



Office of the High Commissioner for Human Rights  
United Nations  
Via e-mail to: [UPRsubmissions@ohchr.org](mailto:UPRsubmissions@ohchr.org)

January 25, 2008

Re: Submission for the Universal Periodic Review of South Korea

Dear OHCHR Staff,

The International Gay and Lesbian Human Rights Commission and the Alliance Against Homophobia and Discrimination Against Sexual Minorities (South Korea) submit the attached report for consideration during the Universal Periodic Review of South Korea.

Our report relates to the right to be free from sexual orientation-based discrimination in South Korea, and highlights a current legal initiative seeking to eliminate existing anti-discrimination provisions based on sexual orientation.

Our recommendation is that sexual orientation be retained as a prohibited grounds for discrimination under South Korean law and that the anti-discrimination mechanisms be strengthened at national level. The Government of South Korea should observe the Yogyakarta Principles,<sup>1</sup> particularly Principle #2 on equality and non-discrimination which we excerpt below.

#### PRINCIPLE 2. The Rights to Equality and Non-discrimination

Everyone is entitled to enjoy all human rights without discrimination on the basis of sexual orientation or gender identity. Everyone is entitled to equality before the law and the equal protection of the law without any such discrimination whether or not the enjoyment of another human right is also affected. The law shall prohibit any such discrimination and guarantee to all persons equal and effective protection against any such discrimination.

Discrimination on the basis of sexual orientation or gender identity includes any distinction, exclusion, restriction or preference based on sexual orientation or gender identity which has the purpose or effect of nullifying or impairing equality before the law or the equal protection of the law, or the recognition, enjoyment or exercise, on an equal

---

<sup>1</sup> In 2006, in response to well-documented patterns of abuse, a distinguished group of international human rights experts met in Yogyakarta, Indonesia to outline a set of international principles relating to sexual orientation and gender identity. The result was the Yogyakarta Principles: a universal guide to human rights, which affirm binding international legal standards with which all States must comply.  
[www.yogyakartaprinciples.org](http://www.yogyakartaprinciples.org)

basis, of all human rights and fundamental freedoms. Discrimination based on sexual orientation or gender identity may be, and commonly is, compounded by discrimination on other grounds including gender, race, age, religion, disability, health and economic status.

States shall:

- a) Embody the principles of equality and non-discrimination on the basis of sexual orientation and gender identity in their national constitutions or other appropriate legislation, if not yet incorporated therein, including by means of amendment and interpretation, and ensure the effective realisation of these principles;
- b) Repeal criminal and other legal provisions that prohibit or are, in effect, employed to prohibit consensual sexual activity among people of the same sex who are over the age of consent, and ensure that an equal age of consent applies to both same-sex and different-sex sexual activity;
- c) Adopt appropriate legislative and other measures to prohibit and eliminate discrimination in the public and private spheres on the basis of sexual orientation and gender identity;
- d) Take appropriate measures to secure adequate advancement of persons of diverse sexual orientations and gender identities as may be necessary to ensure such groups or individuals equal enjoyment or exercise of human rights. Such measures shall not be deemed to be discriminatory;
- e) In all their responses to discrimination on the basis of sexual orientation or gender identity, take account of the manner in which such discrimination may intersect with other forms of discrimination;
- f) Take all appropriate action, including programmes of education and training, with a view to achieving the elimination of prejudicial or discriminatory attitudes or behaviours which are related to the idea of the inferiority or the superiority of any sexual orientation or gender identity or gender expression.

Thank you for this opportunity to raise these issues.

Sincerely,



Paula L. Ettelbrick  
Executive Director  
International Gay and Lesbian Human Rights Commission