



Republic of Korea
Consolidated Joint Submission to the UN Universal Periodic Review
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Submission by CIVICUS: World Alliance for Citizen Participation, NGO
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**CIVICUS: World Alliance for Citizen
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1. (A) Introduction¹

- 1.1. CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the Global South, and have members in more than 170 countries throughout the world.
- 1.2. In this document, CIVICUS examines the Republic of Korea's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyze the Republic of Korea's fulfillment of the rights to freedom of association, assembly, and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in October 2012. To this end, we assess the Republic of Korea's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.3. During the 2nd UPR cycle, the Republic of Korea received 7 recommendations relating to civic space. Of these recommendations, the Republic of Korea accepted 2 and noted 5. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government partially implemented 2 recommendations and did not implement 5. While the government has persistently failed to address unwarranted restrictions on civic space since its last UPR examination, acute implementation gaps were found with regard to the right to freedom of assembly. According to the CIVICUS Monitor which evaluates the protection of the freedoms of expression, association and peaceful assembly globally, the Republic of Korea is listed as “narrowed.”²
- 1.4. CIVICUS is deeply concerned by the use of excessive force by security forces to disperse peaceful demonstrations.
- 1.5. CIVICUS is further alarmed by judicial harassment to persecute and silence civil society representatives, union leaders and peaceful protesters.

2. (B) Freedom of association

- 2.1. During the Republic of Korea's examination under the 2nd UPR cycle, the government received 1 recommendation on the right to freedom of association and creating an

¹ The full version of this submission can be found [here](#).

² CIVIUS Monitor, Republic of Korea, <https://monitor.civicus.org/country/south-korea/>

enabling environment for civil society organizations (CSOs). However, as evidenced below, the government did not realize this recommendation.

2.2. Article 21 of the Constitution guarantees the right to freedom of association. Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which the Republic of Korea is a state party, also guarantees freedom of association. However, despite these commitments, the government has failed to address a number of unwarranted legal restrictions undermining the full realisation of the right to freedom of association for civil society organisations.³

3. (C) Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

3.1. Under the Republic of Korea's previous UPR examination, the government received 2 recommendations on the protection of human rights defenders, journalists and civil society representatives. Of the recommendations received, the government accepted 1 and noted 1. Of these recommendations, the government has partially implemented 1 and not implemented 1.

3.2. Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection to human rights defenders. The ICCPR further guarantees the freedoms of expression, association and assembly. However, in spite of these protections, the authorities have orchestrated a systemic crackdown on human rights defenders, civil society activists and union representatives to prevent them participating in and organising public demonstrations.

4. (D) Freedom of expression and independence of the media

4.1. Under the 2nd UPR cycle, the government of the Republic of Korea received 6 recommendations relating to on freedom of expression. Of the recommendations received, 2 were accepted and 4 were noted. However, as discussed below, the government did not take effective measures to implement these recommendations. Of the 6 recommendations pertaining to freedom of expression, the government partially implemented 2 and did not at all implement 4.

4.2. Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 21 of the Constitution of the Republic of Korea guarantees the freedoms of

³ Constitution of the Republic of Korea, 29 October 1987. http://korea.assembly.go.kr/res/low_01_read.jsp?boardid=1000000035

speech and the press with an explicit prohibition on censorship. However, despite the protections, the authorities have continued to discriminatorily apply restrictive legislation, including the National Security Law (NSL), to silence dissenting voices and critics of the government.⁴

5. (E) Freedom of peaceful assembly

1. During the Republic of Korea's examination under the 2nd UPR cycle, the government received 2 recommendations on the right to freedom of assembly. Of the recommendations received, the government noted both. As evidenced below, the government has failed to adequately realize these recommendations. Of the 2 recommendations on freedom of assembly, the government has not implemented either.
2. Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 21 of the Constitution also guarantees the right to freedom of assembly.⁵ However, in stark contrast to these protections, since 2014 the police have shown growing intolerance of the right to freedom of peaceful assembly exemplified by the authorities increasingly hostile approaches to mass demonstrations, including mass arrests of protesters, judicial harassment of civil society activists and wanton use of force.

6. (F) Recommendations to the Government of Republic of Korea

CIVICUS calls on the Government of the Republic of Korea to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made.

1. Regarding freedom of association

⁴ Constitution of the Republic of Korea, 29 October 1987. http://korea.assembly.go.kr/res/low_01_read.jsp?boardid=1000000035

⁵ Constitution of the Republic of Korea, 29 October 1987. http://korea.assembly.go.kr/res/low_01_read.jsp?boardid=1000000035

- Take measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures, which unwarrantedly limit the right to association.
- Remove all undue restrictions on the ability of civil society organizations to receive secure funding under the Act on Collections and Use of Donations and bring the law in line with best practices articulated by the UN Special Rapporteur on the rights to peaceful assembly and of association.
- All civil society organizations which have been arbitrarily and unduly sanctioned or deregistered should be immediately reinstated.
- Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities under the Civil Act and instead promote a meaningful political dialogue that allows and embraces diverging views, including those of human rights defenders, CSOs, journalists, political activists and others.
- Specifically, the Civil Act should be suitably amended to guarantee that undue restrictions on freedom of association are removed in line with public gathering to bring their provisions into compliance with article 21 and 22 of ICCPR.

2. Regarding the protection of human rights defenders

- Civil society members, journalists and human rights defenders should be provided a safe and secure environment to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring perpetrators of such offences to justice.
- Ensure that human rights defenders are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.
- A consolidated process of repeal or amendment of legislation and decrees which unwarrantedly restrict the legitimate work of human rights defenders in line with the UN Declaration Human Rights Defenders should be initiated.
- Specifically, the Criminal Code should be suitably amended in accordance with the ICCPR and the UN Declaration on Human Rights Defenders.

- All human rights defenders including, journalists and bloggers detained for exercising their fundamental rights to freedom of expression, association, assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.
- Senior government officials should publicly condemn instances of harassment and intimidation of civil society activists and organisations.
- The Government should apply systematically legal provisions that promote and protect human rights and establish mechanisms that protect human rights defenders by adopting a specific law on the protection of human rights defenders in accordance with Council resolution 27.31 of the Human Rights Council

3. Regarding freedom of expression, independence of the media and access to information

- Ensure freedom of expression and media freedom by all bringing national legislation into line with international standards.
- Specifically review the National Security Law in order to ensure that it is in line with the best practices and international standards in the area of freedom of expression.
- Reform defamation legislation in conformity with article 19 of the International Covenant on Civil and Political Rights (ICCPR).
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.
- Take adequate steps to lift restrictions on freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Refrain from censoring social and conventional media and ensure that freedom of expression is safeguarded in all forms

4. Regarding freedom of assembly

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission to assemble.
- All demonstrators, journalists and human rights defenders detained for exercising their right to freedom of peaceful assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.
- All instances of extra-judicial killing and excessive force committed by security forces while monitoring protests and demonstrations should be immediately and impartially investigated.
- Review and if necessary update existing human rights training for police and security forces with the assistance of independent nongovernmental organizations to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Senior government officials should publically condemn the use of excessive and brutal force by security forces in the dispersal of protests. A formal investigation into such instances should be launched, and perpetrators should be brought to justice.
- Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by state authorities.

6.5 Regarding State engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with civil society organizations on all issues mentioned above and enable more effective involvement of civil society in the preparation of law and policy.
- Systematically consult with civil society and NGOs on the implementation of UPR including by holding periodical comprehensive consultations with a diverse range of civil society stakeholders.

- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.