

Urgent Appeal to the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Special Rapporteur on the right to education, Working Group on discrimination against women and girls, and Special Rapporteur on violence against women and girls, its causes and consequences

I. Information

Authors

Name

- MINBYUN - Lawyers for a Democratic Society
- Korean Teachers and Education Workers Union Seoul branch
- National Parents' Association for True Education
- National Parents' Association for Realization of Equal Education

Nationality Republic of Korea

Contact

- **Name:** Dasol Lyu
- **Address:** 2F, 74, 46 gil, Seocho-dae-ro, Seocho-gu, Seoul, Republic of Korea
- **Email:** dlyu@minbyun.or.kr

II. Executive Summary

Students' human rights and local governments' human rights policy are at grave risk in the Republic of Korea. Attempts to abolish the Student Human Rights Ordinances and Human Rights Ordinances are continuing in the Seoul Metropolitan Council and Chungcheongnam-do Council, led by anti-rights forces. In particular, the anti-discrimination provision on the grounds of sexual orientation and gender identity has become a target of hatred. In 2018, there was a similar attempt in

Chungcheongnam-do where the province's Human Rights Ordinance was once abolished and then re-enacted. At present, it is highly likely that the Seoul Student Human Rights Ordinance will be abolished at the Seoul Metropolitan Council's regular plenary session in February 2023, and the Chungcheongnam-do Student Human Rights Ordinance and the Basic Human Rights Ordinance to be abolished at the Chungcheongnam-do Council's plenary session in 2023.

The Ministry of Education's 2022 Curriculum Amendment bill announced in November 2022 is also very concerning. The bill plans to delete the terms "sexual minority (LGBT persons)", "gender equality" and "reproductive rights" from all school textbooks and educational policies, which will apply to all elementary, middle and high school curriculum for the next seven years from the year 2024. The Ministry of Education argues that the term "sexual minority" causes confusion about the gender identity of adolescents, and that the term "gender equality" and "reproductive rights" cause unnecessary controversy. However, such claims are clearly based on hatred against LGBT persons and a discriminatory claim that greatly retreats the gender equality perspective in education and a measure that deprives students of their right to education. Nevertheless, under ordinary conditions, it is highly likely that the Ministry of Education will confirm and announce the 2022 Curriculum Amendment by December 31, 2022, and it will take effect immediately.

We request the UN Special Procedures to take immediate action before such grave regression of human rights policies is finalized in the Republic of Korea.

III. Background

1. Soon after the local elections held on June 1, 2022, there were strong attempts by local government councils to abolish the Student Human Rights Ordinance and Human Rights Ordinance across the country.
2. On September 26, 2022, the National Human Rights Commission of the Republic of Korea (Chairperson Song Doo-hwan) expressed concern over the recent controversy over several local governments' attempts to abolish the Human Rights Ordinance and Human Rights Enhancement Committees, to minimize, merge or close down the Human Rights Divisions within local governments. The National Human Rights Commission stated, "The Human

Rights Ordinance aims to realize the basic human rights obligations of the state and the principles of local autonomy as prescribed in the Constitution, and to implement the state's human rights obligations as emphasized by international human rights norms on a local level. It is regrettable that, despite their significance to create local communities that respect human rights, some local communities have been seeking to abolish or reduce Human Rights Ordinance, local Human Rights Committees, and Human Rights Divisions. Such attempts are highly regrettable in that they are retrogressive steps against the human rights values that have been pursued by the society."¹

3. In addition, on November 9, 2022, the Ministry of Education announced an amendment plan to the curriculum that applies to all students in Korea (from elementary to secondary education), which explicitly deletes wordings including "sexual minority (LGBT persons)", "gender equality" and "reproductive rights" from school textbooks. The Ministry of Education explained that it plans to delete the expression of "sexual minority" because there are "concerns over gender minority terms." It also announced that it plans to delete the term "gender equality" and revise the term "sexual and reproductive health and rights" to "sex and procreation health and rights" in consideration of the public's "concerns continuously raised in gender-related expressions."

IV. Recent attempts to abolish the Student Human Rights Ordinance and the Human Rights Ordinance

4. Some of the specific attempts by the local governments in the Republic of Korea to abolish the Students' Human Rights Ordinance and Human Rights Ordinance are as follows:
5. In the case of the Seoul Metropolitan City, on August 18, 2022, the Residents' Claims Bill to Abolish the Student Human Rights Ordinance with the consent of more than 25,000 Seoul residents was submitted to the Seoul Metropolitan Council, which requests abolition of the Student Human Rights Ordinance that

¹ National Human Rights Commission of Korea, NHRCK Chairperson's Statement on the movement to abolish the local Human Rights Ordinance, etc by local governments (in Korean), September 26, 2022, <https://www.humanrights.go.kr/site/program/board/basicboard/view?boardtypeid=24&boardid=7608355&menuid=001004002001> (last visited on December 8, 2022).

was enacted and promulgated in 2012.² The Seoul Metropolitan Council will review whether the bill meets the formal requirements, and once the bill is found to have met the requirements, the bill will be referred to the Seoul Metropolitan Council for deliberation. Currently, it is highly likely that the bill will be passed by the Seoul Metropolitan Council as the Council is dominated by the conservative People Power Party (76 out of 112 Council members).

6. The representative resident of the abolition bill (Pastor Won Sung-woong) argued, "Since the Student Human Rights Ordinance prohibits discrimination against sexual minorities, even expressions based on religion and conscience are considered hateful expressions, violating freedom of expression." He also argued, "The Student Human Rights Ordinance should be abolished because it can be discriminatory for schools and teachers to educate students about the harmful effects of homosexuality, gender transitions, and premarital sex (pregnancy and childbirth)."³ This is a clear hate speech and hate argument against LGBT persons, and an attempt to exclude the youth from comprehensive sexuality education, including sexual rights and reproductive rights.
7. During the Seoul Metropolitan Council's plenary session on November 16, 2022, Council Representative Kim Hye-young (People Power Party), a member of the Education Committee of the Seoul Metropolitan Council, asked the Seoul Metropolitan Office of Education Superintendent's position on the bill to abolish the Student Human Rights Ordinance, stating that, "The Seoul Student Human Rights Ordinance has been provoking conflicts among educational stakeholders, infringing teachers' rights, and used as a means to encourage and enforce sexual liberation, including homosexuality."⁴
8. Similar to the attempts in Seoul, in Chungcheongnam-do province, the bill on the abolition of the Chungcheongnam-do Student Human Rights Ordinance was introduced by the form of residents' request and currently pending before

² J. Kim, Bill to abolish the Student Human Rights Ordinance submitted to the Seoul Metropolitan Council with the list of "60,000 signatures" (in Korean), The Christian Daily, August 18, 2022, <https://www.christiandaily.co.kr/news/117820> (last visited on December 8, 2022).

³ J. Kim, Seoul Student Human Rights Ordinance Abolition Bill Likely to Meet the Signature Requirements (in Korean), The Christian Daily, August 11, 2022, <https://www.christiandaily.co.kr/news/117650> (last visited on December 8, 2022).

⁴ Online News Team, Seoul Metropolitan Council Member Kim Hye-young said, "Educational Community Respecting Everyone's Human Rights Shall Be Created" (in Korean), Seoul Shinmun, November 17, 2022, <https://go.seoul.co.kr/news/newsView.php?id=20221117500139> (last visited on December 8, 2022).

the provincial Council for review. Another bill on the abolition of the Chungcheongnam-do Basic Human Rights Ordinance was also introduced by residents' request in August 2022 and currently under the process of collecting residents' signatures.

9. Both bills on the abolition of Chungcheongnam-do Student Human Rights Ordinance and on the abolition of Chungcheongnam-do Basic Human Rights Ordinance are based particularly on hateful and discriminatory claims against LGBT persons. On its reason for the introduction, the bill on the abolition of the Chungcheongnam-do Basic Human Rights Ordinance states that, the current Ordinance pursues "the wrong concept of human rights," and that "Article 1 (prohibition of discrimination) prohibits discrimination on the grounds including 'sexual orientation, gender identity, various types of family, ideology, and criminal records as discrimination,' which are not agreeable by the local residents, ultimately advocating for homosexuality."

10. In the case of Chungcheongnam-do province, on April 3, 2018, the Chungcheongnam-do Human Rights Ordinance was once repealed by the Chungcheongnam-do Provincial Council, following the request to abolish the Ordinance by religious and conservative groups as the Council was then-dominated by the conservative Liberty Korea Party (current People Power Party). After the local election in June 2018, the Provincial Council acknowledged its wrongdoings of repealing the Human Rights Ordinance and enacted the Chungcheongnam-do Basic Human Rights Ordinance, an elevated version of the previous Ordinance, in October 2018. The Basic Human Rights Ordinance is, after four years, once again under the threat of an attempt to abolish it.⁵

11. In April 2018, Victor Madrigal-Borloz, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, sent a letter to the Republic of Korea concerning the Chungcheongnam-do(or South Chungcheong) Provincial Council's decision to repeal the 2014 Human Rights Ordinance on April 3, 2018.⁶ In the letter, Madrigal-Borloz emphasized that "dismantling the current legal and

⁵ S. Park, Attempts to abolish the Chungcheongnam-do Human Rights Ordinance provokes controversy over 'Unconstitutional' versus 'loss of common sense' (in Korean), Daejeon Ilbo, September 6, 2022, <http://www.daejonilbo.com/news/articleView.html?idxno=2022526> (last visited on December 8, 2022).

⁶ UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, OL KOR 1/2018, 5 April 2018.

institutional human rights framework due to the pressure of anti-rights groups would be of grave concern," and that he would be grateful if his letter could be shared with the members of the Provincial Council members. He also expressed his deep concern about the Council's decision to repeal the Human Rights Ordinance as "it can be construed as including sexual orientation and gender identity as protected grounds of discrimination through a reference to the National Human Rights Commission Act." He further stated that the attempts to repeal the human rights ordinances in various cities "exacerbate hatred against LGBT people, and threaten the human rights architecture put in place in the country to protect LGBT people against violence and discrimination," calling on the government "to adopt all necessary measures to ensure that the human rights of LGBT people are fully respected and to continue promoting legislation and public policies in line with international human rights standards."

V. Significance of the Seoul Student Human Rights Ordinance and its expected repeal

12. Seoul Metropolitan City's Student Human Rights Ordinance is an ordinance specifying human rights that should be guaranteed for students to live a free and happy life with dignity and value as human beings, in accordance with the Constitution of the Republic of Korea and the UN Convention on the Rights of the Child. Six local governments, including Seoul, have so far enacted the Student Human Rights Ordinance which sets the standards of student's rights in school and have contributed to promotion of student rights by establishing a comprehensive system for counseling, investigation and victim relief. The ordinance also helped create a human rights-friendly school community by increasing the human rights sensibility of community members including students, parents and staff.

13. In particular, the Seoul Student Human Rights Ordinance explicitly prohibits discrimination based on sexual orientation and gender identity and has a provision on the protection of LGBT students. In this respect, it is considered to provide the strongest protection for LGBT persons among all existing legal norms in the Republic of Korea.

14. Nonetheless, LGBT students are considered to be the most vulnerable in the Republic of Korea. In its Concluding Observations on the combined fifth and

sixth periodic reports of the Republic of Korea, the UN Committee on the Rights of the Child expressed its concern that “Cases of discrimination based on sexual orientation are persistent, a situation that the State party acknowledged by stating that its policy regarding LGBTI is inadequate” (CRC/C/KOR/CO/5-6, para. 16).

15. In this context, those pressuring to repeal the Student Human Rights Ordinance is making discriminatory and hateful claims and insists that “the Ordinance which only values students’ rights provokes conflict between teachers and students and has changed student-teacher relationship from mutual respect to monitoring-and-control.” However, students’ rights and teachers’ rights are not mutually exclusive and there needs to be cooperation oriented towards the realization of the rights of the marginalized groups in order to guarantee the rights of everyone harmoniously. In other words, a virtuous cycle of change could be reached by guaranteeing and advocating for the students’ rights through teachers’ implementation of their duty to realize the values of human rights, and enhanced respect for teachers’ rights through the growth and development of students who internalized the values of human rights.

16. Once the Bill on the repeal of the Seoul Student Human Rights Ordinance is accepted to have met the formal requirements in December 2022, the Seoul Metropolitan Council will review the proposal at the regular plenary session of the Council in February 2023.

VI. Deletion of the terms “sexual minority”, “gender equality,” and “reproductive rights” from the 2022 Curriculum Revision by the Ministry of Education

17. On November 9, 2022, the Ministry of Education (Vice Prime Minister and Minister of Education Lee Ju-ho) issued an administrative notice on the Ministry’s plan to revise the Elementary and Secondary School Curriculum and the Special Education Curriculum in 2022 (hereinafter referred to as the “2022 Curriculum Amendment”), which include the deletion of the terms “sexual minority,” “gender equality,” and “reproductive rights” from all school textbooks and education policies for the next seven years.

18. The Ministry of Education said it has gone through the process of discussing issues that have been controversial such as "history, ethics, social studies, health, and music" through the curriculum revision consultative body and the curriculum council. In September 2022, the Ministry of Education disclosed 7,860 major opinions by the public on the revision of curriculum. The contents included opinions calling for deletion of terminologies including 'sexual minority,' 'sexual self-determination,' and 'reproductive rights,' and terms that can be interpreted as gender other than both-sex, replacement of the term 'gender equality' to 'equal rights for both sexes,' exclusion of contents regarding homosexuality and gender transition, and deletion of abortion-related content. In response, experts from various fields, including civil society and education, immediately criticized that the opinions are clearly based on hatred against LGBT persons and discriminatory claims that severely regressing the gender equality perspective in education, strongly urging the Ministry of Education to pursue a gender-equal curriculum.⁷

19. However, the Ministry of Education has fully accepted those discriminatory claims that are retrogressive of LGBT persons' rights and gender equality perspective. The Education Ministry's curriculum is a guideline for writing textbooks, and if such revision is confirmed, the contents of "sexual minorities" in high school social studies textbooks will disappear completely from 2025, depriving Korean students of opportunities to learn about sexual orientation and gender identity in the 12-year course of elementary, middle and high school. As the expression "gender equality" in the existing Ethics and Health curriculum will also likely to be replaced to "prejudice regarding sex" and "an ethical issue of gender discrimination," it is of grave concern that inequality in social structure will be dealt with only as a personal and ethical issue. As Sexual and Reproductive Health and Rights will be revised to Sexual and Procreation Health and Rights, students will also be deprived of their right to education on learning sexual rights including women's right to safe and informed abortion based on reproductive rights.

20. In 2019, the UN Committee on the Rights of the Child recommended that the Korean government provide "age-appropriate sexual education, paying special attention to preventing adolescent pregnancies and HIV/AIDS and

⁷ MINBYUN - Lawyers for a Democratic Society Child and Youth Human Rights Committee; LGBTIQ Youth Support Center DDing Dong, [Joint Statement] We denounce the retrogressive 2022 Bill on the Revision of Education Curriculum surrendered hatred and call for the Ministry of Education to hear the voice of LGBT students and values of gender equality that brightens more when deletion attempt occurs (in Korean), November 15, 2022, <http://minbyun.or.kr/?p=53426> (last visited on 8 December 2022).

adequately covering sexual orientation and gender identity; and remove discriminatory and gender stereotypical language from the national standard on school sexual education”.⁸ The Universal Declaration of Human Rights, enacted in 1948, expressed gender equality as a core fundamental right. It is highly regrettable that the current Yoon Suk-yeol administration which emphasizes on liberalism is taking serious backsteps on human rights discourse that has developed in line with the history of modern democracy by deleting universal expressions such as “gender equality” and “sexual minority (LGBT persons).”

21. The 2022 Curriculum Amendment, which is scheduled to be confirmed and announced by December 31, 2022 at the latest, after deliberation by the National Board of Education, will first be applied to elementary school first and second graders by the year 2024 and serve as a guideline for textbooks and teaching classes for the next seven years. It is crucial that the 2022 Curriculum Amendment should be made based on universal human rights. In the public statement, Song Doo-hwan, Chairperson of the National Human Rights Commission of the Republic of Korea, clearly stated that the 2022 Curriculum Amendment which tries to delete the terms including “gender equality” and “sexual minority” will be “hard to avoid criticism that it will regress human rights discourse in the Korean society,” as “the Korean society has been proactively emphasizing the importance of “gender equality,” furthering from its long-time passive prohibition of discrimination on prejudice and discrimination on gender.”⁹ He further criticized that “removal of the term “sexual minority” is a grave concern in that it may intensify discrimination against LGBT persons.”

VII. Requests

22. As examined above, the attempts to abolish student human rights ordinances and human rights ordinances of local governments in the Republic of Korea are becoming visible. If the Student Human Rights Ordinance of Seoul Metropolitan City, where the process is progressing the fastest, is abolished, it

⁸ CRC/C/KOR/CO/5-6, Para. 42(f), 24 October 2019.

⁹ National Human Rights Commission of Korea, Chairperson's statement on the Administrative Notice of the 2022 Curriculum Amendment (in Korean), 28 November 2022, <https://www.humanrights.go.kr/site/program/board/basicboard/view?currentpage=2&menuid=001004002001&pagesize=10&boardtypeid=24&boardid=7608576> (last visited on 8 December 2022).

is highly likely that other local governments' ordinances would also be abolished like dominoes. As mentioned above, in April 2018, when the Chungcheongnam-do Human Rights Ordinance was abolished, the National Human Rights Commission of Korea sent a communication to Victor Madrigal-Borloz, UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, requesting an urgent official visit to the Republic of Korea ahead of the Chungcheongnam-do Assembly's re-voting of the Human Rights Ordinance abolition bill in March 2018. Soon after the Ordinance was abolished, Independent Expert Madrigal-Borloz sent a letter to the Republic of Korea stating his grave concern over the Chungcheongnam-do Council's decision to abolish the Human Rights Ordinance.

23. In a similar manner, we ask the UN Human Rights Council Special Procedures, particularly Independent Expert on the protection against discrimination based on sexual orientation and gender identity, Special Rapporteur on the right to education, Working Group on discrimination against women and girls, and Special Rapporteur on violence against women and girls, its causes and consequences, to pay close attention to these grave situation in the Republic of Korea, and swiftly publish press release or letter to the government expressing their deep concern on the attempts to abolish the Student Human Rights Ordinance and the Human Rights Ordinance by local governments, and on the 2022 Curriculum Amendment bill which tries to remove the terms such as "sexual minorities," "gender equality" and "reproductive rights" from all school textbooks and curriculum, possibly before 31 December 2022.

24. Furthermore, backlash on the rights of women and LGBT persons has been escalating in the Republic of Korea including the educational field. We request

the Special Procedures to conduct an official visit to the Republic of Korea and directly assess the situation, including organizations such as the National Assembly, Ministry of Education, National Human Rights Commission of Korea, and the Seoul Metropolitan Council.

Annex I. Case log

- Aug 18, 2022, “Pan-citizen Solidarity for Abolishment of Seoul Student Human Rights Ordinance” submitted a list of signatures for Seoul Student Human Rights Ordinance Abolition Bill to the Seoul Metropolitan Council
- Sep 6, 2022, the Chungcheongnam-do Provincial Council announced the purpose of claim for the resident ordinance of the Chungcheongnam-do Student Human Rights Ordinance Abolition Bill and the Chungcheongnam-do Basic Human Rights Ordinance Abolition Bill
- Sep 26, 2022, the National Human Rights Commission of Korea issued a statement expressing concern over the attempts of the local governments to abolish human rights ordinances
- Nov 9, 2022, the Ministry of Education issued an administrative notice regarding the 2022 Curriculum Amendment Bill, which plans to delete the terms such as “sexual minority,” “gender equality” and “reproductive rights”
- Dec. 31, 2022, the Ministry of Education’s finalized 2022 Curriculum Amendment to be announced and take effect immediately
- Feb. 2023, Seoul Metropolitan Council to decide on the Seoul Student Human Rights Ordinance Abolition Bill at its plenary session
- In 2023, Chungcheongnam-do Council to decide on the Chungcheongnam-do Student Human Rights Ordinance Abolition Bill and the Chungcheongnam-do Basic Human Rights Ordinance Abolition Bill at its plenary session