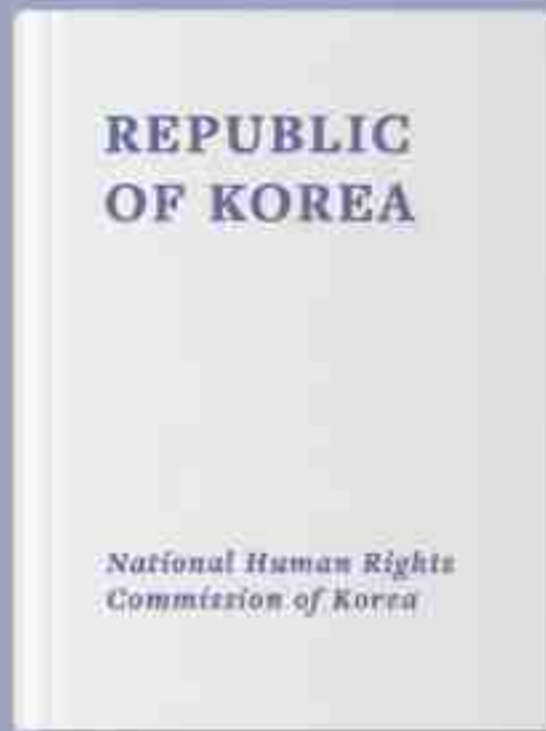


SOUTH KOREA:

NATIONAL HUMAN RIGHTS COMMISSION OF
KOREA'S STALLED EFFORTS TO PROTECT HUMAN RIGHTS¹



YEAR OF ESTABLISHMENT	2006
COMPOSITION OF MEMBERS	ELEVEN ⁹
DIVERSITY REQUIREMENT UNDER LAW	THE NUMBER OF COMMISSIONERS OF ANY GENDER NOT TO EXCEED SIX OF 18 OF THE TOTAL NUMBER OF COMMISSIONERS ⁹
TERM OF MEMBERS	THREE YEARS
CURRENT CHAIRPERSON	SONG DOO-HWAN (PRESENT) CHOI YOUNG-AE (2020)
CURRENT GENDER RATIO (WOMEN : MEN)	6:5 (PRESENT) 6:5 (2020)
AUTHORITY TO APPOINT MEMBERS	PRESIDENT, UPON NOMINATION OF FOUR PERSONS BY THE PRESIDENT (INCLUDING ONE FULL-TIME COMMISSIONER), FOUR SELECTED BY THE NATIONAL ASSEMBLY (INCLUDING TWO FULL-TIME COMMISSIONERS), AND THREE PERSONS NOMINATED BY THE CHIEF JUSTICE OF THE SUPREME COURT ⁹
CURRENT ACCREDITATION STATUS BY THE GANHUI SCA	A (LAST REVIEWED IN 2018) ⁹
REGIONAL OFFICES	FIVE (DULLEO, GWANGJU, DAEGU, DAEJEON, AND GANGWON)
ADDRESS	NAHARIM JOODONG BLDG, 340, SAMS-DAERO, JUNG-GU, SEOUL 04533
PHONE	+82-2-2123-9789
HELPLINE NUMBER	1122-09 (30/1122)
EMAIL	hr@humanrightsc.or.kr
WEBSITE	www.humanrights.or.kr



ALTHOUGH THE NHRCK HAS TAKEN SOME STEPS TO STRENGTHEN AND PROTECT HUMAN RIGHTS IN KOREA, IMPROVING THE GANHRI-SCA'S RECOMMENDATIONS HAS STILL NOT BEEN IMPLEMENTED. DISCRIMINATION AND GENOCIDE AND VIOLENCE ARE STILL RAMPLANT

I. Overview

The National Human Rights Commission of the Republic of Korea ('NHRCK' or 'Commission') is the NHRI of the country. The statutory body was established under the National Human Rights Commission Act, 2001 ('NHRCA' or 'Act'), as amended.²

The Commission was established to uphold human rights and improve the human rights situation in Korea.³ The law defines 'human rights' as the 'human dignity and worth, liberty and rights' guaranteed by the Korean Constitution as well as human rights enshrined in treaties that Korea is a party to and in customary international law.⁴

(Refer to the table above) ^{5 6 7 8}

President Moon Jae-in has committed to advancing human rights as one of his national priorities.⁹ However,

1 Korean House for International Solidarity (KHIS) was established in 2000. KHIS has been monitoring multinational corporations and is also engaged in Asian democracy and human rights solidarity in Korea. KHIS is the only ANNI member in Korea and is also conducting monitoring activities for the NHRI.

2 National Human Rights Commission of Korea Act (2001), https://elaw.klri.re.kr/eng_service/lawView.do?hseq=22488&lang=ENG.

3 Ibid. Art. 3.

4 Ibid. Art. 2(1).

5 Ibid. Art. 5(1). Among the 11 Commissioners, there are three full-time or 'standing' Commissioners along with the Chairperson. The rest are 'non-standing' Commissioners. See National Human Rights Commission of Korea, 'Organization,' accessed 26 November 2021, <https://www.humanrights.go.kr/site/homepage/menu/viewMenu?menuid=002001005>.

6 Ibid. Art. 5(7).

7 NHRCK Act, Art. 5(2).

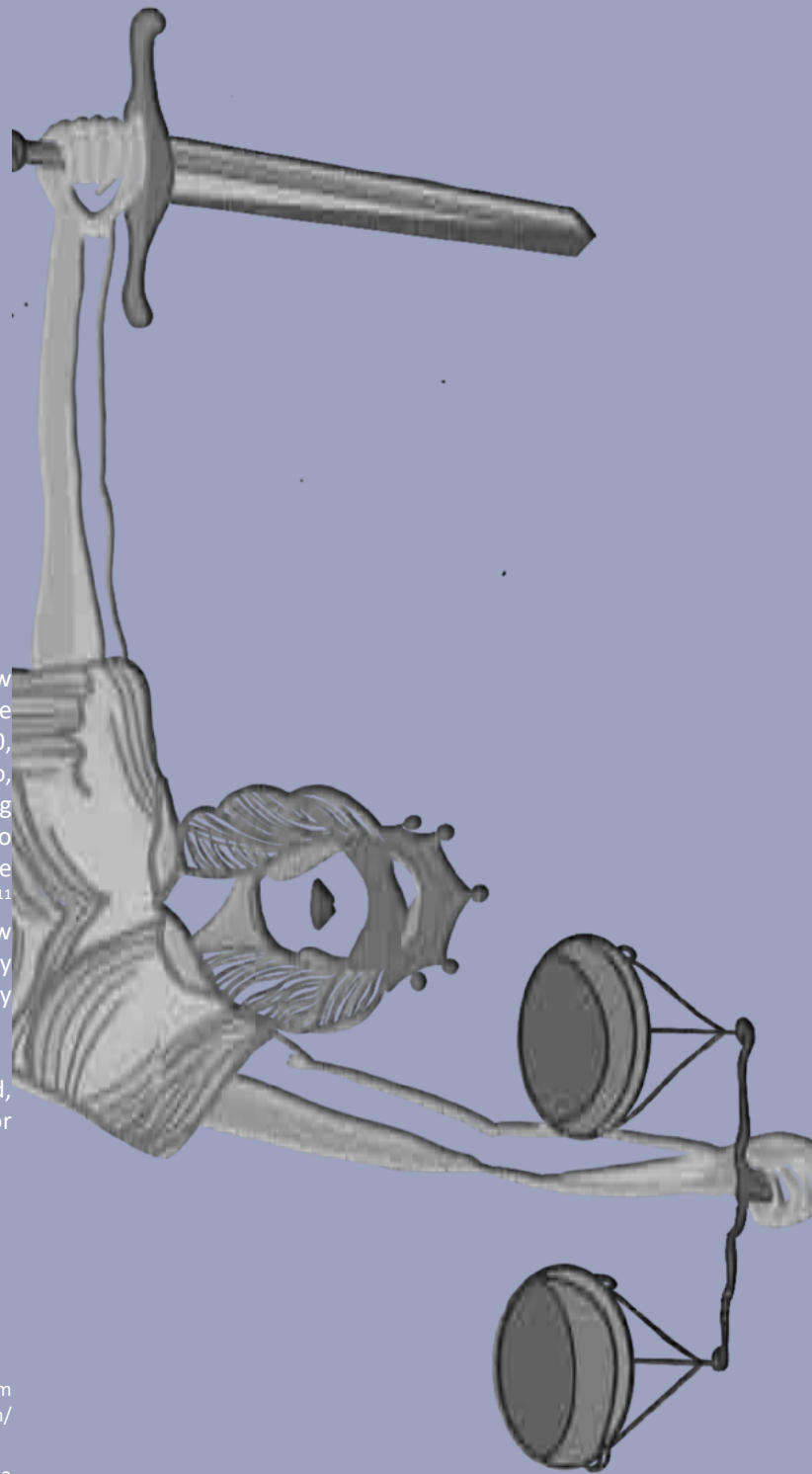
8 The NHRCK was re-accredited with 'A' status as of 2021. Though the report is not yet published, see The NHRCK, NHRCK Participates in GANHRI SCA Accreditation Review, 25 October 2021, <https://www.humanrights.go.kr/site/program/board/basicboard/view?menuid=002002005&pagesize=10&boardtypeid=7013&boardid=7607356>.

9 'Congratulatory Remarks by President Moon Jae-in on 2018 Human Rights Day,' Korea.net, 10 December 2018, <https://www.korea.net/Government/Briefing-Room/Presidential-Speeches/view?articleId=166297>.

AS TAKEN IMPORTANT AND PROMOTE HUMAN RIGHTS REMAIN. RECOMMENDATIONS HAVE NOT BEEN IMPLEMENTED. HARASSMENT, VIOLENCE AND GENDER-BASED DISCRIMINATION REMAIN A MAJOR CONCERN.

the human rights situation in Korea over the last few years has not improved significantly. The situation for the LGBTIQ community was particularly dire. In January 2020, a transgender soldier (male to female), Sgt. Byun Hee-soo, was forcibly discharged from the military after undergoing sex reassignment surgery while enlisted.¹⁰ Her appeal to be reinstated was denied in July 2020. In December, the NHRCK stated that Sgt. Byun's dismissal had no legal basis.¹¹ The NHRCK had been pushing for an anti-discrimination law in Korea since 2006, and in 2020, it renewed its advocacy to enact such a statute based on a draft law developed by the Commission.¹²

Impunity for gender-based violence remains unaddressed, as seen in the sexual harassment claims against the mayor



10 Ock Hyun-ju, 'Transgender sergeant forcibly discharged from military,' The Korea Herald, 22 Jan 2020, http://news.koreaherald.com/view.php?ud=20200122000800&md=20200125003111_BL.

11 'South Korea's first transgender soldier found dead,' BBC, 3 March 2020, <https://www.bbc.com/news/world-asia-56268409>.

12 'Taking Bold Step Towards Equality for All,' NHRCK, 7 July 2020, <https://www.humanrights.go.kr/site/program/board/basicboard/view?&boardtypeid=7003&menuid=002002001&boardid=7605641>; 'Time to take bold steps toward 'Equality for All,' NHRCK, accessed 26 November 2021, <https://www.humanrights.go.kr/site/program/board/basicboard/>

with public interest.²⁵

Secondly, as rallies and demonstrations were restricted due to COVID-19, the Government significantly curtailed the ability to assemble and protest, specifically for the socially disadvantaged group adversely impacted by COVID-19. Law enforcement authorities created ‘bus walls’ so that people could not pass through, in an effort to prevent mass gatherings that could trigger an outbreak.²⁶ Although preventing COVID-19 from spreading was a valid public health purpose, the means employed by the police ended up preventing all forms of protest altogether, which curtailed the people’s rights to freedom of expression and of peaceful assembly. Police also stopped and searched pedestrians. The NHRCK has been relatively silent on this issue despite the anti-government backlash.²⁷

Thirdly, the economic downfall led to massive layoffs. While the Government provided significant support to companies due to the COVID-19 economic downturn, workers’ interests were not similarly protected. For instance, Asiana Airlines laid off workers notwithstanding the subsidies received by the company from the Government.²⁸ They have not reinstated the workers despite the dismissal being declared ‘unfair’ by the local labor relations commission in July 2020.²⁹ Though the NHRCK intervened in some human rights issues concerning businesses, including entering into an MOU with the Ministry of Justice in addressing human rights abuses by companies and offering redress to victims,³⁰ it was not clear what steps the Commission took to protect workers’ rights during the pandemic.

II. NHRCK’s Mandate to Protect and Promote Human Rights

Independence

Article 3(2) of the NHRCK Act guarantees the independence of the Commission. In May 2016, the GANHRI-SCA reaccredited the NHRCK with an ‘A’ status.³¹ However, it recommended that the NHRCK Act be amended so that the appointment process would not rely on three separate processes within the Presidency, National Assembly, and Supreme Court. To recall, the Commissioners are selected among nominees suggested by the President, National Assembly, and the Supreme Court, respectively. Each chamber may therefore have its own procedures for selecting a nominee. To avoid this, the GANHRI-SCA recommended the following:

- Require the advertisement of vacancies; and
- Ensure a consistent process is applied by a single independent selection committee.³²

There was an attempt to form an independent Selection Committee for the first time in 2018.³³ In 2020, the NHRCK

25 ‘NHRCK Chairperson’s Statement: ‘COVID-19 Is a Test of Our Society’s Ability to Protect Human Rights,’ NHRCK, 9 April 2020, <https://www.humanrights.go.kr/site/program/board/basicboard/view?currentpage=3&menuid=002006006&pagesize=10&boardtypeid=7057&boardid=7605339>.

26 Hyonhee Shin, ‘South Korea police set up ‘bus walls’ to prevent protests amid COVID-19 concerns,’ Reuters, 3 October 2020, <https://www.reuters.com/article/us-health-coronavirus-southkorea-idUSKBN2600DJ>.

27 Tae-jun Kang, ‘South Korea Baffled by Stop-and-Search, Police Bus Walls During Protests,’ The Diplomat, 5 October 2020, <https://thediplomat.com/2020/10/south-korea-baffled-by-stop-and-search-police-bus-walls-during-protests/>

28 ‘Airlines threaten layoffs if government subsidy ends,’ Korea JoongAng Daily, 2 June 2021, <https://koreajoongangdaily.joins.com/2021/06/02/business/industry/airline/20210602174300391.html>.

29 Im se Woong, ‘Incheon Local Labor Committee, AsianaKO’s layoffs are unfair,’ Labortoday, 15 July 2020, <http://www.labortoday.co.kr/news/articleView.html?idxno=165535>.

30 See ‘NHRCK and Ministry of Justice Partner to Foster Integration of Human Rights into Business Operations,’ NHRCK, 28 May 2020, <https://www.humanrights.go.kr/site/program/board/basicboard/view?currentpage=5&menuid=002002001&pagesize=10&boardtypeid=7003&boardid=7605487>; ‘Updated Comment Policies of Domestic Internet Companies,’ NHRCK, 27 March 2020, <https://www.humanrights.go.kr/site/program/board/basicboard/view?currentpage=6&menuid=002002001&pagesize=10&boardtypeid=7003&boardid=7605218>.

31 Office of the High Commissioner for Human Rights, Chart of the Status of National Institutions, 5 August 2016, <https://www.ohchr.org/Documents/Countries/NHRI/ChartStatusNHRIs.pdf>, p. 42. The ‘A’ accreditation was renewed again in October 2021, but as of writing, the GANHRI-SCA accreditation report is not yet available.

32 GANHRI Sub-Committee, GANHRI Sub-Committee on Accreditation Report, May 2016, pp. 41– 43.

33 ‘An independent selection committee for the NHRCK Chairperson to be launched for the

Commissioners represent each social group related to protecting and improving human rights.⁵⁵ A Commissioner can be a person ‘engaged in activities for human rights’ for at least 10 years, either by working for a non-profit organisation, company, or international organisation in the field of human rights. A Commissioner can also be any other person ‘highly respected in society’ as recommended by civic groups.⁵⁶ These provisions aim to achieve pluralism within the composition of the Commission.

Article 5 (7) of the NHRCK Act also provides that ‘the number of Commissioners of any gender shall not exceed 6/10 of the total number of Commissioners.’ While gender equality exists in the composition of the NHRCK’s membership, it has not yet been achieved in the composition of the Secretariat’s employees, as the 2018 Innovation Committee report points out.⁵⁷ The NHRCK does not disclose how much it has tried to realise gender equality within the institution. For example, it does not disclose the number of gender minorities and disabled people among all of its employees in its annual report, nor does it disclose the proportion of women among high-level employees.

According to the recommendation of the Innovation Committee, the NHRCK must disclose the employment and position status of minorities, including women and the disabled, in its annual report along with the realization of gender equality in the composition of the Secretariat.

Further, the NHRCK currently operates in Gwangju, Daegu, Busan, Daejeon, and Gangwon. In Korea, the population is concentrated in the metropolitan area, so people living in provincial areas are often isolated. To address this, the NHRCK needs to strengthen regional offices and cooperation with a broad base of local human rights defenders.

55 NHRCK Act, Art. 5(4).

56 Ibid. arts. 5(3)(3) and 5(3)(4).

57 2018 Innovation Committee, Recommendation about organizational innovation of NHRCK, 2018, <https://www.humanrights.go.kr/site/program/board/basicboard/view?menuid=001004002001&boardtypeid=24&boardid=7602376>, pp. 9-10.



III. Conclusion and Recommendations

Although the NHRCK has taken important steps to strengthen and promote human rights in Korea, impediments remain. The GANHRI-SCA's recommendations have still not been implemented. Harassment, discrimination and gender-based violence are still rampant. The Government also has yet to enact an anti-discrimination law that would protect these groups. Though the NHRCK has issued press statements and conducted investigations into some of these human rights incidents, the Commission must also improve its timely handling of cases for these vulnerable groups. Moreover, the Commission must strengthen diversity within its own institution in order to serve as a prime example of how diversity and equality should look in broader society. This is the only way to restore civil society's trust in the NHRC and realise human rights for all in Korea.

To the Government:

1. Amend the appointment process in the NHRCK Act to establish an independent Selection Committee involving civil society for appointing Commissioners; and
2. Implement the recommendations of the Commission.

To the NHRCK:

1. Advocate with members of the National Assembly to amend the NHRCK Act;
2. Investigate and provide access to remedies to victims of human rights violations, particularly those stigmatised in Korean society such as migrants, refugees, and gender minorities;
3. Strengthen engagement with civil society; and
4. Publish reports on the Commission's efforts to strengthen diversity within its own institution.

