

The following is Jiyoun Choe's presentation at the [TWIGF 2021](#) as part of a panel in the 'Digital Human Rights in Times of the COVID-19 Pandemic – An International Perspective' session on December 10, 2021. (Created with Google Slides' Matchday Theme)

Digital Human Rights in Times of the COVID-19 Pandemic - An International Perspective

Jiyoun Choe, Legal Counsel

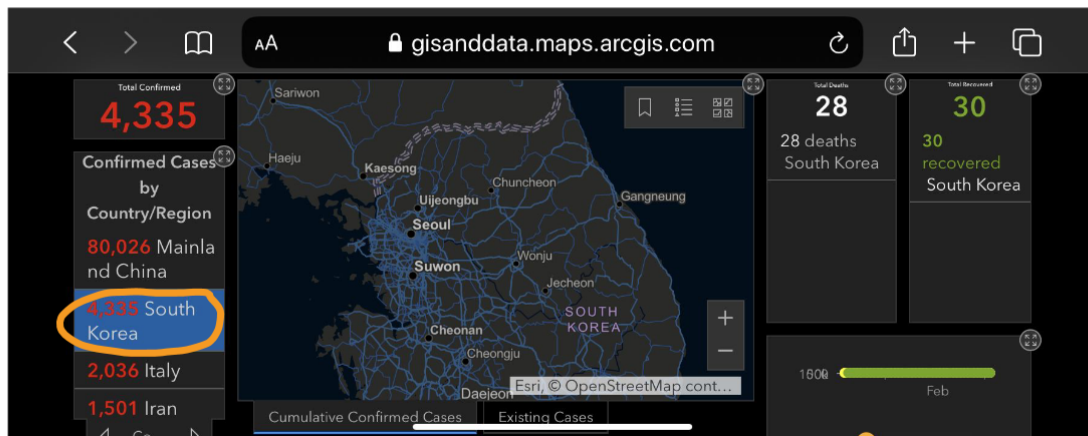


Hello! My name is Jiyoun Choe and I'm a Legal Counsel for Open Net based in Korea. I'm very honored and happy to be here today. I'm the last speaker before we start the discussion so let's get right to it!

A National Context - South Korea

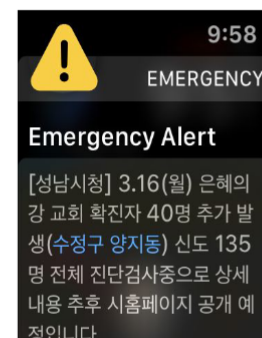
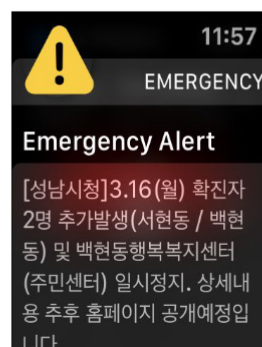
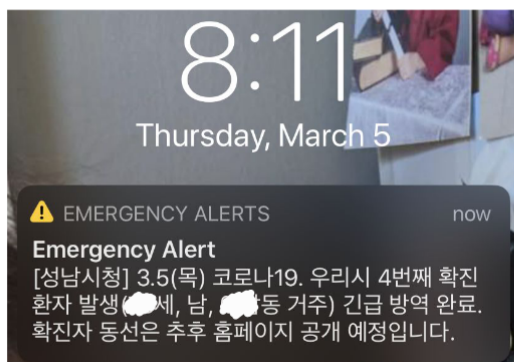
Being based in Korea, that will be the area of focus for this presentation.

March 3, 2020



Towards the beginning of the pandemic when things were getting scary, I was in SF waiting to fly back home to Seoul. I would wake up every morning and nervously check the COVID map provided by Johns Hopkins and look at the numbers go up in South Korea.

Emergency Alerts



Once I landed in Seoul, I started getting these emergency alerts on my phone. They were data sent out based on the receivers' location. It contained information about new confirmed cases of Covid. It mentioned the person's age, gender, address. It also said to check the website for more information.

February 15, 2020 - Ministry of Health and Welfare

메뉴 > 발생동향

발생동향

발생동향

확진환자 이동경로

전체 이동경로 펼치기

전체 이동경로 닫기

확진자 번호

검색

* 확진자 정보를 클릭하시면 이동경로가 보입니다.

환자	인적사항	감염경로	확진일자	입원기관	접촉자수(격리조치 중)
5	남 (한국, ')	우한방문 (1차)	1.30	서울의료원	31 (3)
4	남 (한국, ')	우한방문 (1차)	1.27	격리 해제	95 (0)
3	남 (한국, ')	우한방문 (1차)	1.26	격리 해제	16 (1)
2	남 (한국, ')	우한방문 (1차)	1.24	격리 해제	75 (0)
1	여 (중국, ')	우한방문 (1차)	1.20	격리 해제	45 (0)

If you went to the website, the website looked like this. It listed every single Covid-19 patient and disclosed their gender, age, nationality, and if you clicked on their names, you would be able to see every location that they'd been to throughout the last 48 hours leading up to their positive covid results. It would even tell you if they were wearing masks at the location or not.

So how is this detailed accumulation and dissemination of personal information possible?

On the technological side, South Korea deployed a cell tower based id system. This meant that even with your GPS turned off, governments could compel telecommunication operators to provide mobile location information to track someone's real time or past movements. It didn't matter if you didn't have a smartphone. As long as you had a phone, your location could be logged. Also, credit card use logs and cctv surveillance data was used.

On the legal side, Korea has the Infectious Disease Control and Prevention Act. I'll call it IDCP from this point on.

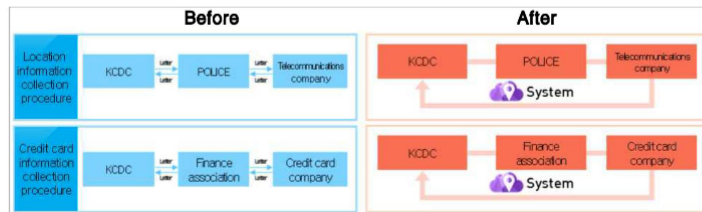
Infectious Disease Control and Prevention Act

MOLIT, MSIT and KCDC launch the COVID 19 data platform.

Smart city technology reinvents contact tracing method.

The official data platform to track and analyze COVID 19 cases, developed in collaboration between the Ministry of Land, Infrastructure and Transport (MOLIT), Ministry of Science and ICT (MSIT) and Centers for Disease Control and Prevention (KCDC) of Korea, will be brought into service from March 26.

<Data Collection Procedure>



With some post-covid amendments, contact tracing became more automated.

Infectious Disease Control and Prevention Act

< Benefits of the COVID 19 Data Platform>

	Before	After
Contact tracing method (time per case)	• Manually tracked by health workers(one day per case)	• Automated tracing, (ten minutes per case)
Management of access record	• Writing into a paper ledger	• Automated tracking of log-in records
Coordination among agencies	• Fragmented coordination by phone, e-mail	• Multi-agency coordination under a central platform

Collection of the personal data of infected patients became possible after the outbreak of MERS in 2015. The epidemic built **social consensus on the importance of data collection and use in epidemic response** and prompted amendment of the Infectious Disease Control and Prevention Act at the National Assembly. Under the revised Act, **health officials can have access to the patients' personal information in exceptional cases like containment of infectious disease.**



The law laid the groundwork to make it possible for heads of government agencies to gain access to data of infected patients to be collected and used. It was amended as such following the 2015 MERS outbreak in Korea.

2015 MERS Outbreak in Korea



Western Pacific



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MERS outbreak in the Republic of Korea, 2015



An importation of Middle East Respiratory Syndrome (MERS) Coronavirus into the Republic of Korea in 2015 led to the largest MERS outbreak outside of the Middle East. By the end of the outbreak, 186 laboratory-confirmed cases (185 in Republic of Korea and 1 in China) and 38 deaths had been recorded.

The Republic of Korea notified WHO on 20 May 2015 under the International Health Regulations (2005). On 28 May 2015, WHO activated the Regional Emergency Operations Centre and established an Event Management Team. Daily situation updates were published on the website, along with regular updates to the web-based Event Information Site and the Disease Outbreak News bulletin.

In June, a joint mission was conducted by the Ministry of Health and Welfare and WHO to assess the risks posed by the outbreak and make recommendations on response measures. The joint mission was followed by a visit by Dr Shin Young-soo and Dr Margaret Chan, then the WHO Regional Director and Director-General respectively.

To briefly explain, in 2015 South Korea became the country with the largest MERS(Middle East Respiratory Syndrome) outbreak outside of the Middle East. There were a number of factors that led to this, but one main reason was that the government was hesitant in disclosing information about the location of the patients. It was decided that the location where the patients were being treated would be kept confidential. This led to people visiting the hospital for treatment of other illnesses and unknowingly contracting MERS and even dying from it. Public outrage was fierce. It was also difficult to conduct contact tracing when a few patients were uncooperative in disclosing their whereabouts.

Another MERS? Fear of Dishonest Superspreaders



Fear of COVID becoming another MERS exploded when a few patients early on were dishonest about their whereabouts and ended up causing mass COVID infections. The patient in one case was afraid of revealing that she was a part of a religious group considered a cult by many, and as such, many of the people infected with covid around this time had to face public scrutiny of possibly being a member of a cult as well.

May 2020, Itaewon

National

Korean media's focus on 'gay' club in COVID-19 case further stigmatizes LGBT people

Korean media criticized for reinforcing anti-LGBT bias, putting unnecessary focus on "gay" bars and clubs the patient visited

By Guk Hyun-jin Published: May 8, 2020 - 10:06 Updated: May 30, 2020 - 09:11

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(Yonhap)

A 29-year-old man living in Yongin tested positive for COVID-19. He went clubbing in Itaewon, a party district in Seoul, when he had no symptoms, exposing at least 1,500 people to the virus. It was the first local infection in four days, triggering fears of further community spread.

코로나19 관련 이태원 기지국 접속정보 처리 및 동의 없는 위치추적 법률에 대한 헌법소원청구

“감염병 대응을 명목으로 1만명 휴대전화에 대한 기지국 접속정보 요청, 수집, 처리는 위헌입니다.”

1. 민주사회를 위한 변호사모임 디지털정보위원회, 사단법인 오픈넷, 사단법인 정보인권연구소, 진보네트워크센터, 참여연대는 2020년 7월 29일 보건복지부장관, 질병관리본부장, 서울특별시장, 서울지방경찰청장(이하 “보건복지부장관 등”)이 지난 5월 18일 코로나19 대응을 명목으로 이태원을 방문한 약 1만명의 사람들의 휴대전화 기지국 접속정보를 요청하고 수집·처리한 행위(이하 “이 사건 기지국 정보처리 행위”)가 개인정보자기결정권, 사생활의 비밀과 자유, 통신의 비밀과 자유, 일반적 행동자유권을 침해하므로 위헌이라는 결정을 구하는 헌법소원을 청구했습니다. 보건복지부장관 등이 이태원 방문자들의 기지국 정보처리 행위의 법적근거라고 주장하고 있는 “감염병의 예방 및 관리에 관한 법률(이하 “감염병예방법”)” 제2조 제15의2호, 제76조의2 제1항 및 제2항도 헌법 심판 대상입니다.

People's fear of being called out and having their private lives exposed was very well grounded in the harsh reality. This next example shows the dire effects the above mentioned law (IDCP) can have on people. In May of 2020, someone who tested positive for covid turned out to have gone to a few clubs in the Itaewon area leading up to their positive covid test. (May 2). People of the internet found out that the clubs were LGBTQ clubs and the witch hunt began. It's safe to say that South Korea is not accepting of the LGBTQ community. The individual was publicly outed because it was easy to find out who that person was with the information provided in the website. Where he worked, where he lived, his age.. that was more than enough information.

The somber incident gave us a peek into just how much personal information the government authorities were accessing in the name of disease control. Around 10,000 people's location information based on cell-tower id was collected in the name of containing the Itaewon outbreak. For example, an individual who had visited a restaurant at the end of April 2020 received a text message from Seoul City on May 18 requesting them to get a Covid test. The individual hadn't visited any clubs or even been in Itaewon around May 2. The individual had to face public scrutiny while getting their covid tests and was terrified of being identified. When they asked how Seoul City gained access to the relevant information, they were told that it was lawful under articles 76-2 paragraph 1 or 2 of the IDCP Act. The law makes it possible to collect information of not only patients of covid 19, but those suspected of contracting it.

Open Net and other civil societies jointly filed a constitutional complaint to the constitutional court of Korea claiming that the law infringes the people's right to information self determination, right to privacy and free communication, among other rights. The court has not made a determination on the case yet.

Infectious Disease Control and Prevention Act - September 2020 Partial Amendment

Article 34-2 (Disclosure of Information during Infectious Disease Emergency)

+Gender, age, and other information deemed irrelevant to the prevention of infectious disease control must be excluded.

+Presidential Decree defined "other information" as name, detailed address, etc.

Recognizing these problems, the law was amended so that gender, age, and other information would be excluded in the disclosure of information. It is good to know that the National Assembly was proactive in fixing what needed to be fixed. Sadly it was a little too late for many whose lives were turned upside down for what some call "the greater good".

Present Day - Ministry of Health and Welfare

확진환자 이동경로

- "확진환자의 이동경로 등 정보공개 지침(1판)(10.7) 및 감염병예방법 제34조의 2(9.29) 근거"에 따라 확진자가 마지막 접촉자와 접촉한 날로부터 14일 경과 시, 이동경로에 대한 부분은 공개되지 않음을 알려드립니다.

※ 집단발생 관련 반복대량 노출장소 현황 (2021년 11월 28일 17시 기준)

- ① 해당 시간대에 아래 시설을 방문하신 분은 증상이 없어도 진단검사를 꼭 받아주세요.

지역		유형	상호명(주소)	노출일자	소독여부
서울	광진구	종교시설	태극도 서울지부 기도원 (서울 광진구 독성로59길 19)	11.7~11.16	소독완료
서울	동작구	시장	노량진 수산시장 (서울 동작구 노들로 674)	11.13~11.23	소독완료

* 발생 상황 정보를 신속·투명히 알리기 위해 위 명단을 공개하며, 추가 역학조사 결과 등에 따라 수정 및 보완될 수 있음

- 추가 정보는 공식 브리핑 및 지자체별 동향 정보로 확인 하시기 바랍니다.

And as such, the website presently looks more like this. It lists only a few **locations** where mass outbreaks occurred, instead of listing all the individuals who caught covid.

**Where do we go from
here?**

Now, it's time to move on to the international perspective. We're here to learn about the national context of different countries and to combine what we know to head towards a better future.

Human Rights Are Universal

MARCH 19, 2020



Human Rights Dimensions of COVID-19 Response

Published in

On March 11, 2020, the World Health Organization (WHO) declared that an outbreak of the viral disease COVID-19 – first identified in December 2019 in Wuhan, China – had reached the level of a global pandemic. Citing concerns with “the alarming levels of spread and severity,” the WHO called for governments to take urgent and aggressive action to stop the spread of the virus.

International human rights law guarantees everyone the right to the highest attainable standard of health and obligates governments to take steps to prevent threats to public health and to provide medical care to those who need it. Human rights law also recognizes that in the context of serious public health threats and public emergencies threatening the life of the nation, restrictions on some rights can be justified when they have a legal basis, are strictly necessary, based on scientific evidence and neither arbitrary nor discriminatory in application, of limited duration, respectful of human dignity, subject to review, and proportionate to achieve the objective.

To do so, I think it's important to keep in mind that human rights are universal. Human Rights Watch had a great series on COVID-19 so I used a screenshot of their website here.

Shout-out to Human Rights Watch! What we choose to do from here on out should always have a legal basis, be strictly necessary, and proportionate to achieve the objective.

The Technology Is Already There

Credit card information, ATM

Location Tracking of Mobile Devices

CCTV Surveillance

Also, everything that I talked about today about what happened in Korea can happen anywhere else in the world as well. The technology and the means to do it are all already there. Credit card information, location tracking-whether it be cell tower based or gps based-, cctv, are all present to differing degrees around the world. If you liked what you saw, or didn't, it's all possible in your area as well.

Lastly, I'd like to point out that there was a high level of consensus when it came to the collection of information in Korea. Even among the civil society groups, the outrage was focused on the dissemination of the information, not the collection of it. It was really interesting to learn about the differing degrees of public consensus in other countries and how the different governments' policies were received by the people.

Thank you, and I look forward to the discussion.