



PSPD People's Solidarity for Participatory Democracy

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8 July 2009

To Mr. Frank William La Rue Lewy
Special Rapporteur on the promotion and protection of the right to freedom of opinion
and expression,

**Submission of individual Complaints on Human rights violations of Korean
government**

I am very pleased to send our individual complaints submitted by People's Solidarity for Participatory Democracy, a non-governmental organization in special consultative status, to Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

The individual complaints we have submitted is below;

Case 1: The prosecution authority, indictment of journalists due to their criticism towards the government's policies and disclosing her private e-mail contents to the public

Case 2: National Tax Service, a disciplinary dismissal of a public service worker due to whistle-blowing

Case 3: Ministry of Education, Science and Technology, imposing a disciplinary punishment of 17,147 teachers who had signed a statement requesting administrative reform and democratic recovery

We request the UNHCHR to intervene and comment on Korean government.

Mr. Lim Jong-dae, the Representative of PSPD

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
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**The promotion and protection of the right to freedom of opinion and
expression
Case Fact Sheet-1**

Submitted by PSPD(People's Solidarity for Participatory Democracy),
Special consultative status with the ECOSOC of UN, Republic of Korea

Name of victim / organization: Ms. Kim Eun-hee

Incident / violation: the prosecution authority, indictment of journalists (producers of Munhwa Broadcasting Company) due to their criticism towards the government's policies, and disclosure of her private e-mail contents to the public

Country: Republic of Korea

Date of Fact Sheet: 8 July 2009

Essential Information

1. Name of alleged victim/s

Ms. Kim Eun-hee

- Nationality: Republic of Korea

- Age: 00

- Profession: 'PD's Notebook' Script Writer

2. Status of the victims

Ms. Kim is one of the staff members of a TV program, 'PD's Notebook' of MBC(Munhwa Broadcasting Company), one of the mainstream broadcasting stations which keeps independent stance on the Government's policies. After the investigative report on the dangers of mad cow disease from the US beef was broadcasted on this program, she was indicted for defamation by the MIFAFF(Ministry for Food, Agriculture, Forestry & Fisheries) without detention by the prosecution.

3. Alleged violation/s committed against the victims

On April 29, 2008, MBC's documentary program 'PD's Notebook' aired a series on

the dangers of mad cow disease of the US beef, which created a high level of public awareness of the risk in the Korean society, resulting in criticizing the Government's decision to terminate its ban on importing the US beef after President Lee's visit to the US.

On June 20, 2008, the MIFAFF sued the producers of 'PD's Notebook' for defamation.

On January 30, 2009, the Prosecutors' Office took the investigation, searching the emails and residences of the staffs of 'PD's Notebook', and arrested a former producer and 4 staff members including Kim.

On June 18, 2009, the prosecution announced the investigation results and indicted 5 staff members for defamation and interruption of business without detention and publicized Kim's email contents. While announcing the results of the investigation, they publicized Kim's personal emails for attempting to accuse her biased political opinion. However, the opinion revealed in her e-mails is personal views and these are neither related to the investigation nor to be taken as an evidence.

4. Alleged Perpetrators

- Temporarily Absence (The Public Prosecutor General)
- Mr. Jeong 00 (Senior Prosecutor at the Seoul Central District Prosecutor's Office)
- Mr. Jeon 00 (Head of the Office's Second Detective Division) and five Detective Prosecutors

5. Action by authorities

- On January 7, 2009, the first prosecution in charge of 'PD's Notebook' case resigned since the program had no apparent intention for defamation and thus must be free from suspicion.
- The ruling party and the Blue House (The Presidential Office) attempt to remove the supervisory and critics function of journalism, by pressing the president and other top managers of MBC to resign on the allegation that 'PD's Notebook' caused conflicts and confusions to the public.

6. Link between the violation and human rights work

- This incident violates the General Comment No. 10: Freedom of expression (Art. 19) of the UN CCPR.
- Republic of Korea is a democratic republic state and its constitution clearly

declares 'freedom of press' and 'freedom of expression' as a constitutional civil right. The journalists are entitled to watch out and criticize policy-making procedures of the Government. Not only supervisory function of journalism but also people's freedom of speech would be constrained if justifiable acts of criticism are considered defamation against an individual serving in the government.

- The prosecution violated the freedom of thought and conscience with political censorship when the prosecutors disclosed Kim's personal email contents to the public, and asserted her guilty by unreasonably linking her private political opinions to the programs in which she took part.

- The Prosecutors' Office must not publicize the information that it found during the investigation. The information can be only submitted to the court if it is considered effective evidence. Disclosure of personal email contents violates the Protection for the Secret of Communication Act.

7. Action taken by the victim or by human rights organization

- 1) The Journalists Union, including Korean Producers & Directors Association, Composition Writers Conference and National Association of Broadcasters, and Civil Society Organizations demanded that the government stop the retaliatory investigation to the programs critical of the government, and immediately set free the staff members.
- 2) Ms. Kim accused Mr. Jeong Byeong-du, a senior prosecutor at the Seoul Central District Prosecutor's Office, Mr. Jeon Hyeon-jun, head of the office's Second Detective Division, and five other Detective Prosecutors, as well as an editorialist of a daily newspaper, Chosun Ilbo, who made public her personal emails of dereliction of duty, privacy Infringement and defamation.

B. Useful information

- According to the General Comment No. 10: Freedom of expression (Art. 19) of the UN CCPR, each state should protect the right to freedom of expression, which includes not only freedom to "impart information and ideas of all kinds" but also freedom to "seek" and "receive" them "regardless of frontiers" and in whatever medium, "either orally, in writing or in print, in the form of art, or through any other media of his choice".

- 'PD's Notebook' aired a series on the dangers of mad cow disease of the US beef, emphasized the significance for adding an extra layer for screening not to import beef with mad cow disease. The prosecution alleges that the report from 'PD's Notebook' triggered thousands of people to hold candlelight vigils over 100 days, and caused President Lee's apology in front of the public with his promise for an additional negotiation with the US government.

- 'The Protection for the Secret of Communication Act' is to allow communication interception only to the high crimes.

Victims related to the incident

- Mr. Cho 00 (CP)
- Mr. Song 00 (PD)
- Ms. Kim 00 (PD)
- Mr. Lee 00 (PD)
- Ms. Kim 00 (Script Writer)

Who is submitting this information?

This letter is submitted by:

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**The promotion and protection of the right to freedom of opinion and
expression
Case Fact Sheet-2**

Submitted by PSPD(People's Solidarity for Participatory Democracy),
Special consultative status with the ECOSOC of UN, Republic of Korea

Name of victim / organization: Mr. Kim Dong-il

Incident / violation: National Tax Service, a disciplinary dismissal of a public service worker due to whistle-blowing.

Country: Republic of Korea

Date of Fact Sheet: 8 July 2009

Essential Information

1. Name of alleged victim/s

Mr. Kim Dong-il

- Nationality: Republic of Korea
- Age: 00
- Profession: a 6th level of the public officer of the Naju District Tax Office of the Gwangju Regional Tax Office

2. Status of the victims

Mr. Kim is a 6th level of the public officer of the Naju District Tax Office of the Gwangju Regional Tax Office. He was used to be an active user in the board of the intranet of the National Tax Service. He became dismissed for a disciplinary measure due to his article on the intranet board.

3. Alleged violation/s committed against the victims

On May 28 and June 2, 2009, Mr. Kim Dong-il who was a tax agent in Gwangju posted an article on the intranet board for criticizing special tax probes for Mr. Park Yun-cha who is the CEO of Tae-Kwang Company. He expressed his opinion that Mr. Hahn Sang-ryul (ex-Head of the National Tax Service) and the chief executives are

responsible for the demise of the former President Roh Moo-hyun.

On June 12, 2009, the disciplinary committee of the Gwangju Regional Tax Office dismissed Mr. Kim.

On June 18, 2009, the Gwangju Regional Tax Office sued Mr. Kim for defaming the formal head of tax agency. Suing Mr. Kim is considered as an act of punishment or political revenge for a complainer from the inside.

4. Alleged Perpetrators

Mr. Heo 00 (The Proxy for the Director of the Office of National Tax Service)

Mr. Kim 00 (The Director of the Office of Gwangju Regional Tax Office)

5. Action by authorities

There is no special correspondence.

6. Link between the violation and human rights work

- This incident violates the General Comment No. 10: Freedom of expression (Art. 19) of the UN CCPR.

- Republic of Korea is a democratic republic state and its constitution clearly declares the 'freedom of press' and the 'freedom of expression' as a constitutional civil right. Mr. Kim expressed his opinion on the intranet board where officers of the National Tax Service freely make their remarks and his opinion was neither peculiar nor outstanding compared to the public sentiment and public opinion as well as the media coverage. Punishing for an individual's personal opinion written on the intranet board which is blocked from the outside public is abuse of disciplinary power and severe violation.

- A dismissal for a public officer is followed with a dismissal of the pension for the public officer. His punishment became even hardened with the indictment for defamation by the National Tax Service. Double punishments against Mr. Kim applied by the National Tax Service are too excessive, certainly power-abuse and restrict fundamental rights and freedoms since he just expressed his opinions. Due to its excessive reaction, the National Tax Service, which must keep its neutrality and objectivity, became rather subjected to the criticisms of its political bias and

politically motivated tax investigation.

7. Action taken by the victim or by human rights organization

- 1) Mr. Kim was in process of requesting for review of his disciplinary punishment by the Ministry of Public Administration and Security administration on July 3, 2009.
- 2) Political society, public officials' community and civic organizations such as Democratic Party, Korea Democracy Government Employees' Union, and Transparency International Korea Gwangju and Geollanam-do branch, have demanded a retraction of Mr. Kim's disciplinary punishment and appealed for clemency.
- 3) The National Human Rights Commission of Korea announces to investigate whether the National Tax Service's decision to dismiss Mr. Kim violated the freedom of expression which is guaranteed by the constitution.

B. Useful information

- According to the General Comment No. 10: Freedom of expression (Art. 19) of the UN CCPR, each state should protect the right to freedom of expression, which includes not only freedom to "impart information and ideas of all kinds" but also freedom to "seek" and "receive" them "regardless of frontiers" and in whatever medium, "either orally, in writing or in print, in the form of art, or through any other media of his choice".

- Kim Dong-il, the public officer of the Naju District Tax Office wrote a critical essay in relation to Mr. Hahn Sang-ryul, the former head of the National Tax Service on the intranet board. It was a well known story through the press that the National Tax Service had initiated tax investigations on Tae-Kwang Company for the political purpose.

The company is owned by Mr. Park Yun-cha who was a major sponsor for the former President Roh Moo-hyun. The former President Roh killed himself during the politically motivated investigation of the prosecution tracking his financial flaws. Mr. Kim posted this well known story on the intranet with his opinion.

- The reason for his dismissal was that he had violated not only 'duty of keeping one's dignity as a public officer' according to the Public Officials Act, but also duty of keeping the reputation of the National Tax Service. A dismissal is the harshest

level of disciplinary punishment.

Who is submitting this information?

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**The promotion and protection of the rights to freedom of opinion and
expression
Case Fact Sheet-3**

Submitted by PSPD(People's Solidarity for Participatory Democracy),
Special consultative status with the ECOSOC of UN, Republic of Korea

Name of victim / organization: Mr. Jeong Jin-hoo

Incident / violation: Ministry of Education, Science and Technology, imposing a disciplinary punishment of 17,147 teachers who had signed a statement requesting administrative reform and democratic recovery

Country: Republic of Korea

Date of Fact Sheet: 8 July 2009

Essential Information

1. Name of alleged victim/s

Mr. Jeong Jin-hoo

- Nationality : Republic of Korea
- Age : 00
- Profession : Chairman of the Korean Teachers and Education Workers' Union

2. Status of the victims

He was dismissed for signing a statement requesting administrative reform and democratic recovery. He was taken to the police by force while delivering a letter of protest to the government on punishment of teachers, and released after one day.

3. Alleged violation/s committed against the victims

On June 18, 2009, 17,147 teachers signed a statement requesting administrative reform and democratic recovery.

On June 26, 2009, Ministry of Education, Science and Technology announced that all 17,147 teachers who had signed a statement requesting administrative reform

and democratic recovery are likely to receive “light disciplinary sanctions, including caution and warnings”. The Ministry then imposed harsh disciplinary measure to eighty eight teachers including Mr. Kim who joint the statement. Out of the eighty eight teachers, ten members of KTU central executive committee including KTU chairman Mr. Jeong are dismissed from teaching profession, while the other seventy eight branch-office managers of the metropolitan and provincial KTU are suspended.

On June 29, 2009, the Seoul Prosecutors’ Office launched an investigation against eighty eight unionized teachers who joined the statement. The same day, the police arrested and detained teachers who were having a press conference to denounce the government’s decision to punish teachers in a deliberate move to incapacitate the teacher union KTU including Mr. Jeong, the chairman, and other 16 branch office managers of the KTU for the reason of illegal demonstration near Blue House (The Presidential House)

4. Alleged Perpetrators

Temporarily absence (The Public Prosecutor General)

Mr. Ahn 00 (the **Minister of Education, Science and Technology**)

Mr. Woo 00 (the Head of the Jongno Police Station)

5. Action by authorities

On June 12, 2009, the Department of Teachers’ Organizations Cooperation of the Ministry of Education, Science and Technology concluded in its “Review of legal aspects of the 10,000 signature-seeking campaign for preparing a statement on current affairs launched by KTU”, that “it is difficult to conclude that (KTU) has violated the prohibition of collective actions as stipulated in the Civil Servants Act and Teachers Labour Union Act.” However, the Ministry proceeded with the disciplinary actions.

On July 3, 2009, the prosecutor authorities raided KTU branch office at 5am with 50 police officers and 9 riot police buses.

6. Link between the violation and human rights work

- This incident violates the General Comment No. 10: Freedom of expression (Art. 19) of the UN CCPR.

- Republic of Korea is a democratic republic state and its constitution clearly

declares 'freedom of press' and 'freedom of expression' as a constitutional civil right. It is a serious abuse of public power to violate the constitution and custom, and take mass disciplinary measures against teachers due to their statement requesting administrative reform and democratic recovery.

- It is clearly a violation of freedom of expression to forcibly walk off teachers by reason of their just declaration of intention and delivery of a letter of protest. Ministry of Education, Science and Technology well knew that this kind of statement by teachers was not illegal by the law since it went through a legal consultation.

7. Action taken by the victim or by human rights organization

- 1) The Korean Teachers and Education Workers' Union is developing teachers' signature-seeking campaign to have the 2nd statement to protest against the unjust disciplinary punishment and to have the freedom of expression and democracy until July 15, 2009.
- 2) Civic groups are supporting teachers' signature-seeking campaign and holding a press conference to denounce the government's decision to punish teachers.
- 3) On June 30, 2009, Fred VAN LEEUWEN, General Secretary of Education International(EI) delivered the letter of protest in that the police arrested and detained teachers who were having a press conference to denounce the government's decision to punish teachers.
- 4) A public opinion survey conducted on June 25, 2009 by a profession survey agency showed that 54.5 percent of 1000 persons of 19 years old or above 'opposed' to the government actions of indictment and heavy disciplinary actions towards the union of civil servants issuing statement on current affairs, while 31.4 percent approved.

8. Victims related to the incident

Mr. Kim, 00(Chairman of Education for the Handicapped)

Mr. Suh, 00 (Manager of Busan branch office)

Mr. Yoon, 00 (Manager of Gwangju branch office)

Mr. Roh, 00 (Manager of Jeollabuk-do branch office)

Mr. Lim, 00 (Manager of Daegu branch office)

Mr. Park, 00 (Vice Chairman)

Mr. Yoon, 00 (Director of Organization Management)
Mr. Byun, 00 (Manager of Seoul branch office)
Mr. Park, 00 (Manager of Gyeonggi branch office)
Mr. Lim, 00 (Manager of Incheon branch office)
Mr. Lee, 00 (Manager of Daejeon branch office)
Mr. Hong, 00 (Manager of Jeollanam-do branch office)
Mr. Kim, 00 (Manager of Jeju branch office)
Mr. Chin, 00 (Manager of Kyongsangnam-do branch office)
Mr. Kim, 00 (Manager of Kyongsangbuk-do branch office)

Who is submitting this information?

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