

Hello, it's an honor to be here with you today. I'm Jihyun Kang from the Intl Human Rights Clinic.

// Our clinic would like to introduce two legal documents. (1) I'll give a brief overview of the statement of reasons for appeal, since Women on Web plans to take this case to the appellate court. And our next speaker will give a briefing on the constitutional complaint.

// So the statement for appeal is comprises 3 parts based on the first trial's written judgment. We'd like to counter the arguments by asserting (One.) the KCSC's administrative action was procedurally defective, (Two.) there were no legitimate grounds for such action and (Three.) the action was a deviation or abuse of authority.

// Please focus on the boldfaced and italicized parts.

- The first of two arguments is that the Administrative Procedures Act Article 21 applies to Women on Web. This article requires prior notice "to" / and hearing "from" the parties interested. The 1<sup>st</sup> trial decided that Women on Web was not this "direct counter-party." However, the ligation for revocation of an administrative action can be raised by a third party whose interests have been violated, and although this Supreme Court precedent concerns the "standing" to challenge an administrative action, the right to notice and hearing is inseperable from the standing one has. Without a notice, one cannot file a suit. Therefore, Women on Web should be understood as the "party" subject to notice and hearing.

// But paragraph 4 of Article 21 allows the administrative agency to omit the prior notice and hearing procedure in highly impractical or clearly unnecessary cases. The 1st trial justified the omission in this case considering the nature of online information and the existence of post-facto relief procedures.

However, the 1st trial did not articulate how a 10-day delay that comes with the hearing process would significantly facilitate the distribution of crime-related content. Moreover, Women on Web provided two medications certified by WHO as safe for self-administration with the counseling of a professional. Distribution by a non-pharmascist, or more fundamentally, the Korean government's inaction in approving this drug, does not constitute an "urgent reason."

Also, Women on Web was not given prior notice, and was automatically denied the right to post-facto relief procedures.

Thus, we conclude that Women on Web is the "party" subject to 'prior notice' and 'hearing'

which cannot be omitted.

// The 2nd step of the argument is that the administrative action was unfounded. The 1st of two arguments is that providing information on abortion pills cannot be considered a crime, even under the Act on Promotion of Information.

The purpose of committing a crime cannot be directly deduced from this website's information. Although the Pharmaceutical Affairs Act prohibits distribution of unauthorized drugs, this website merely requested donations, which are not compulsory for obtaining the drugs. The 1<sup>st</sup> trial did not prove that the transactions on this website constitute a sale.

Also, the takedown of online information is permitted only when the general public can sufficiently expect that such information is 'prohibited'. However, based on (1) the 2019 decision on the unconstitutionality of abortion charges, (2) and WHO's recommendation of the drugs as safe abortion measures, the website cannot be seen as promoting content with criminal purposes.

// Our 2nd argument is, even if corpus delicti is established, it lacks illegality. There were two primary points of dispute in the 1st trial. Is there impending danger? And is providing information on abortion a necessary and inevitable measure?

The importance of women's rights to self-determination, health, and motherhood cannot be understated, and WHO has included these abortion medications in the Model List of Essential Medicines since 2005. Yet, Korean women – especially those of low income or underage mothers - are still being denied their "safe and effective" rights to abortion due to a legislative void since 2019.

Thus, we argue that it is groundless to deny the existence of impending danger.

// Our final step of the argument is the abuse of authority.

First, blocking access to the website in full measure is only permissible in exceptional situations since it is invasive upon the freedom of expression. In this case, the crime-related content, if there was any, accounted for a modest proportion within a larger whole. Two standards must be met according to the Supreme Court: Can the entire website be deemed equal to content that attempts to commit a crime, and is such blockage inevitable?

Not only does Women on Web provide a plethora of legal quality information, but the consultation tab is one of 4 tabs, three of which are irrelevant to providing abortion pills. And the consultation tab itself has 10 menus, only 2 of which are related to the provision.

The consultation itself is a 25-step questionnaire from which users can get practical aid. On these grounds, we argue that a full-scale blockage is illegitimate.

// Second, this abuse of authority unduly infringes upon fundamental rights such as the freedom of expression, right to access information, and rights to health and security.

The principle of minimum regulation refers us back to the question, is there a less onerous way of achieving the purpose of restricting crime-related content? The Supreme Court of Spain showed that deleting or restricting access to “a portion” of the website was technically viable, which shows that KCSC went forth with an excessive measure.

Furthermore, the rights of access to information and health were significantly violated, since this website was the only means to acquire quality and detailed information on abortion.

For these reasons, we argue that the administrative action was illegitimate in terms of procedural defect, lack of grounds, and abuse of authority.

I'll yield the floor to our next speaker.