

## **Joint NGO Submission Part 3.**

(from ‘**Administration of Justice and the Rule of Law**’  
to ‘**Freedom of Religion of Belief, Expression, Association and  
Peaceful Assembly and Right to Participate in Public and Political  
life**’)

**The 42<sup>nd</sup> Session of the Universal Periodic Review  
Republic of Korea**

**14 July 2022**

**Submitted by**

**South Korean NGOs Coalition (461 NGOs)  
for the 4<sup>th</sup> Cycle of the UPR on the Republic of Korea**

### **Contact Details:**

- People’s Solidarity for Participatory Democracy (PSPD), Eunkyung Cheon([pspdint@pspd.org](mailto:pspdint@pspd.org) +82 2 723 5051)
- Duroo - Association for Public Interest Law, Jeanie Kim ([jkim@duroo.org](mailto:jkim@duroo.org), +82 2 6200 1914) & Dahye Jeong, [dhjeong@duroo.org](mailto:dhjeong@duroo.org), +82 2 6200 1678)
- GongGam Human Right Law Foundation, Jirim Kim([rlawfla00@gmail.com](mailto:rlawfla00@gmail.com))
- Catholic Human Rights Committee, Andy Kim([myoungrrang@hanmail.net](mailto:myoungrrang@hanmail.net))
- MINBYUN – Lawyers for a Democratic Society, Dasol lyu([dlyu@minbyun.or.kr](mailto:dlyu@minbyun.or.kr))

- **List of 461 members of the South Korean NGOs Coalition for the 4th UPR:**

**South Korean NGOs Coalition for Law Enforcement Watch**(Catholic Human Rights Committee, Dasan Human Rights Center, Democratic Legal Studies Association, Human Rights Movement Space 'Hwal', Korea Progressive Network Jinbonet, Korean Lawyers for Public Interest and Human Rights, Sarangbang Group for Human Rights), **Advocates for Public Interest Law (APIL)**, **GongGam Human Rights Law Foundation**, **Korean Lawyers for Public Interest and Human Rights 'Hope and Law'**, **National Action to Abolish the National Security Act(112 NGOs)**, **International Child Rights Center(InCRC)**, **Center for Military Human Rights Korea**, **Korean Transnational Corporation Watch**, **KTNC Watch**(Advocates Law Public Interest Law APIL, GongGam Human Rights Law Foundation, Korean House for International Solidarity, MINBYUN – Lawyers for a Democratic Society- committee for International Labor Rights, Korean Confederation of Trade Unions, Corporate for All, Korea Committee For Overseas Community Organization, Friends of the Earth Korea, Korean Lawyers for Public Interest and Human Rights), **Join Action for Setting Right the Basic Livelihood Security Act(34 NGOs)**, **Refugee Rights Center(NANCEN)**, **Green Korea United**, **The Center for Historical Truth and Justice**, **MINBYUN – Lawyers for a Democratic Society**, **Supporters Health And Right of People in Semiconductor Industry**, **Duroo – Association for Public Interest Law**, **National Solidarity against Sexual Exploitation of Women**, **Rainbow Action Against Sexual-Minority Discrimination(43 NGOs)**, **Open Net**, **Joint Committee with Migrants in Korea**, **JCMK**(Namyangju Migrant Welfare Center, 1218 for All, Bucheon Migrants Welfare Center, Seoul Migrant Workers Cente, Suncheon Migrants Support Center, Asan Migrant Workers Cente, Solidarity for Asian Human Rights and Culture, The Association for Migrant Workers’ Human Rights, Won Buddhism Seoul Migrant Cente, Uijeongbu EXODUS Migrant Cente, Migrant Center Dong Haeng, Incheon Migrant Workers’ Center, Paju Migrant Worker Center Shalom House, Migrants Support Center of Pocheon Sharing House, Migrant Health Association in Korea WeFriends, Women Migrants Human Rights Center of Korea, Migrant Hansam, With Community), **Migrants Trade Union**, **Activists group for Human Rights ‘BARAM’**, **South Korean NGO TF to monitor government human rights policy** (Korean House for International Solidarity, Dasan Human Rights Center, PINKS: SOLIDARITY FOR SEXUAL MINORITY CULTURES & HUMAN RIGHTS, Activists group for Human Rights ‘BARAM', Catholic Human Rights Committee, Korean Lawyers for Public Interest and Human Rights, ‘Hope and Law'), **Korean Council for Justice and Remembrance for the Issues of Military Sexual Slavery by Japan (Korean Council)**, **Korean Confederation of Trade Unions(KCTU)**, **Solidarity Against Disability Discrimination - committee for Labor Rights**, **World Without War**, **Korean Network for the Right to Housing**(People's Solidarity for participatory Democracy, Committee on People’s Livelihood & Economy, MINBYUN – Lawyers for a Democratic Society, The Korea Center for City and Environment Research(KOCER), MINSNAIL UNION, Legal Assistance Center for Tenants (Tenants 114), Korean Union of Tenants (KUT), Sharing for Future, Korean Coalition For Housing Rights(KCHR), Community without Housing Problem(CHP), **Korean Progressive Network Jinbonet**, **South Korean Coalition for Anti-discrimination Legislation(168 NGOs)**, **People's Solidarity for Participatory Democracy(PSPD)**, **Catholic Human Rights Committee**, **LGBTQ Youth Crisis Support Center DDing Dong**, **Solidarity for Child Rights Movement Jieum**, **Youth Housing Rights Network**, **South Korean Human Rights Network in Response to the COVID-19** (Activists group for Human Rights ‘BARAM’, Center for Health and Social Change, Dasan Human Right Center, Dongcheon Foundation, GongGam Human Rights Law Foundation, Gwang-Ju Human Rights Center 'Hwal JJak', HIV/AIDS Human Rights Activists Network Korea, Human Rights Movement Space 'Hwal', Human Rights Foundation SARAM, Korean Gay Men's Human Rights Group 'Chingusai', Korean Lawyers for Public Interest and Human Rights(KLPH), Korean People’s Solidarity against Poverty, Korean Progressive Network 'Jinbonet', MINBYUN - Lawyers for a Democratic Society, People's Coalition for Media Reform(Media Reform), PINKS : Solidarity for Sexually Minor Culture & Human Rights, **Protesting against Poverty & Discrimination Solidarity for Human Right**, **SARANGBANG Group For Human Rights**, **Seoul Human Rights Film Festival**, **Solidarity Against Disability Discrimination**, **Solidarity for LGBT Human Rights of Korea**, **Solidarity for Peace & Human Rights**, **Women with Disabilities Empathy**), **Korean Unwed Mothers Support Network**, **Korea Cyber Sexual Violence Response Center**, **Korean Women's Associations**

## Table of Contents

<b>D. Administration of Justice and the Rule of Law</b>	3
<b>19. Truth, Justice, and Reparation for the Past State Violence</b>	3
<b>20. Japanese Military Sexual Slavery</b>	4
<b>E. Right to Privacy</b>	6
<b>21. Labor Surveillance and Infringement of Worker’s Personal Information</b>	6
<b>22. DNA Collection</b>	6
<b>23. Artificial Intelligence and Fundamental Rights</b>	6
<b>24. The Resident Registration Number (RRN) System</b>	7
<b>25. Guarantee of Secrecy of Correspondence</b>	7
<b>F. Freedom of Religion or Belief, Expression, association, and Peaceful Assembly and Right to Participate in Public and Political Life</b>	8
<b>26. Freedom of Assembly</b>	8
<b>27. Criminal Defamation and Insult Laws</b>	9
<b>28. Regulation on the Blocking of Online Content</b>	9
<b>29. Freedom of Expression of Public Officers</b>	11

### **D. Administration of Justice and the Rule of Law**

#### **19. Truth, Justice, and Reparation for the Past State Violence**

The history of state-sponsored violence in the ROK persisted over decades from Japanese colonization, before and after the Korean War, and into the military dictatorship period.

However, the truth of many cases of past state violence has not been revealed.<sup>1</sup> Security Sectors such as the National Intelligence Service, Defense Security Command (currently Defense Security Support Command), the National Police Agency do not reveal relevant documents and therefore, victims cannot get access to their own records. No one was punished or held responsible for the past state violence, and victims can only be compensated through individual lawsuits. Due to the application of the statute of limitations and extinctive prescriptions for serious human rights violation cases that happened decades ago, victims lose the lawsuits against the government. **In order to guarantee the rights of victims on truth, justice, reparation, guarantees of non-recurrence, the government should reform security sector and provide all relevant documents to the related organizations such as Truth and Reconciliation Commission without any condition. The government should enact a law to provide comprehensive and complete reparation to all victims and eliminate the application of the statute of limitations and extinctive prescriptions for serious human rights violation cases. Also, it should create legal and institutional mechanisms to guarantee non-recurrence such as abolishing the National Security Act and putting diplomatic efforts to uphold human rights of victims during the Japanese colonial period.**

## **20. Japanese Military Sexual Slavery**

Despite more than 30 years of movement for justice, Japanese military sexual slavery ("comfort women") victims yet again suffer from human rights violations and re-traumatization amid the Japanese government's denials, the Korean government's irresponsibility, and far-right historical denialists' attacks. Since late 2019, Korean historical denialists who are connected to Japanese historical denialists have held counter-protests to

---

---

---

---

<sup>1</sup> During the Japanese colonization (1910~1945), the Japanese military sexual slavery and forced labor mobilization created numerous victims and after the liberation, the Jeju April 3<sup>rd</sup> Massacre and civilian massacre during the Korean War continued. During the period of authoritarian rule, the government has abused the National Security Law to suppress human rights defenders, lead them to suspicious deaths, and ordinary citizens have been forged as North Korean spies. Illegal detention facilities, such as 'Brothers Home'[1], created under a dictatorship, committed massive human rights abuses in cooperation with state power. Since democratization in 1987, persistent efforts by victims and civil society to restore their human rights and find the truth created a social momentum to seek truth and justice of past state violence. Above all, the Truth and Reconciliation Commission (TRC) was established in 2005 to comprehensively settle the past history, leaving many achievements through five years of its work. However, the TRC closed down in 2010, leaving behind countless unfinished tasks due to limited investigation periods and regime change. After that, due to the struggle between the victims and the civil society, the Framework Act on Settling the Past History for Truth and Reconciliation was amended in 2020, and as a result, the TRC was reopened. The investigation by the 2<sup>nd</sup> TRC is currently underway.

the Wednesday Demonstration to defame victims and threaten activists and participants.<sup>2</sup> The National Human Rights Commission of Korea issued an urgent relief decision in January 2022 recommending that the police take proactive measures regarding counter-protest groups to stop continuous violations of human rights. However, the government and police are abandoning its responsibilities under the Assembly and Demonstration Act to ensure rights to peaceful demonstration and taking no further action while the insults and defamations against victims continue.<sup>3</sup> The government's attempts to disband the Ministry of Gender Equality and Family that implements the “Act on Protection, Support And Commemorative Projects For Sexual Slavery Victims For The Japanese Imperial Army”, also raise concerns on the government's role in support and commemoration of victims. In addition, the government aims to trade the historical truth with economic and security cooperation by reinstating the “2015 Korea- Japan ‘comfort women’ agreement” with the Japanese government.<sup>4</sup> The agreement announced on December 28, 2015, at the press conference of Korean and Japanese Foreign Ministers was heavily criticized by the victim-survivors and civil society for its lack of victim-centered approach. The Korean Constitutional Court ruled that the 2015 agreement is not a resolution to the issue<sup>5</sup> and numerous United Nations bodies issued concerns on the agreement.<sup>6</sup> **The government should ensure peaceful Wednesday Demonstration according to the National Human Rights Commission’s recommendation and the Assembly and Demonstration Act and take proactive measures against defamation and**

---

<sup>2</sup> Since late 2019, Korean historical denialists who are connected to Japanese historical denialists have been defaming victims and threatening activists and participants in counter-protests to the Wednesday Demonstrations. These denialists interfere with the Wednesday demonstration systematically by holding the counter-protest in the location surrounding the Wednesday Demonstration: they hold pickets that disclose victims’ names who wished to remain anonymous; mock victims with a performance of a person wearing a mask made with victim’s photo and mimicking her words and actions; deny Japanese military sexual slavery issue and Japanese government’s responsibility; spread fake news against the activists and organizations working for the issue; run across the police line to initiate conflicts; broadcast participants on social media and insulting them with viewers; commit sexual and physical harassment; play sounds of women screaming and guns firing with loudspeakers in the direction of the Wednesday Demonstration. Amid denialists’ misogynist insults and distortions of victims’ testimonies, survivor Lee Ok-seon attended the Wednesday Demonstration despite difficulties due to her old age (March 24, 2021, 1484th Wednesday Demonstration, [https://youtu.be/T4\\_OEdTVyCQ](https://youtu.be/T4_OEdTVyCQ)). She criticized the Japanese Government’s denial of forced mobilization and said that receiving an apology is not just a monetary issue. Also see: Yonhap, “Sexual slavery victim, supporters sue right-wing activists for defamation,” 16 March 2022, <https://en.yna.co.kr/view/AEN20220316008700315>

<sup>3</sup> Hankyoreh, “‘Comfort women’ protest obstructed by far right despite call for safeguarding,” 20 January 2022, [https://english.hani.co.kr/arti/english\\_edition/e\\_national/1028191.html](https://english.hani.co.kr/arti/english_edition/e_national/1028191.html)

<sup>4</sup> Even before taking office, he sent a policy consultation delegation to Japan that included officials who played leading roles in the making of the 2015 Korea-Japan agreement. Yoon has actively expressed his intent to improve Korea-Japan relations and aims to reinstate the 2015 Korea-Japan agreement. Park Jin, Korean Minister of Foreign Affairs, said on April 20 even before he assumed office that the 2015 Korea-Japan agreement was an “official one.” Japanese Chief Cabinet Secretary Matsuno responded by saying that the agreement reached a “final and irreversible” resolution.

<sup>5</sup> After the candlelight revolution of Korean citizens brought a new administration to office, the Korean Constitutional Court ruled on December 27, 2019, that the agreement between Foreign Ministers of South Korea and Japan announced on December 28, 2015, was “not a legally binding treaty but a mere political agreement in light of its procedures, form, and content.” As such, the agreement cannot “dispose of individual rights of Japanese military ‘comfort women’ victims and the rights of diplomatic protection by the South Korean government have not been extinguished.”

<sup>6</sup> Concluding Observations issued by UN Committee on the Elimination of Discrimination against Women (CEDAW/C/JPN/CO/7-8) and UN Committee Against Torture (CAT/C/KOR/CO/3-5), among many others, call for state parties to revise the 2015 agreement to provide full redress to victims that ensures their rights to truth, reparation and assurances of non-repetition. For a list of UN human rights bodies’ recommendations on the Japanese military sexual slavery issue, see: Women's Active Museum on War and Peace, “Japan / Alternative Report on the Issue of Japanese Military Sexual Slavery Appendix No. 1. Compilation of Recommendations by the UN Human Rights Bodies,” May 2014, [https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/JPN/INT\\_CCPR\\_CSS\\_JPN\\_17435\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/JPN/INT_CCPR_CSS_JPN_17435_E.pdf)

human rights violations of victims. The government should actively protect and support victims with a clear stance that hate speech, stigmatization, discrimination against sexual slavery victims will not be tolerated. Further, the government should stop its attempts to reinstate the 2015 agreement, which was a political agreement that abandoned a victim-centered approach, and disclose the process and materials related to the agreement.

## E. Right to Privacy

### 21. Labor Surveillance and Infringement of Worker's Personal Information

The development of digital technology has enabled more private and comprehensive labor monitoring, but the government's supervision or legislation on unfair labor monitoring is lacking. According to the 2021 survey, the use of digital monitoring technology in the workplace is on the rise compared to 2013.<sup>7</sup> The rate of installing monitoring facilities without notice reached 20-30%, and only 40% of the respondents answered that their company has a privacy policy. The Act on the Promotion of Employee's Participation and Cooperation was rarely observed, with only 10% of companies consulted with trade unions or workers' representatives before installing monitoring facilities. **The supervision of the Personal Information Protection Commission and the Ministry of Employment and Labor should be strengthened to prevent illegal personal information processing and unjust labor monitoring. In addition, new legislation should be introduced that obligates prior agreement with trade unions or workers' representatives on the purpose, scope, and function of the monitoring mechanism when introducing facilities that can monitor workers or infringe personal information.**

### 22. DNA Collection

The Act on Use and Protection of DNA Identification Information was enacted to prevent recidivism of violent criminals such as sex crimes, but people who participated in human rights activities such as trade union activities or housing rights advocacy have also been subjected to DNA collection<sup>8</sup>. In 2018, the Constitutional Court of Korea ruled that DNA collection was unconstitutional, pointing out that the law did not stipulate procedures for the DNA collection subjects' testifying opportunities or appeal against the issuance of a warrant.<sup>9</sup> After the Court's decision, trade union members demanded the deletion of their DNA information collected unconstitutionally, but such requests were dismissed or rejected. Also requests for DNA collection of workers and activists continue to this day. **The government should either reconsider the operation of the national DNA database or strictly limit the requirements of the subject to minimize the restrictions of basic rights. The government also should stipulate a new provision to allow deletion of collected DNA information if there is no risk of recidivism.**

### 23. Artificial Intelligence and Fundamental Rights

Artificial Intelligence (AI) technology-using products and services have been introduced in various areas of society. In particular, AI technology has been introduced in areas that have a significant impact on fundamental rights such as education, credit ratings, social welfare,

<sup>7</sup> Korean Progressive Network Jinbonet, Public Workers Solidarity Foundation (2021), Survey on the Status of Digital Labor Surveillance and Ways for Legislative and Policy Improvement, <https://act.jinbo.net/wp/44827/>

<sup>8</sup> The authorities' conducts to take DNA samples from Yongsan displaced persons and SSangyong workers and to establish and use a database containing said samples are constituted the serious violation of the constitutionally protected human rights, (Korean) <https://act.jinbo.net/wp/7631/>

<sup>9</sup> The Constitutional Court Decision 2016Hun-Ma344, 2017Hun-Ma630 decided on 30 Aug 2018.

employment process, and crime prediction. With the enactment of the General Act on Public Administration in 2021, the administrative agencies can now take administrative measures through a fully automated system using AI technology. In addition, national institutions are developing a facial recognition system for the private companies' profit-making or for the purpose of immigration review, tracking confirmed patients of epidemic diseases, such as COVID-19, and crime prevention by providing or using a large amount of personal information, including biometrics, collected and held previously for public purpose.<sup>10</sup> However, the introduction of AI into high-risk areas without safeguards for human rights, such as evaluation of explainability, impact assessment on privacy and human rights, and consideration of remedies and due process, may seriously infringe on people's safety and fundamental rights. **The government should establish laws and policies governing AI to protect the safety and fundamental rights of those affected by AI or automated decisions and consider a moratorium on the introduction of AI in areas that can seriously affect human rights until safeguards are in place.**

#### **24. The Resident Registration Number (RRN) System**

While the government has accepted the UPR's first round of recommendations to "reassess and limit the use of the resident registration number system in order to protect privacy rights," RRN continues to be widely used in the public and private sectors.<sup>11</sup> Since August 2014, a law has been enforced which allows processing of the RRN only when there is a legal basis to do so. Nonetheless, there are about 1,000 exceptions to such provision, including a law that obligates private telecommunication companies to collect RRN data to facilitate investigations. In addition, while converting RRN using a hash function, the Connecting Information (CI) generated by adding "shared secret information between personal identification agencies" is used as self-identification data in the private and public spheres, and also used for investigative purposes including identifying the suspects.<sup>12</sup> CI is generated on the basis of the RRN system and once issued, it cannot be changed unless one's RRN is changed. Even though there is no legal basis for the generation and use of CI, it can identify and track certain individuals, just like the RRN, and acts as a key that connects different personal information. Therefore, its data leakage is highly risky. However, no adequate security measures are in place<sup>13</sup>. **The government should restrict the use of RRN to strictly necessary cases for providing public services and should prohibit private usage. CI, which has no legal basis and violates the freedom of anonymous expression and privacy rights online, should be abolished. Furthermore, strict warrant requirements must be observed when an investigative agency tries to access the CI.**

#### **25. Guarantee of Secrecy of Correspondence**

Intelligence agencies and investigative bodies' illegal wiretapping, and infringements of secrecy of correspondence principles, including the Defense Security Command's short-wave wiretapping and the police's wiretapping of NGOs, have continuously occurred. This is

---

<sup>10</sup> Hankyoreh, S. Korean government provided 170M facial images obtained in immigration process to private AI developers, Oct 21, 2021, [https://english.hani.co.kr/arti/english\\_edition/e\\_national/1016107.html](https://english.hani.co.kr/arti/english_edition/e_national/1016107.html)  
South Korea Is Giving Millions of Photos to Facial Recognition Researchers, Nov 16, 2021  
<https://www.vice.com/en/article/xgdxqd/south-korea-is-selling-millions-of-photos-to-facial-recognition-researchers>

<sup>11</sup> Report of the Working Group on the Universal Periodic Review, Republic of Korea, 29 May 2008, A./HRC/8/40, p. 15

<sup>12</sup> This goes beyond its original purpose of being a means to identify whether the user is the same person in online and offline services as well as between different service platforms

<sup>13</sup> In September 2021, a civil society organization filed a constitutional complaint against such linked information, which is used as general-purpose identification information even though there is no legal basis and has no control over abuse.

because there is no human rights-based and judiciary control mechanism on wiretapping and communication investigations. In 2018, the Constitutional Court declared constitutional nonconformity of real-time location tracking and base station investigations by investigative agencies and the National Intelligence Service's packet surveillance methods. Following the decision, the National Assembly amended the Protection of Communication Secrets Act in March 2020. However, such changes did not properly reflect the spirit of the Constitutional Court's earlier ruling, as they failed to include any control system on the packet surveillance method, which the Constitutional Court had announced unconstitutional, or a means by which a person who had received a surveillance notification could access the relevant data and argue its legality. In addition, although communication data, collected to identify personal information mainly at the initial stages of an investigation, pertains to the secrecy of correspondence principle and privacy rights, collection of such data is not controlled by the court and can be obtained if deemed relevant to an investigation. As a result, over 5,000,000 cases of such communication data are collected by investigative agencies every year.<sup>14</sup> Therefore, in November 2015, the UN Human Rights Committee recommended the government to "provide subscriber data only where there is a warrant," but this recommendation is yet to be followed. The provision of location information and communication data from base stations is a grave infringement on privacy rights. **The government should amend the Protection of Communication Secrets Act in order to strictly limit the range of crimes subject to surveillance, implement such requirements as a last resort, strictly limit the range of crimes that the communication data can be provided, and strengthen the requirements for communication data provision. In addition, the government should amend relevant laws in order to ensure that subscriber information is provided only when there is a warrant present or abolish Article 83 (3) of the Telecommunications Business Act.**

## **F. Freedom of Religion or Belief, Expression, association, and Peaceful Assembly and Right to Participate in Public and Political Life**

### **26. Freedom of Assembly**

Article 11 of the Assembly and Demonstration Act prohibits gatherings within 100 meters of the presidential residence.<sup>15</sup> Until May 2022, both the presidential residence and presidential office were located together within the Blue House, so even though the above provision only covers the residence, it had the effect of prohibiting protests near the presidential office. However, as the 20th President Yoon Seok-yeol takes office from May 10, 2022, the presidential residence (at Hannam-dong, Seoul) and the presidential office (at Yongsan-dong, Seoul) are located in different places.<sup>16</sup> Nevertheless, the police interpreted Article 11 of the Assembly and Demonstration Act to include the presidential office and prohibited the march

---

<sup>14</sup> According to the announcement by the Ministry of Science and ICT, in 2020, 5,121,974 cases of communication data were provided to investigative agencies. (Korean)

<https://www.msit.go.kr/bbs/view.do?sCode=user&mId=113&mPid=112&pageIndex=1&bbsSeqNo=94&nttSeqNo=3181207&searchOpt=ALL&searchTxt=%ED%86%B5%EC%8B%A0%EC%9E%90%EB%A3%8C>. In this regard, in May 2016, 500 citizens filed a constitutional complaint, but there has been no result.

<sup>15</sup> The Assembly and Demonstration Act, Article 11 : No person shall hold any outdoor assembly or stage any demonstration anywhere within a 100-meter radius from the boundary of the following office buildings or residences:

3. The Presidential residence and the official residences of the Speaker of the National Assembly, the Chief Justice of the Supreme Court, and the President of the Constitutional Court of Korea;

<sup>16</sup> Introduction to the Office of the President in Yongsan, Office of the 20th President, <https://eng.president.go.kr/sub/yongsan.php>



of LGBT people in front of the office on May 14, 2022. In response, the Seoul Administrative Court decided to suspend the execution of the notice of ban, which prohibited the march of LGBT people in front of the office, on the grounds that the presidential residence and the office are separate spaces under the law, and that an absolute ban on assemblies in front of the presidential office would infringe on freedom of assembly. The police expressed that it respects the court's decision, however, it continued to issue bans on other assemblies.<sup>17</sup> As more decisions were made that allow rallies in front of the presidential office, the police has changed their attitude slightly, but still permits gatherings in front of the presidential office only for small groups less than 500 people. **The government should not arbitrarily interpret Article 11 of the Assembly and Demonstration Act in a way of banning assemblies in front of the presidential office. In addition, necessary legislative and administrative measures, such as repealing Article 11 of the Assembly and Demonstration Act, should be taken so that peaceful assemblies can be held freely at state institutions such as the presidential office, the National Assembly, and the courts.**

### **27. Criminal Defamation and Insult Laws**

Korean Criminal Law stipulates that crimes of defamation<sup>18</sup> and insult<sup>19</sup> shall be punished up to imprisonment for stating facts or feelings (swear words) that may harm the social status of others. This excessive criminal punishment system has often been abused by political and economic powerful such as public figures and corporations to suppress the voices of criticism and accusations against them. Furthermore, even telling a factual truth can also lead to punishment for defamation, which greatly stifles the voices of whistleblowers or victims including those participating in the MeToo movement. It is estimated that there are over 60,000 complaints and accusations of defamation and insults per year.<sup>20</sup> In the third cycle of UPR recommendations, there were recommendations to abolish the criminal defamation law (132.107.108.), but it was not implemented. **The government should abolish the criminal punishment of defamation and insult that restrict freedom of expression and threaten citizens with criminal punishment to have it resolved by civil procedures.**

### **28. Regulation on the Blocking of Online Content**

Article 44-2 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, Etc., stipulates that, if someone claims that an online posting infringes their rights and requests to block it, the Internet operator shall take measures

---

<sup>17</sup> The Korea Times, Police to continue banning rallies near presidential office, 13 May 2022  
[https://www.koreatimes.co.kr/www/nation/2022/05/113\\_329092.html](https://www.koreatimes.co.kr/www/nation/2022/05/113_329092.html)

<sup>18</sup> Criminal Act, Article 307 (Defamation): (1) A person who defames another by publicly alleging facts shall be punished by imprisonment with or without labor for not more than two years or by a fine not exceeding five million won.

(2) A person who defames another by publicly alleging false facts shall be punished by imprisonment with labor for not more than five years, suspension of qualifications for not more than ten years, or a fine not exceeding ten million won.

<sup>19</sup> Criminal Act, Article 311 (Insult): A person who publicly insults another shall be punished by imprisonment with or without labor for not more than one year or by a fine not exceeding two million won.

<sup>20</sup> Daily Joongang, "More than 100 cases of accusations of insults a day", 28 Sep 2016 (Korean)  
<http://www.dailiang.co.kr/news/articleView.html?idxno=101113>

to block it.<sup>21</sup> This system seriously infringes on the freedom of expression and the right to know on the Internet by initially blocking online expressions with someone's claims only, while such expression should be protected under the presumption of legality. It is known that more than 450,000 Internet postings are blocked annually under this system,<sup>22</sup> and public figures and corporations are using the system as a means of controlling public opinion on the Internet by requesting to block large amounts of Internet postings that are critical of them.<sup>23</sup> There is also a 'communication deliberation' system in which the Korea Communications Standards Commission (KCSC), an administrative agency, can review 'illegal information' and 'harmful information' on the Internet and request information and communication service providers to block such information.<sup>24</sup> With this system, which functions as an administrative censorship of Internet information, more than 200,000 cases of information are blocked annually.<sup>25</sup> Communication deliberation is made not only on information with significant and obvious illegality but also on information that requires a high degree of legal

---

<sup>21</sup> The Act on Promotion of Information and Communications Network Utilization and Information Protection Article 44-2 (Request for Deletion of Information)

(1) Where information provided through an information and communications network purposely to be made public intrudes on other persons' privacy, defames other persons, or violates other persons' right otherwise, the victim of such violation may request the provider of information and communications services who managed the information to delete the information or publish a rebuttable statement (hereinafter referred to as "deletion or rebuttal"), presenting explanatory materials supporting the alleged violation. (2) Upon receiving a request for deletion or rebuttal of the information under paragraph (1), a provider of information and communications services shall delete the information or take a temporary or any other necessary measure and shall notify the applicant and the publisher of the information immediately. In such cases, the provider of information and communications services shall make it known to users that he or she has taken necessary measures by posting a public notification on the relevant message board or in any other way.

(4) Notwithstanding a request for deletion of the information under paragraph (1), if it is impracticable to judge whether information violates any right or it is anticipated that there will probably be a dispute between interested parties, a provider of information and communications services may take a measure to block access to the information temporarily (hereinafter referred to as "temporary measures"). In such cases, the period for the temporary measure shall not exceed 30 days.

<sup>22</sup> Data from National Assembly member Shin Yong-hyeon's office (Source : Korea Communications Commission, 2017) (Korean) <http://www.mediaus.co.kr/news/articleView.html?idxno=104720>

<sup>23</sup> A Study on the 'Notice and Takedown' of Internet Portal Service (Jae Jin Lee, Lee Jeong-Ki) (kjics, 2012, vol.56, no.3,) (Korean) <https://www.kci.go.kr/kciportal/ci/sereArticleSearch/ciSereArtiView.kci?sereArticleSearchBean.artiId=ART001672682>

<sup>24</sup> Act on the Establishment and Operation of Korea Communications Commission, Article 21 (Duties of the Korea Communications Standards Commission)

4. Deliberation on information prescribed by Presidential Decree as necessary for nurturing sound communications ethics, from among information disclosed to the public and distributed via telecommunication circuits, or requests for correction;

Enforcement Decree of The Act On The Establishment And Operation Of Korea Communications Commission, Article 8 (Information Subject to Deliberation by Standards Commission)

(1) "Information prescribed by Presidential Decree" in subparagraph 4 of Article 21 of the Act means information deemed necessary to be deliberated on, such as illegal information and information harmful to adolescents under Article 44-7 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, among information distributed through information and communications networks.

(2) Kinds of requests for corrective action under subparagraph 4 of Article 21 of the Act shall be as follows:

1. Deletion of the relevant information or blocking access thereto;
2. Suspension or termination of the use of the relevant information to users;
3. Fulfillment of the duty to label information harmful to juveniles or alterations of labeling methods, and other matters deemed necessary.

(3) Where an information and communications service provider or a person who manages and operates a bulletin board receives a request for corrective action under paragraphs (1) and (2), he/she shall immediately notify the Standards Commission of the results of corrective action taken.

<sup>25</sup> Korea Internet Transparency Report (<http://transparency.kr/>)

judgment such as defamation and violation of the National Security Act, as well as on 'harmful' information. Such a method is at high risk of potential abuse for censoring the public's thoughts or controlling the public's political opinion. **The government should improve the above system, which broadly blocks only by the assertion of someone or a decision by an administrative agency before the judiciary's illegality decision, the information that should be protected under the freedom of expression except for information which result in grave and obvious damages such as sexual exploitation. Article 44-2 of the Information and Communications Network Act should be amended to guarantee the right of restoration of information publishers so that freedom of expression can be guaranteed in a balanced way. The communication review authority of the Korea Communications Standards Commission, an administrative agency, should be transferred to an independent organization, and it should be amended to request correction only in exceptional cases for information with significant, obvious, and urgent illegality.**

### **29. Freedom of Expression of Public Officers**

Unlike ordinary citizens, public officials and teachers are completely prohibited from expressing political opinions and joining a political party under the Political Party Act, Public Official Election Act, National Public Officials Act, and Local Public Officials Act. They are even subject to criminal punishment if they violate this prohibiting rules of the Acts. In addition, the Public Official Election Act restricts participation of not only civil servants and teachers but also civilian workers in public institutions and cooperatives from election campaigns in a comprehensive range. The duty of political neutrality of public officials, teachers, public institutions, and co-operative employees aims to ensure political impartiality in performing public service duties, however, this results in excessive restrictions on political expression in all aspects of daily life, which is unrelated to work. **The government should revise the relevant laws so that public officials, teachers, public institutions, and cooperative workers who are not high-ranking or elected officials are fully guaranteed the freedom of political expression.**