

Situation of Freedom of Expression in South Korea and the Use of UN Special Procedures

International Workshop

When 14 October 2009

Where **Baeumteo Hall** in National Human Rights Commission of Korea Headquarter

Organised by Korean House for International Solidarity(KHIS), Korean Confederation of Trade Unions(KCTU), Conference of Human Human Rights Organiazations, People's Solidarity for Participatory Democracy

Programme Agenda

13:30-13:50	<p>Welcoming Remark</p> <ul style="list-style-type: none"> ◇Ms. Gi-ran, Lim, MINGAHYUP Human Rights Group ◇Mr. Sung-Kyu Lim, Korena Confederation of Trade Unions
13:50-14:15	<p>Mandate and Working Methods of the UN Special Rapporteur</p> <ul style="list-style-type: none"> ◇ Mr. Frank La Rue, UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression
14:15-14:30	<p>Video Screening</p>
14:30-15:30	<p>Case Study I</p> <p>Freedom of Thought and National Security Act</p> <ul style="list-style-type: none"> ◇ Mr. Park, Ji-wong, MINBYUN-Lawyers for a Democratic Society <p>Freedom of Expression in Cyberspace</p> <ul style="list-style-type: none"> ◇Mr. Lee, Tae-bong, Korea Press Consumerism Organization ◇Mr. Mark, Dae-sung, Blogger known by his pen name Minerva
15:30-16:00	<p>Coffee/Tea Break</p>
16:00-16:40	<p>Case Study II</p> <p>Freedom of Media</p> <ul style="list-style-type: none"> ◇Choi Sang-jae, National Union of Media Workers' <p>Freedom of Assembly and Demonstration</p> <ul style="list-style-type: none"> ◇Mr. Yu Sung, Conference of Korean Human Rights Organizations <p>Expression of Political Opinions by Trade Unions</p> <ul style="list-style-type: none"> ◇ Mr. Dong, Hoon-chan, Korean Teachers and Education Workers' Union ◇Mr.Hong, Sung-ho, Korean Government Employees' Union
16:40-17:10	<p>Comments and Suggestions</p> <ul style="list-style-type: none"> ◇Ms. Nrma Kang Muico, Amnesty International ◇Prof. Lim, Ji-bong Sogang University, College of Law
17:10-17:40	<p>Questions from the Floor</p>
17:40-18:00	<p>Closing Remarks</p>

Table of Contents

Case Study 1	Suppression of Freedom of Thought in South Korea Park, Ji-Woong5
Case Study 2	Freedom of Speech in Cyberspace Lee, Tae-Bong 16
Case Study 3	Freedom of Expression and Democracy Park, Dae-Seong 30
Case Study 4	Violating the Freedom of the Press Chi, Sang-Jae 33
Case Study 5	Freedom of Assembly and Demonstration Yu Seung 41
Case Study 6	The oppression of "teachers' freedom of expression" Dong Han-dan 54
Case Study 7	The People's Civil Servants Discharged Hong Seung-ho 66

[Case Study]

Suppression of Freedom of Thought in South Korea : Reality and Current Issues

Park, Ji-Woong

Former-Military judicial, MINBYUN-Lawyers for a Democratic Society

1. Introduction

Does the concept of Freedom of Thought even exist in Korean society? In today's speech, we are going to address Freedom of Thought in South Korea and the intensifying suppression of related basic rights under the current government. The individual and social intolerance regarding thoughts, which has been prevalent for half a century in the divided country, has caused tremendous social losses. There are two matters that will be of special consideration, one is the obstruction of the need for social progress through the National Security Act, and the other is the surfacing of public security instruments to inflict punishment in accordance with the National Security Act.

Freedom of Thought, as it is stipulated in the Korean constitution, includes not only the freedom of choosing one's world-view, outlook on life, principles and beliefs, in the forms of democracy, liberalism, republicanism, socialism, anarchism or nationalism, but it also includes the freedom of not being forced to any actions contradicting one's beliefs, and the freedom to not having to reveal one's belief. This is also

stipulated in Article 18 of the International Covenant on Civil and Political Rights (Hereinafter, ICCPR)

Under the current government, in addition to violations of the National Security Act, the expression of opinions contrary to those of the government is stipulated as ‘criminal acts threatening public security’ and the need for social progress is being obstructed by the National Police Agency, the Prosecutors’ Office, the National Intelligence Service, and the National Tax Service. The Special Rapporteur is asked to take notice of this situation.

In the 1992 evaluation of the Report submitted by the Korean government, the Human Rights Committee identified the National Security Act as potentially violating the ICCPR. (CCPR/C/79/Add.6, 25.Sep.1992) And in response to the Second Periodic Report, the Human Rights Committee mentioned in the Concluding Observation that “the National Security Act includes special regulations regarding detention, interrogation and substantial legal duty, which cannot coexist with Articles 9, 18 and 19 of the ICCPR” and that, “the Committee is concerned that despite repeated recommendations for the gradual abolishment of the Act, the situation has remained unchanged, and that there are noticeable developments in the suppression of Freedom of Thought under the current government.” (CCPR/C/79/Add. 144, 1 Nov.1999)

2. Suppression of Freedom of Thought under the Current Government

A. Regarding Violations of the National Security Act

As mentioned earlier, the growth rate of National Security Act offenders has been decreasing drastically since 2000, with only 28 persons punished under the Act between January 1st 2008 and August

26th. This reflects the increased civil interest and initiative by the congress with regards to the annulment of the National Security Act, however, the bill regarding the annulment of the Act submitted under the previous Roh government, never passed the National Congress. And in 2005, punishment was to be inflicted under the National Security Act on Professor Doo-Yool Song, a scholar residing in Germany, due to his past visit to North Korea and meeting with the head of state. Apparent in the following cases, the National Security Act remains intact and continues to suppress civil and political rights in Korea.

(1) Attitude of the Supreme and Constitutional Courts regarding National Security Act Violations

It should be noticed that the reason why the National Security Act has not been amended is because the Supreme and the Constitutional Courts have been consistently judging the National Security Act as constitutional. According to the Supreme and Constitutional Courts, it is not evidently clear that North Korea has discarded its aspirations to overthrow our free democracy with its military force, thus, the North Korea still presents a considerable threat to our free, democratic system as of now. Consequently, the National Security Act with its objective of ensuring national security and the survival and freedom of the Korean citizens, by regulating anti-state activities, cannot be ruled as unconstitutional. Further, as long as it is not violating the fundamental freedoms and rights mentioned above, restriction and limitation of such rights cannot be ruled as unconstitutional as well. (Refer to Supreme Court 2003. 3 .14. Pronouncement 2002 DO 4367, Supreme Court 1998.7.28. Pronouncement 98 DO 1395 Judgment, 1997. 7. 25. Pronouncement 97 DO 1386 Judgment, 1997. 7. 16. Pronouncement 97 DO 985 Unanimous Collegial Court Judgment, etc.)

Nevertheless, despite the consistent judging of National Security Act related cases as mentioned above, the courts fail to specify what exactly

the threat to the free democratic system is. There is just a general lack of proof whether or not the threat from the North is evident and existing, or if such risks are intensified in the absence of the National Security Act.

Moreover, despite the posture of the court that, the requisites of what constitutes an 'enemy benefiting organization' must be understood in strictly limited terms, and judgment about 'enemy benefiting expression' should be done comprehensively, whether or not this principle is being proven according to clear standards, and upheld, remains questionable. If progressive social groups use the term 'socialism' in their platform or constitution, even if they are critical toward the North, they are classified as 'enemy benefiting organizations.' Thus, it remains to be proven whether or not this would constitute an 'evident and real threat to the existence and security of South Korea and its free and democratic system.' (Supreme Court 2003.12.12. Pronouncement 2001 DO 1099 Judgment, 1999.10.8. Pronouncement 99 DO 2437 Judgment, 1999.9.3. Pronouncement 99 DO 2317 Judgment, etc.)

Even if there is no 'evident and existing threat,' the court can in its application of the National Security Act, arbitrarily give standards of 'enemy benefiting organizations' and 'enemy benefiting expressions.' Consequently, violation of the National Security Act is used as the main basis to suppress Freedom of Thought by the government. This is evident in cases, in which the National Security Act was applied to groups advocating the establishment of a socialist state and groups advocating South-North reconciliation and unification initiatives. This even escalates into punishing activities such as posting writings on the internet and selling books at bookstores. To begin with, we are going to inquire into the two most typical cases regarding National Security Act application: namely, the case of the Socialist Workers League of Korea, and the case of Silcheon-Yeondae.

(2) The Indicted Cases on Violation of the National Security Law

a) Socialist Workers League of Korea

Socialist Workers League of Korea (SWL) was organized on February 23, 2008. The major goals of SWL are foundation of Socialist Workers Party, elimination of non-regular jobs, nationalization of key industries, and establishment a government for workers. Therefore, SWL constantly participated in demonstrations against the Korea-US Free Trade Agreement since May of 2008. Recently, Professor Oh Se-cheol, the former chairman of the SWL, and seven other executives were indicted. The facts charged were, on February 23, 2008, the indicted organized and joined an “enemy benefiting organization,” to propagate and to agitate social disturbance even though having acknowledged that their acts might threaten the liberal democratic orders, and the existence and security of nation (National Security Law Article 7 Clause 3 Issue 1). Second, the indicted published and possessed “material advantageous to the enemy (Article 7, Clause 5, Issue 1)” such as “Socialists,” “Go, Labor Liberation!,” “Code of Conduct for the Public,” “Our Position” and “Thirteen Codes For Candlelight Laborers.” Furthermore, the indicted distributed them to the people at candlelight vigils.

b) Silcheon-Yeondae

Silcheon-Yeondae was organized in 2000 for peaceful unification of the Korean peninsula. It is registered in Ministry of Unification and works for the reconciliation and peace of the Korean peninsula. Under the National Security Act, Silcheon-Yeondae was deemed to be an “enemy benefiting organization” for “praising” and “benefiting” the “enemy.” As a result, the prosecutor indicted four executives of the organization. The facts charged were, first, the indicted organized and joined an “enemy benefiting organization” (The National Security Act Article 2). Second, the indicted advertised and encouraged anti-state activities by educating and inspiring socialism, and by vindicating North Korea’s nuclear testing and military-first politics of Kim Jung-Il (Article 7). Third, the seven

articles from North Korean newspaper, Rodong Sinmun (Labor Daily) that the indicted possessed proved that they “congregated and communicated with a North Korean agent” (Article 8). Fourth, even with the approval from the Ministry of Unification, the meeting with the chairman of North Korea Council for Reconciliation and Cooperation in Beijing, China is “to infiltrate and to escape” (Article 6). Finally, from the examples of national and internal terrors during elections like blowing up a South Korean airliner by Kim Hyung-hee in 1987, the indicted concluded that the benefited from those terrors during elections were always pro-Americans. Furthermore, they spread a false rumor when the indicted made and posted an UCC that advised the people to consider the effects of those terrors in making decisions during election (Article 4 Clause 1 Issue 6).

(3) The Extended Application of the National Security Act towards the Public

a) Freedom of Opinion and Expression in Cyberspace and the National Security Act

The government suppression is not limited to those organizations who wish progressive development in society. The government has ordered the police to remove online posts that are suspected to violate the National Security Act. In July of 2007, the police ordered a private organization to remove about twenty posts just because the posts contained contents that violate the National Security Act. On 14 February 2008, Korean Peasants League and the other six private organizations were called for a police investigation.

b) Punishment on bookstore owners

Furthermore, in 2007, in addition to restraint of the owner of online bookstore “Mirbook,” offline bookstores such as Nam-moon bookstore in Suwon and Gaja used bookstore in Junggok-dong were investigated

under restraint or no restraint on charge of violation of the National Security Act. 500 used books were seized from each bookstore. Some of the owners of used bookstores were pronounced guilty of possessing and distributing "material advantageous to the enemy" this year.

B. Other Cases of Suppression of the Right to Freedom of Opinion and Expression

As you can see from the given examples, the present government has harshly suppressed the right to freedom of opinion and expression under the preface of public security. For the sake of time, I will mention a few representative cases.

(1) "Seditious Books" by the Ministry of National Defense: Appeal to the Constitutional Court and Dismissal of Military Judicial Officers.

On July 31, 2008, Ministry of National Defense banned twenty three "Seditious Books." Among the banned books are global best-sellers like *Bad Samaritans: The Myth of Free Trade and the Secret History of Capitalism*, by Ha-Joon Chang, and *What Uncle Sam Really Wants* by Noam Chomsky. All branches of the military were prohibited from reading a list of twenty three "Seditious Books." On 27 August, through the discussion with Soldiers Rights Committee and the decision of standing committee, the National Human Rights Commission of Korea concluded that Minister of National Defense should reconsider the selection of "Seditious Books" under the Constitution.

Therefore, on October 22, 2008, the seven military judicial officers who decided this act was unconstitutional appealed to the Constitution Court, arguing that the rights of soldiers to know, to learn, and to think were violated. However, Minister of National Defense dismissed the military judicial officers for breaching military and high command, and for

disfavoring the military prestige by bringing social issue. And, I am one of those seven.

(2) The Internet Controversialist, Minerva

The next speaker, Park Dae-sung is also a witness of this kind of suppression of the public peace. The Internet controversialist Park Dae-sung, alias “Minerva,” Minerva posted articles in Agora, one of the largest internet debate bulletin boards in . At the end of 2008, he predicted the collapse of Lehman Brothers and its potential consequences, and the sharp decline of South Korean currency value and, therefore, became one of the most influential critics of the government's policies. He criticized the government's economic policies and measures on the Internet through his popular column. According to Electronic Communication Fundamental Act Article47 Clause 1, “A person spreading a false rumor maliciously intending to damage the public interest by using an electronic machine” can be punished. Minerva was indicted and arrested on charge of spreading a false rumor. On April 20, 2009, he was acquitted and released from jail by district court. Minerva has filed a complaint to the Constitutional Court, claiming the nation's Electronic Communication Fundamental Law was flawed and his arrest, groundless.

(3) The Arrest of <PD Notebook> Producer

An investigative television program, <PD Notebook> tried to inform the public about the dangers of mad cow disease and to attend them to the government’s decision to resume US beef imports, especially the import of beef that is older than thirty months. It allegedly sparked the three-month last summer candle lit protest against the government’s decision to resume US beef imports that may hurt the right to health. The present government arrested the producer on charges of defamation of Minister of Food, Agriculture, Forestry, and Fisheries and the ones

related to the negotiation, and of telecasting distorted and manipulated facts of mad cow disease.

<References>

「Alternative and Issue of National Security Act(2004)」, reference book of National Human Rights commission of Korea Public Hearing

「To eliminate National Security Act(2004)」, Lawyers for a Democratic Society, Democratic Legal Studies Association

「National Debate against New Public Peace (2008)」 Democratic Legal Studies Association

「The First Trial of National Security Act Case against 'silchonyundae'(2009)」, the May and June issue of Defense for a Democratic Society, Lawyers for a Democratic Society

<Reference Material>

National Security Act Violation Cases of 2008

• 2 January

15th Chairperson of Korean Federation of Student Councils Seon-min, Ryu was taken on representative, imprisonment, two year and six months of prison labor, probation for four years, suspension of qualification for two years.

• 25 January

Peasant Poet Seol-kyo, Jeong was prosecuted on violation of bans all actions of inciting or appraising the anti-state nation in National Security Act while insisting opposition to South Korea-U.S. Free Trade Agreement on the Internet, attainment of unification agriculture, opposition to U.S., withdrawal of U.S.

troops from Korea. one year for prison, probation for two years.

• **29 January**

The case of teacher Hyng-kuen Kim of Korean Teachers & Educational Workers' Union : he and his students participated in climbing event for reunification after a prior consultation with school authorities but visiting the Hoi-mun mountain in Sun-Chang during the event was distorted into 'Cherishing Partizan' by Chosun newspaper. Confinement after two years. Prosecution (22 February)

• **31 January**

Acquit of Peace photographer Si-Woo Lee : He was acquitted of all charges which were leaking state secret, violation of military facility protection, actions of inciting or appraising the anti-state nation, possess and distribute enemy benefitting publication, and actions of assembly and communication. Since, it was all available information to anyone through the Internet, press, and publication such Google Earth and Global Security. Furthermore, even if it was a national secret, it was not aimed at supporting anti-national organization (first trial). Prosecutor's appeal. The second trial is now running (October, 2008)

• **10 February**

Due to his posts that praise North Korean system on internet portal site (violation the National Security Act), Mr. Kim (36, unemployed) was indicted. Mr. Kim was sentenced one year in jail, subjected to suspension of qualification for three years, and placed on probation for three years.

• **19 February**

Hyn-Ah, Song was taken and restraint to Security Investigation of Seoul Police Agency on suspicion of organizing de facto power of student movement and producing and distributing benefitting enemy publication : An extension of Hee-Jeong Choi, Jae-Chun Lee, and Jun-Ui Park who were arrested for organizing de facto power of the Korean Federation of Student Councils. During court process, this case only acknowledged 'Assembly and Demonstration Act' and 'the sin of enemy benefitting publication'

but did acquit of charge for 'de facto power'. → first trial is not running (October 2008)

• **24 February**

Searching a house of Sancheong Gandhi School Choi Bo-kyung, police investigation. On suspicion of benefitting enemy publication for instructing group activity and posting sixteen articles on the Internet. Being indicted without detention on 2 August. In the middle of first trial(October 2008)

• **27 February**

Ki-Jin Yoon, chirperson of 'pomchonghakryon' was taken and restrained : Since he was elected by the chairman of student council at Myunji Univ. in 1997, he was arrested after he has consecutively filled the president of 7th 'hanchongryun' and 'pomchonghakryun'.

He was sentenced for three years for violating National Security Act on 27 August, and suspended for three years (First trial). In the middle of second trial (October 2008)

• **13 March**

National Intelligence Service conciliated and intimidated Min-Ho Jang of so called 'one mind bridge' : Two officials of NIS met Mr. Jang in Dae-Jun prison. They conciliated and intimidated him by saying "Since the administration becomes conservative, we are trying to find and observe from '386 generation' to 'Solidarity for Unification'" and "Those who you call friends were released from prison and became busy for their lives. How can you live after your expiration of prison term"

• **17 April**

Supreme Court quashed original instance regarding chief charges of Korean-German sociologist Du-yul Song and former chairperson of 'buminryun' Dong-Kyu Lim

• **29 April**

The Ministry of Information and Communication ordered striking the Internet articles which were estimated by violation of National Security Act. Seven representatives (the Korean Confederation of Trade Unions, the Korean Peasant League,

Democratic Labor Party, National Alliance for Democracy & Reunification of Korea, National Solidarity of People, Federation of Poor People, Joint Declaration between North and South "Sil Chun Yon Dae") who denied this order were summoned to the police for criminal charges

• **7 May**

In Universal Periodic Review of UN Human Rights Council, several countries recommend the abolition of National Security Act

• **2 June**

Staff sergeant who quoted sentences from social science book in his blog was dispatched to Army personnel officials on the suspicion of violation of National Security Act but all became non-prosecution disposition

• **4 July**

Dong-Kyu, Lim, former chairperson of 'pominryun', was asked for one and half year of prison and three years of probation at the quashing trial

• **9 July**

incumbent officer

The Defense Ministry's intelligence agency investigated incumbent officer (Lieutenant Kim of ○○ airborne bridgade) for suspicion on violating National Security Act, taking issue with his experience of president of Kyunhee Univ. allied club and representative of 'hanchongryun'

• **12 July**

Two people who provided shelter and counterfeit student card to the president of 'pomchonghakryon' Ki-Jin Yoon were investigated for supply of facility along with violating National Security Act. Thereafter, planning to call one more person in as a reference for using the account of Ki-Jin Yoon

• **24 July**

The chirman of 'namchongryon' in 2004, Hyung-Jin Baek who led unlawful rally and arrested for violating the National Security Act was given a one year jail term, suspended for four

years, and social service for 160 hours.

• **24 July**

Korean-German sociologist Du-yul, Song was sentenced to two years and six months in prison and five years for suspension of execution.

• **2 August**

Bo-kyung, Choi (history teacher of Gandhi school) was indicted without detainment on violation of National Security Act charging produce, distribute and teach enemy benefiting publications

• **26 August**

The case of Social Workers League of Korea : Seven Activists including honorary Prof. Oh of Social Workers League of Korea were arrested for making the organization of benefiting the enemy and producing and distributing the publication of benefiting the enemy : Supreme court quashed arrest warrant due to the lack of explanation of these charges above. The prosecutory authorities re-summoned all involved. Arrest warrant on the anvil while further investigation.

• **28 August**

The case of spy Jeong-Hwa, Won (the need to grasp because of National Security Act)

• **7 September**

Confirm that it was under investigation for charging the violation of National Security Act to the organizations such Korea Alliance of Progressive Movement which participated in "Mad Cow Disease" national convention, All together. One of the officials of The National Police Agency said "Seize the situation of benefiting the enemy from Alliance of Progressive Movements"

• **25 September**

The result of suspicion of Korea Youth conference on organizing enemy benefitting organization at the second trial : In the same way of first trial, conviction for organizing enemy benefitting organization. Announce that some aspects such case of visiting Pyunyang of suspicion are innocent against the people involved

but sentence remained same or increased more.

• **27 September**

The case of joint declaration between North and South "Sil Chun Yon Dae" : National Intelligence Service and Police searched the office of "Sil-Chun Yon Dae" and twenty five houses of chief officials at the same time on 6 a.m of 27 September. During this process, han-wook, Choi, former chairperson of "Sil-Chun Yon Dae", and seven other current and former representatives of "Sil-Chun Yon Dae" were taken to the police for violation of National Security Act and Among them, five people were arrested. Thereafter, around ten people were investigated and received writ of summons

• **27 September**

Bok-ki, Kim was taken (Chairperson of 615 Chung-Hak alliance).

• **29 September**

The offices of 'Jinju Solidarity Heading for Participation and Unification', "open image", and all representatives were under search and confiscation. Suspicion of purchasing North Korea media such movie "Will you marry me?" "People and Destiny", and animations from 'Bumchunghakryun' in south

• **9 October**

Korean-American Mr. Jeong was brought and inspected in National Intelligence Service : As a member of 6.15 middle region in U.S. and Korean-American Mr. Jeong went to Korea on business. NIS officials had raided his place on 9 October and he was forced to come NIC for inspection until late night. He was summoned to NIC until 10 a.m. of 14, Tuesday again and was under overseas travel ban.

• **15 October**

Jeong-Hwa, Won was sentenced for five years at the first trial, Waiver of an appeal

• **20 October**

Chan-joo, Kim (student leader of Chosun Univ. and the representative of the Korean Federation of Student Councils) was indicted without custody

- **24 October**

The restrainer of Practical Alliance han-wook, Choi and Cung-Hak Solidarity Bok-ki, Min were under indictment.

- **17 November**

Dismissal of re-request warrant for Socialist Workers League of Korea due to the lack of explanation

***Source : 「60th anniversaries debate of National Security Act (2008)」, An Extract from the material book of People's Union for abolishing National Security Act**

[Case Study]

Freedom of Speech in Cyberspace

Lee, Tae-Bong

The Korea Press Consumerism Organization: founder

1. Overview

The Korea Press Consumerism Organization was founded as an internet community website in line with the citizens' boycott of the advertisements on three Korean newspapers, The Chosun Ilbo, The JoongAng Ilbo, and The Dong-A Ilbo (hereafter Chojoongdong). The boycott was a response to actions taken by Chojoongdong, whose view on the U.S beef importation changed to the opposite of that under the former government, making distorted reports on the candlelight demonstration in May and June of 2008 against the conditions of importation.

Opposed to such actions, The Korea Press Consumerism Organization([http://cafe.daum.net/ stopcjd](http://cafe.daum.net/stopcjd), hereafter KPCO), which operates on a DaumCafé, an internet forum service provided by Daum(Korean web portal), posted the Ad list of Chojoongdong daily to facilitate the boycott.

As the boycott spread, The Chosun Ilbo and The Dong-A Ilbo made a request to Daum to delete all such postings. The Chosun Ilbo even demanded a closedown of the cafe.

The three newspapers' market share together is over 70%. As media gurus, they used their power of influence to pressure the political and business circles, labeling the citizens' act of free speech and a consumer movement as unlawful and demanding a criminal punishment.

Consequently, all such postings and the related were deleted. 21 administrative staffs of the café were prosecuted and found guilty of committing business interference under criminal law in February 2009. Its appeal case is currently in process. The freedom of speech on internet in Korea was seriously infringed and reduced as a result of the event.

2. Deletion of postings as webmaster’s provisional measure

The Chosun Ilbo sent out an official document to major websites requesting a deletion of all such postings. However, the webmasters did not accede to it. Then, from June 20, 2008, The Chosun Ilbo and The Dong-A Ilbo submitted a deletion request for each postings. The postings asked to be deleted were those related to Ad list or the boycott, and those criticizing the distorted reports of The Chosun Ilbo and Dong-A Ilbo.

Thus, Daum provisionally deleted Provisional Deletion is an action following the current law that allows the internet companies to temporarily delete a posting without legal decision for 30 days maximum, upon a claim of infringement of rights, such as violation of privacy. The internet companies tend to take this provisional step to avoid being held liable for damages. the postings for 30 days, and brought the case to Korea Communications Commission.

Since then, The Chosun Ilbo and The Dong-A Ilbo closely monitored the KPCO café and requested for deletions on the spot. Five minutes was enough time for a new posting to be deleted.

Posting made	Deletion request	provisional deletion	request for deliberation	deliberation (delete/restore)
User	Interested Party	Webmaster	webmaster	administrative agency

* Upon a deletion request from an interested party, webmasters take provisional deletion measure not to be held liable for compensation

글쓴이: 쭈니 등급변경 조회수: 7836 | 08,06,24 09:57

http://cafe.daum.net/stopcjdbgf/23

<공지사항> 다음 주의사항을 먼저 읽어주시기 바랍니다.

کمقو인의 대상은 '조중동'이지 기업이 아닙니다.

오히려 기업은 이 کمقو인에 참여하고 함께 해야 하는 쪽입니다.

광고기업에게는 '제품 값에 포함된 광고비를 지불하는 (잠재적)소비자로서' 건전하지 못한 언론사에 이득을 주는 "광고에 대한 소비자 의견"을 정중하게 전달하는 것 입니다.

결국 불쾌함 유발, 거친 항의가 목적이 아니니 전화, 메일, 홈페이지 글 등록 시는 반드시 선량한 소비자로서 예의를 지켜 주시기 바랍니다.

예의를 지키지 않는 의사전달은 이 운동의 힘을 떨어뜨리게 됩니다.

어린 훗불이 도로에 떨어진 훗농을 닦아내는 심정으로 거듭 부탁드립니다.

이 카페는 '불량언론 퇴출, 바른언론 육성'이라는 같은 뜻을 가진 네티즌 시민의 편의를 위하여 '조중동 광고 리스트'를 단순 취합 제공할 뿐입니다.

이 글을 [핍]하실 때는 위 주의 사항을 포함한 전체 글 모두 핍만 허용되며 광고리스트 등 일부 핍은 허용되지 않습니다.

출처 카페는 반드시 밝혀주세요, <http://cafe.daum.net/stopcjdbgf>

지금이 모일 수 있는 기회입니다. 지금 우리 훗불들이 모이지 않으면 다시는 기회가 없을 지도 모릅니다.

카페를 영원한 훗불들의 광장으로 이용해주시기 바랍니다.

6월 24일자 광고리스트입니다.

★대기업 / ◆이상광고 / ▶병의원, 제약, 건강의료 / ●건설, 분양, 회원모집 / ♣도서출판사 / ♠여행사 / □교육, 학원 / ◆외국계(수입차 등)

<조선일보>

★1면 배너 s-oil 02-3772-0777(고객센터) 광고팀 02 3772 5926

★1면 배너 금강제화 02 530 7000

●1면 - 매장모공원 진달래추모공원 (www.jindalrae.co.kr, 1577-0440)

☞2면 - 롯데관광(www.lottetour.com, 해외여행 1577-3000, 국내여행 1577-3700)

☐3면 - 한국농업대학 (www.kn.ac.kr, 031-229-5114, 031-229-5201~5208)

4면 - 재향군인회, 성우회, 6.25 참전유공자회

●5면 - 아트밸리 골프클럽 (www.artvalleycc.net, 031-202-9501~3)

☞6면 - 한진관광 칼투어 (www.kaltour.com, 1566-1155)

●7면 - (전면광고)신원종합개발 상도역 마침도시 분양 (www.swc.co.kr, 02-6908-7000)

♣8면 - 키출판사 Testall (www.testall.co.kr, 02-735-4021)

9면 - (전면광고)도요타 렉서스 (www.lexus.xo.kr, 080-555-3597, 080-924-9000)

10면 - 주간조선

*An original of a deleted posting. Mentioned name, phone number, and web address of advertiser

→ [6/24 Today's HW]

25th day Ad list

<Notice> Please read the following first.

The campaign's target is 'Chojoongdong' not the companies.

Actually, the companies should be on the side that participates in the campaign.

As consumers, potential payer for the advertisements, we should gently convey our opinion about advertisement that profits unhealthy media to the advertising companies.

Since our goal is not a harsh protest, please do not forget your good manners as consumers for your phone calls, emails, and web postings.

A rude correspondence reduces the power of this movement.

This café simply provides the Ad list for the convenience of citizens who hope for healthy media.

When you copy the posting you need to copy the whole contents and specify the source <http://cafe.daum.net/stopcjd>

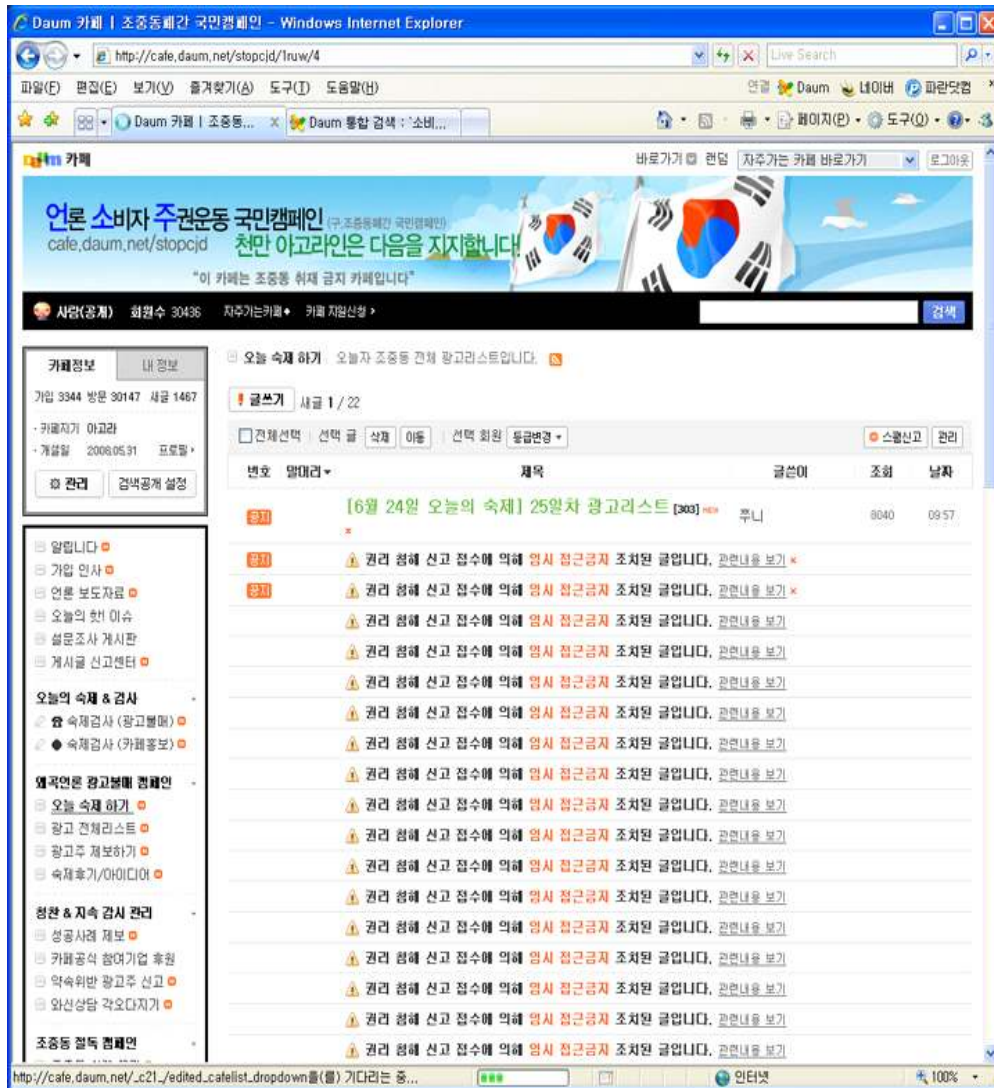
This is the chance to gather. If we don't now we might not have a next time. Please use this café as a space for the candlelight.

Ad list for June 24

<The Chosun Ilbo>

S-oil 02-3772-0777(customer service) Public Relations 02 3772 5926

(more such entries)



* Postings under a mass provisional deletion. All postings are deleted.

→[June 24 Today's HW] 25th day Ad list
 The posting is provisionally restricted for viewing due to a report on infringement of rights
 (The same for posting titles below)

<p>⚠ 권리 침해 신고 접수에 의해 임시 접근금지 조치된 글입니다. 관련내용 보기</p> <p>지금은 반 전시 체제입니다//// [8] NEW</p>
<p>⚠ 권리 침해 신고 접수에 의해 임시 접근금지 조치된 글입니다. 관련내용 보기</p>
<p>⚠ 권리 침해 신고 접수에 의해 임시 접근금지 조치된 글입니다. 관련내용 보기</p>
<p>⚠ 권리 침해 신고 접수에 의해 임시 접근금지 조치된 글입니다. 관련내용 보기</p>
<p>⚠ 권리 침해 신고 접수에 의해 임시 접근금지 조치된 글입니다. 관련내용 보기</p>
<p>⚠ 권리 침해 신고 접수에 의해 임시 접근금지 조치된 글입니다. 관련내용 보기</p>
<p>⚠ 권리 침해 신고 접수에 의해 임시 접근금지 조치된 글입니다. 관련내용 보기</p>
<p>⚠ 권리 침해 신고 접수에 의해 임시 접근금지 조치된 글입니다. 관련내용 보기</p>
<p>오늘은 백화점들이 조선 밀어주느날? [7] NEW</p>
<p>⚠ 권리 침해 신고 접수에 의해 임시 접근금지 조치된 글입니다. 관련내용 보기</p>
<p>⚠ 권리 침해 신고 접수에 의해 임시 접근금지 조치된 글입니다. 관련내용 보기</p>

* Postings deleted provisionally due to the monitoring of The Chosun Ilbo and Dong-A Ilbo.

→ The posting is provisionally restricted for viewing due to a claim on infringement of rights

3. Permanent deletion due to administrative deliberation and advice

Out of 80 postings requested for deliberation by Daum, Korea Communications Commission ruled in favor of deletion for 58 posting, stating that they violated its provisions. Also, it advised the internet businesses to delete ‘similar cases’ in its official notification of the deliberation result. Accordingly, the internet businesses carried out a mass deletion of all postings that includes Ad list.

The 58 postings were permanently deleted immediately. Many other similar postings both on KPCO café and other internet forums were also permanently deleted.




Not only postings that reported the name, phone number, website address of the advertiser, but also those with a link to websites that

had Ad list postings was permanently deleted.

According to media reports, over 600 postings were permanently deleted for being a 'similar case' from July 2nd to 7th in 2008 PD Journal(2008.7.9)

Http://www.pdjournal.com/news/articleView.html?idxno=16668.

The permanent deletion of such similar case postings was also aided by The Chosun Ilbo and The Dong-A Ilbo's monitoring.

122	삼진제약 게보린 vs 타이레놀 비교 분석 - 진통제 복용하시는 분들 참고하세요. 
115	한겨레, 경향 !!!!! [1]
111	신문매체 광고 전략 080705-1(냉무)
110	조선광고 080704-1(냉무) [3]
109	[특종] 대검찰청 광우병과담 진원지,훗불 배후 찾았다. (펌글) [4]
97	조중동 광고는 아니지만.. 대천해수욕장 가지 맙시다. [29]
	 정보통신망법 제44조의2에 의해 삭제 조치된 글입니다. 관련내용 보기
	 정보통신망법 제44조의2에 의해 삭제 조치된 글입니다. 관련내용 보기
	 정보통신망법 제44조의2에 의해 삭제 조치된 글입니다. 관련내용 보기
	 정보통신망법 제44조의2에 의해 삭제 조치된 글입니다. 관련내용 보기
	 정보통신망법 제44조의2에 의해 삭제 조치된 글입니다. 관련내용 보기
88	[경고] 다음넷은 임시조치의 횡포를 중단하라! [31]
	 정보통신망법 제44조의2에 의해 삭제 조치된 글입니다. 관련내용 보기
83	7.2.자 조선일보 광고목록도 궁금합니다. [6]

* Permanently deleted postings due to the Korea Communications Commission's advice on similar cases.

→ The posting was deleted by the Information and Communication Network Act article 44 (The same for the rest)

4. A request for a closedown and regulation of forum

Unsatisfied with mere deletion requests, The Chosun Ilbo requested a closedown of KPCO café in a official document sent on June 23. Daum brought the matter to Korea Communications Commission, and it deliberated ‘a cooperation request for a self-purification regarding information on the advertisement boycott against specific newspapers.’ Following such administrative decision, Daum made a request to KPCO café to be mindful of its operation. Wary of a closedown, KPCO café’s activity declined significantly.



* A request for a mindful operation following the Korea Communications Commission’s ‘cooperation request for a self-purification regarding

information on the advertisement boycott against specific newspapers.’

-> A notice from Clean Daum
Hi, this is Daum Clean Internet Center.
We have a notification for your Daum service use.
Please check the following so that there is no inconvenience your service use.
Thank you.

>Location : Café (KPCO :)
>Date : 2008-07-08 17:20
>Subject : Notice
>Reason : A cooperation request for self-purification
% There was a cooperation request for self-purification from the Korea
Communications Commission to the postings on your café. Please be mindful
of you café operation.

5. Criminal punishment of KPCO administrators and authors of Ad list posting

With its power as a media guru, ‘Chojoongdong’ demanded a criminal punishment for KPCO, put a pressure on five economic organizations on June 18 for them to demand criminal punishment also Hangeore(2008.6.20) <http://www.hani.co.kr/arti/society/media/294356.html>, and even the member of National Assembly of the ruling party demanded it. Consequently on June 20, 2008, the day The Chosun Ilbo and Dond-A Ilbo made deletion request, the Minister of Justice, Kyung Han Kim, gave a special order to investigate the KPCO’s boycott, and stressed it through a media interview again.

“국민이 행복한 선진 법치국가”



법 무 부

수신자 검찰총장(형사1과장)
(경유)

제목 인터넷 유해환경 단속에 관한 특별지시

인터넷은 다양하고 폭넓은 정보 공유와 의견수렴을 가능하게 하는 매체로서 유해요소로부터 안전하고 신뢰가 보장되는 공간이 되어야 할 것입니다.

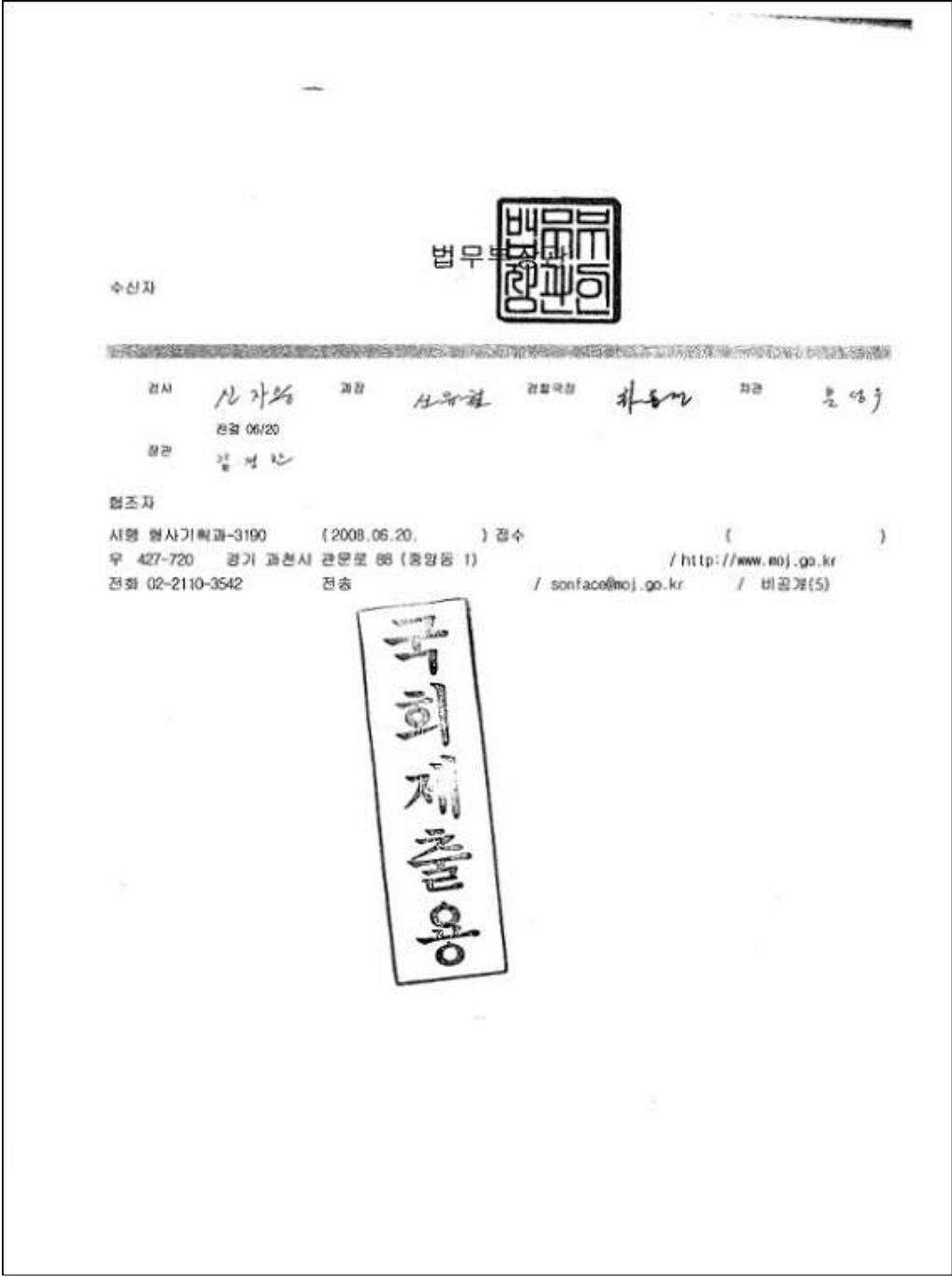
그러나, 최근 일부 인터넷상에서 명예훼손, 허위사실 유포 및 기업에 대한 광고중단 위협 등의 행위 위험수위에 이르러 국민들이 크게 우려하고 있는 실정입니다.

이에, 검찰에서는 인터넷 공간에서 악의적으로 개인정보를 무단 제공하거나, 터무니없는 허위사실을 하여 개인의 명예를 훼손하는 등 인터넷 유해환경에 적극 대처하여 주시기를 바랍니다.

특히, 인터넷을 매개로 기업에 대하여 무분별하게 광고를 중단하도록 위협하는 행위 등을 단속하여 정상적인 기업활동을 보호하시기 바랍니다.

어려운 여건 하에서도 법질서확립을 위해 맡은 바 직무를 헌신적으로 수행하고 있는 검찰공무원의 노고를 진심으로 치하하며, 신뢰의 인터넷 공간을 만들기 위해 한층 더 노력하여 주실 것을 당부드립니다. 끝.

국
의
제
출
용



* An official order of the Ministry of Justice on special investigation for the boycott

The Public Prosecutor's Office, as ordered, announced an investigation plan on the day, and created a large team of 5 prosecutors and 10 investigators on June 21. They started the investigation without a charge, arousing a critical public opinion.

By July when a charge was made by 'Chojoongdong', the investigation was already far under way. The prosecutors even suggested to Nongsim to file a charge

Hangyeore(2008.7.15)http://www.hani.co.kr/arti/society/society_general/298867.html. Also, it was revealed during the witness testimony that they made the same suggestion to other companies as well.

The prosecutors banned all 23 administrative staffs of KPCO, including 2 minors, and a MBC writer who joined it for a research purpose, from traveling overseas on July 3, 2008.

The prosecutors who ordered the travel ban also confiscated computers, storage devices, notebooks, cell phones found in houses and offices of 5 staff members.

Later on, they called in everyone to investigate. It lasted for about a month, and on some occasions ran from the morning to 11pm. During the investigation the prosecutors argued that the 'consumer movement for healthier newspaper' was actually a 'movement to close down specific newspapers' and that posting Ad lists was illegal. They still do even though the court of first instance clearly showed it is not. In early August, they also conducted an investigation of a citizen because he posted Ad list on Google.

On August 19, the prosecutors requested bench warrants for the six people. The court issued the warrant for the founder of KPCO and the citizen who made the Google posting for a possibility of evident destruction, but for the rest it dismissed the request.

The two people, approved of arrest, were imprisoned in Seoul prison for 61 days until the bailout decision on October 21, 2008. They prosecuted 24 people, one of whom was underage 24 people include KPCO café's 21 administrative staffs excluding a high school student and a MBC writer, plus 3 people who are not KPCO members.. Those 24 people attended the trial 18times, scarifying their work for a day per a week. On February 19, 2009, all 24 people were found guilty receiving a maximum sentence of 10 months'imprisonment and 2 years' probation. The decision stated that 'posting of Ad list is allowed' but 'making phone calls is illegal.' However, it was not proven that any of the 24 people made illegal phone calls. The decision based on the fact that it communicated

with the citizens who actually made phone calls. Therefore, all 24 people appealed against decision, and the trial is currently in process.

6. Political oppression of free speech

There was unjust chain of pressure for investigation connecting Chojoongdong-economic circle-ruling party-Ministry of Justice, and the public prosecutors carried out an intense investigation including travel ban, seizure, and arrest warrant request all without an official charge. Also, according to the judge in the court of first instance, 'two judges who have been criticized by The Chosun Ilbo et al. regarding former cases' were excluded for this case 오마이뉴스(2009.6.19)
http://www.ohmynews.com/NWS_Web/view/at_pg.aspx?CNTN_CD=A0001159930. Excluding the two judges by discretion because they were mentioned in The Chosun Ilbo's article is a clear violation of the defendants' right to have fair trial and a unjust political action that gives The Chosun Ilbo a way to avoid the judges they dislike. Thus, the conviction of KPCO is a decision made under the prosecutors' unreasonable investigation and the president of court's unlawful interference with the trial and a political oppression of free speech and consumer movement.

7. Serious threat to freedom of speech

The postings made as a part of KPCO's boycott was deleted and the prosecutors carried out an intense investigation, which ended up and a conviction at the court.

Minerva was arrested and prosecuted for posting a critical remark on the government's economic policy, but the court found him not guilty, stating that "the prosecutors put too much constraint on the constitutional freedom of speech."

Also, four internet users who wrote most viewed postings on Agora, an internet forum, was charged under business interference for having manipulated the view count 경향신문(2009.5.20)
http://news.khan.co.kr/kh_news/khan_art_view.html?artid=200905201756375&code=940202.

As a result of these series of events, the freedom of speech online in Korea was seriously violated and reduced.

The reduction emerged in two ways: 1) the decline in both quantity and quality of internet expressive activity 2) cyber refugees who changed their sphere of activity to foreignwebsites, such as Google or Yahoo.

First, in regard to the reduction of expressive activity on internet, it became harder to write a posting. In the past, people wrote postings freely without hesitation, but now people stopped writing one at all, or do a self-censoring when writing. Not only that, many internet users delete their posting made in the past.

In order to enjoy some freedom of speech, the internet users became cyber refugees who no longer uses the services provided by domestic internet business, but moved to that of foreign websites that are free from the influence of Korean government.

People started posting Ad lists on Google. The Ad lists deleted by Daum were not deleted on Google. Google did not take the Korea Communications Commissions' advice to delete 'similar postings' nor the deletion request by The Chosun Ilbo. In 2008, Google was also subjected to a search relating to the Chojoongdong Ad list, but unlike Korean internet businesses who provided all related information, Google did not due to a lack of user information.

However, such cyber refugee phenomenon has little influence. Moreover, having to avoid the services of Korean internet companies, which the majority of Koreans use, is a violation and a reduction of free speech in itself.

조중동 광고리스트 데이터베이스	
2008년 7월 리스트	2008년 6월 리스트
날짜	조선일보 광고리스트 URL (한겨레신문, 경향신문리스트도 업데이트예정임)
2008년 7월 4일	http://spreadsheets.google.com/pub?key=p_s9QsQy5_QA0u-EG-LTcOA
2008년 7월 3일	http://spreadsheets.google.com/pub?key=p_s9QsQy5_QAGorQutj1EGg
2008년 7월 2일	http://spreadsheets.google.com/pub?key=p_s9QsQy5_QC72xMg9rtveg
2008년 7월 1일	http://spreadsheets.google.com/pub?key=p_s9QsQy5_QDbJ8O-XEI9eA
	This is Only Advertisement Lists of some daily newspapers in Korea.
	이 인터넷 주소를 즐겨찾기 해놓으시면 매일 업데이트되는 것을 쉽게 확인하실 수 있습니다.
	대한민국의 어떤 기업도 아무런 문제없는 문서(단지 특정 언론 광고주 리스트만 있는 문서)에 대해 글로벌 기업 구글에 삭제나 제한을 요청할 수 있는 권한과 법적근거는 없습니다.
게시: Google 문서도구	

* The Chosun Ilbo Ad list on Google

Such phenomenon appeared not only on online postings but for private emails. Many citizens changed their email to Google, after seeing the confiscation of all information from email, unrelated to the case, during the course of investigation, All 24 people prosecuted from KPCO changed the email to Google as well.

Regarding such events in Korea, Foreign Policy, a U.S magazine specializing in foreign policy, selected Korea as a country that censors the internet along with four other countries on March 25, 2009. It reported that "Korea is a leading IT country with the over 90% internet subscription, whose governmental regulation on internet is also at the top level."

[Case Study]

Freedom of Expression and Democracy

Park, Dae-Seong

Blogger known by his pen name 'Minerva'

Freedom of expression is the root of democracy. It is the most basic right needed for individual constituents of a society to form and exercise their political viewpoints.

From a historical point of view, democracy has always been a bastard child of the times.

In 5,000 years of its existence, humanity has always been divided into the governed and governing classes, which meant the denial of vested rights and equal opportunity for the general public. Rooted in institutionalized class systems such as monarchy, aristocracy, serfdom and slavery, its history is one of exploitation. Every advance in human history was based on the blood, sweat and tears of the people.

Democracy was born in the womb of the freedom of expression, through a magnificent historic cycle interspersed with blood and tears- similar to the birth of a human being.

Before the dawn of modern society, the governed class, or the general public, had always suffered under an oppressive class system and religious rule.

Times have always demanded the blood and sacrifice of the people for the realization of true democratic ideals: from the execution of Great Britain's Charles I in 1649 to the French Revolution, innumerable people sacrificed themselves for democracy.

300 years of democratic history is a mere blip in 5,000 years of human history. It is within such a backdrop of time that democracy is continuing to evolve.

Though perpetually challenged by the ruling class at every turn, the public has never ceased in its quest for progress and innovation through the freedom of expression.

However, whenever the general public was forced to succumb to oppression, their rights and freedom of expression were denied.

State interests and freedom of expression have been conflicting concepts since the very birth of modern democracy.

In turn, the pursuit of state interests caused the incessant violation of a fundamental right of individuals, the freedom of expression.

It is true that liberty and license are two very different concepts. Liberty is indubitably followed by responsibility and obligations, and freedom of expression also means a kind of liberty that is allowed within the parameters of social norms.

However, the problem is that, usually, such 'social norms' are not permanent.

The government cannot unilaterally restrict ever-changing social norms and ethical standards through documented statutes. When such legal restrictions are enforced upon individual constituents of a society, it is then that social advancement based on debate and dialogue stops, and individuals experience the retrogression of society through loss of identity.

Democracy has always remained a major form of defiance against the age-old institution of the hierarchical society

Moreover, its realization was only possible through the protection of the individual's freedom of expression.

Therefore, the assertion that the government can restrict the individual's freedom of expression under the pretext of protecting individual's right to privacy and state interests is nothing more than distorted self-justification of the denial of democracy itself.

Consequently, countless number of people bled for freedom of expression which we now take for granted, while the history of democracy, its by-product, has always been one of struggle demanding blood.

One should never forget the historical lesson that the people have been always subjected to subordination and sacrifice when they themselves overlook the value of fundamental rights.

Korea is currently passing through the tunnel of democracy. One of the landmarks which shows the retrogression of democracy in Korea, known as "The Minerva Incident" in early 2009, will be the platform on which further democratic progress will flourish. This incident has taught us the valuable lesson that when an oppressive regime denies individuals' freedom, more sacrifice is inevitable.

Never again should the state violence against citizens occur, and citizens must exercise constant vigilance in order to prevent exploitation by the state.

[Case Study]

Violating the Freedom of the Press

Choi, Sang-jae

President, National Union of Media Workers

1. The Lee Myung-bak administration and the revision of the Press Law

Currently in Korea, there has been mounting tension between politicians and civil society regarding the some of the core principles of Korean society, such as democracy and the freedom of the press. The Lee Myung-bak administration and the Grand National Party(GNP) is attempting to transform the current multi-public, single-private broadcast system (KBS, MBS, EBS / SBS) into a single-public, multi-private system.

Newspaper Market Share

o Comparison of estimates

	Media Management Institute*	Regional Paper Development Committee**
Chosun	17.3%	25.8%
Choong-ang	15.5%	21.2%
Donga	15.4%	19.1%
Total	48.3%	66.1%

* Private media consulting firm, 2005 National Paper Circulation and Market Share Estimate Study

** Regional Paper Development Committee, 2005 Poll of regional paper readers

o 2005 National Paper Circulation and Market Share Estimate Study (Media Management Institute)

- Chosun · Choongang · Donga Estimated Circulation : 6.49 million
- Circulation of total 135 National Dailies · Special Papers · Regional Dailies: 13.47 million

o 2008 Korea Press Foundation Study

- Market share of Chosun · Choongang · Donga out of total newspaper market (Including free papers, children's paper, specialized papers, etc): 59.7% (Chosun 25.6%, Choongang 19.7%, Donga 14.3%)
- Market Share out of total national dailies and economic dailies is 66.7%.
- Market Share out of solely national dailies for the three companies rises to 72.1%

o 2008 April, Chosun · Choongang · Donga circulation estimate (Media Workers Union estimate from collecting data from each company)

- Chosun 2.06 mil, Choongang 1.63 mil, Donga 1.53 mil

The reduced public broadcast domain would come under the ownership of large corporations, along with the main newspapers such the Chosun Ilbo, the Donga Ilbo, and the Choong-ang Daily. These papers have maintained a conservative tone, in line with the political inclination of the current government. Public broadcasts seek to upkeep the public character of the press, and reducing it could allow major corporations and the three newspapers, which have a virtual monopoly in the print news market, to unduly influence public opinion. This is why civic organizations, the press, and much of the general public have opposed the GNP's attempts to amend the press law(in particular, the newspaper

law and the broadcast law). However, on the 22nd of July, the GNP disregarded the opinion of 70% of the public who were against the revision and railroaded the law through the National Assembly, mobilizing levels of violence unseen in Korean modern history. Because of these procedural problems, the media law is undergoing deliberation at the Constitutional Court deciding whether the process was legitimate.

*** Opinion Polls regarding the 2009 GNP Press Bill**

Poll	Period	Content	Result
Hankook Ilbo-Media Research	6-7 June	Opinion on revision of Media Bill	For 24.4%, Opposed 62.8%
MBC-Korea Research	2-3 June	Ownership of broadcast channel by newspapers and major corporations	For 23.3% Opposed 66.9%
Hankyoreh-Research Plus	30 May	Opinion on revision of media bill	For 25.4%, Opposed 61.4%
Korea Society Opinion Institute	1 June	Opinion on revision of media bill	Reach agreement with opposition, taking into consideration opinion against 75.5% Go through with June vote, as agreed upon 24.5%

The contents of this law have shaken the foundations of the press structure that has been in place in Korea for nearly 30 years. Such basic changes call for a debate that encompasses all the relevant social actors regarding the rational grounds and reason, the objective, and possible negative side effects of it. The reason that there has been constant resistance for 8 months against the bill, arguing that the revisions are designed to lead to a "Chosun-Choogang-Donga-Chaebol Broadcast" that would allow for the GNP's prolonged rule, is that there

is very little to legitimize such far-reaching changes. The GNP did not organize a single hearing in the process of coming up with the revision that would call for such fundamental changes to the media.

2. Oppression of the press worker

The Lee government has arrested, investigated, and indicted the members of the press that have lead the strike to institutionalize an independent broadcast system. This is the first time in 10 years that a member of the press has been arrested for struggling to defend an impartial media environment. Over ten members of the press have been arrested by the police under the Lee government.

① MBC: Reprisal for reporting on the danger of Mad Cow disease in American beef

MBC's investigative program '**PD Notebook**' aired a report in April of 2008 on the problems of the Lee government's negotiations regarding the import of US beef, and concerns that had arisen about the safety of American beef. The Agricultural Minister then filed a libel suit against MBC, and starting in March of 2009, producer Lee Chun-geun was arrested. More followed. This incident, in which a member of the press who had criticized the government on behalf of the people's right to know, is currently undergoing trial in a criminal court.

*** 'PD Notebook'**

'PD Notebook' is an MBC program dealing with current affairs. On the 29th of April 2008, after it aired <American Beef, Is it safe from Mad Cow Disease>, the administration and the Agricultural Ministry brought a libel suit against the program.

On the 16th of July, the Korea Communication Standards Commission decided regarding the PD Notebook that it had to 'apologize to viewers.' MBC accepted the decision by the Commission and apologized to viewers(August 12th). On Jan 7th

2009, Im Soo-bin, who a member of the Seoul Prosecutor's office that had lead the investigation, resigned. After the case was handed to a new prosecutor, former agricultural minister Jung Un-chun brought a libel suit against 6 members of the production team. On March 25th, under orders from the Criminal section 6 at the Seoul Prosecutor's Office(Head Prosecutor Jun Hyun-Jun), MBC's producer Lee Chun-geun was arrested. 6 members of the production team had their homes searched, and other producers and writers, including producer Kim Bo-seul, were also arrested.

② YTN: Heavy disciplinary measures for opposition to personnel decisions made by the administration

When Koo Bon-hong, President Lee Myung-bak's special advisor regarding press matters was designated as the head of YTN, the workers at YTN resisted the move, claiming that the independence and impartiality of the organization would be endangered. Struggles to block Mr. Koo from coming to work ensued, and a lawful strike followed. However, in the early morning of the day of the strike, the government arrested the head of the YTN union (Mr. Noh Jong-myun) and 3 other union leaders. While almost a year has passed since the strike, 6 workers remain dismissed and outlawed from entering the company.

③ KBS: Forced departure of the Company President, Laying off of workers and Forced Transfers

At KBS, which has consistently been rated by polls as the most trustworthy organization amongst the press, the government has illegally forced out the company president, and then layed off or forcefully transferred to non-production divisions the press workers who had been known to send out critical reports or programs regarding the administration. The new president, appointed by the Lee administration, has been attempting to cancel programs critical of the government. At another public broadcast, MBC, the board of directors has been trying to dull the critical view taken by several reporting programs, and has been the subject of criticism and resistance on the part of the public and

related producers/reporters.

④ Violation of the freedom of the press

Moreover, the Korea Communication Standards Commission has violated the freedom of expression by deciding on heavy disciplinary measures for not just the 'PD Notebook' producers, but also for news anchors that had worn black attire as a symbol that the freedom of the press was endangered.

<Kyung-hyang Daily Jan 8th, 2009, Kim Jung-sup>

Regarding the move by the Korea Communication Standards Commission(President Park Myung Jin) to investigate whether the black attire of MBC and SBS's news anchors meant that they were supporting the YTN union's struggle, the anchors had replied that they thought the response was "comic." The MBC union declared that it would seek legal measures, stating that it was "censorship of attire that was against the Constitution."

The Korea Communication Standards Commission had checked the color of the attire of the anchors on the news of MBC and SBS on the two days designated 'Day of YTN and Impartial Press.'" (October 30th, November 20th). It had then sent letters requiring those anchors that had worn black attire to appear and give a statement. This was a requirement to clarify whether the black attire was a coincidence, or whether they had worn it in solidarity with YTN. The Korea Communication Standards Commission designated 10 anchors as being required to appear and give a statement in its letter: MBC Lee Jung-min· Cha Mi-yeon· Choi Dae-hyun· Park So-hyeon· Park Kyung-choo· Kim Jung-geun· Kim Joo-ha, SBS Shin Dong-wook· Kim So-won· Kim Suk-jae· Choi Hye-lim· Sohn Beom-kyu· Jung Mi-sun.

Park Sung-je, the head of the MBC union, stated in response that he had instructed the anchors to "refuse any demands for statements and if the Commission goes ahead with the review," MBC would sue for psychological damages. Park went on to say that "not all of the anchors had worn black, and that in most cases it was not the case that both of the newscasters were wearing black."

MBC's anchors also protested, stating that the letter constituted "censorship of the conscience." The SBS union, in a statement, pointed out that "asking why black clothes were worn, and then deciding whether or not to discipline the member itself is admitting that the 10 members are not subject to review... asking such a question goes against the Constitution."

The two companies did not let the 10 individuals know of the letter, concluding that the Commission had abused its power with the inappropriate letter. After the letter became known, a member of the Commission said that "a complaint was filed and the letter was sent out to get more information on the issue, but I also agree that it could have been taken the wrong way.. if there is no response we won't respond."

⑤ Oppression of struggles against the new press law

As a response to the attempt on the 22nd of July to pass the press law by using violent and unjust means, the National Union of Mediaworkers organized demonstrations together with the members of the press across the nation. However, the Lee administration barbarically arrested the Union of Mediaworkers' President, Choi Sang-jae, in front of his family in order to suppress their struggle.

Arresting members of the media in front of their family is intended to suppress the movement for freedom of the press. Illegally dismissing the president of a public broadcasting corporation, then replacing him with a government-friendly president, is to institutionalize internal control over programs that had been critical of the government. Such incidents in Korea are anti-democratic acts that disallow the media from fulfilling its very basic responsibilities: a critique of those with power and a respect for the public's right to know. Kim Joo-Un, who had disclosed the military government's reporting guidelines in 1986, has criticized the government, saying that "the Lee administrations actions are to 'scare members of the press,' and the attempts to control the press is the same as the dictatorship, except that it does not have mobilized force."

[Case Study]

Freedom of Assembly and Demonstration

Yu-sung

Conference of Korean Human Rights Organizations

1. The Problem of Licensing Assemblies and Protests

Article 21 of the Constitution of the Republic of Korea declares the following: "All citizens shall enjoy freedom of speech and of the press, and freedom of assembly and association." This guarantees freedom of expression, freedom of assembly and freedom of association as basic rights. Based on these principles, the government may not prohibit the people to hold or participate in assemblies.

However, the Assembly and Demonstration Act (hereinafter "the Assembly Act") allows protest assemblies to be prohibited for broad ambiguous reasons. Therefore, for all practical purposes, the police retain the right to prohibit all outdoor assemblies. Citizens participating in assemblies that the police determine to be illegal are criminally punished.

Such restrictions on the freedom of assembly contravene the constitution and violate fundamental rights. The Constitution states that freedoms may only be limited in cases where there is a clear threat to the public welfare.

A . Broad grounds for prohibition notices constitute a licensing system

The right to assembly and freedom to protest is constitutionally protected and should be preserved.

Reasons for prohibition	Relevant statute articles	N. of cases	%
Overlapping registration for assembly sites	art. 8, para. 2	140	46.8%
Blocking traffic flow	art. 12, para. 1	69	23.1%
Threatening public order	art. 5, para. 1, item 2	31	10.3%
Failure to complete form	art. 7, para. 1	16	5.4%
Disturbing the peace and privacy	art. 8, para. 3, item 1	16	5.4%
Prohibiting assemblies in residential areas	art. 8, para. 1	8	2.7%
Prohibited places	art. 11	7	2.3%
In the vicinity of military facilities	art. 8, para. 3, item 3	6	2.0%
In the vicinity of schools	art. 8, para. 3, item 2	4	1.3%
Prohibited hours	art. 10	2	0.7%
total		299	100%

Table 1 Current statistics on assembly prohibition notices issued in 2008 (Period: January 2008-December 2008, Source: The National Police Agency)

However the current Assembly Act permits restrictions on assemblies for various reasons, including the assembly time, its location, its effect on traffic flow and past assembly history. In practice, the stated reasons for assembly restrictions are vague and broad. The police take advantage of the variety and ambiguity of these stated reasons, making it difficult to actually hold assemblies or protests that criticize the government or Korean companies.

1) Restricting Assembly on Main Roads

The police may prohibit assemblies or protests on the main roads of

major cities to avoid disrupting traffic flow. However, these "main roads" include almost all roadways, so the police may effectively prohibit assemblies practically everywhere. "Disrupting traffic flow" is also a vague standard, if simply minor impediments to traffic have been used as sufficient reasons to ban assemblies. Critics point out that such traffic difficulties would be easily corrected if the police would manage traffic flow.

2.) Restriction on Assembly in front of the Presidential Residence (Chungwadae), National Assembly, Courts and other Important Institutions

Article 11 of the Assembly Act prohibits assemblies or outdoor protests within 100m of any "National Assembly building" or "court," along with specific prohibitions for protests outside "the Constitutional Court, the Presidential residence and the official residences of the Speaker of the National Assembly, the Chief Justice of the Supreme Court, and the Chief of the Constitutional Court, the official residence of the Prime Minister, and the official residence of the Prime Minister." However, these public buildings are precisely where citizens should express their political and social views and complaints against the building inhabitants. Prohibiting protests near these sites diminishes the effect of social protest.

3.) Prohibition of assemblies at night

Article 10 of the Assembly Act states "no one may hold any outdoor assembly or stage any demonstration either before sunrise or after sunset." Limited exceptions may be permitted. However, because most people work or study during the day, this restriction makes it almost impossible for the citizens to express or exchange their opinions. The police effectively prohibit all night assemblies.

In September 2009, the Constitutional Court found this provision unconstitutional, but it remains in effect until June 30, 2010. The police and the public prosecutor's office have stated that they will execute the current statute until it is amended. These offices have stated intentions to develop new ways to restrict assemblies at night, after the statute

expires.

4.) Multiple-booking of assembly sites

The Assembly Act and the police policies allow only the first assembly registered for specific time and place to take place, creating the problem of "ghost assemblies" being fabricated to register for protest sites. When citizens or labor unions plan to schedule an assembly criticizing the government or Korean companies, oftentimes organizations connected to these companies or the police may sign up for the assembly sites beforehand, pushing out the critical protests. These "assemblies" rarely actually take place, thus inviting the name "ghost assemblies".



Pic. 1 - A race for assembly registrations

There have been races for competitors for assembly sites, because the police announced that the winner of the race will be the first to register for an assembly site.

B. The police, not the courts, are in charge of issuing prohibition notices and other measures that restrict basic rights

The Constitution states that the right to assembly is a basic right and can only be restricted when there is a clear and present danger. However, even though the restriction of basic rights should only be allowed with strict legal scrutiny, the police (which is an administrative agency) and not the courts, is in charge of restricting this basic right. The political party currently in power controls the police; accordingly, the police refuse to allow assemblies or protests criticizing the ruling party or the current governmental system. Endowed with the authority to impose restrictions on basic rights and the motivation to broadly interpret the Assembly Act, the police constantly infringe on Koreans'

right to assembly.

C. Regulation under ordinances of the regional government on the use of plazas

Since candlelight vigils took place in 2008, plazas have been central locations for exercising the right to assembly. The police have begun to block access to plazas with police transport buses or human blockades.



Pic. 2 - The police surround the Seoul Plaza with police transport buses. In the morning on May 30, the day after the former president Roh Moo-hyun's funeral ceremony, the police drove out citizens who had held an overnight candlelight vigil from the plaza and then barricaded the site.

As legal support for such restrictions, both the Assembly Act and provincial ordinances on the use of plazas have been invoked.

In the case of the newly constructed Gwanghwamun Plaza, the regulations state the Seoul mayor retains the right to permit its use. Free use of the plaza is subject to the personal decisions and preferences of the mayor.

The ordinances state that the purpose of the Gwanghwamun Plaza is for "citizens' healthy leisure and cultural activities," effectively prohibiting political assemblies. Despite this dedication, the national and regional government is given priority to use the plaza over citizens. Ordinances also state that in cases where scheduled events overlap, the permission to use the plaza is granted according to the order of the registrations,

except that events hosted by the national or regional government are given priority.

2. Arrests and other legal oppressions on those who express their political opinions

A . Punishing one-man protests, distribution of printed material, press conferences and other acts not regulated by the Assembly Act

The current Assembly Act does not consider one-man protests, or the simple distribution of printed material to be an assembly. However, the police regard these acts as assemblies and often will disbands or arrests the actors. Additionally, there have been several arrests of participants in an outdoor press conference for yelling political slogans in front of cameras because they violated the Assembly Act.

1) Yelling political statements in press conferences is considered unreported assemblies and punished

The police find picketing or yelling political slogans in press conferences or at cultural events to be assemblies and will often disband or punish the participants for failing to report the assemblies. The police have yet to clarify the standards according to which it decides if various acts of expression in press conferences or cultural events will be considered to be assemblies.

2) Arresting one-man protestors and distributor of printed material, which are not regulated by the assembly act

The Korean courts do not recognize one-man protests as assemblies. The police seem to think otherwise. They have been punishing relay one-man protests, where several people take turns protesting, and band of one-man protests, where protestors evenly place themselves nearby each other, for not reporting the events as assemblies. These protests should not invite the use of violence and other dangers to the public. There are

also arrests for distribution of printed material on the charge that the handouts were illegal.

In one instance, on July 15 and 16 2009, the police handcuffed and arrested both students and citizens for handing out printed material prepared by the Democratic Labor Party and the Korean Federation of Trade Union. The police found that the promotional pamphlets by the party and the federation constituted illegal material. The police charged the protestors with violating the Outdoor Advertisements Act, and the Control Act. The police officers seized the pamphlets, ordered the distributors to cease their activities and arrested them. In the process, the police grabbed a 62 year-old woman by the arm and violently forced her to go to the police station. She did not have her Miranda right read to her, and the police effectively applied the Punishment of Minor Offenses Act, in effect conducting a summary trial on the spot.

B. Excessive punishment of assembly participants

Assembly participants are being excessively punished. Clashes incited by the police, or spontaneous clashes incited by some of the participants, cause the whole assembly to be declared illegal. The assembly host is then prosecuted, despite the lack of connection between the clashes and the host. An organization that hosts an illegal assemblies is prohibited from conducting other assemblies based upon this past unlawful history.

Even participants in assemblies who have not used force are prosecuted under the conspiring and colluding principal offender theories. This theory allows for the punishment of those who did not participate in the crime itself, but participated in the premeditation. However the thousands of participants in an assembly are likely to have never seen each other before the assembly. Therefore, participants may become criminally responsible for actions committed by others whom they have never met.

Furthermore, assembly participants are not only charged with violating the Assembly Act (punishable by fines up to 430 U.S. dollars), but they also receive additional fines of more than 2,500 U.S. dollars for violating the Road Traffic Act. This fine is 3.5 times an average citizen's

minimum monthly income.

3. Police Violence behind Anonymity and the Irresponsible Authorities.

A. Police violence against participants of peaceful demonstrations.

The police often use brutal violence against participants of assemblies. The government and police officially say that they guarantee peaceful demonstrations, but this is far from the truth. The police use batons to strike unarmed participants, including women, children, and the disabled, or hack these participants with police shields. This brutality violates the rule that requires the police to use the least amount of force when fulfilling their official duties.



Pic. 3 - "Beating on the head" in violation of the rules.



Pic. 4 - A women bleeding after police violence.



Pic. 5 - "Hacking with shields" in violation of the rules.



Pic. 6 - A man bleeding after police violence.

Also, journalists at assemblies are being assaulted and their cameras are being damaged. Whenever this happens, the National Police Agency issues a public apology to the media organization in question, but similar cases happen again and again. It's not uncommon for the police to interfere with a journalist's reporting.



Pic. 7 - Attacks on the media.



Pic. 8 - More attacks on the media.

B. Riot Police Hiding Behind Anonymity

The Riot Police do not wear tags with their names, identification numbers, or identities. Even if they do wear attire with names on it, they hide their identity with black tape or vests. Recently the police have started to wear masks to hide their faces from the press.

When the riot police hide behind anonymous masks like this, it becomes harder to identify suspects when the police misuse their authority and use unlawful force against protesters.

C. Police violence going unpunished

According to the laws that govern the official duties of the police, such as the Police Officer Performance Act, the criminal code, and the laws on Assembly, any misuse of authority or instances of violence or interference by government officials must be punished. However, in practice, this does not often happen. The police or prosecutors office rarely voluntarily submit to an investigation. Even when they start an investigation in the face of critical public opinion, the investigation is usually dropped due to a lack of evidence or the inability to identify perpetrators.



Pic. 9 - "Faceless" riot police

4. Reinforcement of the Riot Police

A. Reinforced Riot Police Equipment

Since 2008, the equipment of the riot police has been upgraded at a fast pace. This arsenal now includes personal protection gear for the policeman, cancer-inflicting tear gas, stun guns, and sophisticated tanks.

According to the data of the Police Department, the police spent 4,450,000 dollars on combatant police equipment. This is an 67 percent increase compared to last year. Recently, the police have started to use chemical tear-gas weapons, which have not been used since 1998. The police spray the tear-gas liquid with water hoses or from individual spray bottles. However, this liquid contains a cancer-causing substance called dichloromethane, which is internationally banned due to the danger it poses to human health.

The Korean police have also used their personnel carrier vehicles as physical barriers to isolate protestors and seal off assemblies. In 2009, they expanded their arsenal with 'Transformer' style vehicles which form walls, costing 73,000 U.S. dollars each, along with other carrier vehicles equipped with tear-gas spraying machinery. They are also using other auxiliary vehicles with video surveillance and lights to punish or break-up protests.



Pic. 10 - The new "transformer" style police vehicle.



Pic. 11 - The vehicle "transformed" into a wall.

B. Use of weapons and armed forces intended to combat Terrorists

The Korean police have armed forces and equipment prepared for anti-terrorism campaigns. These anti-terrorist units and equipment generally have higher lethal potential than the ordinary police units or police equipment. However, the government is continuously increasing the use of these forces to suppress or break up demonstrations. A special armed force founded in 1984, originally to fight terrorists, was sent out ordinary demonstrations which the government defined as "illegal," such as demonstrations or labor union strikes. There has not been a single case where the anti-terrorist forces were used for their original purpose.

1) Increasing the use of "less-lethal" weapons, rather than "non-lethal" weapons

There have violations of safety procedures because the police are using taser guns and multipurpose grenade launchers against demonstrators.

On the 22nd of July, there was a big debate when one of the demonstrators of the SSang-Yong Automobile Labor Strike was shot in the face with a taser-gun.

According to the "Use of Police Equipment Rules," the electrical needle must not be fired at anyone's face.



Pic. 12 - A demonstrator shot in the face with a taser gun.

On the same day, the police used multipurpose grenade launchers against the labor union members. This was also very controversial because according the "Rules on Use of Police Equipment," these grenade launchers are only allowed to be used in anti-terrorist operations like arresting kidnappers.

5. The ruling party's proposed bills are designed to kill freedom of assembly

A. Amending the Assembly Act for the worse

Although the current Assembly Act is widely criticized for violating freedom of expression, the ruling Grand National Party (GNP) has proposed a new bill with various articles that further limit Korean's freedom of assembly. The amendments to the Assembly Act proposed with representation by GNP Congressman Ahn Sang-Soo (July 2008), Congressman Sung Eun-Hwan (August 2008), Congressman Ahn Sang-Soo (September 2008), Congressman Jung Gap-Eun (October 2008), Congressman Lee Jong-Huk (November 2008), Congressman Shin Ji-Ho (January 2009) contain numerous problems. These bills include provisions for the "prohibition and punishment of wearing masks," for "additional punishment for manufacturing, possessing or transporting

tools that poses a threat to the life and body of another persons," for "more restrictive noise control", and "harsher criminal punishments." The National Human Rights Commission of Korea has recommended removing these bills for their excessive limitations on Koreans' assembly rights.

One bill proposes imposing harsher criminal punishments to maximize the effect of fines. It suggests removing minor fines from penalty clauses and increasing the penalty fee to be more effective. For example, Congressman Jung Gap-Eun's proposal increases current penalties from 500,000 won to 3,000,000 won, and from 2,500,000 won to 15,000,000 won, which effectively eliminates minor fines. Congressman Shin Ji-Ho proposes two years or less of imprisonment with hard labor or a fine of no less than 20,000,000 won. The current law is less than two years of imprisonment with hard labor or a fine of less than 2,000,000 won. Mere participants in an illegal assembly are to be fined 5,000,000 won or less or detained, when current law levies a less than 500,000 won fine, or short-term detention. This bill intends to oppress freedom of assembly with fines by increasing the current amount over ten times. The current Assembly Act already uses criminal punishments, and not administrative fines, to deal with assemblies for violation of administrative procedures. Overall, the citizens are being excessively punished.

B. Class action suits for unlawful acts

The so-called "flock law," or the class action lawsuit system for unlawful acts, has passed the National Assembly Standing Committee's public hearing. The ruling party, along with the presidential advisory Presidential Council on National Competitiveness, hosted "Discussions on the better protection of the rights of victims of unlawful collective acts" and has been building public consensus to pass the law. This class action lawsuit system for unlawful acts is a system which allows the wronged individual to start a class action as an individual, but to receive compensation for all. However, legal specialists say this arrangement will lack legal soundness and effectiveness. This law misuses the class action lawsuit system, originally made to protect consumer rights and increase environment protection, to control

demonstrators' right to assembly with money.

C. Intensified Total Blockage

The government tried to impede citizens wishing to show their respects to former President Kim Dae Jung between May 23rd and the 29th, claiming that a demonstration was expected in the area on May 30th. The police stationed buses around the mourning sites, to block the way of citizens. They pulled the buses out after June 4th due to negative press. The police used Paragraph 5 and 6 of the Act on the Performance of Duties by Police Officials while on-duty as an excuse for this behavior. Even now the police are interpreting their conduct code according to how they see fit and this is violating the fundamental rights of the citizens.

Even in this situation, the police attempting to intensify their power by revising the Act on the Performance of Duties by Police Officials. The police issued a statement to announce that they were considering a revision of the law that allows police to force people to come to the police office if they do not agree to unannounced check-ins. This check-in used to be voluntary. Also, the police are considering new additions like fines, penalties, and detentions. This is extremely dangerous because the police have overstepped the current law. They are trying to make changes for the worst, which may increase human rights violations.

[Case-Study Presentation]

The oppression of "teachers' freedom of expression"

Dong, Hun-chan

Policy Secretary,
the Korean Teachers and Education Workers Union

The Constitutional Law of the Republic of Korea declares "the freedom of conscience" (Article 19, the Constitutional Law) and "the freedom of speech and the press" (Article 21, the Constitutional Law) shall apply to all people.

These rights apply to public officials as well. A public official shall speak and act according to his conscience, and it is a violation of his human rights to force him to work against his convictions. The Constitutional Court ruled that public officials should have their freedom of conscience and expression, and that if it was necessary to restrict their freedom, this restriction should be minimal and not violate the nature of freedom.¹⁾

However, in 2009, the Lee Myung-bak administration ordered the provincial and municipal Offices of Education to dismiss and discharge all members of the central agency of the KTU (the Korean Teachers and

1) The freedom of speech and the press and the freedom of assembly and association are the basic rights for men to maintain their dignity and the same applies to public officials. With public officials, the restriction may be greater than with other general people in terms of the position or characteristics of their services but even in the event of such an occasion, they shall not be restricted across the board or uniformly. In the event of presence of the reasons for restriction, a comparison shall be made between the freedom of speech and the press and the freedom of assembly and association restricted based on establishment of restrictions and the public interest to be protected through such restrictions before deciding that the restriction is found to be unavoidable based on the comparison. Even in this case, the restriction shall remain at the minimum level and the nature of such rights shall not be violated. (the Constitutional Court 200July-August 30 Sentence 2003 Heon Ba 51 Ruling).

Education Workers Union). Additionally, the administration ordered the teachers to not attend work, and filed prosecution charges against all those who had signed the Teachers' Declaration to the National State of Affairs. This had not constituted a problem in the past.

This action by the Lee Myung-bak administration denies the nation's basic rights under Constitutional Law. It is no more than oppressive politics against a democracy, which developed historically through the nation's protest.

Therefore, this letter has been prepared to warn against the measures of the Lee Myung-bak administration that contravene human rights and democracy by sharing this incident with the international community.

1. Details of the incident

On June 18, 2009, 17,000 teachers issued the Teachers' Declaration to the National State of Affairs. This declaration asked for a governmental apology for: abuses of power, threats to the security of freedom of expression, and actions that lack awareness for socially-excluded populations. It also asked for apologies for the suspension of the Media Act, the re-establishment of a plan of development for the Grand Canal, the suspension of new regulation-free high schools, and the lack of expansion of education welfare. Finally, it demanded redress for the government's disregard for students' human rights, including no democratization of school governance and a lack of support for students from poor households.

However, the Minister of Education, Science and Technology summoned a meeting of the Superintendents of provincial and municipal Offices of Education on June 26. The Minister ordered the Superintendents to levy disciplinary measures against 88 previous executives of the KTU, including dismissal and prosecution based upon instigating the Declaration, violating Articles 66, 56, and 57 of the Act on Public Officials, and violating Article 3 of the Act on the Teachers and Educators Union.

As the Lee Myung-bak administration applied these punitive measures, the KTU gathered the support of 28,600 currently-employed teachers for the Declaration and issued the 2nd Declaration to the National State of Affairs on July 19. The Minister returned with even harsher measures, including the discharge and dismissal of 23 more executives on July 31.

At the behest of the Ministry, most Offices of Education including the Seoul Metropolitan Office of Education, decided to dismiss the current executives of the KTU without clear causes and rationales. The Offices also suspend employment for the rest of dissenting executives, and the punishment measures are currently effective as of October 2009. The Prosecutor's Office, on receiving files from the Ministry and the provincial and municipal Offices of Education, searched and confiscated materials from the office of the KTU. This unprecedented action took place on July 3. The Prosecutor's Office summoned all the KTU executives during July and August. They confiscated individual e-mails of executives at the end of August and on September 29, traced bank accounts of the previous executives who had no relation to the Declaration. This excessive investigation violated the human rights of the previous executives of the KTU.

2. The historical oppression of "teachers' freedom of expression"

Since the May 10th Declaration for Democratization of Education in 1985, teachers' declarations to the national state of affairs have been continuously issued. Under the illegitimate administrations of Jeon Doo-hwan and Roh Tae-woo, the teachers' assessment of the national state of affairs was disregarded by authorities.

However, since the Kim Young-sam government, when dismissed KTU teachers returned to work after the protests of the KTU, the situation improved. There was only one event demonstrating an oppression of the teachers' right to expression. This took place during the General Election of 2003, when the teachers' declaration was meant to support a certain political party, and this was held to be a violation of the prohibition of political activities for teachers.

Taken into account, the issuing of declarations has established the freedom of teachers to express their opinions on the current social and political issues. Democracy and the teachers' struggle have secured the teachers' right to freedom of expression.

The history of the Teachers' Declaration to the National State of Affairs

- **October 2008:** "The Declaration of the History Teachers" relating to the revision of contemporary history textbooks
- **June 2008:** "The Declaration for Renegotiation on the US Beef Import and Transition of Educational Policies" of 8,696 teachers
- **March 2007:** "The Declaration against Import of the US Beef" of 1,453 teachers in Ulsan
- **March 2006:** "The Teachers' Declaration for the Saemangeum-the Saemangeu, the future of our children, shall survive."
- **July 2005:** "The Declaration against the Move of the US Base to Pyungtaek by 1,050 Teachers in Gyeonggi-do"
- **December 2004:** "The 18,352 Teachers' Declaration to Abolish the National Security Act"
- **November 2004:** "The National Declaration for Security of Three Basic Labor Rights of Teachers by 23,988 Teachers"
- **July 2004:** "The Teachers' Declaration against Participation in and Additional Military Dispatch to the Iraq War"
- **October 2003:** "The Teachers' Declaration against Military Dispatch to the Iraq War" by 700 teachers nationwide, 638 teachers from Pusan, and 203 from Chungcheongbuk-do
- **March 2003:** "The Teachers Declaration against Impeachment of President Roh Mu-hyun." Based off of this, it was announced in the midst of the General Election, and the Chairperson, Chief Vice Chairperson, and Vice Chairperson of the KTU were fined to pay KRW 3 million and 1 million, respectively, based on the suspicion of 'the electoral campaign in support of the Democratic Labor Party via the Declaration to the National State of Affairs by the Supreme Court.
- **August 2002:** 816 teachers in Jeollanam-do issued the Declaration on the accident where two schoolgirls were accidentally crushed to death by a United States military truck and on September 12, 2,619 teachers issued another Declaration, which was followed by other Declarations from other provinces.
- **July 2002:** 715 teachers in Gyongsangbuk-do announced 'the

claration for the Reconciliation and Peace between South Korea and North Korea'

- **May 2001:** 7,434 teachers nationwide announced 'the National Declaration for Overcoming the Crisis of Public Education by Representative Teachers'

3. The injustice of oppressing "teachers' freedom of expression" in legal terms

A. Against the claim a violation of Article 66 of the Act on Public Officials (Prohibition of Collective Actions)

The government is investigating the Teachers' Declaration to the National State of Affairs on the basis that it belongs to collective actions for purposes other than public services. This would be prohibited under Article 66 of the Act on Public Officials. While under consideration, the executives of the KTU have been referred to disciplinary committees. However, the "collective actions" prohibited under Article 66 of the Act on Public Officials should be narrowly interpreted as "collective actions which bring about the neglect of services for purposes that go against the public interest." Under this lens, the current Declaration does not belong to acts prohibited by Article 66.

The Constitutional Court²⁾ and the Supreme Court³⁾ narrowly interpret the "collective actions for purposes other than public services prohibited under Article 66 of the Act on Public Officials" not as all collective actions by public officials, but as "collective actions which bring about neglect of services for the purposes that go against the public interest." This is in full consideration of Article 21 Clause 1 of the Constitutional Law for the freedom of speech and the press, the freedom of assembly and association, the purpose of legislation of the Act on Public Officials, and the duty of sincerity and devotion to public services.

Hence, the Declaration to the National State of Affairs, expressing teachers' concern against the democracy crisis and state of education

2) The Constitutional Court 200 July August 30 Sentence 2003 Heon Ba 51 Ruling

3) The Supreme Court 1992. 2. 14. Sentence 90Do2310

under the current government, asked for correction of this. The Declaration is decided to the public interest. A few minutes spent for signing and releasing the Declaration do not constitute any violation of students' rights or a teachers' duty to be devoted to educational services. This is why the Declaration cannot be interpreted as 'collective actions which bring about neglect of services for the purposes that go against the public interest' prohibited under Article 66 of the Act on Public Officials.

In this regard, oppressing the teachers' freedom of expression based on Article 66 (prohibition of collective actions) of the Act on Public Officials is a violation of the law.

B. Against the claim of the violation of Article 3 of the Act on Establishment and Operation of Teachers (Prohibition of Political Activities)

The government is investigating the Teachers' Declaration to the National State of Affairs on the basis that it belongs to political activities prohibited under Article 3 the Act on Establishment and Operation of Teachers (hereinafter referred to as "the Act on Teachers Union"). Executives of the KTU have been referred to the disciplinary committee.

However, "the political activities" prohibited under Article 3 of the Act on Teachers Union should be narrowly interpreted as "activities supporting or opposing a particular political party or a person for the purpose of security of power in elections." Under this interpretation, the current Declaration to the National State of Affairs does not constitute political activities prohibited under Article 3 of the Act on Teachers Union.

Article 3 (prohibition of political activities) of the Act on Teachers Union says that "the labor union of teachers shall not engage in any political activities" and Article 65⁴⁾ of the Act on Public Officials prohibits

4) Article 65 of the Act on Public Officials (Prohibition of Political Activities)

- ① Public officials shall not join or be engaged in the association of a political party or other political organizations.
- ② Public officials shall not be engaged in the following activities in order to support or oppose a particular political party or a person.
 - 1. To campaign to vote or not to vote
 - 2. To attempt, host, or recommend a signature campaign

"political campaigns" of public officials. Both articles can be interpreted similarly. However, the "political campaigns" of public officials prohibited under Article 65 of the Act on Public Officials are limited to various activities intended to support or oppose a particular political party or a person in an election. This becomes clear when it comes to Article 27⁵⁾ of the Regulation on Public Services of Public Officials, which regulates the political activities in Article 65 of the Act on Public Officials. The Declaration to the National State of Affairs, which was issued to express the teachers' stance on the current social and political issues in normal times, and not explicit election time, cannot be a "political activities" prohibited under the Act on Teachers Union or a "political campaigns" prohibited under the Act on Public Officials. Hence, suppression of the teachers' Declaration on the basis of political activities is a political oppression that seriously contravenes the basic rights of teachers.

C. Against the claim of the violation of Article 56 (Duty of Sincerity)

-
3. To put up a document or a publication in public facilities, etc. or to have a document or a publication put up in public facilities, etc.
 4. To raise contributions or have contributions raised or to use public funds or have public funds used
 5. To recommend others to join or not to join a political party or other political organizations
- 5) Article 27, the Regulation on Public Services of Public Officials (Political Activities)
- ① Political activities in Article 65 of the Law refers to activities with political purposes pertaining to the following.
1. Activities to achieve an organizational goal of a political party, expansion of an organization, or others
 2. Activities to support or oppose a particular political party or a political organization
 3. Activities to help a particular candidate to be elected or to fail in the election taking place according to laws
- ② The limits of political activities refer to activities pertaining to the following with political purposes laid out in Clause 1. <Revised on May 4 1972, 197July4.22>
1. To design, organize, or lead demonstrations, to take part in them or to support them
 2. To publish, edit, or distribute newspapers and other publications, which are organs of a political party or other political organizations, or to support or hinder such activities
 3. To support or oppose a particular political party or a political organization, to present such opinions in gatherings or on occasions where there are a large number of people, or to publish them in documents, books, or other publications
 4. To support or oppose a particular political party or a political organization with money or materials for whatever reasons, which includes manufacturing or distributing badges, armbands, dresses or accessories that are used as marks of a political party or a political organization, or recommending or hindering wearing them

and Article 57 (Duty of Obedience) under the Act on Public Officials

The government says that a teacher's participation in the Declaration to the National State of Affairs goes against the Duty of Sincerity (Article 56), the Duty of Obedience (Article 57), and the Duty to Maintain Dignity (Article 63) under the Act on Public Officials and that this violation is subject to punishment. When the Ministry of Education, Science and Technology ordered teachers not to sign the Declaration to the National State of Affairs, and the teachers did not obey, the Ministry claimed that this went against the law because "public officials should obey service-related orders of the seniors" and thus, the teachers "failed to fulfill the duty of sincerity."

The duty of sincerity or obedience is clearly stated to be related to services. However, signing for the Declaration has no relation to public services. Even if it takes place during working hours, it takes only a few minutes. Thus, the claim against the devotion is not substantiated. While the Ministry maintains that non-compliance with the order to stay away from the Declaration constitutes a violation against the duty of obedience, the duty of obedience in Article 57 of the Act on Public Officials refers to the duty of officials to sincerely carry out services and comply with legitimate and due orders related to services. As long as the Declaration does not violate this law, ordering teachers to stay away from it is illegal. Teachers have no duty to comply with this order. Hence, oppressing the teachers' Declaration based on the reason that the teachers did not comply with an illegitimate order is a despotic idea to place the orders and laws of the current government over the national laws and Constitutional Law.

4. What is to be done?

The teachers' Declarations to the National State of Affairs has been a freedom of expression that was historically secured as a basic democratic right.

Hence, before venting our anger, we claim that the Lee Myung-bak administration's measures to organize public opinions against the Declaration as if it were illegal was based on deceptive logic. Mobilizing the public to investigate and confiscate items from the KTU office, and

trace bank accounts totally unrelated to the incident aiming to find reasons to oppress executives of the KTU, constitutes a serious problem. It turns back the wheel of history to the times when our society was without democracy. We promise to exert our full efforts against this oppression.

The impression that the Lee Myung-bak administration's oppression of the Declaration is an anti-historical action that goes against the history of democracy is an opinion shared by many civil society organizations. The KTU, in alliance with these allies, will fight to secure the legitimacy of teachers' Declaration and the legitimacy of teachers' freedom of expression.

Most of all, the KTU is taking active legal measures along with "MINBYUN-Lawyers for a Democratic Society." We will file a suit against the Minister of Education, Science and Technology for abuse of authority. We will do our best to prove the injustice of governmental oppression and legitimacy of the Declaration through the courts.

We will also work together with international teachers' unions, labor unions, and human rights organizations to reveal this government's unjust oppression, to form international coalitions against this unjust oppression, and to prevent harms to Korean democracy.

In addition, we will actively work to revise the Act on Public Officials and the Act on Teachers Union which prohibit political activities of teachers and teachers' union in alliance with the opposition parties.

The oppression of the Declaration for Democratization of Education in 1986 awoke the sleeping teachers rather than slowing them and the teachers' movement emerged in 1987. The police-mobilized oppression on the establishment of the KTU in 1989 did not crush the KTU, but instead brought about the legalization of the teachers' union, which supported the teachers' democratization movement.

The current outrageous oppression of the Declaration will not take away the teachers' freedom of expression. The KTU will raise awareness of the anti-democratic actions and anti-human rights initiatives of the Lee Myung-bak administration. This will solidify democratization in our society, and we will build a strong alliance with the civil society and the nation.

<Appendix 1>

Journal Related to the Declaration

June 12 (Fri) The Ministry and most of the Office of Education conducted the first legal review of the KTU's Declaration.

June 13 (Sat) The KTU received review reports on the Declaration from Legal Affairs Division of the Korean Confederation of Trade Union and Dasan Law Firm.

June 15 (Mon) The Ministry sent out the notice to most of the Office of Education to "strengthen management and supervision of teachers related to the Declaration."

June 17 (Wed) Final compilation of the list of participating teachers. The Ministry sent out the second notice to most of the Office of Education to "strengthen management and supervision of teachers related to the Declaration and the signing activities."

June 18 (Fri) Teachers held a press conference on the Declaration (11:00, in front of the Daehan Mun).

June 22 (Mon) The list of 17,000 participating teachers publicized. (Education Hope)

June 26 (Fri) The KTU Chairperson held a press conference to protest against the Ministry and to present the future plans. (11:00)Announcement for the 2nd Declaration to the National State of Affairs. The National Association to Eradicate the Anti-national Education filed a suit against 42 executives of the KTU including the Chairperson.

June 29 (Mon) he Ministry and most of the Office of Education filed a suit against 88 executives of the KTU including the Chairperson. The KTU's central agency members held a press

conference against this (11:00, in front of the Office in (Cheongwoon-dong); moved to the Blue House to deliver the protest letter and sat in for demonstration (15:00). 16 including the Chairperson and Branch Heads walked to the police station (15:30). 16 detained in Chongno Police Station and Yangchon Police Station. (16:00)

June 30 (Tue) 16 including the Chairperson released. (19:00)

July 3 (Fri) Investigation of and confiscation from the KTU headquarters (5:00am-6.50a.m.) and the Office of Seoul Branch. 50 police investigators, 3 squadrons and 9 combat police buses allocated in the headquarters of the KTU. They rummaged all materials from desks, bookstands, and cabinets and confiscated materials related to the Declaration as well as the server and individual belongings.

July 3 (Fri) The KTU held an emergency press conference against the investigation and confiscation.

July 5 (Sun) The meeting of the nationwide Branch Heads against the oppression of the Declaration (14:00, Seoul Station), and 9 former executives presented a standpoint on the current situation.

July 6 (Mon) 70 lawyers from the MINBYUN-Lawyers for a Democratic Society established "a Joint Pleaders' Group for the KTU's Declaration' (Headed by Choi Byungmo).

July 7 (Tue) Summons made to 88 members who have been prosecuted by the prosecutors and the police. The Chief of Seoul Police Station, and the Chief of Youngdeungpo Seoul Station were prosecuted (investigation and confiscation).

July 8 (Wed) The People's Solidarity for Participatory Democracy petitioned the UN Human Rights Council.

July 19 (Sun) The Nation's Protest against Oppression of Teachers and the Public Officials on the Declaration. (Seoul)

July 19 (Sun) The KTU issued the 2nd Declaration to the National State of Affairs. (28,600 teachers participating)

July 31 (Fri) The Ministry announced the plan for punishment on the 2nd Declaration. Subjects of discharge and dismissal increased by 23.

August 14 (Fri) Subjects of dismissal gathered at the Jogyesa Temple for an hunger strike.

August 25 (Tue) Investigation of the 2nd Declaration to the National State of Affairs by the prosecutors and police began (nationwide)

August 28 (Fri) Investigation and confiscation of the KUT's server and e-mail accounts. Investigation and confiscation of individual e-mail accounts of the previous executives and some full-timers of the KTU. Administrative warning to teachers participating (82) in the Declaration by the Gyeongsangbuk-do Office of Education Sept. 28 (Mon) Committees for punishment opened by the provincial and municipal Offices of Education.

Sept. 29 (Tue) Investigation and confiscation by the prosecutors of the bank accounts of the previous executives and some full-timers of the KTU as well as the corporate bank account.

October 6 (Tue) The first trial for the Daegu Branch Head (Daegu District Court²¹ Ho). Provincial and municipal branch heads excluding the headquarters and the Seoul branch indicted without detention and the previous executives placed on the summary indictment (KRW 2 million). The first trial is ongoing from the areas where the indictment has been completed.

October 7 (Wed) Five including the Chairperson of the KTU investigated by the prosecutors in relation to the first Declaration.

<Appendix 2 >

**The First Teachers' Declaration to the National State of
Affairs
: The Precious Values of the Democratization Movement of
June Shall Not be Violated Any More.**

The June 10th democratization movement is part of the proud history of democratization in which the nation's people confirmed that the country belonged to them. However, we, teachers, who have to teach the history and values of this proud legacy, are witnessing that the roots of our democracy, cultivated through countless suffering and sacrifice of our nation, are being cruelly demolished at the moment. We are deeply frustrated and embarrassed, and we do not know how to teach our children our democracy.

The abuse of power, which reminds us of past military regimes, is severely damaging "the freedom of press, assembly, expression, and association." Our "human rights" are being seriously violated. That investigation into the people related to candlelight demonstrations and the PD Note took place goes beyond our common sense. Anachronic behavior, using police power for a political purpose, is being reborn. The tragic death of the former President Roh cannot be unrelated to this. Brutal suppression caused the Yongsan Incident and online public opinions are being harnessed. Civil society organizations that have contributed to the development of democracy are being oppressed on suspicion of being illegal demonstration organizations.

The crisis of democracy that has turned the wheel of history backward has come from the self-righteous government of Lee Myung-bak. The self-righteousness of the power threatens the very

livelihood of our nation and further pushes our future assets like ecology and peace, which have developed together with democracy, toward a dead end. The right of our common people to survive, including the non-regular employees, is on the brink of destruction. The rationale behind old civil and public engineering has driven our beautiful lands and rivers to ruin. The reconciliation and peace between South and North Korea that has been consistently growing is now about to end. The nation's survival and the country's future are faced with comprehensive crises.

Education is no exception to these serious crises. The promise to "halve the private education cost and double satisfaction with schools" has not been kept and the infinite competition for higher education is being reinforced even more. The foundation of public education is being destroyed as schools become private institutions and private education costs increase. Establishing aristocratic schools for only the rich is being promoted as a national policy and the autocratic school governance of principals is being strengthened day-by-day. Political neutrality, such as the revision to textbooks, is at risk. Instead, backwardness against the 20 years' of education democratization has occurred.

We believe that the waves of candles nationwide last year and the condolences for late President Roh this year are the national resistance against autocratic rule of the current government. We believe that this very moment is the reproduction of the spirit of the June 22 years ago. We hope that unfortunate history will not repeat where the government chosen by our people is thrown away by the very same people. Hence, today, we issue this declaration and strongly urge the current government to comprehensively renew the affairs of state and to recover the trust of our people. Also we strongly urge the recovery of democratization of school governance in our education sites.

- The government shall apologize to the nation for abuse of power and change the state of affairs.
- The government shall firmly secure the freedom of the press, the freedom of assembly, the freedom of conscience, and the human

rights protected by the Constitutional Law.

- The government shall stop policies made only for the privileged but prepare for policies for the socially vulnerable.
- The government shall stop the forced legislation of anti-democratic laws such as the Media Act and resolve the national suspicion of the Grand Canal Project.
- The government shall stop the competition-bound school policies such as the establishment of regulation-free high schools but secure the democratization of school governance.
- The government shall expand education welfare supporting students from lower-income households and strengthen the human rights of the students.

June 18, 2009

Jeong Jinhoo and 17,171 teachers commemorating the precious values of the democratization movement of June

<Appendix 3 >

**The Teachers' 2nd Declaration to Protect Democracy
: Guarantee the Freedom of Expression and Stop Oppressing
Teachers for the Declaration to the National State of
Affairs!**

We teach our children that the Republic of Korea is a democratic republic. The Constitutional Law of the Republic of Korea guarantees the "freedom of speech and the press and the freedom of expression" to all people. Teachers are part of the people and the "freedom of speech and the press and the freedom of expression" are basic rights to teachers, too.

Faced with unprecedented measures of the Ministry of Education, Science and Technology to punish all 17,000 teachers just because they expressed their stance on the current situation, we teachers are fully embarrassed and are lost as to how to teach democracy now. Reminded of the heartbreaking history when we had to teach

children that the dictatorship was democracy with a gag in our mouth, we are deeply shocked and outraged.

Teachers teach the life, peace, justice, democracy, and human rights not only via words but also via practice. Gagging the mouth of these people and asking them to teach democracy and human rights has no place. Punishment of teachers involved in the Declaration to the National State of Affairs is an abuse of power that destroys the basic order of democracy. This has to be withdrawn.

The 21st century is called as the "era of communication." We judge that the teachers' declaration delivers the contents most wanted by most of the nation. The current government stresses communication with the nation saying that it deeply sympathizes with critiques on the lack of communication. If this is true, the government should listen to teachers rather than oppressing their legitimate voice. The government should listen to the voice of the nation. We urge the government to guarantee freedom of expression and to withdraw its measure to punish teachers involved in the Declaration, based on our belief that the change of attitudes of the President to respect the voice of the people and listen carefully to it is the only way to overcome the current crisis and to reinforce democracy in this country.

- The government shall guarantee freedom of expression protected by the Constitutional Law and withdraw prosecution and punishment of teachers involved in the Declaration to the National State of Affairs.
- The government shall stop education policies set for the privileged and promote policies to reduce private education cost and to solve the extreme bipolarization of education.
- The government shall stop competition-centered school policies such as the establishment of regulation-free high schools and guarantee the democratization of school governance.

July 19, 2009
Jeong Jinhoo and 28,634 teachers

[Case-Study Presentation]

Going Backwards: The People's Civil Servants Discharged

Hong, Seong-Ho

First Vice President of KDGEU⁶⁾

1. Lost freedom of political expression for government employees

Since the launch of Korea's new administration, the term "lost decade" has frequently been used in our society. The current ruling party started to use it while critiquing the two previous administrations, but now it can be better used in referring to the degeneration of political, economic and social achievements that have been made over the last decade. With the Lee administration attempting to evaluate government employees and oppressing political movements of public officers, the freedom of political expression of government employees has regressed ten years.

In 1961, the military government revised the National Public Service Law to ban basic labor rights of government employees. Since then, their freedom has been limited by the law which stipulates government employees' obligation to serve the nation and maintain political neutrality and special authority relations.

6) Korean Democracy Government Employees' Union (KDGEU). The KDGEU has recently worked on establishing the Korean United Government Employees' Union(KUGEU) by merging with the Korean Government Employees' Union (KGEU) and the Court Government Employees' Union(CGEU),

However, the public awareness on the freedom of political expression of government employees has been raised since the establishment of the Korean Government Employees' Union in 2002 and its political freedom declaration in 2004. Moreover, the public opinion began to form, supporting bans on only a civil servant's abuse of position and inappropriate behaviors.

After the current administration took power, however, the employees' freedom of political expression has been totally denied. Many cases to prove this. Kim Yi-tae, a researcher of the Korea Institute of Construction Technology, was punished after publicly announcing that the government's Four River Restoration Project is a disguised grand canal project. A military judicial officer who submitted a constitutional petition concerning subversive books, a tax officer named Kim Dong-il who criticized tax inspections for the political purpose and a police officer who criticized the police leadership were discharged. A leader of the Korean Teachers and Education Workers' Union who issued a statement arguing for restoration of democracy in Korea was indicted and punished.

In particular, the leadership of government employees labor unions were prosecuted and punished only for releasing a newspaper advertisement that read "We want to be the people's civil servants" and participating in a protest to denounce the government's suppression on issuance of a joint statement. This shows the freedom of political expression of government employees has been limited too much by the current administration.

2. Punishments on the government employees' union members

We have recently seen how central government employees and the union members have been punished and how the government has oppressed the unions. In June 2009, the government declared that the attempt to issue a joint anti-government statement of three government employees' unions - the Korean Democracy Government employees' Union, the Korean Government Employees' Union, the Court Government Employees' Union - was illegal. To protest the government's decision, the KDGEU released a newspaper ad and the three unions participated in the protest. The government has taken disciplinary actions against the unions by making them an example. The following timeline describes the

developments in full.

○ June 2009 ► The KDGEU, the KGEU and the CGEU discussed to issue a joint statement against the Lee administration

○ June 23 ► The Blue House declared that the union's attempt was illegal and it would sternly deal with the statement.

- It announced its decision to indict and punish all of those involved

○ June 24 ► The Public Administration and Security Ministry (MOPAS) announced that government employees' issuance of a joint statement was illegal.

- It declared that collective action would be banned and the union members would be severely punished for violating obligations of being diligent and obedient and maintaining dignity of public officials.

○ July 13 ► The KDGEU printed in the Hankyoreh and the Kyunghyang an full-page ad that read, "We want to be the people's civil servants, not the administrations."

- Through the advertisement, the union denounced the government for suppressing the issuance of a joint anti-government statement.

○ July 16 ► The MOPAS released a public statement regarding protest on July 19.

- The ministry declared the protest illegal and said that those involved would be indicted and severely punished.

○ July 19 ► The three unions participated in the demonstration organized by teachers and civil servants.

○ August 3 ► The MOPAS decided to punish severely those who planned and took participation in the July 19 protest and file complaints with prosecutors.

- It decided to indict 16 and take disciplinary actions against 105.

As of October 9, the government confirmed punishment against 46 out of 105 individuals and gave impunity to 15. Now, the process of disciplinary punishment for 2 is under way and on 39 will be conducted. Out of 46 individuals who had punishment confirmed, 14 were discharged, 10 severely punished and 22 lightly punished. The following is the list of those dismissed.

	Name	Position	Organization	
1	Hong Seong-ho	Senior Deputy Chairman	Korea Fair Trade Commission	Central Government
2	Lee Eon-goo	Director	Ministry for Food, Agriculture, Forestry and Fisheries	
3	Park Won-tae	Head of a chapter	National Police Agency	
4	Seo Moon-soo	Head of a chapter	Korea Fair Trade Commission	
5	Park Kyeong-ae	Head of a chapter	Ministry of Education Science and Technology	
6	Min Hye-soo	Head of a chapter	Ministry of Strategy and Finance	
7	Hwang Ik-soo	Head of a chapter	National Agricultural Products Quality Management Service	
8	Choi Seong-mek	Head of a chapter	Ministry for Food, Agriculture, Forestry and Fisheries	Central Government
9	An Myeng-soo	Head of a chapter	Ministry of Health, Welfare and Family Affairs	
10	Hwang Bo-woo	Head of a chapter	National Statistical Office	
11	Lee Dong-chun	Head of a chapter	Ministry of Environment	
12	Jeong Heon-jae	Chairman	Yongdo District Office, Pusan Metropolitan City	Local Government
13	Im Hae-sook	Vice Chairman	Hanam City Hall, Gyeonggi Province	
14	Yoon Soon-seok	Director	Osan City Hall, Gyeonggi Province	

In particular, 11 central government employees who were punished on September 30 were discharged for releasing two anti-government newspaper ads on July 13 and July 23.⁷⁾

Indeed, the central government employees were too severely punished compared with local government employees who were exempted from punishment or just lightly punished, even after being involved in releasing newspaper ads and participating in the protest.

The harsh punishment was due to the local governments' refusal to accept demands from the central government to punish their employees, which led to relentless dismissal of central government employees.

3. Government employees' decision to join the KCTU and deprivation of freedom of political expression

The government has taken disciplinary action against leaders of the unions for violating related laws by releasing a newspaper ad and participating in the protest. In fact, it was part of the government's political oppression in response to three unions' decision to merge and join the KCTU.

The government revealed its intention by issuing directives before the unions' vote on September 21 and 22. The government released a confidential directive on service related to three government employee labor unions' on September 10 and an additional directive on September 16. The intent can be seen in the remarks of the President, the Prime Minister and the Minister of Public Administration and Security that government employees' decision to join the KCTU was inappropriate and it would be sternly dealt with.

The government oppression is in line with the Lee administration's anti-labor policies. It is aimed to prevent government employees' unions from joining other labor unions in criticizing the government's policies and to incapacitate the unions for the long term.

Indeed, the MOPAS and other government agencies are reviewing

7) The newspaper advertisements in question were the one printed on the 7th page of the Hankyoreh, which read, "We want to be the people's civil servants, not the administration's." and the one on the 32th page of the Kyunghyang, which included texts of the Constitution. The ads were attached to the latter.

revision of related laws including the National Public Service Law, the Public Employees' Labor Union Law to block government employees from expressing their political views.

In this way, political oppression on the unions has been tightened after their decision to join the KCTU. Their freedom of political expression might be deprived through laws and institutions. Therefore, the fight for government employees' freedom of political expression will determine the fate of the unions.

4. Conclusion: For securing government employees' freedom of political expression

Political freedom is a basic component of democracy for both individual and collective rights. The Constitutional Court recognizes this primacy:

Today freedom of political expression refers to freedom of political speech, press, assembly and association, so the rights to political freedom, as a component of free and democratic order, are superior to other basic rights. (The Constitutional Court's ruling on April 24, 1997)

Government employees, of course, may have some limitations on their rights. However, the fundamental basic humans rights of a government employee should be guaranteed as this individual belongs to a nation. The Article 37, Section 2, of the Constitution stipulates that even when limited, the nature of freedom and rights must not be violated.

For a public servant who is part of an administration based on the law, it is unfortunate that one's Constitutional guarantees cannot be expressed in our society. This is especially true now, when government employees' freedom of political expression is in danger.

The fight for securing government employees' freedom of political expression will be a long and bumpy road, but it will also make our society regain common sense. If we return basic rights to the people's civil servants, instead of privileging the whims of the current administration, the rights of all of Korean citizens will surely be protected.

<Attachment 2> The advertisement in the Kyunghyang on July 13, 2009.

 경향 독자 게시판	
시 대한민국 헌법 제1조 “대한민국의 주권은 국민에게 있고, 모든 권력은 국민으로부터 나온다.” 전국민주공무원노동조합 중앙행정기관본부	민 대한민국 헌법 제18조 “모든 국민은 통신의 비밀을 침해받지 아니한다.” 전국민주공무원노동조합 중앙행정기관본부 교육과학기술부지부
국 대한민국 헌법 제7조 “공무원은 국민전체에 대한 봉사자이며, 국민에 대하여 책임을 진다.” 전국민주공무원노동조합 중앙행정기관본부 공정거래위원회지부	주 대한민국 헌법 제19조 “모든 국민은 양심의 자유를 가진다.” 전국민주공무원노동조합 중앙행정기관본부 환경부지부
선 대한민국 헌법 제10조 “국가는 개인이 가지는 불가침의 기본적 인권을 확인하고 이를 보장할 의무를 진다.” 전국민주공무원노동조합 중앙행정기관본부 기획재정부지부	주 대한민국 헌법 제21조 “모든 국민은 언론·출판의 자유와 집회·결사의 자유를 가진다.” 전국민주공무원노동조합 중앙행정기관본부 통계청지부
언 대한민국 헌법 제11조 “사회적 특수계급의 제도는 인정되지 아니하며, 어떠한 형태로도 이를 창설할 수 없다.” 전국민주공무원노동조합 중앙행정기관본부 경찰청지부	의 대한민국 헌법 제 21조 “언론·출판에 대한 허가나 검열과 집회·결사에 대한 허가는 인정되지 아니한다.” 전국민주공무원노동조합 중앙행정기관본부 국립농산물품질관리원지부
비 대한민국 헌법 제17조 “모든 국민은 사생활의 비밀과 자유를 침해받지 아니한다.” 전국민주공무원노동조합 중앙행정기관본부 보건복지가족부지부	다 대한민국 헌법 제33조 “근로자는 근로조건의 향상을 위하여 자주적인 단결권·단체교섭권 및 단체행동권을 가진다.” 전국민주공무원노동조합 중앙행정기관본부 농림수산식품부지부

