

Request for the Special Review on the National Human Rights Commission of Korea(NHRCK)

**Joint Action to Correct NHRCK
(Coalition of 36 South Korean NGOs)
South Korean Coalition for Anti-discrimination Legislation
(Coalition of 168 South Korean NGOs)**

1 October 2024

SUMMARY

The undersigned 204 civil society organisations submit the following request to the GANHRI SCA for a special review of the National Human Rights Commission of Korea (NHRCK), as the current work of the NHRCK does not comply with the Paris Principles. The commissioners appointed by the current YOON Suk-yul administration have promoted hatred and discrimination and have prevented the NHRCK from fulfilling its mandate to investigate human rights violations, make policy recommendations and implement international human rights standards by making politically biased decisions, delaying decisions by not holding meetings and intimidating its staff. In particular, the recent appointment of the new Chairperson AHN Chang-ho on 6 September 2024 will accelerate the situation, based on his previous statements, especially during his confirmation hearing in the National Assembly.

1. Background

The National Human Rights Commission of the Republic of Korea (NHRCK) was established on 25 November 2001 under the NHRCK Act (enacted on 24 May 2001). The NHRCK joined the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights (ICC, now GANHRI, Global Alliance of National Human Rights Institutions) in 2004 and was first reviewed for accreditation status in 2008, receiving A status.

The NHRCK has often been cited as a model for national human rights institutions because of its broad mandate, including policy advocacy, investigation, and education, and its ability to address human rights violations and discrimination. However, during the LEE Myung-bak administration (February 2008-February 2013), the first conservative government since its establishment, there was a move to downsize the institution. Under chairperson HYUN Byung-cheol, who was appointed during this period and served from September 2009 to August 2015, the SCA review of the NHRCK was deferred in 2014. In May 2016, after being withheld three times, it was again given an A status.

Since the election of a president from the conservative party in May 2022, the situation of the NHRCK has become even harsher than in 2008, with the appointment of commissioners Lee Chung-sang (appointed by the National Assembly in October 2022) and Kim Yong-won (appointed by the president in February 2023). In addition, the new chairperson, AHN Chang-ho, was appointed by the president in September 2024 and has openly expressed his hatred of LGBT people.

2. Points of Concern

1) Crackdown on Human Rights Defenders (civil society organisations and NHRCK staffs)

Violation

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| <ul style="list-style-type: none">- The UN Declaration on Human Rights Defenders- The Paris Principles Methods of Operation(g) |
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The bereaved families of victims of military human rights abuses and activists who filed complaints with the NHRCK protested against the deliberate delay of their cases. Instead of investigating the cases, commissioners Kim Yong-won and Lee Chung-sang filed lawsuits against them for obstruction of business, trespassing and other charges, and demanded large sums of money in compensation. They have also been highly critical of civil society organisations that have 'legitimately' borrowed the NHRCK meeting room to hold events criticising the NHRCK.

Commissioner LEE and KIM's harassment has not only targeted civil society organisations, but also NHRCK staff. While arbitrarily handling complaints, LEE and KIM have threatened several staff members, sometimes resulting in adverse personnel management. As a result, staff members face difficulties in carrying out their duties following human rights standards and regulations, creating a chilling effect.

The following are some examples of harassment of civil society organisations.

- On 16 October 2023, a complaint demanding a truth investigation into the cover-up of a case of human rights violation in the military (Private First Class Yoon case¹) was dismissed by the Military Human Rights Ombudsman(Commissioner KIM) alone without a discussion. The application for emergency relief against Colonel PARK Jung-hoon, who was accused of pushing ahead with the police transfer of "Marine Corporal CHAE Su-geun's death case, was also dismissed. On the 18th of the same month, the director of the Military Human Rights Centre and 10 bereaved family members of victims of military human rights abuses held a protest at the NHRCK. Commissioners LEE Chung-sang and KIM Yong-won requested the Seoul Metropolitan Police Department to investigate the Director of the Military Human Rights Centre, the bereaved family members, and even the Director of the Military Human Rights Division of the NHRCK on charges of illegal trespass, special detention, and interference with the execution of special public duties, and are suing the Military Human Rights Centre for 100 million won in damages.
- In this particular case, the UN Special Rapporteurs on Human Rights Defenders, the Special Rapporteur on Freedom of opinion and Expression and the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of association jointly sent an allegation letter to the Government of the Republic of Korea in June 2024, expressing concern about the persecution of human rights defenders (AL KOR 2/2024). This is the first time that UN special procedures have written to the Government about the NHRCK Commissioner.
- On 16 November 2023, when civil society organisations held a panel discussion criticising the current situation of the NHRCK in the "legitimately" borrowed meeting room of the NHRCK. Commissioner Lee and Commissioner Kim strongly protested against this and accused then-Chairperson SONG Doo-hwan and Secretary-General PARK Jin of approving the use of the room. This is an attempt to remove the civil society dialogue space and shrink the civic space.
- On 13 June 2024, journalists and civil society organisations attended the Standing Committee to monitor it. Commissioners KIM and LEE said, "Rubbish journalists have been observing the meetings and have written rubbish articles. Do we still need to allow them to observe the meetings?" They also added, "Human rights sellers are also monitoring the meeting, distorting its content, and these activists are recklessly demanding the resignation of the commissioners.

The following are some examples of harassment of NHRCK staffs.

- In connection with a complaint of a violation of freedom of expression regarding a satirical work about President YOON Seok-yul, Commissioner LEE Chung-sang publicly criticised the investigator (staff member) in charge of investigating the complaint, stating that the investigation was unfair and biased. Some staff members filed a complaint against LEE in support of the investigator, and during the process, LEE expressed that the investigator should be severely disciplined. The investigator was eventually forced to change departments because she could no longer work with Commissioner LEE.
- In connection with the above-mentioned lawsuit filed on 18 October 2023 against the Director

¹ Yeonhap News Agency, Army to add sexual abuse charges in soldier death case, 5 August 2014, <https://en.yna.co.kr/view/AEN20140805003351315>

of the Military Human Rights Centre and the bereaved family members, the Director of the Military Human Rights Division of the NHRCK was also the subject of a lawsuit filed by Commissioner KIM. In the end, the Director of the Military Human Rights Division had to be transferred to another department because he could no longer work with the Military Human Rights Ombudsman (Commissioner KIM).

- The Centre for Military Human Rights (civil society) requested an investigation report on the case of Colonel PARK Jung-hoon, who was accused of pushing for the police transfer of the "death of Marine Corporal CHAE Su-geun" case, under the Official Information Disclosure Act. The staff in charge legally released the report by the law, but Commissioner Kim verbally threatened to take disciplinary action against the staff at the plenary meeting on 10 June.
- At the Standing Commission meeting on 13 June 2024, it was revealed that Commissioner KIM had summoned the director of the Information Disclosure Division and forced him to sign a document stating that "all this is being done because of illegal instructions from the then chairman". As a result, the director of the said department took sick leave due to extreme stress.
- At the same meeting, Commissioner LEE disclosed the personal information (CVs) of three Deputy Directors who were to be recruited and made derogatory remarks about them, including that they could not work because of their political bias due to their background. To date, the recruits have not been properly assigned to their positions and are not working.

2) Neglect of the work of the NHRCK

Violation

- Paris Principles Competence and responsibilities 3(a)(iii)
- Paris Principles Competence and responsibilities 3(b)
- Paris Principles Methods of Operation (a) and (d)
- Paris Principles Additional principles concerning the status of commissions with quasi-judicial competence (a) and (b)

The NHRCK has 6 sub-committees, weekly Standing Committee and fortnightly plenary meetings to deal with various human rights complaints, policy issues, etc. However, due to the appointment of Commissioners Lee and Kim and some other Commissioners under the current administration, these meetings have not been held for a long time, or when they have been held, they have not been able to properly discuss the agenda due to off-agenda remarks. This has resulted in delays in the processing of complaints, inability to take decisions on important human rights issues, and delays in the publication of the '2023 Human Rights Report', a comprehensive report on the human rights situation in the Republic of Korea for one year, and many others. All these have seriously hampered the functioning of the organisation, resulting in a decline in the number of complaints and a loss of confidence in the NHRCK as an independent human rights institution.

The following are some examples of negligence in their duties.

- Since 2010, neither the Standing Committee nor the Plenary Committee has failed to meet due to "lack of quorum". But since 20 April 2023, the Standing Committee has not met 15 times and the Plenary meeting 3 times. The reason for this paralysis is that whenever there was a

disagreement, Commissioner LEE and Commissioner KIM simply left the meeting room after making a point of order. For example, the policy recommendation on workers' strikes was on the agenda and LEE and KIM disagreed on the agenda. So the then Chairperson SONG asked to send this agenda to the plenary for a wider discussion and LEE and KIM left the room saying that many members were inclined to support the recommendation at the Plenary.

- The NHRCK has six sub-committees, each composed of three commissioners (one standing commissioner and two non-standing commissioners). Since its establishment in 2001, the NHRCK has referred cases to the 11-member plenary unless the subcommittee reaches a unanimous decision. This was done to ensure that the human rights of victims who came before the NHRCK were fully guaranteed. However, Commissioner LEE Chung-sang proposed that if the subcommittee disagreed, the case should be dismissed at the subcommittee level rather than being referred to the plenary. Since this proposal was not included in the agenda at the Plenary, in June 2024, non-standing commissioners HAN Seok-hoon, LEE Han-byul, KIM Jong-min, KANG Jeong-hye, standing commissioner LEE Chung-sang and KIM Yong-won boycotted the plenary session, and the plenary session did not take place for two months in July and August due to lack of quorum. If, as they claimed, a subcommittee's motion is rejected by one of its members, there is a high risk that sensitive issues, especially those related to human rights violations by state authorities, will end up being dismissed rather than discussed among members. The first time this issue was raised was in August 2023, when a complaint about the obstruction of the Korean Council for Justice and Remembrance for the Issues of Military Sexual Slavery by Japan (The Korean Council) from holding a rally was considered by Subcommittee 1 on Violation Remedies when Commissioner KIM Yong-won unilaterally dismissed the case and closed the meeting. Since then, Subcommittee 1 has not met for four months. This is a clear example of the dangers of one person's dismissal. In the end, on 26 July, the Seoul Administrative Court ruled in favour of the Korean Council that the new interpretation of the 'subcommittee quorum' was illegal, and the NHRCK decided not to appeal. However, the standing commissioners KIM Yong-won and LEE Chung-sang refused to abide by the Administrative Court's ruling.
- Even when the plenary meeting was held, there were many cases where the agenda was not discussed. For example, on 11 March 2024, the plenary session did not take up the agenda two hours after the opening due to the scathing remarks made by KIM Yong-won against the then-chairperson SONG Doo-hwan and the secretariat. The plenary session that started at 3 p.m. took five hours of debate and ended at 8 p.m. Even when the session ended at 8 p.m., not a single vote was taken on any of the five agenda items. The disability rights cases had been raised six times before that day, but had never been discussed and were not even up for discussion that day. In the end, one of the disability-related cases was read eight times and the other ten times, and it can be said that there was hardly any discussion during this long period.
- Since 2022, the NHRCK has been publishing the Human Rights Situation Report, which describes the human rights situation in the country during the year, evaluates it and makes recommendations for its improvement, according to Article 29(1) of the NHRCK Act. However, Commissioner KIM and Commissioner LEE raised opinions such as "Is it really necessary?" and "It is difficult to agree" and have opposed the publication of the report for more than 5 months since it was first presented to the plenary on 22 April 2024. The discussion on this agenda item has always been open to the public and will be presented again at the first plenary session of the new chairperson AHN Chang-ho on 30 September 2024. The new chairperson has decided

to hold the meeting in private so that the public cannot follow the session.

- Most worrying is the decline in the NHRCK's credibility as a human rights protection institution. As of June 2024, the number of complaints processed decreased by 1,204 (21.4 per cent), from 6,555 to 5,150, compared to the same period last year. The number of complaints themselves fell by 497 (9.3%), from 5,361 to 4,864. The number of remedial actions, including recommendations, disciplinary recommendations, settlements and decisions under investigation, decreased by 348 (40.6%) to 508 compared to 856 in the previous year. The most significant decrease was in the number of recommendations for violations involving public authorities such as prosecutors and police, which fell by 72% from 307 to 85. On the other hand, the number of recommendations and disciplinary actions in 'discrimination cases' increased by 12.5 per cent, from 40 to 45. The data clearly show that the sub-committees chaired by Commissioners Lee and Kim are taking a passive approach to recommendations.

3) Concerns about undermining the credibility and independence of the NHRCK due to political and religious beliefs and closedness

Violation

- Paris Principles Composition and guarantees of independence and pluralism

Article 3 of the NHRCK Act states that “There is hereby established a National Human Rights Commission to deal with affairs to protect and improve human rights under this Act and the Commission shall independently deal with the matters which fall under its jurisdiction.”, which is in line with the Paris Principles. However, Commissioners LEE Chung-sang and KIM Yong-won have taken a partisan view of the NHRCK's agenda, adhering to pro-government positions and paralysing its function as a watchdog, preventing it from fulfilling its role of sanctioning discriminatory behaviour by both the private and public sectors. This will undermine its independence and accelerate the erosion of trust. In addition, the new Chairperson, AHN Chang-ho, who was appointed on 6 September, was a leading anti-LGBTI and anti-discrimination advocate before his appointment and made his stance very clear during his parliamentary confirmation. This makes the future of the NHRCK under Ahn's tenure all the more worrying.

The following are some examples.

- Since the NHRCK's role is to review human rights policies, laws and regulations, and call for changes in systems and practices, it is likely to be critical of government policies. However, Commissioner LEE Chung-sang expressed discomfort when the human rights report contained critical comments about the government. Commissioner KIM Yong-won has also taken a pro-government stance and reflected this in his decisions, such as saying, 'The NHRCK should not tell government departments to do this and that', and when discussing the NHRCK's submission to the CEDAW, he criticised the draft report for including criticism of the current government's position on Japanese military sexual slavery.
- During his confirmation hearing at the National Assembly on 3 September 2024, AHN Chang-ho, the then-candidate of the NHRCK Chairperson, repeatedly stated that he had 'strong support on freedom of expression' and that is why he opposed the enactment of anti-discrimination law

because it excessively infringed on freedom of expression. However, he did not answer the question of whether freedom of expression was infringed on in the case of the satirical work about President YOON mentioned above

- We are particularly concerned about the appointment of Chairperson AHN because it has the potential to undermine not only the independence of the NHRCK but also the constitutional principle of separation of church and state. During his confirmation hearings, AHN's views were confirmed by his verbatim statement that 'the concept of sexual orientation includes not only homosexuality but also sodomy and pederasty', as advocated by an extreme Christian group. As a result, the disqualifying comments in his confirmation report included the phrases 'biased view and religious views of the candidate may distort the work of the NHRCK' and 'hatred and discrimination against minorities may accelerate in society and deepen the conflict in the country'. Despite strong opposition from civil society, President YOON Seok-yeol pushed through the appointment today. Including the Chairperson AHN, this brings to 29 the number of ministerial-level appointees who have been appointed by the Yoon administration without the National Assembly's approval of their confirmation hearing reports.
- According to Article 14 of the NHRCK Act, the meetings of the NHRCK should be open to the public, and international and national civil society organisations have called for greater transparency and accountability of national human rights institutions by making their meetings and minutes public. However, the transparency of the NHRCK's deliberations is currently under threat. Commissioners KIM Yong-won and LEE Chung-sang are reluctant to allow their remarks at meetings to be publicly reported. On 13 June 2024, during the Standing Committee, they insulted and verbally abused journalists and civil society organisations who had come to observe the meeting. They were also uncomfortable with the transparency and openness of the discussions, arguing that the Standing Committee should be held in private. If the new Chairperson AHN agrees with Commissioner LEE and KIM, all meetings of the NHRCK will be held in private. The decision of Chairperson AHN to hold the first plenary session in private shows the bleak future of the NHRCK.

4) Setbacks in efforts for the protection of vulnerable minority groups

Violation

- Universal Declaration of Human Rights Article 2
- Paris Principles Competence and responsibilities 3(a)(ii)
- Paris Principles Competence and responsibilities 3(b)

In recent years, some of the most vulnerable and marginalised groups in South Korean society have included LGBTI people, workers exercising their right to freedom of assembly and association, and victims of tragedy. The NHRCK has always been a protector of these groups, but this is no longer the case. Instead, it has become a perpetrator of discrimination against minorities.

The following are some examples.

- In the decision on the "Recommendation to improve the human rights situation in military boot camps", Commissioner LEE wanted to submit a minority opinion. In the draft, he made a

homophobic comment that 'if homosexuals live in nappies because their anus is torn and they often leak faeces, but they like it, then the homosexual is suffering human rights violations and is not aware of it'. It is not relevant to the original case and not based on fact, so it was not included in the final decision. It was reported by the media and Commissioner LEE filed a lawsuit against the journalist for defamation, but the court confirmed that it was hate speech by the Commissioner LEE. Since the appointment of the new chairperson, the composition of the commission has changed and we cannot predict what will happen in the future.

- In the past, the NHRCK has provided preventive measures such as water, food and cold protection to workers at dangerous protest sites in urgent need. Likewise, when the worker held a protest at the 55-meter high incinerator tower at the Ulsan Factory of Korea Alcohol, the investigator(NHRCK staff) visited the site and provided drinking water and cold shelter to the protesters. However, on 11 March 2024 at the Plenary meeting, Commissioners KIM Yong-won, LEE Chung-sang and HAN Seok-hoon criticised the investigator's visit as "an illegal act" on the grounds that emergency relief measures should be decided by the Standing Committee. However, as mentioned above, the Standing Committee did not meet properly because of the boycott by Commissioner Lee and Commissioner Kim. The investigator decided that it was not possible to wait for the Standing Committee to decide as the workers' lives were at risk. It is likely that workers in urgent need will not receive any protection from the NHRCK in the future.
- Commissioner LEE Chung-sang attended the 4th cycle of the UPR of the Republic of Korea and made an oral statement on behalf of the NHRCK. The original draft, approved by then Chairperson SONG Doo-whan, included the NHRCK's concern about the 'military sodomy law' (Article 92-6 of the Military Criminal Act), but deliberately omitted to read this part.
- In early 2024, during the discussion of the draft written submission of the Republic of Korea's 9th Periodic Report to the UN Committee on the Elimination of Discrimination against Women (CEDAW), Commissioner KIM made remarks that 'Japan is needed to counter North Korea, China and Russia in the current international situation, and that Japan should not continue to stir up anti-Japanese sentiment by raising the issue of Japanese military sexual slavery', which represents the current government's position. Commissioner LEE and Commissioner KIM strongly argued for the removal of the recommendation to enact anti-discrimination legislation in the report and made hateful remarks against LGBTI people. The report was finally adopted on 27 March and included the most controversial recommendations, such as calling on the Japanese government to investigate and apologise for sexual slavery in the Japanese military, but the recommendation to enact a comprehensive anti-discrimination law was dropped as it did not receive the support of a majority of Commissioners. However, the recommendation to enact a comprehensive anti-discrimination law was included in the CEDAW Committee's Concluding Observations to the Government of the Republic of Korea.
- Commissioner LEE Chung-sang openly made demeaning remarks about the victims of the tragedy, and at the Plenary meeting, he opposed the enactment of the "Itaewon Special Law" (Oct. 29 Itaewon Tragedy Victims' Rights Guarantee, Truth and Prevention of Recurrence) and said, "Is the Itaewon Tragedy, which was an accident caused by a crowd of people who were pushed and fell while enjoying their festivities, more valuable than May 18 Uprising when the state was heavily armed and deliberately killed citizens?", showing a lack of respect for the victims of the tragedy.
- Whenever Commissioner LEE was asked to refrain from making anti-human rights statements,

he claimed that his comments were 'minority views in the NHRCK and should be protected from the violence of the majority'. This statement is now frequently used by the new NHRCK Chairperson, AHN Chang-ho, to argue that the human rights of minorities, especially LGBTIs, cannot be protected for the sake of the human rights of the majority, further threatening the human rights of minorities.

3. Conclusion

Given the current situation of the NHRCK, we believe that it is completely incapable of meeting the standards set out in the Paris Principles, and we, the 204 civil society organisations, urgently request that the GANHRI-SCA reconsider its A status.

4. Contact Details

If you have any questions or need clarification about the submission, please contact Secretariat of Joint Action to Correct NHRCK, Mr. Hyunpil NA (khis21@hanmail.net) and Mr. Andy Duckjin KIM (myoungrrang@hanmail.net).

List of 11 NHRCK Commissioners as of 1 October 2024

Title		Background	Appointer
Chairperson (AHN Chang-ho)	M	Former Justice of the Constitutional Court	President
Standing Commissioner 1 (NAM Kyusun)	F	Civil Society	National Assembly
Standing Commissioner 2 (LEE Choong-sang)	M	Former Judge	National Assembly
Standing Commissioner 3 (KIM Yong-won)	M	Former Prosecutor	President
Non-standing Commissioner 1 (HAN Seok-hun)	M	Former Prosecutor	National Assembly
Non-standing Commissioner 2 (KIM Jong-min)	M	Buddhist Monk	President
Non-standing Commissioner 3 (LEE Han-byul)	F	Civil Society	President
Non-standing Commissioner 4 (WON Min-kyung)	F	Lawyer	National Assembly
Non-standing Commissioner 5 (KIM Yong-jik)	M	Former Judge	Supreme Court
Non-standing Commissioner 6 (KANG Jung-hye)	F	Lawyer	Supreme Court
Non-standing Commissioner 7 (SO Rami)	F	Lawyer	Supreme Court

Attachments

1. [Urgent Statement] We strongly condemns the nomination of Ahn Chang-ho to NHRCK Chair, who has justified discrimination and hatred
2. [Statement] President Yoon Seok-yeol must immediately withdraw Ahn Chang-ho's nomination to Chairperson of the NHRCK
3. [The Korea Times] New human rights watchdog chief nominee faces opposition from civic groups
4. [Korea JoongAng Daily] Alarming insensitivity to protecting human rights
5. [Hankyoreh] Calls mount for nominee to lead Korea's human rights watchdog to drop out
6. [Human Rights Watch] Dangerous Setback for Minority Rights in South Korea

Joint Action to Correct NHRCK" consists of 36 NGOs in the Republic of Korea and the list is as follows

1. Activists group for Human Rights 'BARAM'
2. Catholic Human Rights Committee
3. Chungbuk South Korean Coalition for Anti-discrimination Legislation
4. Chungnam Human Rights Education Activists Group "Buttle"
5. Citizen's Solidarity for Human Rights in Daejeon, Chungnam
6. Civic network for justice in sport
7. Civil Action for Human Rights practice
8. Conscience and Human rights –Tree
9. Daegu National Council of Churches in Korea Human Rights Committee
10. Daegu Solidarity Against Disability Discrimination
11. Dasan Human Rights Center
12. Disability Discrimination Act of Solidarity in Korea
13. GongGam Human Rights Law Foundation
14. Green Party Korea,
15. Human Rights Education Center "Deul"
16. Jeju Peace Human Rights Institute WHAT
17. Jogye Order of Korean Buddhism The Social Affairs and Labor Relations Commission
18. Korea Institute for Religious Freedom
19. Korean House for International Solidarity
20. Korean Lawyers for Public Interest and Human Rights
21. Korean Metal Workers' Union
22. Korean Progressive Network 'Jinbonet'
23. Life & Safety Network
24. People's Solidarity for Participatory Democracy
25. Protesting against Poverty & Discrimination Solidarity for Human Rights
26. Rainbow Human Rights Regiment
27. Red Ribbon Human Rights Solidarity
28. SARANGBANG Group for Human Rights
29. Seoul Queer Culture Festival Organizing Committee
30. Solidarity For Peace & Human Rights
31. The Minority Rights Committee of Minbyun—Lawyers for a Democratic Society
32. The Center for Military Human Rights Korea
33. The Committee to Support Imprisoned Workers
34. The Democratic Legal Studies Association
35. The Korean Council for Justice and Remembrance for the Issues of Military Sexual Slavery by Japan
36. Ulsan Solidarity for Human Rights

The South Korean Coalition for Anti-discrimination Legislation is made up of 168 NGOs.

Our 11 organizations—Catholic Human Rights Committee, Chingusai–Korean Gay Men's Human Rights Group, Human Rights Movement Space 'Hwal', Korea Sexual Violence Relief Center, Korean Lawyers for Public Interest and Human Rights, Political Mamas, Rainbow Action against Sexual-Minority Discrimination, Sarngbang Group for Human Rights, Social and Labor Committee of Jogye Order of Korean Buddhism, Solidarity for LGBT Human Rights of Korea (HaengSeongIn), and Women with Disabilities Empathy—represent the South Korean Coalition for Anti-Discrimination Legislation.