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The Permanent Mission of the Republic of Korea to the United Nations and Other International Organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has the honour to submit, as enclosed, the response of the Government of the Republic of Korea to the joint communication from Special Procedures, dated 17 December 2024(OL KOR 3/2024).

The Permanent Mission of the Republic of Korea to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights (OHCHR) the assurances of its highest consideration.

24 February 2025

Office of the United Nations High Commissioner for Human Rights (OHCHR)



The Government of the Republic of Korea's Response to the Joint Communication from Special Procedures

(February 21, 2025)

1. Additional Information and/or comments on the analysis presented in the Joint Communication

The following comments are submitted by the Seoul Metropolitan Office of Education and the Chungcheongnam-do Office of Education, both of which are stakeholders (enforcing authorities) in the dispute over the bill to repeal the Student Human Rights Ordinances currently pending before the Supreme Court.

(The Seoul Metropolitan Office of Education)

The Seoul Metropolitan Office of Education acknowledges the receipt of the letter from the Special Procedures raising serious concerns about the attempt to undermine the protection against discrimination based on sexual orientation and gender identity, which is guaranteed by the non-discrimination principles of international human rights standards specified in the joint communication (Ref.: OL KOR 3/2024).

We agree with the concerns expressed in the letter and affirm our commitment to ensuring continued compliance with the principle of non-discrimination in international human rights standards.

The Seoul Metropolitan Office of Education confirms the facts presented in the letter. On July 11, 2024, we filed a petition to the Supreme Court, pointing to the inconsistency of the rationale behind the proposed repeal of the Seoul Student Human Rights Ordinance with international human rights standards as well as the Constitution and domestic laws of the Republic of Korea.

On July 23, 2024, the Supreme Court accepted the request for suspension of the decision to abolish the ordinance, and as a result, the Seoul Student Human Rights Ordinance remains in effect until the Supreme Court renders a decision on the validity of the bill.

The Seoul Metropolitan Office of Education is committed to providing counseling services and rights relief for students suffering discrimination based on gender identity and sexual orientation in accordance with international human rights principles.

(The Chungcheongnam-do Office of Education)

The Chungcheongnam-do Office of Education expresses gratitude to the Special Procedures of the UN Human Rights Council for once again raising their concerns regarding the attempts to repeal the Student Human Rights Ordinance. We agree with the content of the joint communication from the three Special Procedures of the UN Human Rights Council.

On April 24 2024, the Chungcheongnam-do Council passed a bill to repeal the Chungcheongnam-do Student Human Rights Ordinance, which was enacted on July 10 2020. The Chungcheongnam-do Office of Education subsequently filed a lawsuit with the Supreme Court on May 13 seeking to invalidate the repeal bill and suspend the execution. The suspension request was granted on May 30. As a result, the Chungcheongnam-do Student Human Rights Ordinances remain in effect.

Article 15 of the Chungcheongnam-do Student Human Rights Ordinance stipulates non-discrimination obligations based on gender identity and sexual orientation. The Chungcheongnam-do Office of Education has expressed opposition to the Chungcheongnam-do Council's attempt to repeal the Student Human Rights Ordinance on the grounds that the ordinance protects the right to non-discrimination based on "misguided conception of human rights."

In addition, the Office is of the view that any act of depriving a person of the rights guaranteed under relevant laws out of discriminatory intent or prejudice against a specific group is contrary to the spirit of the Constitution which prohibits the act of lowering the level of protection of fundamental rights without justifiable reasons. Therefore, we filed a lawsuit to the Supreme Court challenging the repeal bill, which is directly in conflict with international treaties and the Constitution. The following are the key reasons for the lawsuit:

- A violation of obligations guaranteed by the Constitution and domestic laws: The Chungcheongnam-do Council's decision to repeal the ordinance in its entirety undermines the Chungcheongnam-do Office of Education's efforts to establish a system for promoting students' human rights and providing remedies for victims of human rights violations, thereby impeding the ability of school administrators, founders and heads of school to fulfill their obligations in this regard.
- A violation of the principle of equality and anti-discrimination in international human rights treaties and the Constitution: The Chungcheongnam-do Council argues that the right to non-discrimination based on 'sexual orientation, gender identity, LGBT status, pregnancy, and childbirth,' as stated in the Ordinance, should be abolished because it represents 'a misguided concept of human rights.' However, this infringes upon the principle of equality upheld by multiple United Nations treaties, including the United Nations Convention on the Rights of the Child, the Constitution and the National Human Rights Commission Act, regarding the protection of students from discrimination based on sexual orientation and gender identity.
- Infringement on the authority of the Superintendent of Education: The repeal undermines the inherent authority of the Chungcheongnam-do Provincial Superintendent of Education, particularly in relation to student human rights policies and organizational structures. For example, it completely abolishes provisions related to the establishment of administrative organizations such as the Student Human Rights Advocate and the Student Human Rights Center.

- Limiting student's right to seek remedies in the event of human rights violations: The repeal of the Ordinance could limit students' access to remedies when their human rights are violated.
- Lack of adequate consultation: The repeal decision was made without sufficient consultation with students or consideration of the public interest as students were not fully involved in the process. And the potential negative effect of the repeal was not given enough consideration. Therefore, we argue that the passage of the repeal bill lacks procedural legitimacy.

The Chungcheongnam-do Office of Education remains committed to upholding the United Nations Convention on the Rights of the Child and the Chungcheongnam-do Student Human Rights Ordinances and will continue to foster a human rights-friendly school environment that respects and protects the human rights of all members in the educational community.

2. Clarifications on how the bills, if confirmed, are compatible with the ROK Government's obligations under the provisions cited in the Joint Communication, and the steps the ROK Government plans to undertake to remediate the inconsistencies with the international human rights standards

The Republic of Korea remains committed to fulfilling its obligations under UN Human Rights Treaties irrespective of whether or not the bills are passed, as outlined below.

Legal and Institutional Frameworks

(The Ministry of Education)

As a party to the United Nations Convention on the Rights of the Child, Republic of Korea is committed to respecting, protecting, and fulfilling the human rights of students, as guaranteed by domestic laws, such as the *Constitution of the Republic of Korea*, the *Framework Act on Education* (Article 12), the *Elementary and Secondary Education Act* (Article 18-4), and the *Early Childhood Education Act* (Article 21-2).

The Republic of Korea has enacted domestic laws that guarantee the enjoyment of the rights set forth in international human rights instruments. It's important to note that while fundamental rights are protected by national laws, the adoption or repeal of a local human rights ordinance is left to the discretion of a local government.

The Student Human Rights Ordinance has been adopted by seven out of 17 provincial offices of education in Korea, but its absence does not diminish students' rights as they are protected by national legislation.

Moreover, the National Human Rights Commission Act defines discrimination based on sexual orientation as a violation of the right to equality, and provides procedures for investigating and offering remedies to victims of such violations.

(The Ministry of Justice)

The Government of the Republic of Korea has established the 4th National Action Plan for the Promotion and Protection of Human Rights (2023-2027, hereinafter 'NAP'), which identifies actions needed to establish a robust legal framework to promote non-discrimination and equality. Specific actions required include:

- Implementing practical measure to prevent and redress discriminatory practices on the grounds of gender and other factors across political, economic, social and cultural spheres
- Reviewing domestic laws and systems that have the potential to promote discriminatory practices or a discriminatory environment in areas ranging from employment and supply and use of goods or services to education and vocational training provided by educational institutions and administrative services
- Engaging in constructive dialogue with the National Assembly on proposed anti-discrimination bills

Gender-related education

(The Ministry of Education)

It is stipulated in the Constitution and the Framework Act on Education that public education in Korea is grounded on the principles of non-discrimination enshrined in international human rights instruments.

All schools in Korea have established and implemented educational programs to promote awareness of gender equality, including sex education, gender awareness education, and sexual violence prevention education, which are tailored to the student's developmental stages.

- The goal of gender equality education is to foster mutual respect and tackle stereotypes and discrimination against other people including socially marginalized groups.
- The education programs cover a diverse range of topics including: respect for diversity; awareness of and attitude towards discrimination and (in)equality; and gender in sociocultural contexts and issues arising from gender bias.
- Students learn how to acknowledge differences and respect diversity in their relationships with other individuals, and within social groups, families and society to nurture self-awareness, and promote respect for human dignity, which enables them to responsibly participate in addressing issues affecting their community such as sexual health risks, sexual violence, discrimination, and inequality.

The Korean Ministry of Education will continue its efforts to integrate gender equality into all areas of schooling, as set out in the Constitution and relevant laws.

Sexual and Reproductive health and rights

(The Ministry of Health and Welfare)

The Ministry of Health and Welfare of the Republic of Korea (MoHW), in partnership with the Korea Population Health and Welfare Association (KoPHWA), a respected member organization of the International Planned Parenthood Federation, provides information and counseling services on sexual and reproductive health.

To make sexual and reproductive health information and counselling services for LGBT adolescents as accessible as possible, all services are listed on a Love-Plan website (www.loveplan.kr) and available through a hotline and in person meetings. There is no requirement to verify one's identity, such as registration or login, to facilitate open and anonymous access to the content. In addition, individuals can select their gender identity from three categories: male, female, and other, with a guarantee of confidentiality.

In order to provide more inclusive and comprehensive services, the government also offers community-outreach education programs on sexual and reproductive health, specifically designed for marginalized adolescents, such as those with disabilities and out-of-school youth.

In line with the recommendations from the UN Committee on the Rights of the Child, these programs aim to challenge gender stereotypes and promote sexual autonomy as a fundamental human right. The services are designed to empower individuals to engage in sexual behavior within egalitarian and horizontal relationships. The key achievements are as follows:

(Unit: View, Count)

<i>Year</i>	<i>Online Information Monthly Average Page Views (Love-Plan)</i>	<i>Number of Sexual & Reproductive Health and Contraception Counselling Sessions (in person & hotline)</i>	<i>Number of Sexual & Reproductive Health and Contraception Counselling Sessions Outreach Education Sessions</i>	<i>Number of Awareness Raising Campaigns</i>
2024	97,996	3,904	374	32
2023	59,925	4,139	361	42
2022	46,710	3,830	350	42

/END/