



INTERNATIONAL GAY AND LESBIAN HUMAN RIGHTS COMMISSION

South Korea: Stop Bill Before it Goes to National Assembly

Summary

The International Gay and Lesbian Human Rights Commission (IGLHRC) has received an urgent request from the Alliance Against Homophobia and Discrimination Against Sexual Minorities in South Korea to mobilize international support for the restoration of sexual orientation as a protected category in the proposed anti-discrimination legislation (ADL) recently drafted by the Ministry of Justice. The legislation was designed to bolster South Korea's pre-existing National Human Rights Commission Act (which prohibits discrimination on the basis of sexual orientation and other criteria) by requiring the government to develop plans to eradicate discrimination. But the current legislation excludes sexual orientation as a protected category. The ADL vote will be finalized on November 20, before being sent to the extremely conservative National Assembly (Korean Parliament) where 60 percent of the members belong to the Christian Right.

A coalition of 40 LGBT groups in South Korea, called the Alliance Against Homophobia and Discrimination Against Sexual Minorities, is asking for a coordinated international response to stop the most recent draft of the anti-discrimination legislation from going before the National Assembly. The Alliance demands that sexual orientation is restored as a protected category. Ms. Hahn Chae-Yoon, president of the Alliance Against Homophobia and Discrimination Against Sexual Minorities, says, "The struggle has the potential to be the Stonewall of Korea. There has been no previous instance of this many LGBT people coming together in anger and solidarity against a common enemy and this is a very important struggle, which is why we need international support.... What we need from our international brothers and sisters is to exert any kind of pressure on the Blue House (the seat of government) in the form of faxes, emails and telephone calls. The United Nations Secretary General is Korean so international pressure will be most effective ... The current administration puts a high premium on Korea's international reputation. So if we put pressure from here in Korea and internationally, we can persuade them to restore the 7th clause on sexual orientation that was stricken from the bill." The full text of an interview with Ms. Hahn Chae-Yoon will be posted on IGLHRC's website (www.iglhrc.org) on November 14, 2007.

Action

IGLHRC urges you to act quickly with a massive show of solidarity with Korean LGBT people. IGLHRC has already written to members of the Korean government. Feel free to use our letter (enclosed) as a sample and contact the individuals listed below.

Please also email a copy of your correspondence to Grace Poore at: gpoore@iglhrc.org.

Contacts:

1. Mr. Moon Jae In
Chief of Staff, Cheong Wa Dae (“Blue House”), Office of the Korean President
c/o Mr. Yoon Seung Ki
Email: yks237@president.go.kr
Phone: +82-2-770-2571

c/o Ms. Lee Sook Jin
Email: leesjdream@cwd.go.kr
Phone: +82-2-770-4813
2. Mr. Cha Sung Su
Senior Secretary to the President for Civic and Social Agenda, Cheong Wa Dae (“Blue House”), Office of the Korean President
c/o Mr. Park Tae Su
Email: tspark01@cwd.go.kr
Phone: +82-2-770-2451
3. Mr. So Moon Sang Administrative Secretary, Cheong Wa Dae (“Blue House”), Office of the Korean President
Email: conra@cwd.go.kr
Phone: +82-2-770-2390
4. Mr. Jung Sung Jin
Minister, Ministry of Justice
Email: webmaster@moj.go.kr
Phone: +82-2-503-7000/7001
5. Mr. Kim Jong Hoon
Chief of Human Rights Bureau, Ministry of Justice
Email: webmaster@moj.go.kr
Phone: +82-2-503-1123
6. Mr. Hong Gwan Pyo
Secretary for Division of Human Rights Policy
Email: federone@gmail.com
Phone: +82-2-503-7044
Fax: +82-2-503-7046
7. Mr. Nam Ki Myoung
Minister, Ministry of Government Legislation
Email: none
Phone: +82-2-2100-2500/2501
8. Mr. Park Jong Il

Minister, Legislation Bureau of Administrative Affairs, Ministry of Government
Legislation

Email: pjil719@moleg.go.kr

Phone: +82-2-2100-2593

===== Sample Letter Below =====

November 13, 2007

Mr. Moon Jae In
Chief of Staff, Cheong Wa Dae (“Blue House”), Office of the Korean President
c/o Mr. Yoon Seung Ki

Mr. Moon Jae In,

I write on behalf of the International Gay and Lesbian Human Rights Commission to express our disappointment that South Korea’s Ministry of Justice has decided to eliminate sexual orientation from its list of protected categories in the proposed anti-discrimination legislation. This action severely compromises the proposed legislation, which is intended to recognize and secure the equality of Korean citizens who are most targeted for discriminatory treatment.

Lesbian, gay, bisexual and transgender (LGBT) people in South Korea face real discrimination. They are frequently denied jobs and segregated into particular industries. Their access to public institutions, such as healthcare and educational facilities, is limited by their fear of being exposed. They are forced to endure police harassment. Those LGBT people who acknowledge their gay identity in public are often the targets of hatred and abuse.

Yet, despite the persistence of discrimination in society, South Korea has been a leader on LGBT rights, both internationally and domestically. South Korea is one of the few countries in the Asia/Pacific region that has voted in favor of the rights of LGBT people at the United Nations. And domestically, the National Human Rights Commission has long opposed all forms of discrimination, including discrimination based on sexual orientation.

The current administration’s decision to omit sexual minorities from the proposed anti-discrimination legislation conflicts starkly with your country’s reputation and leadership in the human rights arena. By striking down protections for a vulnerable community, you deny your Human Rights Commission the legislative “teeth” it needs to be effective. Moreover, you send a message to local governments, employers, and members of civil society that LGBT people do not count.

It is critical to restore the 7th clause on sexual orientation to the anti-discrimination legislation. Sexual minorities should not have to compartmentalize their lives and hide in shame or fear because their government has excluded them from a law designed to reflect

the egalitarian principles of the South Korean Constitution. The proposed anti-discrimination legislation also marginalizes six other groups, including single mothers and migrant workers. The protected status of all the eliminated categories should be restored. This will make it clear to both South Korean society and the international community that the country recognizes the value, intersectionality and indivisibility of human rights.

IGLHRC works around the world with individuals and groups to show that discrimination on the basis of sexual orientation is a human rights violation. While we acknowledge that you confront significant pressure from your opponents in the National Assembly and corporate sector, the state's job is to implement its treaty obligations with regard to the fulfillment of human rights principles such as equality and free expression. We urge you not to abandon your country's commitment to the rights of vulnerable communities. Please reconsider the changes to the proposed anti-discrimination legislation. It is clear that you want this legislation to be your legacy. Let it be a legacy that all can celebrate.

Sincerely,

Paula Ettlbrick
Executive Director
International Gay and Lesbian Human Rights Commission

CC: Mr. Cha Sung Su, Senior Secretary to the President for Civic and Social Agenda, Cheong Wa Dae ("Blue House"), Office of the Korean President; Mr. So Moon Sang, Administrative Secretary, Cheong Wa Dae ("Blue House"), Office of the Korean President; Mr. Jung Sung Jin, Minister, Ministry of Justice; Mr. Kim Jong Hoon, Chief of Human Rights Bureau, Ministry of Justice; Mr. Hong Gwan Pyo, Secretary for Division of Human Rights Policy; Mr. Nam Ki Myoung, Minister, Ministry of Government Legislation; Mr. Park Jong Il, Minister, Legislation Bureau of Administrative Affairs, Ministry of Government Legislation

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Background

In 2006, South Korea's Ministry of Justice announced that they had finished drafting anti-discrimination legislation intended to complement the National Human Rights Commission Act (which prohibits discrimination on the basis of sexual orientation and a variety of other criteria) by requiring the government to develop plans to eradicate discrimination. The drafting process began in 2003 and went through several revisions in consultation with various human rights groups, including the Korean Sexual Minorities Culture and Rights Centre, based in Seoul. Originally, protected status was granted to people on the basis of 20 criteria: gender, disability, medical history, age, national origin, born ethnicity, race, color, language, region within the country, physique or physical condition, marital status, pregnancy or childbirth, family situation, religion, ideology or

political opinion, criminal or probation history, sexual orientation, educational background, or social status. But on November 2, 2007, following pressure from Christian groups and big business, the Ministry of Justice dropped seven protected categories: sexual orientation, medical history, national origin, language, educational background, family situation or family status, and criminal or probation history. On November 5, 2007, 40 LGBT groups formed the Alliance Against Homophobia and Discrimination Against Sexual Minorities to pressure the government to restore sexual orientation as a protected category in the anti-discrimination legislation. They were joined by rights-based groups representing the six other categories also eliminated from the bill.

International Law

The Republic of Korea has ratified the main UN Human Rights Treaties, including the International Covenant on Civil and Political Rights (ICCPR). Article 2 establishes that the rights guaranteed in the covenant are guaranteed to all the citizens of each signatory country, “without distinction of any kind, such as race, colour, [or] sex.” Article 23 of the ICCPR designates the family as the “fundamental unit of society” and entitles it to special protection by the state. Article 26 guarantees the right of all people to equality before the law and equal protection of the laws and legal systems of each signatory country. Discrimination in the law “on any ground such as race, colour, [or] sex” is likewise prohibited.

The UN Human Rights Committee affirmed in its decision in *Toonen v. Australia* (1994) that existing protections against discrimination in Articles 2 and 26 of the ICCPR should be understood to include sexual orientation as a protected status. Although the Human Rights Committee decided in *Joslin v. New Zealand* (1999) that states’ prohibition of same-sex marriage does not constitute a violation of Article 23, they have also held in *Young v. Australia* (2000) that if a state grants benefits (such as pensions, health insurance, etc.) to unmarried opposite sex couples, then it must also grant those same rights to unmarried same-sex couples.

About

The mission of IGLHRC is to secure the full enjoyment of the human rights of all people and communities subject to discrimination or abuse on the basis of sexual orientation or expression, gender identity or expression, and/or HIV status.

email: executive_director@iglhrc.org

phone: 212-268-8040

web: <http://www.iglhrc.org>

The Mission of the International Gay and Lesbian Human Rights Commission is to secure the full enjoyment of human rights of all people and communities subject to

discrimination or abuse on the basis of sexual orientation or expression, gender identity or expression and/or HIV status.