

# **Submission by the National Human Rights Commission of Korea to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

23 January 2024

*The National Human Rights Commission of Korea(NHRCK) is submitting below information to the UN Independent Expert on Protection against violence and discrimination based on sexual orientation and gender identity for his report to the 56<sup>th</sup> Session of the UN Human Rights Council on the right to freedom of expression, association and assembly in relation to sexual orientation and gender identity(SOGI).*

## **1. Does your country have any laws, policies, or practices that, explicitly or implicitly, ban, restrict or make more challenging the exercising of freedom of expression by civil society organizations or activists advocating for LGBT persons' human rights?**

While no laws of the Republic of Korea explicitly or implicitly prohibit organizations or activists advocating for LGBT persons' human rights from expressing themselves freely, certain policies and practices restrict this freedom.

In 2023, a civil society organization in Chungcheongnam-do(Province) filed a series of complaints against public libraries demanding the removal of children's books with themes of gender equality and sex education. In a letter addressed to the libraries, the organization specifically and persistently requested the removal of "books that justify homosexuality, transgenderism, abortion, etc." Responding to this pressure, the Governor of Chungcheongnam-do implemented measures in July 2023 restricting access to seven such books across 36 public libraries.

Earlier incidents also highlight restrictive practices. In 2015 and 2017, student organizations at a university with a Christian foundation were denied permission to use an on-campus venue for LGBT-related lectures and film screenings, on the grounds that such activities were incompatible with the university's philosophy. These incidents effectively curtailed freedom of expression regarding LGBT issues.

**2. Does your country have any laws, policies, or practices that, explicitly or implicitly, ban, restrict or make more challenging the exercising of freedom of association and freedom of peaceful assembly by civil society organizations or activists advocating for LGBT persons' human rights?**

While assembly and demonstration laws of the Republic of Korea do not explicitly or implicitly prohibit their activities, LGBT rights advocacy organizations and activists have faced attempts to restrict their freedom of association in practice since 2014. These instances often involve the denial of venues for events aimed at promoting LGBT culture and awareness. This directly impacts the right to freedom of assembly and association for LGBT individuals.

One such case occurred in 2018. LGBT organizations seeking to hold the first Incheon Queer Culture Festival applied for the Incheon Station North Plaza as the venue. However, the Incheon Metropolitan Government's Dong-gu Office denied their request. Instead, the organizations submitted an assembly request to the police and subsequently proceeded with the festival at the chosen location.

Unfortunately, the festival faced disruptions from opposing groups. These individuals employed abusive language and violence against participants, while the police response proved inadequate in ensuring the peaceful assembly of the festival attendees. As a result, the parade portion of the event experienced a roughly five-hour delay.

In anticipation of the 2023 Daegu Queer Culture Festival, human rights organizations and LGBTQ individuals submitted an assembly notice to the police. However, their preparations faced opposition. Organizations, including the Christian Council of Korea, filed a preliminary injunction against the festival, claiming it would "occupy roads without permission and restrict the business freedom of nearby merchants." Despite this challenge, the court ultimately rejected the request from the opposition.

Adding to the controversy Daegu Metropolitan City Mayor Hong Jun-pyo publicly declared on his Facebook page that the festival was "illegal" due to its planned road occupation. He justified this claim by arguing that while public assemblies in Korea operate on a notification system, occupying roadways requires a separate permit, which the festival organizers hadn't obtained. On 17 June 2023, the day of the event, Mayor Hong's words seemingly manifested when approximately 500 city public officials appeared at the festival site around 10 a.m., attempting to prevent the stage from being set up. Despite this action, the police said that the Daegu Queer Cultural Festival was 'legally registered assembly' and intervened to prevent official interference. This intervention resulted in a brief standoff, after which Mayor Hong and the officials eventually withdrew around noon, allowing the festival to proceed uninterrupted.

**3. Are there practices, procedures, groups or actors, societal and political trends, incentives, civil society and constituency mobilization, laws, bills or policies, which you have not mentioned above but that already affect or are likely to affect in the future, directly or indirectly, the exercising of the human rights to freedom of expression, association and/or peaceful assembly by LGBT people, activists and civil society organizations in your country, nationally or locally?**

In 2023, a wave of controversy emerged surrounding regional Student Rights Ordinances. Notably, three metropolitan councils – those of Chungcheongnam-do(province), Seoul, and Gyeonggi-do(province) – proposed their repeal. This contentious development stems primarily from opposition over a specific provision within the ordinances: the prohibition of discrimination based on sexual orientation and gender identity. Specifically, some Christian organizations argue that this provision "promotes and advocates homosexuality," leading them to advocate for its removal. On 15 December 2023, Chungcheongnam-do provincial assembly repealed the Student Rights Ordinance.

Meanwhile, similar debates unfolded in Seoul and Gyeonggi-do. The Seoul Metropolitan Assembly proposed repeal in March 2023, but just before a scheduled vote in December, the Seoul Metropolitan Office of the Superintendent of Education intervened and sought a temporary restraining order against the repeal, which the court granted. As of now, the legal proceedings remain ongoing.

Gyeonggi-do also proposed its own repeal bill on 6 December 2023. These initiatives, particularly the 'successful' repeal in Chungcheongnam-do, raise grave concerns regarding the potential for students' fundamental rights and freedoms to be curtailed.

The repercussions of these repeals go beyond the specific provision focused on sexual orientation and gender identity. By removing the obligation to prohibit discriminatory practices in these areas, the ordinances also weaken protections for students' freedom of expression, assembly, and association. This concerning trend is likely to influence other municipalities, potentially triggering further repeals of similar ordinances across the country.

**Chungnam Student Rights Ordinance Article 15 (Right not to be discriminated)**

1. Students shall be provided with equal opportunities to learn and study at school.
2. Students shall not be discriminated against without reasonable cause on the basis of grade, age, gender, gender identity, sexual orientation, religion, social status, place of origin, school of origin, national or ethnic origin, language, disability, physical condition including disfigurement, pregnancy or childbirth, family income level, family form or situation, race, economic status, color, ideological or political opinion, history of illness, discipline imposed, curriculum preference, or academic performance.

#### **4. Contact Details**

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