



SOUTH KOREA: 7-POINT HUMAN RIGHTS AGENDA FOR PRESIDENTIAL CANDIDATES

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Cover photo: *Activist Osori wears a rainbow mask during an emergency press conference to release an appeal for an equitable world*
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Ahead of the 2022 Presidential election in the Republic of Korea (ROK), Amnesty International calls upon the presidential candidates to respect, protect, fulfill, and promote human rights for all. The presidential candidates should publicly commit to meeting ROK's international human rights obligations.

There is still no anti-discrimination law in Korea, and hatred and discrimination against minorities, including sexual minorities, continues. Despite the significant progress in advancing women's rights with the Constitutional Court's ruling of the Anti-Abortion Law unconstitutional in 2019, the National Assembly failed to revise the law by the deadline, which was the end of 2020. As a result, the law became null and void. Furthermore, after the so-called 'Nth Room' incident in early 2020, it became clear that online sexual violence has become a serious and pervasive problem in the country.

Since the beginning of the pandemic, Amnesty International has been documenting and monitoring the discrimination against marginalized groups and has observed that individuals in these groups suffer from intersectional discrimination on the grounds of their religion, gender identity, or sexual orientation. The government's quarantine guidelines did not fully consider the human rights of these groups.

There was an incident where LGBTI people were blamed for spreading Covid-19 after an individual who visited a gay nightclub was confirmed positive for Covid-19, and the government disclosed the person's contact and location information. In addition, foreign workers living in Korea were forced to take Covid-19 tests. The National Human Rights Commission of Korea (NHRCK) considered the actions taken by the government in these incidents as discriminatory and are violations of human rights.

Public health may be invoked as a ground for limiting certain rights, such as the right to freedom of expression, in order to allow the State to take measures dealing with a serious threat to the health of the population. Such restrictions, however, must be prescribed by law, necessary and proportionate specifically aimed at a relevant legitimate purpose such as preventing the spread of or otherwise addressing a disease like Covid-19, or providing care for the sick, and are implemented in a non-discriminatory manner.

The new president must establish human rights-based countermeasure guidelines and not leave anyone's life and safety behind in the prolonged pandemic. Furthermore, the new president should fulfill their responsibilities to guarantee not only civil and political rights, but also economic, social, and cultural rights.

Amnesty International urges the presidential candidates to commit that they will promote a national agenda founded on principles of non-discrimination and equality and will guarantee the promotion and protection of human rights. Amnesty International urges all presidential candidates to pledge that they will lead a government that will make progress in the following areas:

1. PROTECT LGBTI RIGHTS AND ELIMINATE DISCRIMINATION

Both overt and covert forms of discrimination against lesbian, gay, bisexual, transgender and intersex (LGBTI) people continue in South Korea.¹ LGBTI people face multiple legal, social and economic barriers, which increase social exclusion and isolation.² Despite a concerted effort by civil society and repeated calls from the international community over the past 14 years, the government has failed to adopt a comprehensive anti-discrimination legislation which includes explicit protections for LGBTI people.

Transgender individuals seeking legal gender recognition through the courts are required to meet abusive and disproportionate conditions such as undergoing sterilization and not having minor children. Without judicial legal gender recognition, transgender individuals cannot change the gender marker to match their gender identity on their national identification, which is required for obtaining official documents and accessing essential services. These official documents are also necessary to obtain employment and in purchasing housing.

The authorities also continue pathologizing transgender as a mental disorder, which consequently bars transgender individuals from serving in the military.³

While there is no law criminalizing civilians' consensual same-sex conduct in South Korea, Article 92(6) of the Military Criminal Act continues to be used to punish consensual sexual activity between men with up to two

¹ Amnesty International, *Serving in silence: LGBTI people in South Korea's military*, July 2019 (ASA 25/0529/2019), [amnesty.org/en/documents/asa25/0529/2019/ko/](https://www.amnesty.org/en/documents/asa25/0529/2019/ko/)

² Korea Herald, "Discrimination, hatred against trans people 'serious' in S. Korea: watchdog", 10 February 2021, [koreaherald.com/view.php?ud=20210210000835](https://www.koreaherald.com/view.php?ud=20210210000835)

³ BBC News, "South Korea's first transgender soldier found dead", 3 March 2021, [bbc.com/news/world-asia-56268409](https://www.bbc.com/news/world-asia-56268409)

years in prison. As a direct or indirect result of the criminalization of sex between men in the military, LGBTI soldiers experience discrimination, intimidation, violence and isolation.

PRESIDENTIAL CANDIDATES SHOULD PLEDGE TO:

- Enact a comprehensive anti-discrimination legislation that prohibits discrimination based on, among others, sexual orientation, gender identity, sex characteristics;
- Repeal Article 92(6) of the Military Criminal Act, which prohibits and punishes consensual same-sex conduct between men in the military;
- Refrain from conditioning the grant of legal gender recognition to transgender individuals upon abusive and discriminatory requirements such as undertaking psychiatric diagnosis, seeking medical treatment (i.e. forced sterilization or genital reconstruction), prohibition to marry or having children, and that the recognition is made through swift, accessible, and transparent administrative procedures based on individual self-declaration;
- Promote diversity and inclusion within their ranks, and publicly signal their support for LGBTI rights.

2. PROMOTE WOMEN’S RIGHTS AND GENDER EQUALITY, AND ELIMINATE ONLINE GENDER-BASED VIOLENCE

South Korea is a State Party to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In 2018, the CEDAW Committee expressed concern over several issues concerning the situation of women in South Korea, including sexual harassment, sexual violence, violence against women, employment discrimination against women and online violence against women. Despite the government’s partial implementation of the recommendations by the Committee, the human rights of women continue to be threatened.

Over the last few years, there has been a noticeable increase of digital sex crimes as digital technology rapidly develops. Criminality diversifies as new forms of platforms and technologies such as the metaverse and cryptocurrency emerge. The perpetrators used megabytes of cloud links and cryptocurrencies to spread and purchase the illegally filmed content and sexually exploitative materials faster and easier than ever on closed overseas platforms such as Telegram.

The widespread sexualization of women in South Korea also reinforces the gender stereotype that women’s bodies are always sexually available. This gender stereotype and the overtly sexualized images of women which are rife in the country are significant factors in the rising cases of online gender-based violence.

On 23 April 2020, the government announced the Measures to Eradicate Digital Sex Crimes in response to the Telegram’s digital sex crime case revealed as the so-called “Nth Room” incident. These included a commitment to strengthening the punishment of perpetrators of digital sex crimes and establishing a government-led victim support center to ensure a constant support system for victim-survivors. However, it did not achieve a sustainable emergency response system for digital sexual violence. Moreover, the institutions established to support victim-survivors are often understaffed or lack the expertise to fully respond to their needs.

Additionally, there are no sufficient measures such as cooperation with overseas platform operators to prevent the further distribution of illegal and non-consensual materials online. As a result, victim-survivors continue to be exposed to prolonged physical and mental damage with the constant fear that the content may be distributed again.

PRESIDENTIAL CANDIDATES SHOULD PLEDGE TO:

- Promote gender equality by eliminating the drivers of discrimination against women, such as harmful gender stereotypes;
- Establish appropriate measures to create an enabling environment for women to access justice, report crimes and actively participate in criminal justice processes, and take measures to prevent retaliation against or the revictimization of women seeking recourse in justice;

- Recognize the transnational nature of online gender-based violence, and encourage domestic and international private intermediaries to take all appropriate measures to eliminate all forms of discrimination and violence;
- Revise the definition of rape under the Act on Special Cases Concerning the Punishment of Sexual Crimes based on the absence of consent in accordance with international human rights law and human rights standards.

3. ACHIEVE CLIMATE JUSTICE

After South Korean government declared the target to achieve net-zero emissions by 2050 for the first time in October 2020, an increased emission reduction target by 2030 was announced at the 26th UN Climate Change Conference (COP26) in November 2021 as part of South Korea's updated Nationally Determined Contribution (NDC). However, the new reduction target is far below the minimum required to keep global temperature rise below 1.5°C, and the reduction plan was still evaluated as "highly insufficient" overall.⁴

In October, the UN Human Rights Council recognized the right to a "safe, clean, healthy and sustainable environment" and decided to establish a Special Rapporteur to investigate the impact of climate change on human rights. The Glasgow Climate Pact adopted in COP26 recognizes the need to ensure just transitions that promote sustainable development, eradication of poverty, and the creation of decent work and quality jobs.

The South Korean government pledged to completely phase out coal-fired power generation by 2050 at the 2021 G20 Summit, and also signed a coal phase-out statement at COP26 that includes the goal of achieving a transition away from unabated coal power generation in the 2030s.⁵ However, South Korea is not a member of the Powering Past Coal Alliance⁶ which the same statement encouraged participation in, and took contradictory steps immediately after COP26, such as the Industry Ministry explaining that the government will phase out coal by 2050, not by the 2030s.⁷

The year 2050 specified by the government is too late to minimize the human rights harm from the climate crisis. Moreover, insufficient steps seem to have been taken so far to ensure a just transition to workers and communities relying on fossil fuels and other sectors affected from the decarbonization process. For example, while mentioning measures to support businesses for industrial transition, the Korea Green New Deal does not specify details for just transition.⁸

PRESIDENTIAL CANDIDATES SHOULD PLEDGE TO:

- Acknowledge that the climate crisis is a human rights crisis, and immediately raise the NDC target to be consistent with Korea's human rights obligations and the imperative to keep the increase of global average temperature as low as possible and no higher than 1.5°C above pre-industrial levels;
- Review the 2050 Carbon Neutral Strategy to achieve zero emissions, not carbon neutrality or net-zero emissions;
- Rapidly phase out all fossil fuels, particularly ensuring coal-fired power generation is phased out as quickly as possible and no later than 2030;
- Ensure a just transition to all workers and communities affected by climate change and the decarbonization process and establish specific plans to respect rights to information and participation in every step of decision making.

⁴ Climate Action Tracker, South Korea, climateactiontracker.org/countries/south-korea/ (accessed on 31 December 2021), "4 Nov 2021".

⁵ COP26, "Global Coal to Clean Power Transition Statement", 4 November 2021, ukcop26.org/global-coal-to-clean-power-transition-statement/

⁶Powering Past Coal Alliance, "PPCA Members", poweringpastcoal.org/members (accessed on 25 January 2022).

⁷ Ministry of Trade, Industry and Energy, "(설명자료)우리 정부는 청정전원선언을 이행할 것임. 다만, 동 선언 지지가 2030년대까지 석탄 폐지를 약속한 것은 아님", 8 November 2021,

motie.go.kr/motie/nc/press/press2/bbs/bbsView.do?bbs_seq_n=164803&bbs_cd_n=81¤tPage=1&search_key_n=title_v&cate_n=&dept_v=&search_val_v=%EC%84%9D%ED%83%84

⁸Friedrich Ebert Stiftung, "South Korea's plans for a just transition must be truly fair for all", 30 September 2021, asia.fes.de/news/south-korea-just-transition

4. PROMOTE HUMAN RIGHTS IN NORTH KOREA

The UN Resolution on North Korean human rights, which emphasizes the importance of accountability for human rights violations in North Korea, has been adopted by the UN General Assembly for 17 consecutive years since 2005. In the past three years, South Korea has only supported a resolution adopted by consensus without being listed as a co-sponsor. North Korea's human rights issues have not been included as priority in the South Korean government's diplomatic agenda on the Korean Peninsula over the past few years. Rather, the South Korean government has not spoken out about North Korea's human rights issues. The attitude of the South Korean government in engaging with North Korea contradicts the recent international trend of putting the agenda for human rights as a top priority.

Under international law, South Korea should not be deporting North Koreans back to their country where they would face serious human rights violations. In November 2019, the South Korean government forcibly sent two North Korean men who entered South Korean territorial waters because they were suspected of being criminals who committed serious crimes. The South Korean government not only denied their right to be examined for refugee status as an asylum seeker, but also did not comply with the principle of non-refoulement.⁹ The international community continues to be concerned that individuals who fail to leave North Korea or face forced repatriation to North Korea could be put at risk of torture, and other cruel, inhuman or degrading treatment, and even execution.

International humanitarian aid to North Korea has become more difficult than before due to North Korea's border closure, which has been maintained for the prevention of Covid-19 since early 2020. This meant that the shortages of food, daily necessities and medicines have intensified across North Korea. This particularly poses a huge threat to the lives and safety of vulnerable groups. In addition, North Korea remains one of the two countries around the world¹⁰ that did not even give its people the right to vaccination by rejecting vaccine offers from COVAX.¹¹ Humanitarian aid is essential to protect the dignity and human rights of many North Koreans facing a serious humanitarian crisis.

PRESIDENTIAL CANDIDATES SHOULD PLEDGE TO:

- Ensure human rights issues are treated as central and crucial topics in South Korea's future diplomatic activities on the Korean Peninsula;
- Ensure relevant domestic laws and regulations are amended and supplemented to prevent forced repatriation of North Koreans who arrived in South Korea to countries where fear of persecution exists;
- Cooperate with North Korea and the international community to promote humanitarian aid for the people of North Koreans regardless of political disputes in the Korean peninsula.

5. RESPECT AND PROMOTE THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

Public assemblies are held to convey a message to a particular target person, group, institution or government body. Therefore, in order to ensure the full enjoyment of freedom of peaceful assembly, assemblies need to be held within sight and sound of the intended audience, and all restrictions on the time, place, and method of the event should be exceptions, not principles. When restrictions are imposed on freedom of peaceful assembly, they can only be allowed if there is a clear need to protect the interests of national security, public safety and order, or public health, and when the restrictions meet the principle of proportionality. Only the minimum means necessary to achieve legitimate interests must be used.

After the spread of Covid-19, ban on assemblies on the purpose of preventing infectious diseases became

⁹ Amnesty International Korea, "북한 남성 2명 강제송환에 대한 국제엠네스티 한국지부의 입장", 14 November 2019, [amnesty.or.kr/30796/](https://www.amnesty.or.kr/30796/)

¹⁰ As of November 2021.

¹¹ KBS News, "코백스, 북한에 코로나 백신 128만여 회분 추가 배정...반입은 안돼", 24 December 2021, news.kbs.co.kr/news/view.do?ncd=5356336

arbitrary and disproportionate. In July 2020, Seoul Jongno-gu enlarged the assembly prohibited area to prevent the spread of Covid-19, and as a result the Wednesday Demonstration - demanding justice for the sexual slavery run by the Japanese military before and during World War II - was banned for the first time in its 28 years history. The revision to the Assembly and Demonstration Act (ADA) proposed in August 2020 contained a ban, in principle, on assembly and demonstration in areas where restrictions are imposed under the Infectious Disease Prevention Act. The National Human Rights Commission expressed its opinion that it is undesirable to ban all assemblies without individualized judgements. Blanket bans of this nature violate international law and standards.

In terms of social distancing measures, stricter control standards were applied to assemblies than other indoor and outdoor activities. During the second phase of social distancing in August 2020, events involving 50 or more people indoor or 100 or more outdoor were banned, while assemblies involving ten or more people were completely banned.

PRESIDENTIAL CANDIDATES SHOULD PLEDGE TO:

- Ensure the full enjoyment of the rights to freedom of peaceful assembly and in particular, promote an expression in law of a clear presumption in favour of holding assemblies;
- Ensure that measures that restrict the freedom of peaceful assembly for reasons such as prevention of infectious diseases comply with international human rights standards, and that such measures do not result in social prejudices against peaceful assemblies;
- Amend the ADA to bring it in line with the obligations of the Republic of Korea under international human rights law including to specify the role of government authorities as facilitators of the right to peaceful assembly, and ensure that civil society and legal experts, among others, are able to fully participate in the process when drafting, reviewing, and amending this law.

6. RESPECT AND PROMOTE THE RIGHTS TO FREEDOM OF EXPRESSION

The Partial Amendment to the Development of Inter-Korean Relations Act, which took effect in March 2021, prohibits the distribution of leaflets and goods in the border area between South Korea and North Korea. The international community has expressed concern that the law could unduly limit freedom of expression, pointing to the ambiguity of language of what consist of prohibited acts and the possibility of disproportionate punishment.¹²

The Amendment to the Act on Press Arbitration and Remedies, etc. for Damage Caused by Press Reports, which was proposed in June 2021, was also criticized by many civil society groups for containing provisions that could unduly infringe on the right to freedom of expression. There are provisions proposed that allow media companies to be held liable for punitive damages up to five times for "false and manipulated reports," which are feared to be interpreted arbitrarily due to ambiguous concepts.

The National Security Act (NSA) remains in effect and it has been continuously used as a means to censor and cast a chilling effect on and imprison those who exercised their right to freedom of expression. In the third Universal Periodic Review of South Korea by the UN Human Rights Council in November 2017, a number of UN member states recommended the South Korean government to amend the NSA. However, in March of the following year, the Korean government only "noted" the recommendation citing "social controversy" and "social agreement", and the controversy over restrictions on freedom of expression under the NSA is ongoing.

¹² Amnesty International Korea, "대북전단금지법을 둘러싼 논란 – 국제앰네스티의 접근법", 17 May 2021, [amnesty.or.kr/41338/](https://www.amnesty.or.kr/41338/)

PRESIDENTIAL CANDIDATES SHOULD PLEDGE TO:

- Ensure freedom of expression under the International Covenant on Civil and Political Rights (ICCPR) and amend national laws and systems so that they are consistent with international human rights law and standards;
- Repeal, review, or amend the NSA so that it complies with international human rights law and standards. This law should not be used to harass, intimidate, arrest, prosecute or intimidate those who are lawfully exercising their right to freedom of opinion and expression;
- Ensure those who have been unfairly prosecuted and sentenced to imprisonment for their lawful exercise of the right to freedom of expression are unconditionally and immediately released.

7. ABOLISH THE DEATH PENALTY

Amnesty International opposes the death penalty unconditionally for all crimes and calls for its total abolition worldwide. The organization considers the death penalty a violation of the right to life and the ultimate cruel, inhuman or degrading punishment.

Death sentences continue to be imposed in South Korea, although no executions have been carried out since 1997. There were 60 people on death row as of the end of 2020. South Korea joined the majority of countries in 2020 in calling for an end to executions, when it voted for the first time in favour of the eighth UN General Assembly resolution on a moratorium on the use of the death penalty.¹³

In October of 2021, lawmaker Lee Sang-min submitted a bill to abolish the death penalty with 30 co-sponsors.¹⁴ There have been nine such proposals tabled to date since 1999, but all previous bills have expired after stalling in the National Assembly Legislative Committee. A constitutional complaint filed in 2019 on the constitutionality of statutes allowing for the death penalty remains pending at the Constitutional Court.¹⁵

By abolishing the death penalty, South Korea would be taking a concrete step towards improving the promotion and protection of human rights in its own criminal justice system, help forge a path toward the end of the death penalty in the Asia Pacific region and, importantly, show the country's commitment to respecting the sanctity of life and human dignity.

PRESIDENTIAL CANDIDATES SHOULD PLEDGE TO:

- Commute all death sentences without delay to terms of imprisonment, and accelerate the adoption of legislative measures to fully abolish the death penalty which would lead to the full abolition of the death penalty in law;
- Ratify, without reservations, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

¹³ Amnesty International, "UN: Opposition to the death penalty continues to grow", 16 December 2020, [amnesty.org/en/latest/news/2020/12/un-opposition-to-the-death-penalty-continues-to-grow/](https://www.amnesty.org/en/latest/news/2020/12/un-opposition-to-the-death-penalty-continues-to-grow/)

¹⁴ National Assembly Bill Information System, "[2112795] 사형 폐지에 관한 특별법안(이상민의원 등 30 인)", likms.assembly.go.kr/bill/billDetail.do?billId=PRC_P2K1H1I0COB7F0V9D2D4H5N7Z1V2N6 (accessed on 31 December 2021).

¹⁵ Amnesty International, *Amicus Curiae Brief of Amnesty International in the Constitutional Court of the Republic of Korea*, December 2019 (2019HunBa59), [amnesty.or.kr/wp-content/uploads/bcp-attach/Amnesty-International_-Amicus_death-penalty_20191203_ENG.pdf](https://www.amnesty.or.kr/wp-content/uploads/bcp-attach/Amnesty-International_-Amicus_death-penalty_20191203_ENG.pdf)

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SOUTH KOREA: 7-POINT HUMAN RIGHTS

AGENDA FOR PRESIDENTIAL CANDIDATES

The newly-elected president must establish quarantine guidelines considering human rights so as not to exclude anyone's life and safety in the protracted pandemic situation, as well as prioritizing the protection of civil rights that are deferred due to emergency response, especially the rights of the socially and economically vulnerable.

Amnesty International urges candidates to respect, protect, realize and promote the human rights of all people ahead of the 2022 presidential election in South Korea. The presidential candidates must publicly commit to the fulfilment of South Korea's international human rights obligations.