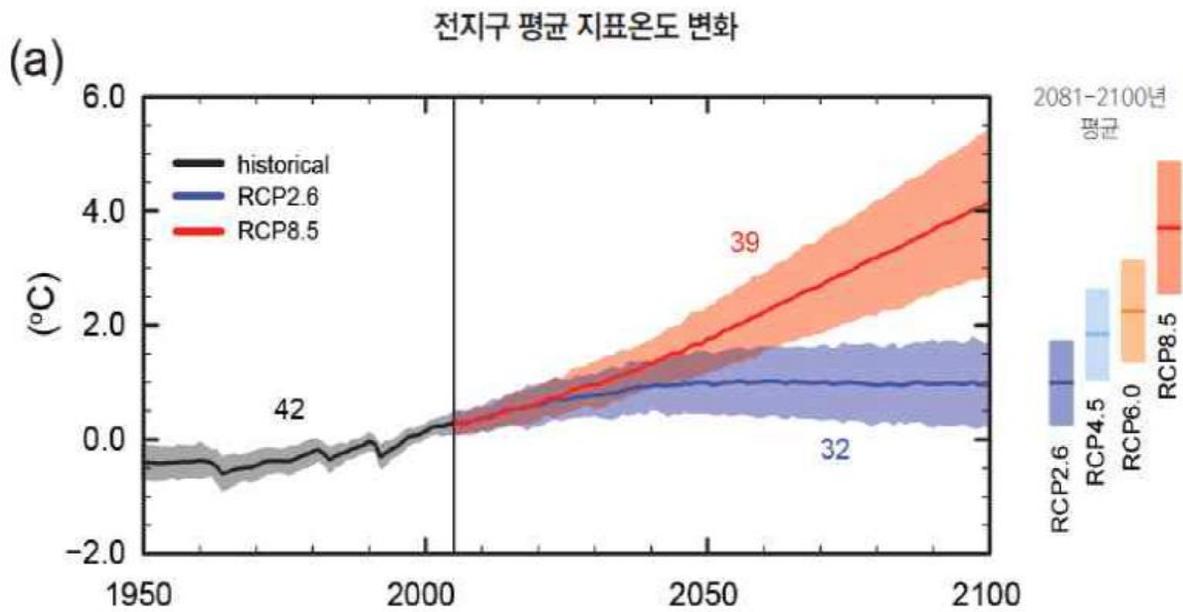


Figure 1. Changes in global average surface temperature [Exhibit No. 1, p. 7, (added red solid line)]

According to the trend of global average surface temperature change in the 5th IPCC Report, if the current greenhouse gas emissions trend continues, the global average temperature around 2050 is expected to rise by 1.5°C, which is suggested as the “Maginot Line” of climate change, compared to pre-industrialization, and from then catastrophic damage to climate change is expected to officially take place. Considering that Koreans’ average life expectancy is 82 years old, it is highly probable that the Petitioners who were born after the year 2000 and are teenagers will live through 2080~2090 following the year 2050 when damages of climate change will irreversibly occur, whereas, the mainstream generation of the Korean society who have made political, economic decision from the year 2010 when the provisions subject to this proceeding were enacted until now are expected to live until around 2040~2060. In addition, it is an obvious

scientific fact that the future generation will bear the greatest burden of damages resulting from climate change during the lifetime.

Especially, the level of damage caused by climate change that the future generation will encounter will vary heavily depending on current responses to climate change. As explained in detail in the Supplemental Compliant filed on 14 May 2020 on page 34, residual carbon budget as of the end of 2017 to prevent the temperature rise below 1.5°C is approximately 420 Gt, and it is expected to be exhausted after 8 years. **This is a clear warning that if urgent action is not immediately taken, temperature rise of 1.5°C will be finalized soon, and that catastrophic level of climate change will be irreversible no matter how extreme of an effort is made.**

Catastrophic consequence resulting from the current generation's decision to 'delay making an effort to mitigate greenhouse gas to enjoy today's comfort' will be passed on to the future generation that is not responsible for such a decision, and the core issue of intergenerational inequality with respect to climate change is that the future generation will not even have an opportunity to fix it.

(B) Burden shifting of climate change response

Greenhouse gas reduction target for climate change response must be set at a level which can prevent catastrophic damages. The 5th IPCC report published for the purpose of providing scientific grounds to specify the objectives of the Paris Agreement points out that it is necessary to limit the temperature rise below 1.5°C compared to the time before industrialization, and **“carbon neutrality” which makes net greenhouse gas emissions to “0” by 2050 must be realized to achieve this.** Having European Union as a leader and Japan as a follower, Korea also adopted the '2050 Carbon Neutrality Goal' in October of 2020. It is widely being accepted

internationally that ‘limiting the temperature rise below 1.5°C must be the goal of climate change’

The problem is that the burden of reducing greenhouse gas during the process of achieving this goal is concentrated heavily on the future generation, and the main cause of this burden shifting is ‘2030 Greenhouse Gas Reduction Targets’ stipulated by Article 25(1) of the Enforcement Decree of the Framework Act on Low Carbon, Green Growth which is the subject matter of this proceeding.

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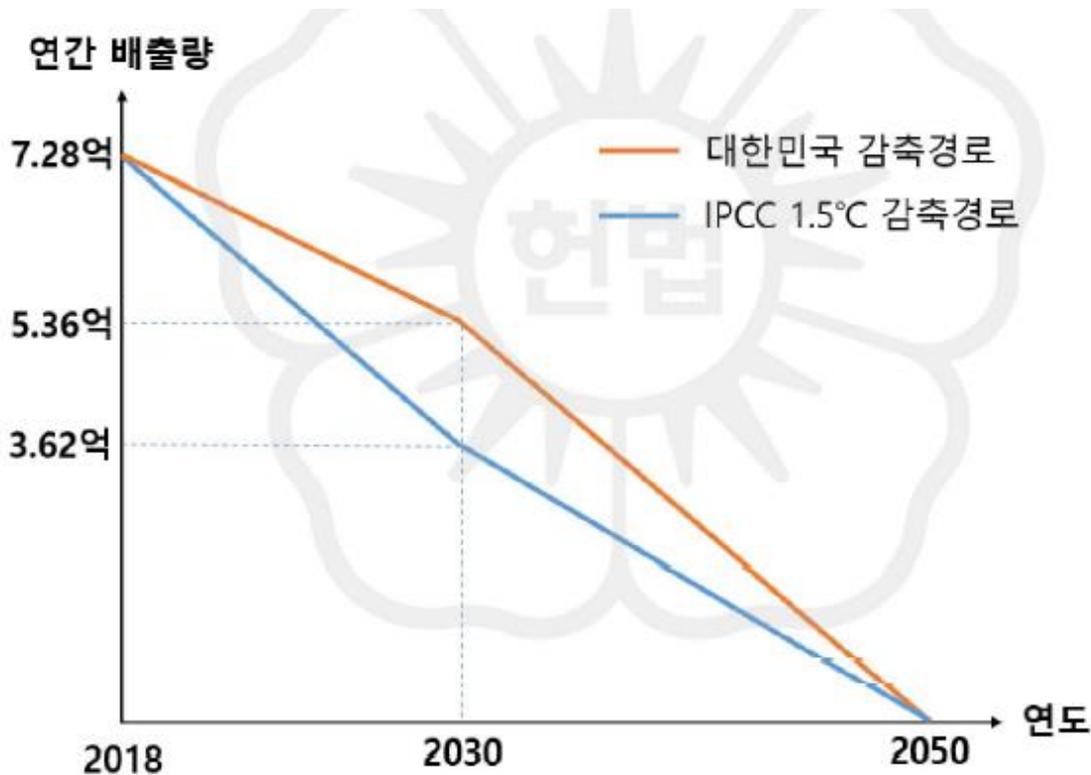


그림 2. 2030년 감축목표와 IPCC 특별보고서 상 요구되는 감축경로 비교

The IPCC 1.5°C Special Report suggested that in order to limit the temperature rise below 1.5°C, global greenhouse gas emission in 2030 has to decrease by at least 45% compared to that in 2010, and has to reach “0” by 2050. Korea’s greenhouse gas emissions in 2010 is 657,600,000 tons, which must be reduced at least to 362,000,000 tons to follow the reduction path suggest by the IPCC. As shown in the above figure, the current 2030 Greenhouse Reduction Target is 536,000,000 tons, it is obvious that (Korea’s greenhouse gas emission) will exceed by a large number even based on the simple estimation of the reduction path leading up 2050 carbon neutrality (Net Zero).

To limit the temperature rise below 1.5°C while maintaining the current 2030 Greenhouse Reduction Target (536,000,000 tons), it is inevitable to enforce a method of 'drastically reducing emissions after the year 2030', because a limit figure of accumulated amount of emission to achieve carbon neutrality will eventually be the same only by drastically reducing emissions after 2030 to offset the emissions overproduced during 2018~2030 (marked red) with the overreduced emission during 2030~2050 (marked blue)

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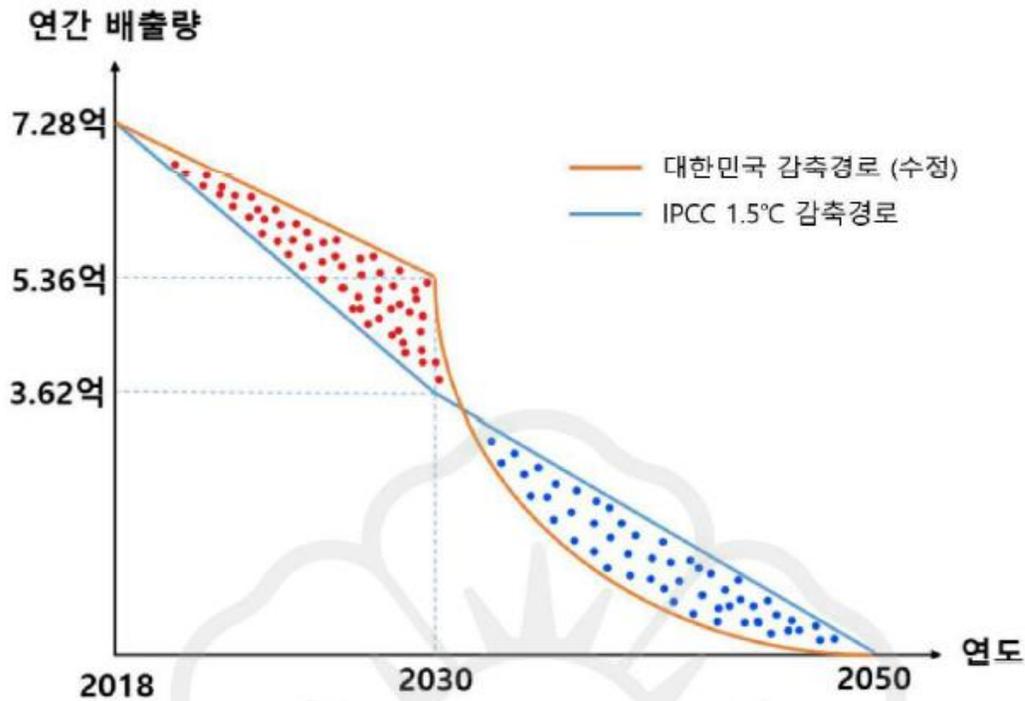


그림 3. 1.5°C 제한을 위한 감축경로 비교

As shown in the above figure, the current 2030 Greenhouse Gas Reduction Target creates a situation where much more greenhouse gas emission must be reduced at much faster rate resulting in huge mitigation burden shifting on the future generation and noticeably lowering possibility of achieving the temperature desired by all humankind. It is because the possibility of achieving the abovementioned drastic greenhouse gas reduction after 2030 is realistically very low. The IPCC also emphasizes that ‘the early reduction of greenhouse gas emission is important’, suggesting that the likelihood of limiting the temperature rise below 1.5°C will increase as the emission level in 2030 decreases (Exhibit No. 3 page 1, 3).

Another comment is that delaying reducing greenhouse gas, rather than proactively reducing greenhouse gas now, will noticeably increase the cost of reduction itself. According to the 5th IPCC Report, if dealing with this burden is postponed until 2030 without implementing additional mitigation policy, ‘cost’ of achieving a level of greenhouse gas reduction that humankind aims for will increase by 44% for the period of 2030~2050 and by 37% for the period of 2050~2100. This suggests that delaying dealing with greenhouse gas reduction burden is **inefficient even from perspective of the society as a whole.**

2100년 이산화탄소 농도 (ppm CO ₂ -eq)	2030년까지 추가 감축 정책의 지연에 따른 비용 증가율 [현재 대비 감축 비용 증가율 %]	
	중기 비용 (2030 - 2050)	장기 비용 (2050 - 2100)
450 - 500	44%	37%
550 - 650	15%	16%

그림 4. 감축 시기에 따른 비용 증가 [갑 제3호증, 86쪽에서 발췌]¹⁾

As such, if the current generation shifts burden of reducing greenhouse gas to the future generation, the future generation will have to deal with **a double burden** of reducing greenhouse gas and increased cost to reduce the same amount. Unlike the Respondent’s claim, such a difference is not an abstract concept that exists somewhere between ‘the present and the future’, but it is **a specific difference occurring between birth cohorts existing as population groups that share statistically the same characteristics distinct to time of birth**, and it is a ‘discrimination against the future generation which violates the future generation’s interest with respect to climate change compared to that of the current generation’.

(3) Unfairness of discrimination

The Constitutional Court of Korea applies two different types of standard of review to review violation of right to equal treatment: the Prohibition of Arbitrary Discrimination and the Principle of Proportionality. The Prohibition of Arbitrary Discrimination reviews whether there is a justifiable reason for discrimination, whereas the Principle of Proportionality, a stricter standard of review, considers whether there is a correlation between the reasons for discrimination and discrimination. (Constitutional Court's Decision No. 2000-hunma-25) In principle, the Constitutional Court applies the Prohibition of Arbitrary Discrimination, and applies the strict Principle of Proportionality in cases in which equal treatment is especially required pursuant to the Constitution or when relevant basic rights may be significantly restricted because of discrimination. (Constitutional Court's Decision No. 98-hunma-363)

First, the future generation represented by the Petitioners enjoys basic rights guaranteed under the Constitution such as right to life, right to health and right to environment as much as the current generation does, and is entitled to protection by the State. As such, 'a measure that shifts burden of responding to climate change to the future generation to reduce economic, social burden imposed on the current generation, and that exposes the future generation to a catastrophic level of danger of climate change' is an apparent discrimination. It is interpreted that the purpose of setting the current reduction target at a low level is to alleviate the immediate economic, social burden. Considering however that damages caused by such a measure will be greater than the degree of alleviated burden, that such delay will increase the risk of causing a catastrophic level of damage, and that delay in reduction will increase the cost of reduction causing a waste in social cost, **such discrimination not only does not have reasonable grounds**

for discrimination but also critically lost balance in the aspect of correlation between the reasons for discrimination and discrimination.

Therefore, no matter what type of standard of review is applied, it leads to the same conclusion that **the Petitioners' right to equal treatment has been violated by discarding the 2020 Greenhouse Gas Reduction Target and establishment of the 2030 Greenhouse Gas Reduction Target**, subject to adjudication in this proceeding.

In his Reply filed in October 29, 2020, the Respondent President of Republic of Korea asserted that measures adopted in accordance with the Act have impact on the whole nation, not selectively on different age groups and generations in terms of the measures' effects and impact.

However, considering that it is a scientifically proven fact that degree of damages from climate change, economic and social burden of responding climate change vary for different generations, that relevant climate laws such as international treaties and the Framework Act on Low Carbon, Green Growth explicitly acknowledge and demand taking into account the problem of intergenerational inequality, and that equal treatment guaranteed by Article 11(1) of the Constitution is not limited to "political, economic, social or cultural life" but extends to "all areas," the above assertion made by the Respondent President is not only irresponsible but also legally implausible.

(4) Summary

Intergenerational inequality with respect to climate change is being discussed as an important issue in climate change litigations around the world. Columbia's highest court ruled that the petitioners' constitutional rights have been violated because the state's failure to prevent deforestation is in "clear violation also in the aspect of intergenerational equity", pointing out that continued destruction of forest will inevitably have a direct effect on the future generation.

The Ontario Superior Court of Justice of Canada in its preliminary decision regarding the test for legal requirement determined that it is necessary to continue to a hearing to review “the right to enjoy the same benefit under law with an equal protection and without discrimination”, because “negative effects of climate change inflicted on the younger generation who are expected to live longer than the current generation is obvious”. (Written Statement submitted by Urgenda Foundation dated December 24, 2020, pages 11-12.)

As such, the provisions at issue in this proceeding infringe upon the Petitioners’ right to equal treatment by significantly discriminating against interest of the future generation compared to the current generation as the said provisions shift burden of damages of climate change and burden of greenhouse gas reduction to respond to climate change to the future generation represented by the Petitioners.

4. Conclusion

The provisions at issue in this proceeding clearly underprotect the Petitioners basic rights including the right to life and the environmental right in violation of ‘the Prohibition of Blanket Delegation Principle’, and clearly infringe on the Petitioners’ right to equal treatment especially by giving rise to unfair discriminatory treatment against the Petitioners who are the future generation. Thus, the Petitioners respectfully request the Court to declare unconstitutionality of the subject matter provisions, which infringe upon the Petitioners basic rights in an unconstitutional manner.

Exhibits

- 1. Exhibit 7-1 Original text and translation of the German Federal Climate Protection Act
- 1. Exhibit 7-2 Original text and translation of the British Climate Change Act
- 1. Exhibit 7-3 Original text and translation of the Finnish Climate Change Act
- 1. Exhibit 7-4 Original text and translation of the New Zealand Zero Carbon Amendment Act
- 1. Exhibit 7-5 Original text and translation of the French 2019-1147 Energy and Climate Act
- 1. Exhibit 7-6 Original text and translation of the Danish Climate Act
- 1. Exhibit 7-7 Original text and translation of the Norwegian Climate Change Act
- 1. Exhibit 7-8 Original text and translation of the Dutch National Climate Act

April 15, 2021

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