



# Challenges and recent developments of LGBTQI rights in South Korea

October 28, 2022



Minhee Ryu, Attorney-at-law  
The Korean Lawyers for Public Interest and Human Rights  
[minhee.ryu@hopeandlaw.org](mailto:minhee.ryu@hopeandlaw.org)

# Happy Pride!

2019



2018

# SOUTH KOREA: Current Status

- Criminalization: Anti-gay sodomy provision in the Military Criminal Act
  - South Korea has a conscription system
- No recognition of same-sex couple
  - Several allies, NGOs, political parties and labor unions have a protection policy for LGBTs. will continue to increase
- No anti-discrimination law including SOGI (been debated since 2006)
- National Human Rights Commission Act covers sexual orientation discrimination
  - Also, several local human rights (or student human rights) ordinance covers sexual orientation discrimination
- Strict and invasive requirement for legal recognition for transgender
  - sterilization surgery, hormone therapy, unmarried, not having underage children
  - The parental consent requirement has recently abolished.
  - A litigation challenging 'not having underage children' requirement is pending at the Supreme Court.

# Past 2 years

- Setback: Community events have been limited due to the covid
  - Expected to have a psychological effect due to community disconnection
  - Nightclub Outbreak in Itaewon in 2020 and ensuing hatred against LGBTQ community

## How South Korea's Nightclub Outbreak Is Shining an Unwelcome Spotlight on the LGBTQ Community



A person wearing a protective face mask walks past a closed club at night in the Itaewon area of Seoul, South Korea, on Saturday, May 9, 2020. SeongJoan Cho-Bloomberg/Getty Images

BY STEVEN BOROWIEC / SEOUL MAY 14, 2020 9:04 AM EDT

In his early 20s, after leaving business school to follow his ambition of becoming an artist and performer, Heezy Yang was drawn to an out-of-the-way area of Seoul's Itaewon district known as Homo Hill, a longtime haven for

# Now

## “Build back better”

- On July 16, 2022, Seoul Pride was held in person for the first time in three years.
- Queer women’s games were held on October 2, 2022
- Some good news from various sectors









# Comprehensive anti-discrimination law

- This bill has been under discussion since 2006.
- There are currently 4 bills pending. The main components are the concept of discrimination, grounds for prohibition of discrimination, remedies from discrimination.
- Religious opponents oppose sexual orientation and gender identity as grounds, arguing that their freedom of expression will be undermined.
- After the presidential election, two activists fought a hunger strike for over a month.
- As of now, there's not much political will within the National Assembly.
- The Democratic Party, holds majority for two more years.





## **Win at the court: Queer women's games**

- However, the absence of an anti-discrimination law does not mean that remedies or lawsuits are impossible.
- On August 19, 2022, the Supreme Court ruled in favor of Queer Women Games. The Games got canceled the rental of the gym for the 2017 1st Queer Women's games by Dongdaemun-gu office in Seoul. The Supreme Court ordered 9 million KRW (about 200,000 TWD) in damages.
- Preventing discrimination in the public and private sphere will continue.

# Military


- Sgt Byun Hee-soo was discharged in 2020 due to gender reassignment surgery she underwent in 2019.
- She filed a lawsuit revoking her discharge in 2020.
- The lawsuit was delayed without a single hearing date, and Sgt Byun died by suicide in March 2021.
- In October 2021, a court ruled that her discharge was unlawful.
- The Ministry of National Defense is in the final stages of completing a research to review the possibility of transgender's military service.

# Military

- On April 21st, the Supreme court decided on an anti-gay sodomy case that the military should not punish consensual sex acts that had taken place in a nonmilitary setting with the not-guilty ruling on two defendants.
- The supreme court narrowed the interpretation with the ruling.
- South Korea has a dual system with the Supreme Court and the Constitutional Court of Korea. C Court is a specialised court for Constitutional lawsuits.
- The constitutional review is still ongoing at the C Court.

## *South Korea's Supreme Court Issues Landmark Ruling on Gay Sex*

The court said that the military should not punish consensual sex acts that had taken place in a nonmilitary setting.

 Give this article



South Korean Marines patrolling on Yeonpyeong Island, South Korea, in 2020. Kim In-Chul/Yonhap, via Associated Press

# Same-sex couples' rights







## 2014 – 2016 Marriage Litigation



1,056 mass complaints of 1,056 people to the National Human Rights Commission of Korea in 2019

- Recommendation of the Civil Union Act in 2022



## National Health Insurance dependent litigation in 2021

- A same-sex couple who have been together since 2017. Recognized as a dependent of a health insurance employer, but then revoked. Claiming to be a common-law spouse under health insurance and filing a lawsuit on February 18, 2021.
- On January 27, 2021, the plaintiff was defeated. The court said “Marriage is still a union between a man and a woman”
- Appeal in progress





Raphael Rashid ✓  
@koryodynasty

...

The Korean Metal Workers' Union, S. Korea's largest union by industry, has revised its collective agreement to ban discrimination against LGBTQ workers. 461 unionised workplaces will be presented with the revision as a guideline for collective bargaining.



v.daum.net

[단독]동성커플 결혼휴가 길 열릴까.. 국내 첫 성소수자 권리보장 모범단협안 등장  
국내 최대 산업별 노동조합 전국금속노동조합(금속노조)가 성소수자 노동자의 차별을 금지하  
는 내용의 모범단체협약안을 개정했다. 금속노조 산하 사업장 461곳에 단체교섭 가이드라...

2:28 PM · Dec 21, 2021 · Twitter Web App

# 비 온 뒤 맑음

雨過天青

무지개평등권박을뒀을 지을 · 강영희 옮김  
성소수자가 추구성권 네트워크 감수

사진과 이야기로 보는  
타이완 동성 결혼 법제화의 여정



사단법인



# Lessons

- Social change is about overcoming regression and setbacks.
- Covid-19 has exposed more vulnerabilities in LGBTQI community and our society.
- Now that we have realized the importance of community belonging, we are building back better again.
- Many lessons from Asia empower us. Let's empower each other with solidarity.
- Thank you!

