

Urgent Appeal

to

- Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association
- Special Rapporteur on human rights defenders
- Special Rapporteur on the rights of persons with disabilities;

February 16, 2023

I. Information concerning the allegation

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¹ Solidarity Against Disability Discrimination (SADD) is a coalition consisting of Korean organisations of persons with disabilities and 190 local, civil, labour, human rights, and culture and arts organisations to abolish discrimination against people with disabilities and to achieve basic rights.

² Korean Disability Forum (KDF) is a coalition consisting of 16 Disabled Peoples' Organisations in the Republic of Korea. Since 2012, KDF has been working for international disability rights advocacy including disability-inclusive SDGs and UN CRPD. It has ECOSOC special consultative status since 2020.

³ MINBYUN – Lawyers for a Democratic Society is an NGO with special consultative status with the UN ECOSOC which strives to advocate for basic human rights and development of democracy in Korea through litigation, research and various advocacy activities since 1988.

⁴ Activists group for Human Rights 'BARAM' - Founded in 2018, Baram is a solidarity and action-based human rights activist network that fights against the discrimination and oppression to protect the values of equality and peace. Baram also works to create a society where the values of equality are embodied by challenging patriarchy and capitalism that suppress the rights of all members of society.

⁵ In 2004, GongGam started out as the first non-profit and full-time public interest lawyers' organization in Korea. Pioneering the field of public interest law in Korea, GongGam has been striving to defend the human rights of the most marginalized in our society by providing an access to justice for those whose voices often go unheard and whose presence unnoticed.

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Endorsing organisations(304 in Korea and 2 overseas)

Korea Council of Center for Independent Living(KCCIL)(91 member organisations), Korean Parents' Network for the People with Disabilities(155 member organisations), National Council of Popular School for People with Disability(32 member organisations), National Council of Right-based Public Jobs, National Solidarity for Right to Mobility of Persons with Disabilities, National Solidarity of Institutionalisation Survivors, Disability Discrimination Act of Solidarity in Korea, Disability and Human Rights in Action("FootAct"), Sex Workers' Liberation Movement Chacha, Korea Women's Workers' Association, Homeless Action, Neurodiversity Support Group Sevada, Solidarity for a Different World, International Democratic Alliance, Green Party, Semiconductor Workers' Health and Human Rights Defenders Roundup, Redemption Workers' Association, Social Coalition for the Elimination of Poverty, Korea Women's Telephone, Orphans' Rights Alliance, Disabled Community, Jinhae Disability Rights Centre, Korean Confederation of Democratic Trade Unions, Human Rights Education Centres, Slug Union, Parents of People with Disabilities Together, Public Interest Lawyers for Human Rights, Creating Hope, Fertility Rights Centre, Youth Housing Rights Network "On" (304 in Korea)

Validity Foundation (International), Disabilitas Tegal Bahari (Indonesia).

II. Executive Summary

Organisations of persons with disabilities (OPDs) and disability rights defenders in South Korea have seen their right to freedom of assembly and human dignity threatened by the government's repressive and violent response.

From December 2021 to February 2023, the Solidarity Against Disability Discrimination ("SADD") has been conducting a peaceful campaign at subway stations in Seoul every morning ("subway-taking campaign") calling the government to guarantee the rights of

persons with disabilities to live in their communities and to allocate sufficient budget for this purpose, with about 20 wheelchair users simultaneously boarding the subway and chanting slogans. However, the government has completely ignored the demands of the OPDs, labelling the campaign as "illegal" and suppressing them through excessive civil and criminal legal measures.

On 2 January 2023, about 200 disability rights advocates, including members of the SADD, attempted a "subway-taking" action to urge the government to guarantee budget for disability rights in the Samgakji subway situation, where the presidential office is located, but were contained by over 800 police force for 14 hours and left isolated in the station. The police violently pushed and knocked activists over, destroyed the electric wheelchair joysticks, and blocked them from using the elevators. The authorities kept warning "stop the illegal demonstration" every 20 seconds with a loudspeaker right in front of the face of the activists whenever the activists were trying to speak up, only to prevent them from being heard.

Even further, subways passed the Samgakji station without stopping to prevent the disability rights defenders from staging the subway-taking campaign. Also, Seoul Metro announced every five minutes inside most subway platforms in Seoul saying, "[T]he subway is running without stopping at Samgakji station due to the protest by the SADD." In addition, disaster safety texts were sent to citizens in the Seoul, Gyeonggi, and Incheon areas, stating that "The subway will pass the Samgakji station without stopping due to the SADD's illegal protest," labelling the subway-taking campaign as "illegal" and stimulating hatred among citizens against the disability rights defenders. This situation was repeated the following day, 3 January, and also on 20 January, the 22nd anniversary of the Oido Station tragedy.

Meanwhile, the Seoul Namdaemun Police Station announced on 2 January 2023 that 24 of the SADD activists who participated in the subway-taking campaigns in 2021 had been sent to the prosecution on charges of obstructing traffic and business (of the Seoul Metro), and that two more were under investigation. In particular, this case was unusually assigned to the Public Investigation Department of the Seoul Central District Prosecutors' Office, an overreach that could have a chilling effect on the activities of human rights defenders by turning them into "public security criminals." On 6 January 2023, the Seoul Metro announced to the media that it plans to file an additional civil lawsuit for about 600 million KRW (about 490,000 USD) against the SADD in damages for their "subway-taking campaigns", in addition to the ongoing lawsuit against the organisation for 30 million KRW. Currently, the SADD activists are suffering from severe trauma after being subjected to violent suppression by the police, the Seoul Metro, and the Seoul Metropolitan as well as severe criticism from subway passengers and the internet users due to malicious media reports, and are struggling to respond to the series of civil and criminal legal actions by the Goliath, the government.

Subway-taking campaign

In 2001, two elderly disabled people in wheelchairs died after they fell from a wheelchair lift at Oido subway station. It sparked the explosive growth of the Korean disability movement. People with disabilities challenged the social structures that discriminated against them in all areas including education, labour, mobility, and deinstitutionalisation, and sought to raise awareness of the reality that people with disabilities had to risk their lives just to use public transportation, one of the most basic elements of social participation. This led to the "Ride the Subway with People with Disabilities" campaign, which began on 9 March 2001. The attempt of a large number of wheelchair users to board a subway with poor wheelchair accessibility at once naturally caused delays, and the campaign became a stark reminder of an ableist society that does not take into account the right to mobility of persons with disabilities. Since then, the subway-taking campaign has become a major form of protest in the disability movement, symbolising (1) criticism of ableist social structures and (2) the 'appearance' of people with disabilities in everyday spaces, showing the South Korean society that people with disabilities are also citizens.

Timeline of the case

- 9 **March 2001**, The first subway-taking campaign. Since then, subway-taking campaigns have been held irregularly to call for guarantee of the rights of persons with disabilities.
- January to November 2021**, subway-taking campaigns took place seven times
- 23 November 2021**, Seoul Metro filed a 30 million KRW (approximately 25,000 USD) civil lawsuit against the SADD and individual disability rights defenders for damages by the seven subway-taking campaigns from January to November 2021
- 8 **December 2021**, OPDs started everyday subway-taking campaign to call for guarantee of disability rights and increased budget
- 19 **December 2022**, the Seoul Central District Court proposed a mediation plan for the civil lawsuit (campaign lasting less than 5 minutes + installation of elevators in subway stations)
- 20 **December 2022**, The mayor of Seoul Metropolitan City, Oh Se-hoon, proposes "truce" to the SADD, which the SADD accepted
- 24 **December 2022**, National Assembly passed the 2023 National budget / Only 0.8% of the SADD's requested amount was reflected. SADD declares subway-taking campaign resumption.
- 26 **December 2022**, Seoul Mayor Oh Se-hoon declares "zero tolerance" to the subway-taking campaign on his Facebook post
- 1 **January 2023**, Seoul Mayor Oh Se-hoon mentions 'zero tolerance from tomorrow' in a radio interview
- 2 **January 2023**, SADD's subway-taking campaign at the Samgakji Subway Station. 14-hour standoff inside the station - many participants injured and the subways passed the station without stopping to prevent the campaign
- 2 **January 2023**, Namdaemun Police Station announces 24 SADD activists sent to prosecution and 2 more are under investigation. Their cases were allocated to the Public Investigation Department of the Seoul Central District Prosecutors' Office, which specialises in public security cases.
- 3 **January 2023**, The second day of the SADD's subway-taking campaign in 2023. Violent dispersal, injuries, and subway nonstop repeated as the previous day.

5 January 2023, The Seoul Central District Court proposed the second mediation plan (removing the 'under 5 minutes' condition following the Seoul Metro's appeal, which means the campaign itself is banned)

5 January 2023, Seoul Metro announces another 600 million KRW (about 490,000 USD) civil lawsuit against the SADD and individual activists for the 75 times of subway-taking campaigns from 3 December 2021 to 15 December 2022.

20 January 2023, To commemorate the 22nd anniversary of the Oido Station tragedy, subway-taking campaigns were held at three subway stations each - the authorities' violent repression, injuries, and subway nonstop happened again.

III. Background

1. South Korea's budget for persons with disabilities is 0.6% of GDP, less than one-third of the OECD average of 2.02%. As evidenced by this unequal budget structure, people with disabilities in South Korea are excluded from various civil rights, including education, labour, mobility, and political participation. In this context, from December 3 2021 to the present, February 2023, the Solidarity Against Disability Discrimination (SADD) has been holding subway-taking campaigns at major subway stations in Seoul,⁶ the capital of South Korea, every morning.⁷ Through the campaigns, the SADD has been urging the government to guarantee the rights of persons with disabilities and to allocate sufficient budget to realise such rights.⁸
2. However, the South Korean government has not responded to the disability community's persistent demands, but rather has labelled the legitimate exercise of their right to freedom of assembly as an "illegal act," and has fomented national hatred against disability rights defenders. In the spring of 2022, in response to a subway-taking campaign calling for the rights of people with disabilities, Lee Joon-seok, then-leader of the main opposition People Power Party (current ruling party), said, "The SADD is holding citizens as 'hostage,'" and stimulated social hatred against the SADD, disability rights activists, and their peaceful campaigns.⁹
3. Despite more than a year of subway-taking campaigns, there has been no concrete policy from the government to ensure the budget for disability rights including

⁶ Subway-taking campaigns were held in different subway stations considering related issues and political climate of certain periods including Samgakji station (near the Presidential office), Gyeongbokgung station (near the Blue House), and the National Assembly station.

⁷ BBC News, South Korea: 'Protesting for 20 years and still no equal rights', 27 January 2023, <https://www.bbc.com/news/world-us-canada-64369810> (last visited on 13 February 2023); BBC News, South Korea disability activists sued by subway bosses for causing 'major disruption', 27 January 2023, <https://youtu.be/aUhkaO1ZPIU> (last visited on 13 February 2023).

⁸ However, the government's response to the OPDs' steady demands has been negligent. The budget for the rights of persons with disabilities demanded by the disability community was 1.3 trillion won, but only 0.8% of the demanded budget, or 10.6 billion won, was reflected in the final budget approved by the National Assembly on 24 December 2022.

⁹ Yonhap News, (LEAD) PPP chief in controversy after criticising disability advocacy group over rush-hour subway protests, March 28, 2022, <https://en.yna.co.kr/view/AEN20220328003751315> (last visited on 13 February 2023).

deinstitutionalisation and independent living. Rather, in November 2022, the Seoul Metro, which operates the subway in Seoul Metropolitan City, filed a civil lawsuit against the SADD, claiming that the subway-taking campaign was an illegal act. In December 2022, the Seoul Central District Court proposed a mediation of sanctioning participants if subway delays over 5 minutes due to the campaign. However, Seoul Mayor Oh Se-hoon, who is in charge of the Seoul Metro, rejected the mediation, saying, "It is absurd to even think about delaying the subway by five minutes since just a minute delay is a serious issue for subways" and declared "zero tolerance" to the campaign.

4. On 20 December 2022, Seoul Mayor Oh Se-hoon posted on his Facebook page titled "I propose a 'truce' to the SADD's subway-taking protest," and requested that the subway-taking campaign be suspended until the National Assembly passes the 2023 budget bill. Accordingly, the SADD stopped the campaign.
5. However, on 24 December 2022, the National Assembly passed a budget that reflected only 0.8% of the budget increase demanded by the SADD. Disappointed with repeated ignorance over disability rights, the SADD announced that it would resume the subway-taking campaign on 2 and 3 January 2023. In a Facebook post, Seoul Mayor Oh Se-hoon said, "Citizens have shown extreme patience in consideration for the socially vulnerable group, and as mayor of Seoul, I can no longer overlook the damage and inconvenience inflicted on ordinary citizens," and promised to take all legal measures, including sternly action at the protest sites.

IV. Crackdown on subway-taking campaigns in January 2023

6. As announced, OPDs resumed their subway-taking campaign on 2 and 3 January 2023. On 2 January 2023, about 250 disability rights advocates, including members of the SADD, attempted to ride the subway at the Samgakji station, where the presidential office is located, calling for sufficient budget allocation for disability rights, but were blocked from taking the subway for 14 hours by about 600 police officers from 10 units deployed to the station. On January 3, 70 disability rights advocates again attempted to peacefully ride the subway but were strongly restrained by more than 200 police officers. The police blocked the subway car doors with shields, violently pushed and knocked the activists down, smashed the electric wheelchairs, and blocked wheelchair users from using the elevator. Inside the station, police and Seoul Metro officials frequently warned the campaign participants with microphones every 20 seconds whenever activists were speaking up, and deliberately interrupted them by shouting into loudspeakers and telling them to stop the "illegal protest." As a result, people who wanted to participate in the subway-taking campaign could not board the subway at all during the two-day campaign. At least 15 people were injured, and wheelchairs were

damaged in the course of the violent repression, which included tampering and destroying wheelchairs, and preventing boarding the subways.¹⁰

7. On 20 January 2023, 17 days after the violent crackdown on the subway-taking campaigns, OPDs, including the SADD, resumed their subway-taking campaign at Oido station, Seoul station, and the Samgakji station on Seoul's subway line number 4, to commemorate the death of two elderly disabled people who fell to death while using a wheelchair lift at Oido Station 22 years ago. Once again, the Seoul Metropolitan Government, Seoul Metro, and the Seoul Police Agency deployed more than 400 police officers and dozens of Seoul Metro employees at each of the three stations respectively only to prevent disability rights activists from boarding the subways, infringing the activists' right to freedom of assembly.

V. Human rights violations and relevant laws

8. The Republic of Korea ratified the International Covenant on Civil and Political Rights (ICCPR) on 10 April 1990, and the Convention on the Rights of Persons with Disabilities (CRPD) on 11 December 2008. As such, the Republic of Korea is obliged to guarantee the right to freedom of peaceful assembly under Article 21 of the ICCPR and the rights of persons with disabilities as prescribed in the ICCPR and the CRPD. However, in the case of subway-taking campaigns, the authorities violated the international human rights laws by infringing the right to freedom of peaceful assembly of human rights defenders, persons with disabilities and OPDs as examined below.

A. Excessive repression, blockades, and kettling of peaceful protesters

9. The UN Human Rights Committee's general comment no. 37 on the right to peaceful assembly (article 21 of the ICCPR) (hereinafter referred to as the "General Comment") makes it clear that containment ("kettling"), where law enforcement officials encircle and close in a section of the participants, may be used only where it is necessary and proportionate to do so, in order to address actual violence or an imminent threat emanating from that section.¹¹ In particular, the General Comment expresses concern about the use of containment that encompass all participants in a gathering, stating that particular care must be taken to contain only people linked directly to violence and to limit the duration of the containment to the minimum necessary. In this case of subway-taking campaign, however, both of these principles were ignored, and the police responded to a peaceful subway-taking campaign that was 1) free of violence and threats, and 2) completely lacking in the principles of necessity and proportionality, by containing and kettling all participants.

¹⁰ Hankyoreh, [Editorial] Seoul's callous response to disability rights protests, January 3, 2023, https://www.hani.co.kr/arti/english_edition/e_editorial/1074256.html (last visited on February 13, 2023).

¹¹ CCPR/C/GC/37, para 84.

10. Specifically, on 2 January, the SADD attempted to ride the subway demanding a budget increase for disability rights at the Samgakji station at 8:00 a.m., but was blocked by the police. About 250 disability rights advocates gathered in the Samgakji Station were overwhelmed by around 640 riot police (10 male riot police units and 2 female riot police teams) deployed inside the station. As a result, the SADD and individual disability rights activists were isolated in the Samgakji station for over 14 hours, subjected to violent police repression, and were prohibited from boarding the subway by a human barricade erected by police forces.¹² The next day, on 3 January, the disability rights activists again tried to board the subway and hold a peaceful campaign, but more than 200 riot police (3 male riot police units and 2 female riot police teams) were deployed to prevent them from boarding the subway again.¹³
11. On January 20, 17 days after the excessive repression of the subway-taking campaign on 2 and 3 January, the OPDs including the SADD resumed their subway-taking campaign at Oido Station, Samgakji Station, and Seoul Station. About 70 disability rights activists scattered at those three subway stations were blocked by more than 400 riot police deployed at the stations, and excessive repression against the campaign was repeated.¹⁴ As a result, disability rights activists were stranded inside the subway station for over three hours.
12. As a result, as the General Comment explained that the containment could easily lead to the violation of the right of peaceful assembly and other rights such as freedom from arbitrary detention and freedom of movement,¹⁵ the police violated not only the right to peaceful assembly but also the right to freedom from detention and freedom of mobility of persons with disabilities and the disability rights defenders.

B. Violent repression against the right to freedom of assembly and the right to liberty and security of persons

13. At the protest sites, the police took measures beyond containment; they violently suppressed the participants by pushing and knocking them down, even from one's own wheelchair, causing physical harm to at least 15 participants and damaging wheelchairs. Many videos and photographs have also been reported of violent repression on the wheelchair users and other participants by the police and Seoul Metro(see Appendix). In addition, the police seriously violated the free movement of persons with disabilities by tampering with the joysticks of the electric wheelchairs of participants with disabilities,

¹² Yonhap News, Disability rights activists again blocked from staging subway protest, January 3, 2023, <https://en.yna.co.kr/view/AEN20230103004151315?section=search> (last visited on February 13, 2023).

¹³ Hankyoreh, [Video included] Police holding shields before the subway car doors, completely blocking the SADD's boarding (in Korean), 3 January 2023, https://www.hani.co.kr/arti/society/society_general/1074177.html?_ga=2.51119535.726319515.1673164421-1618581059.1659270449; Korea Times, Disability activists continue subway protests in Seoul, 4 January 2023, https://www.koreatimes.co.kr/www/nation/2023/01/251_342985.html (last visited on 13 February 2023).

¹⁴ Hankyoreh, 'Subway taking' again blocked even on the 22nd anniversary of the Oido station wheelchair lift tragedy (in Korean), 20 January 2023, https://www.hani.co.kr/arti/society/society_general/1076532.html (last visited on 13 February 2023).

¹⁵ CCPR/C/GC/37, para 84.

forcing them to move in different directions against their will, or by destroying the controllers or turning off the power to immobilise them.

14. This not only is a violation of the right to peaceful assembly, but also a serious violation of the right to liberty and security of the assembly participants.¹⁶ The General Comment emphasises that “only the minimum force necessary may be used where it is required for a legitimate law enforcement purpose during an assembly.”¹⁷ It makes clear that physical force should only be used against violent individuals and should not be excessive beyond the principle of proportionality. However, the violent suppression by the police in January cannot be considered 1) “legitimate” law enforcement and 2) “necessary and proportionate”. Seoul Metro officers also used violent physical force against disability rights activists, including verbal abuse, pushing, and grabbing, while police at the scene failed to take any action against the abusive Seoul Metro officers.

C. Seoul Metro’s obstruction of the protest

15. The Seoul Metro obstructed the peaceful protests of the SADD by having subways to pass stations without stopping, blocking disability rights activists from boarding the subway with ‘Mobile Safety Footplates (portable wheelchair ramps)’, and using broadcasts and loudspeakers.
- a. Subways passing stations without stopping: On 2 January 2023, 13 subways passed the Samgakji station without stopping, blocking any attempts by the OPDs, including the SADD, to stage a protest.¹⁸ This was repeated on 3 and 20 January, as OPDs were again blocked from boarding the subway at Oido Station, Seoul Station, and Samgakji Station, with 16 subways passing without stopping at the Seoul Station for 67 minutes, about 2 subways passing without stopping at the Oido Station for 3 hours, and about 10 subways passing without stopping at the Samgakji Station for 50 minutes respectively.¹⁹
 - b. Blocking boarding on a subway using Mobile Safety Footplates (portable wheelchair ramps): As dangerous accidents have occurred in which infant

¹⁶ ICCPR Article 12; UN CRPD Article 14

¹⁷ CCPR/C/GC/37, para 79.

¹⁸ Yonhap News, SADD’s 13-hour protest, 13 subways of line no. 4 passed without stopping (in Korean), January 3, 2023, <https://www.yna.co.kr/view/AKR20230102030654004?input=1195m> (last visited on February 13, 2023).

¹⁹ Meanwhile, during the second hearing of the Special Committee on the parliamentary investigation into the Itaewon tragedy happened in October 29, 2022, in which nearly 160 people were killed by crowd crush in central Seoul area, Seoul mayor Oh Se-hoon was summoned and was questioned why the Seoul Metro did not close down the Itaewon subway station where tens of thousands of people were packed. As an excuse for not passing the Itaewon station without stopping, Oh said that “non-stop passing of subway stations cannot be decided easily. In principle, each subway station’s chief officer would consider non-stop passing of subways as extremely extraordinary situation and such issue shall generally be discussed between high-ranking officials.” Chosun Biz, Controversy over subway non-stop passing during ‘Itaewon tragedy’ - Opposition party says “even Itaewon business owners’ association requested it”, December 29, 2022., <https://biz.chosun.com/policy/politics/2022/12/29/BHUJYJ3W3RFAVPWFM34QYY5DOY/> (last visited on February 13, 2023).

strollers or wheelchair wheels fell out of wide gaps between platforms and trains, the Seoul Metro has been assisting subway accessibility by introducing "Mobile Safety Footplates" as an ad hoc measure. However, in the process of responding to the rally of the disability rights advocates using wheelchairs, Seoul Metro officials held those "Safety footplates" and used them as shields to prevent wheelchairs from riding the subway.²⁰

- c. Using broadcasting and loudspeakers: Whenever SADD tried to hold a press conference and rally remarks in the Samgakji station, the Seoul Metro broadcasted a warning every 15 to 20 seconds and used loudspeakers right in front of the disability rights activists' faces to say, "You are subject to forced eviction. Leave the station immediately," "The act of making noise, the act of making a speech, and the act of not following the directions of railroad workers on duty in the station are prohibited under the Railway Safety Act. SADD must stop their rally immediately and get out of the station. No compliance may lead to denial of subway boarding." The Seoul Metro's response was very unusual and excessive in light of the fact that indoor rallies in subway stations were not subject to legal restrictions, and that rallies in subway stations were conducted peacefully. Due to the obstruction of the rally by Seoul Metro's use of broadcasting and loudspeakers, the principle that "participants must as far as possible be enabled to conduct assemblies within sight and sound of their target audience"²¹ could not be adhered to.

D. Disruption of moving to and leaving from the protest site

16. UN Human Rights Committee's general comment no. 37 on the right of peaceful assembly emphasises that "[a]ssociated activities conducted by an individual or by a group, outside the immediate context of the gathering but which are integral to making the exercise meaningful, are also covered (by Article 21 and its related rights of the ICCPR)."²² These include guaranteeing mobilisation of resources, travelling to and leaving the assembly afterwards. However, in the case of the SADD's protests, participants' right to freedom of assembly was infringed throughout the progress of the assembly from travelling to and leaving from the protest sites. Due to the shutting down of the elevator of the subway station and the closure of wheelchair entrances to subway platforms, it was impossible for many participants to enter the station, which was the venue for the protest. Activists with disabilities were blocked from boarding the subway by police even after dissolving the protest and thus could not leave the site peacefully.²³

- a. Arbitrary shutdown of elevators: On January 2, the Seoul Metro blocked the use of elevators in the Samgakji station with a notice stating, "Out of order.

²⁰ Kyunghyang Shinmun, 'Safety Footplate becomes a wall, yet a higher and thicker 'wall of cynical smile' (in Korean), January 6, 2023, <https://www.khan.co.kr/national/national-general/article/202301061600005?www> (last visited on February 13, 2023).

²¹ CCPR/C/GC/37, para 22.

²² CCPR/C/GC/37, para 33.

²³ Moon Kyung-hee, a member of the SADD and the Chief of the Sejong Boram Center, was blocked from boarding on a subway by police on her way to home in Sejong city just because she participated in the rally on 2 January 2023.

Under maintenance.” On the next day, January 3, another notice was installed in front of the elevator saying, “Elevator under safety inspection.” However, according to media reports, there was no record of the elevator being out of order. The notice was merely an arbitrary measure to prevent persons with disabilities using wheelchairs from participating in the rally.²⁴

- b. Closure of the wheelchair-accessible entrance to the subway platform: On January 2, 2023, the wheelchair-accessible entrance door to the subway platform was closed with a notice stating, “Out of order. Under maintenance.”

E. Excessive civil and criminal punishment attempts against disability advocates

17. The Seoul Metro filed a civil lawsuit against OPDs, including the SADD, and individual disability rights activists claiming damages of 30 million KRW (about 25,000 USD) for seven protests held in subway stations from January 22, 2021 to November 12, 2021, arguing that those protests were illegal. On December 19, 2022, the Seoul Central District Court decided a mediation plan consisted of (1) Seoul Metro to install elevators at 19 out of 275 subway stations in Seoul that do not have elevators by 2024, and (2) SADD to pay 5 million KRW (about 4,000 USD) per time if the subway gets delayed for more than 5 minutes due to the wheelchairs and other tools between the platform and the subway doors.
18. On 1 January 2023, the SADD announced that it would accept the court's mediation plan and that it would not delay the subway operation no more than five minutes, while recognizing that the mediation plan itself seriously violates the freedom of peaceful assembly for its ‘no more than five minutes delay’ condition clause. However, Seoul Mayor Oh Se-hoon, who is authoritatively in charge of the Seoul Metro, said in a radio interview on 1 January 2023, "It is absurd to even thinking about delaying the subway by five minutes since just a minute delay is a serious issue for subway," adding, "Starting from tomorrow, Seoul will strictly respond with all civil and criminal actions based on a zero-tolerance principle."²⁵ Later on 6 January 2023, the Seoul Metro said it plans to claim an additional 601.45 million KRW (about 470,000 USD) in damages from the SADD.²⁶
19. Seoul Namdaemun Police Station held a press briefing on 2 January 2023 and announced that it has been investigating 29 disability rights activists who participated in subway protests since January 2021, and sent 24 of them to the prosecution after

²⁴ Hankyoreh, [Exclusive] ‘Out of order’ to well-functioning elevator, did they block mobility vulnerable people in order to block the SADD?,(in Korean), 13 January 2023, https://www.hani.co.kr/arti/society/society_general/1075568.html (last visited on 13 February 2023).

²⁵ Although Seoul mayor Oh Se-hoon argued that “just a minute delay is a huge issue for subways,” delayed operations of subways due to defect or systematic error was over 89 days between January to September 2022, while the delayed operations due to the SADD’s protests were 39 days during the same period. Hankyoreh, [Editorial] Administration driven by ‘irritation’, 8 January 2023, <https://www.hani.co.kr/arti/opinion/column/1074885.html> (last visited on 13 February 2023).

²⁶ Yonhap News, Seoul Metro files damages suit against disability rights group over subway protests, 10 January 2023, <https://en.yna.co.kr/view/AEN20230110003100315> (last visited on 13 February 2023).

completing their investigation. This is tantamount to a comprehensive indictment and sending of activists to the prosecution who were directly or indirectly involved in the protests.

20. Meanwhile, although disability rights activists were sent to the prosecution on allegations of general traffic obstruction and interference with business, their cases were allocated to the Seoul Central District Prosecutors' Office's Public Investigation Department, which is dedicated to public security cases such as violations of the National Security Act. It is quite unusual given the fact that there is a specific division (Criminal Department No. 5) at the Seoul Central District Prosecutors' Office dedicated to crimes related to transportation and railway. This is highly likely to violate the principle that criminal sanctions against organisers or participants of peaceful rallies should be non-discriminatory.²⁷ Furthermore, it is particularly worrisome that it may have a chilling effect on the activities of human rights defenders and lead to excessive legal sanctions against them by driving disability rights activists as "public security criminals" in the context of the Korean peninsula where ideological confrontation between the two Koreas are still highly delicate.
21. Article 12 of the UN Declaration on human rights defenders states, " Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms." It is a violation of the rights of disability rights defenders to be subject to criminal punishment for exercising their rights as defenders. This also shows that the difficulties faced by disability rights activists, which the UN Special Rapporteur on human rights defenders, who conducted an official visit to the Republic of Korea in May 2013, pointed out at the 25th UN Human Rights Council in 2014, are still repeating and expanding even after a decade.²⁸

F. Hate speech and promoting public criticism against disability rights advocates

22. These excess and violent suppression of protests and repression against human rights defenders reveal the government's seriously low awareness of protests and human rights. The government's anti-human rights attitude can also be confirmed in the remarks of several key government figures. Choo Kyungho, Deputy Prime Minister and Minister of Economy and Finance, dismissed the disability community's demand for budget increase by saying, "If we include all the ministries' demands, the Republic of Korea will be ruined." Joo Ho-young, floor leader of the ruling People Power Party, also denigrated the struggles for disability rights by saying, "As much as 10.6 billion won(7.8 million USD) was allocated for the disability budget. The SADD is demanding an unreasonable amount and then obstructs innocent citizens from going to work. This is nit-picking. Their vulnerability does not justify all illegal and excessive acts."

²⁷ CCPR/C/GC/37, para 67.

²⁸ "Disability rights defenders face important challenges when trying to exercise their right to freedom of expression and peaceful assembly claiming the elimination of discrimination, including in access to work, education and social welfare. They often face physical violence by law enforcement officials and heavy fines when rallying for the respect and protection of the rights of persons with disabilities." A/HRC/25/55/Add.1, para. 99.

Furthermore, Oh Se-hoon, Mayor of Seoul, also said, "For over a year of subway-delaying protests, citizens showed extreme patience with consideration for the socially disadvantaged," adding, "However, as Seoul mayor, I can no longer overlook the damage and inconvenience inflicted on ordinary citizens. Seoul will take all necessary legal measures including civil and criminal responses as well as sternly action at the protest site." Moreover, Oh Se-hoon publicly declared that the police will crackdown on the freedom of peaceful assembly by saying, "The SADD's announcement of resuming protests is unacceptable. I have already discussed the matter with the head of the Seoul Metropolitan Police Agency, and the police will immediately respond without delay whenever the Seoul Metro requests so."²⁹

23. The government's attempt to spread out social criticism against disability rights advocates can also be reaffirmed by its sending out disaster text messages. On January 2, 2023, the Seoul Metro sent out a 'disaster safety text message' to all citizens in Seoul, Gyeonggi, and Incheon areas stating, "Subway line number 4 heading to Danggogae station are passing the Samgakji station without stopping due to the SADD's illegal subway-taking protests. Please refer to this information for your subway use."³⁰ In principle, disaster safety texts are supposed to be sent only in urgent cases to prevent human life and/or large property damages from disasters such as COVID-19, natural disasters including extreme cold/heat waves, typhoons, and so on. It is significantly concerned that sending out disaster safety text messages that label the SADD's subway-taking campaign as "illegal protest" not only violates the basic principle for operating the disaster safety text message but also aggravates public opinion on protests for the rights of persons with disabilities.

V. Requests

24. As examined above, the authorities are significantly repressing the freedom of assembly and protest of organisations of persons with disabilities as well as disability rights advocates and human rights defenders. Disability rights defenders are already facing serious physical and psychological traumas due to the police's violent crackdown and the Seoul Metro and Seoul city officials' contemptuous treatment.
25. In this context, we ask the UN Human Rights Council Special Procedures, particularly Special Rapporteur on the rights of persons with disabilities, Special Rapporteur on the Freedom of Assembly and Association, and Special Rapporteur on human rights defenders to pay close attention to these grave situation in the Republic of Korea, and

²⁹ MBC, "SADD's resuming protests is unacceptable, already finished response plan with police," says Oh Se-hoon (in Korean), 26 December 2022, https://imnews.imbc.com/news/2022/society/article/6439571_35673.html (last visited on 13 February 2023)

³⁰ Kyunghyang Shinmun, Seoul city notified the SADD's protest via 'disaster text message', citizens questioning 'protocol for sending out text messages' (in Korean), 5 January 2023, <https://www.khan.co.kr/national/national-general/article/202301051705011?www> (last visited on 13 February 2023).

swiftly publish press release or letter to the government expressing their deep concern on the attempts to repress freedom of protest and the rights of persons with disabilities.

26. Furthermore, we request the Special Procedures to conduct an official visit to the Republic of Korea and directly assess the situation, including organisations such as the Seoul Metropolitan city, Seoul Metropolitan Police Agency, the Ministry of Health and Welfare and the Ministry of Economy and Finance.

Appendix 1. Photos of the January 2-3 Subway Campaign

A. The over-deployed police force



January 2, Police force at Samgakji Station to repress the subway-taking campaign
©Newsis

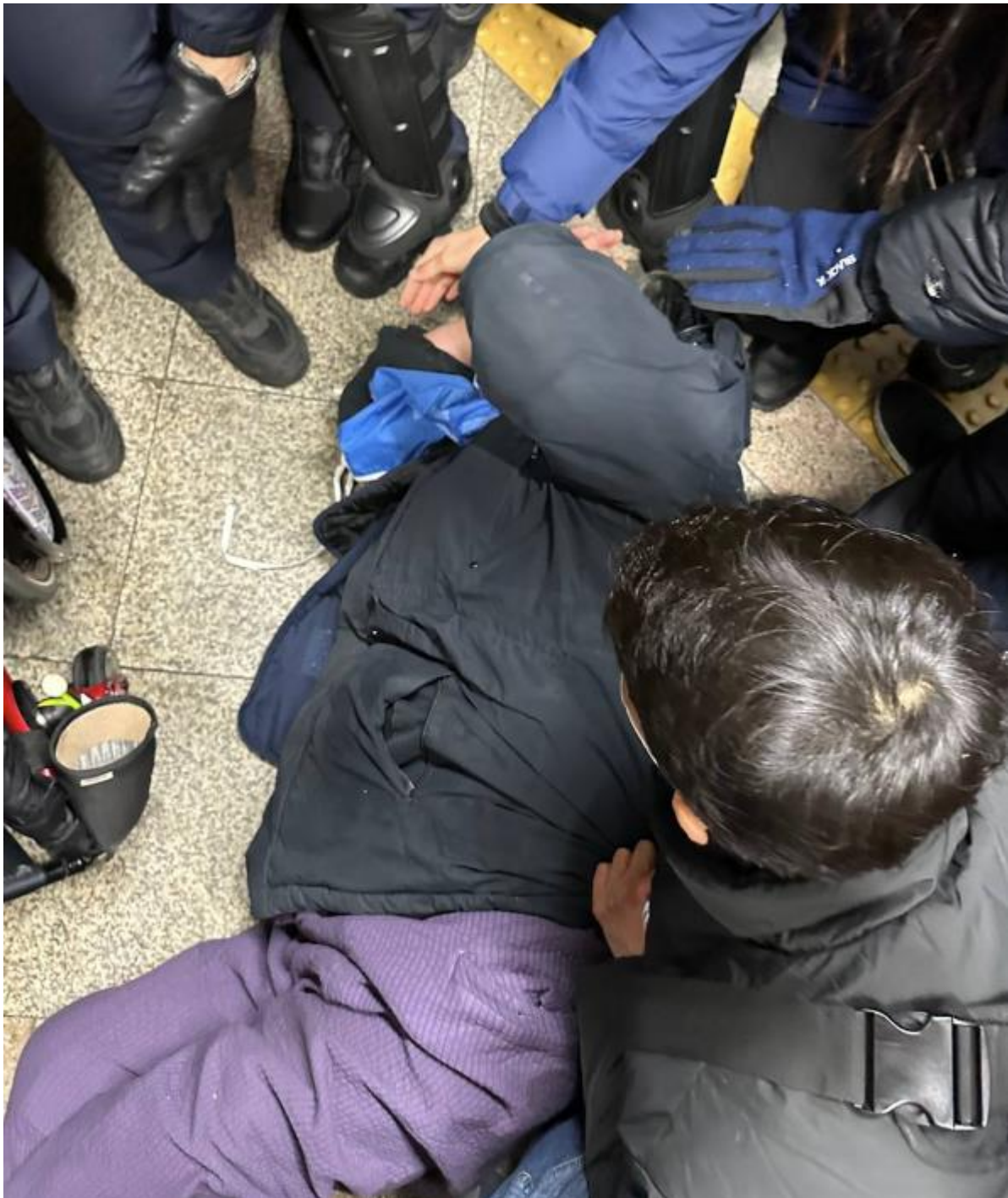


January 2, Police force at Samgakji Station to repress the subway-taking campaign
©Newsjoy



Campaign participants are blocked from taking subway by police

B. Physical/wheelchair damage by the violent crackdown of the Police



An activist has been fallen from wheelchair by the police



A broken wheelchair during the crackdown of the police



Moon Kyeong-hee, director of the Sejong Boram IL Center, who participated to the campaign on January 3 is blocked from taking subway even after the campaign ended.
©Pressian

C. The deliberate interruption of Seoul Metro and Police during the activists' speeches at the campaign

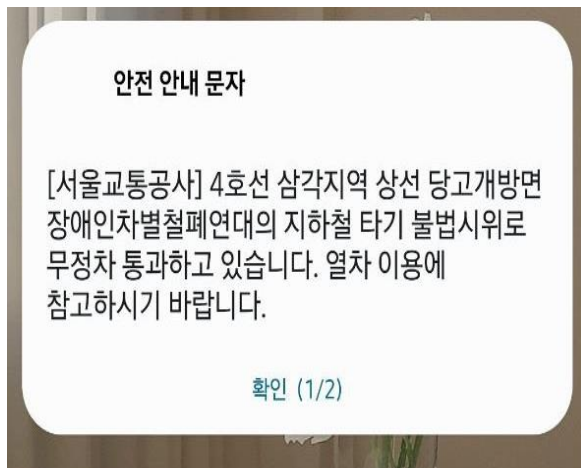


Seoul Metro officer is disturbing activists' speak by repeated warning



A police officer is Police shouting into megaphones to prevent disability rights activists from being heard ©Yonhap News

D. disaster safety texts



On January 2, Seol Metro sent to citizens in the Seoul, Gyeonggi, and Incheon areas, stating that "The subway will pass the Samgakji station without stopping due to the SADD's illegal protest."

E. Videos of the January 2-3 Subway Campaign

The videoclips include violent or traumatizing footage

[-https://drive.google.com/file/d/16-bPeXPmx5uh7ZQycyZ1S6ePQBkqnisc/view?usp=share_link](https://drive.google.com/file/d/16-bPeXPmx5uh7ZQycyZ1S6ePQBkqnisc/view?usp=share_link)

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https://drive.google.com/file/d/1bF0OA3AfNz8vUkHUs_He7V2nPolfYVHi/view?usp=share_link