

2013 Situation of Human Rights Defenders in the Republic of Korea

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Submitted by South Korean Human Rights Defenders Network:

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Significance of UN Special Rapporteur on the situation of human rights defenders' Visit to the Republic of Korea

Pill-kyu HWANG / Public Human Rights Law Foundation Gonggam

The Republic of Korea is facing a crisis in the situation of human rights in general as well as of its defenders. Especially after the conservative administration came into power in 2008, the control and surveillance not only of the media but also of the Internet and trade unions have taken on extreme forms. Civil society that is critical of the government is being disempowered and official organisations are receiving more financial support from the government in order to strengthen persistent and all-inclusive defensive control over the areas of freedom of expression together with that of assembly and association. The fact that the Special Rapporteur on the situation of human rights defenders is paying an official visit to the Republic of Korea clearly represents the deplorable reality that, despite being one of the permanent members of the UN Human Rights Council, the South Korean government is not fully complying with its duty of protecting the human rights defenders through its own legal systems and customs. Moreover, this is the proof that oppression of human rights defenders in the Republic of Korea has been worsening their stigmatization professional demonstrators and therefore branding them as professional troublemakers stirring up dissent where there is none.

There were several petitions put forward regarding the situation of human rights defenders in the Republic of Korea through special procedures and three official visits were made by the Special Rapporteurs of other various areas. There were a visit from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in 1995 (June 25th to 30th)¹, from the Special Rapporteur on human rights of migrants in 2006 (December 5th to 12th)² and again on the promotion and protection of the rights of freedom of opinion and expression in 2010 (May 5th to

¹ Report on the mission to the Republic of Korea of the Special Rapporteur on the Promotion and Protection of the right to freedom of opinion and expression, 21 November 1995, E/CN.4/1996/39/Add.1, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G95/145/42/PDF/G9514542.pdf?OpenElement>

² Report of the Special Rapporteur on the human rights of migrants Mission to the Republic of Korea, 14 March 2007, A/HRC/4/24/Add.2, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/118/87/PDF/G0711887.pdf?OpenElement>

15th)³. Both general and specific recommendations were officially made after these official visits addressed to South Korean government regarding the areas of each Special Rapporteurs. The special procedures are the ones with legal effects based on the UN Charter and the Republic of Korea has been a member of the UN Human Rights Council since its foundation, recommending other states to follow recommendations from the special procedures. Therefore, like the recommendations from the UN Human Rights treaty bodies, the recommendations from the Special Rapporteurs should be respected fully⁴ for the spirit of international cooperation under the South Korean Constitution of ‘fulfilling the common prosperity and permanent world peace’.⁵

However, Voluntary Pledges and Commitments made by the Republic of Korea in 2006, 2008 and 2012 do not include any recommendations from the Special Procedures. Also, there was no reference made in the 1st National Action Plan for the Promotion and Protection of Human Rights (2007~2011) regarding the rights of foreigners even though it was made after the official visit of the UN Special Rapporteur on the human rights of migrants. The same glaring omission can be found in the 2nd National Action Plan for the Promotion and Protection of Human Rights (2012~2016) regarding ‘freedom of speech and publication’ and ‘freedom of assembly and association’ which was formulated after the official visit of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. Moreover, ‘the fulfillment of international human rights standards’, which was one of the acclaimed tasks in the National Action Plan, does not reflect the recommendations from special procedures. The official visit of the Special Rapporteur itself is meaningful in that overall evaluation will be made and recommendations will be given in accordance with international standards. In addition to this, enough consideration must be put forward regarding how to make the government be more responsive to recommendations from the Special Procedures.

The first question we need to ask is what efforts has the government put into in order to fulfill the recommendations as well as to uphold the special procedures under the UN Charter as a member of the UN Human Rights Council. Also the civil society must engage with the government in public discussions on the matter before the official visit is made. Secondly, the South Korean society must regard this visit as a chance for all of us to compile cases of human rights defenders in the country. Of course these cases will be reflected in the official report and possibly lead to specific recommendations from the Rapporteur, but in order to call for a direct response from the government, there is a need to submit urgent appeals on some or all important cases in advance. Also, from the beginning of the visit until the publication of the official report with recommendations, continuous efforts must be made to ensure that the recommendations are acted upon, through press

³ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mission to the Republic of Korea, 21 March 2011, A/HRC/17/27/Add.2, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/121/34/PDF/G1112134.pdf?OpenElement>

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

⁵ The South Korean Constitutional Court Ruling 89HeonGa106 22 July 1991: “The Universal Declaration of Human Rights by the United Nations is not legally binding and the Republic of Korea is not yet a member of the International Labour Organisation. Therefore, ILO Conventions No. 87 and No. 98 do not have domestic legal effect (see Constitution Article 6(1), ILO Convention No. 87 Article 15(1), ILO Convention NO. 98 Article 8(1)). However, the Republic of Korea has been a member of the UN Educational, Scientific and Cultural Organisation and has ratified most UN human rights treaties. Therefore, the country should show efforts to respect the spirit of international cooperation enshrined in the UN declarations, conventions and agreements.

conferences and other means to let people know about the issues raised, the recommendations made and the response by the government. It is of the utmost importance to assist the Special Rapporteur to understand and get to the core of the matters related to situations of human rights defenders in this country but it is also just as important to take this visit as an opportunity to bring needed changes in the field of human rights in the Republic of Korea. In order to do so, it is inevitable that the human rights defenders will be required to go above and beyond the call of their duty.

Main Trends of Suppressing Human Rights Defenders in the Republic of Korea

Myoungsook / SARANGBANG Group for Human Rights

After a long period of military dictatorship, the Republic of Korea began to organize its legal and political systems to move towards democracy. Also the government of the Republic of Korea has ratified several international human rights treaties to be recognized by the international community as a democratic nation with the adequate system that guarantees human rights of its people. International Covenant on Economic, Social and Cultural Rights (ICESCR) and International Covenant on Civil and Political Rights (ICCPR) were ratified in 1990 when the Republic of Korea was still in transition from a dictatorial regime. In 1997, when a fully civilian government finally came into power (the previous governments, although democratically elected, were still tainted with links to military dictatorships), many human rights-related systems and organizations, such as the National Human Rights Commission of Korea (NHRCK), were formed and reorganized. As a result, nobody can dispute that the Republic of Korea possesses a well organized human rights legal system on the surface. However, after the 1997 Asia financial crisis and the intervention of the IMF among other national crisis, the overall unstable employment situation and the lack of labor flexibility, as well as incomplete reforms of the economy and the market in the Republic of Korea have caused serious social and economic issues such as problems of poverty and non-regular workers. These events have encouraged social rights defenders to be even more active and yet, despite the fact that South Korea is under the rule of a democratic government, the rights of defenders who are against government policies such as the free trade agreement between the Republic of Korea and the United States of America have been subjected to various forms of violence by the government.

The rise of the conservative government in 2008 and extreme neoliberal economic policies that it pursued have ended up oppressing not only human rights defenders but also the overall freedom of expression. Moreover, conservative protestant groups and anti-North Korean groups instigated public sentiments against social minorities, including the sexual minorities. The oppressions and constant violence by these former groups toward human rights defenders have aggravated the situations of the defenders. Notably, the citizens and human rights activists who concerned over the incidents in the US of bovine spongiform encephalopathy (commonly known as mad cow disease which can also

be fatal to humans who consume infected meat) protested against the imports of US beef just to be subjugated by the police and conservative groups using indiscriminate violence, forced detention and oppressing freedom of expression.

These cases of visible oppression towards human rights defenders went through some changes after specific recommendations made by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, recommendations made in the 1st and 2nd UPR, etc. . However, despite these efforts, the physical violence and forced detention are still on-going in the Republic of Korea. These issues were still visible in the case of Yongsan Incident (2009) where evictees in land marked for redevelopment were illegally forced out of their homes resulting in several casualties, and the excessive violence towards the protestors in the case of Ssangyong Motor strike. Also, while the number is on the decrease, the problem of criminal prosecutions of human rights defenders still presents.

The oppressions against human rights defenders in the Republic of Korea share certain common characteristics. In addition to the traditional ways of exerting physical violence and subjecting human rights defenders to arbitrary detention, there is an increasing tendency to impose economic penalties through unreasonable and excessive civil claims for damages, and tactful use of criminal law, such as biased interpretation of clauses of interference with business, general obstruction of traffic, and petty crimes which very often result in heavy fines. Another characteristic is the surge in surveillance since 2008 which not only creates a chilling effect on human rights advocacy, but also intrudes into private lives. Such surveillance is being conducted by both the government and big corporations using documents and videos leaving the victims severely traumatized. Also despite the decrease in the number of cases of physical violence towards the human rights defenders, the severity of these acts has worsened even resulting in deaths of the defenders in the field. These acts of violence are done not only by the police but also by the private security guards hired by the government or the corporations. However, there has been no attempt by the government to punish or prevent these forms of violence. Moreover, suppression on the grounds of national security using the National Security Act among other numerous criminal charges has been steadily increasing. In addition, denials of entry and deportations of foreign human rights defenders are also on the increase. Last but not least, the government has successfully emasculated the National Human Rights Commission of Korea, making it almost powerless when it comes to protecting the human rights defenders.

I. Invoking Economic Sanctions to the Defenders through appliance of Criminal Charges for Obstruction of Business, Damage claims and Fines

Recently, the main law used to oppress human rights defenders in the Republic of Korea is Article 314 of the Criminal Act (Interference with Business).¹ The government and corporations even file suits

¹ Article 314 of the Criminal Act (Interference with Business): ① A person who interferes with the business of another by the method of Article 313 or by the threat of force, shall be punished by imprisonment for not more than five years or by a fine not exceeding fifteen million won. <Amended in 1995. 12. 29> ② Any person who interferes with another person's business by damaging or destroying any data processor, such as computer, or special media records, or inputting false

against those who merely use pickets or spread fliers criticizing them, and claims that their businesses were interfered with. As such, even when there was no actual violence or damages in property by the human rights defenders, those who criticize the government have been criminally charged for “interfering with business”. While in 2009, the CESCR specifically recommended to the South Korean government to review or amend relevant legislations to prevent such practices² the government not only fails to implement the recommendations from the Committee but continues the practices even further towards the fields of peace activism and movement s for rights of the persons with disabilities.

The even more serious issue is that these practices result in unbearable economic burdens to the defenders and leave them unable to carry on with their activities. Since such an oppressive conduct is practiced by the government and the corporations, they pose huge obstacles to the defenders fighting for human rights. In the case of work-in strikes against Ssangyong Motor, the protestors were slapped with a damage claim of 23.2billion won (21.5million USD) and a provisional seizure worth over 2.8billion won (2.6million USD) imposing a massive financial as well as psychological burden to the workers and activists, making it hard for them even to carry on with their livelihood. In December 2012, a union executive committed suicide in face of a damage claim of 15.8billion won (14.6million USD) by Hanjin Heavy Industries for the union's collective actions. The Munhwa Broadcasting Corporation's (MBC) union also received a damage claim of 32.4billion won (30million USD) and a provisional seizure worth 2.8billion won (2.6million USD). After a series of cases, there have been on-going discussions regarding legal revision to prohibit damage claims against human rights defenders and to amend the clause of interference with business in the Criminal Act.

These claims are similarly applied to peace activists. It is well-demonstrated in the Jeju naval case in which the residents and human rights activists were charged with the interference with business.

* Issuance of Arrest Warrants from 2011 to June 2012

Date	No. of People	Charges
'11. 04. 08.	1	Interference with business, physical violence
'11. 05. 21.	1	Interference with business
'11. 07. 17.	2	Interference with business
'11. 08. 26.	3	Interference with business, Obstruction of performance of official duties
'11. 09. 04.	4	Obstruction of performance of official duties
'12. 02. 02.	1	Interference with business
'12. 03. 11.	2	Physical violence, unlawful acts
'12. 03. 31.	1	Obstruction of performance of official duties

information or improper order into the data processor, or making any impediment in processing any data by other way, shall also be subject to the same punishment as referred to in paragraph (1).

² UN Economic and Social Council, 43rd Session, Implementation of ICESCR, Republic of Korea. (E/C.12/KOR/CO/3). 27 June 2007, para. 20

Date	No. of People	Charges
'12. 04. 03.	1	Interference with business
'12. 06. 15.	1	Interference with business

Source: National Police Agency, disclosure of information requested from Ha-na Jang, the member of the National Assembly

Disability rights defenders with disabilities are less likely to be subjected to physical violence or arbitrary detention, but are likely to be economically sanctioned by fines imposed on them after the incidents. Very often they cannot afford these fines which exceed the monthly government subsidy for persons with disabilities. The arbitrary imposition of such excessive fines can only be interpreted as means of discouraging disability rights defenders from being involved in peaceful assemblies and demonstrations. On August 7 2012, eight disability rights defenders, who were imposed of fines which they were unable to pay, gave themselves in for a voluntary custody at a workhouse at the Seoul Central District Prosecutor's Office to demonstrate their protests against unreasonable economic strain. As of 2012, the total amount of fines imposed to disability rights defenders was 16.2million won (around 15,000 USD). Such tactics of imposing excessive fines to prevent human rights defenders' activities are also used to many other defenders who attend assemblies.³

II. Surveillance by government organizations and corporations

During the Lee, Myung-bak administration (the previous government in power from 2007-2012), vast surveillance took place targeting citizens, human rights defenders, and politicians. On 18 February 2013, the NHRCK confirmed that the Public Service Ethics Bureau of the Prime Minister's Office undertook illegal surveillance over media workers, politicians, citizens, and others, however the government has neither punished those responsible nor amended laws and policies to prevent further violation. Methods of surveillance included phone tapping, monitoring internet usage, and collecting photos and video footage, thereby closely following people's everyday lives and seriously invading their privacy. During this period, the journalists were subjected to excessive surveillance by the government who wanted a complete control over the press. Surveillance over media workers was also serious and YTN's labour union case was a typical case. A vast number of media workers were fired during a targeted investigation which entailed unjust arrests and imprisonment, search and seizure of email accounts, and phone location tracking of union executives. This illegal surveillance was done by the Public Service Ethics Bureau and with pressure from the Supreme Prosecutor's Office. Looking into the Bureau's work report, most reporting on the YTN's labor union took place under the orders from the Blue House. According to the report, information obtained through surveillance includes information on pending approvals by the Korea Communications Commission, union strikes, arrests of union executives, and replacement of the company Representative.

The resulting trauma, including anxiety and depression, to the victims of such surveillance, is extremely severe. Recently, in 2009, one activist who was a victim of surveillance by the Military Intelligence Agency, committed suicide after suffering from a long period of depression.

Moreover, surveillance of civilians is also used by corporations in order to deter formation of trade

³ The pattern of abuse can be seen in the number of cases and amount of damage claims

unions or as means to oppress any existing union. Some typical examples were that of Korean Railroad Corporation against the union members in 2009 and of E-Mart, the big supermarket franchise in the Republic of Korea, against its employers suspected of forming a union in 2012.

III. Violence of public and private force

As stated above, the government has committed violence against human rights defenders with the police, brought unjustified lawsuits against them and arbitrarily detained them. In 2008, the police inflicted excessive physical violence to the participants and human rights defenders at peaceful candlelight vigils; in 2009, the police overused its power on an one-day sit-in protest resulting in 6 deaths - 5 evicted residents and 1 police officer; also in 2009, as a result of the police acting with disproportionate force and violence upon the protesters who were fighting against wrongful dismissal from Ssangyong Motor, those who were attacked by the police are still suffering from trauma because of the horrific experience of violence. However no punishments or questions were put forward in order to verify who was responsible for such violence and this has left open the greater possibility of recurrence of such abuses of state power. In 2011 and 2012, countless peace activists were being injured due to violence of the police and the navy in Gangjeong village, Jeju Island.

These kinds of public use of violence also can be seen in cases where the government deliberately overlooks the violence committed by corporations via private guards. Despite two violent events occurred by the private guards in Yong-san and Ssangyong Motor protests, the police showed no concern or interest towards the issues. It was revealed during an investigation that corporations such as Yoosung Enterprise and SJM hired a private guard corporation called Chang-jo Consulting and inflicted threatening violence towards anyone opposing their actions. The protesters against the construction of naval base in Jeju have constantly been suffering from the violence imposed by the private guards hired by the construction company while the police stand on the sidelines.

IV. Increase of indictment and imprisonment under the National Security Act and punishment of conscientious objectors

Currently, South Korea and North Korea have not yet agreed to sign a peace treaty, therefore officially they are in the middle of ceasefire. Based on the Constitution of South Korea, defining the territory of South Korea as the whole of the Korean Peninsula, several conservative political groups who deny North Korea and see it as the territory that has been occupied by the enemy claim that the regression of human rights by South Korean government is justifiable in the name of national security. Whenever there is increased tension between the two Koreas, the South Korean government has used the situation to brand human rights defenders as threats to state security and oppressed them. The South Korean government and conservative groups often brand the peace activists as 'North Korean sympathizers that threaten our national security' and justified their wrongful persecutions. These conservative groups even conducted public hate statements and discrimination movements against the sexual minorities during the processes of enactment movement of anti-discrimination law and Students Rights Ordinance. They also put pressure on National Assembly by stigmatizing

advocates of sexual minority rights.

The National Security Act is being arbitrarily applied to prosecute and imprison anyone who criticizes the government in spite of repeated recommendations by the UN for the past 20 years to reform or abolish such law because it violates individual freedom of expression and opinion, conscious and cultural rights (The recommendations by CCPR were made in 1992, 1999, and 2006; and the recommendation by CESCR was made in 2001, and that of UN Human Rights Committee UPR in 2008 and 2012).

However, the National Security Act continues to be used as means to oppress labor rights activists and peace activists. In February 2013, an affiliated group of Teachers Union was prosecuted under the Act, suspected of being a group that benefits the enemy without any clear evidence. This example demonstrates how the National Security Act is being abused by the government and certain groups.

There are three categories when it comes to oppressing human rights defenders using the National Security Act. To start with, there have been cases of prosecuting any groups that actively participated in unification projects on the ground that it benefits the enemy. In May 2009, the public prosecutor charged six members and the chairperson of a unification advocate group by claiming that the process of cultural exchange and cooperation projects with North Korea was an act of infiltration against national security.⁴

The second type is the oppression towards any group that possesses socialist political views. Even though Article 3 of the National Security Act was amended, the attempts are being made in order to create a new concept of criminalizing 'organizations with objective to instigate and promote rebels'. The Prosecution arrested and charged four activists from Socialist Workers Association in 2008 and placed under arrest the members of Free Solidarity for Building Socialist Workers Party in 2012 by interpreting that the draft of their doctrine aims at violent revolution and to overthrow the government.

The third is the oppression of citizens and writers who express personal opinions online regarding peace and unification or criticizing government policy under the provision against praising the enemy in the National Security Act. 70 people who posted at 'People's Cyber Defence Command' were investigated by the persecution and a photographer Mr. Jung-Keun Park was imprisoned for re-tweeting a message from an account traced to be from North Korea.

For all those reasons above, since 2009, 70 people have been arrested under the National Security Act and the number reached 151 in 2010. As of August 2012, the number of arrests under the Lee, Myung-bak administration for violating the National Security Act totalled 482. Among them, 86 have been imprisoned and over 82 percent of them (407 people) have been arrested for violating Article 7, which outlaws praising or sympathizing with North Korea; two-thirds of them were people who

⁴ They were found not guilty of infiltration but found guilty of praising and promoting North Korea

posted comments online.⁵

*The number and percentage of the arrested from 2008 to 2012, prosecuted, and imprisoned under the National Security Act

	Total	2008	2009	2010	2011	2012. 8.31
Arrested	482	40	70	151	135	86
Imprisoned	86	11	15	22	17	21
Percentage	17.8%	27.5%	21.4%	14.6%	12.6%	24.4%

Source: Report of the National Police Agency submitted for the government audit in 2012

The recent distortion of conservative organizations with their National Security Act arguments against human rights activism is reaching its peak. For example after the sinking of a South Korean warship, Cheonan in 2010 was ruled as the attack of North Korea, the NGOs, People's Solidarity for Participatory Democracy together with Solidarity for Peace Reunification of Korea, sent a letter to the US Security Council arguing another thorough investigation should be conducted on the case as there was substantially conflicting evidence and many unexplained facts remain. The government and conservative groups heavily criticized the action and called them North Korean sympathizers. Then Secretary of State Un-Chan Chung made a comment about the two NGOs being 'questionable citizens' while conservative groups such as Rights Korea filed a complaint to the Supreme Prosecutor's Office. They even went as far as throwing paint thinners while holding a gas tank in front of People's Solidarity for Participatory Democracy office posing serious threats to those who work there.⁶

Since 2008, the government seems to have ignored the violent behaviors of the conservative groups. It can be contrasted with how they treat human rights defenders conducting peaceful one-man protest where they abuse their authority by prosecuting and punishing them while none of such attention and thoroughness was apparent when conservative groups inflict violence. Not even a single prosecution was brought when Vietnam war veterans forcibly entered MBC office building with gas tank in 2008 and when the incense altar of ex-President Roh (a liberal president and a hate figure by the conservatives) was destroyed by them armed with teargas gun in 2009⁷. The government is promoting and abusing the white terror and oppressing human rights defenders.

V. Oppression by abusing various laws

- *National Security Act, Assembly and Demonstration Act, General Obstruction of Traffic* (Article 185

⁵ Most recently, an international hacking organization 'Anonymous' hacked and leaked personal information from a North Korean site. Once the information was leaked, the public attacked that the hacked were the real North Korea sympathizers who the South Korean government was looking for. However the Prosecution announced that they would conduct investigations on the victims whose personal information was leaked on the grounds of National Security Act, rather than punishing hackers.

⁶ Oh My News, "Escalated Fierce Attack on PSPD, using Gas Containers and Thinner", 17 June 2010, http://www.ohmynews.com/nws_web/view/at_pg.aspx?CNTN_CD=A0001402140 (Korean)

⁷ Mediaus, "Teargas gun fired in front of incense altar", 20 June 2009, <http://www.mediaus.co.kr/nws/quickViewArticleView.html?idxno=7032> (Korean)

of the Criminal Act), Obstruction of Performance of Official Duties (Article 136 of the Criminal Act), Punishment of Minor Offenses Act, Act on Collection and Use of Donations, Trade Union and Labor Relations Adjustment Act, Road Traffic Act (Article 109)

Until recently, the oppressions against human rights defenders were done mainly by the abuse of a couple of legislations such as the National Security Act and the Assembly and Demonstration Act. However from 2008, in order to pressure the rights protection activities, the government began to apply the clauses of Obstruction of Performance of Official Duties and General Obstruction of Traffic of the Criminal Act, Punishment of Minor Offenses Act and even the Act on Collection and Use of Donations. As it was mentioned above, oppression cases under the National Security Act are surging and the number of cases where the defenders are illegally taken in by the police and detained is also constantly increasing. However when the number of people arrested is compared to the number of indictments, there is a large discrepancy meaning that there is a large number of arbitrary detentions. (Please see below table)

General Obstruction of Traffic (Article 185 of the Criminal Act)

Demonstration participants are fined heavily by applying the clause of general obstruction of traffic (Article 185 of the Criminal Act)⁸. Even though it is the government's duty to guarantee the constitutional rights of holding and participating in a demonstration by regulating the traffic, the police authority misuses its power to interfere in the exercise of the right. The cases where labor rights activists and peace activists among other human rights defenders are subjected to arbitrary detentions based on this law is rising substantially.

* Numbers of police mobilizations at demonstrations

Year/Cases	No. of demonstrations		Mobilized force	Number of police/participants
	Number	Participants		
2010	8,811	1,462,894	1,666,320	1.13
2009	14,384	3,092,668	2,849,040	0.92
2008	13,406	3,082,069	2,562,390	0.83

Source: Police White Paper, 2010, p. 19/ Police White Paper, 2011, p.293/ Police statistical year book, 2010, p.233

* Judicial Action related to illegal demonstrations

Year	2006	2007	2008	2009	2010
No. of demonstrations	10,368	11,904	13,406	14,384	8,811
Illegal violent demonstrations	62	64	89	45	33
Population subjected to judicial action	9,466	6,265	4,933	5,347	4,220
Detention (%)	305 (3.2)	176 (2.8)	148 (3.)	220 (4.1)	34 (0.78)

⁸ Article 185 of the Criminal Act (General Obstruction of Traffic): A person who damages, destroys or blocks a road, waterway, or bridge, or obstruct traffic by other means, shall be punished by imprisonment for not more than ten years or by a fine not exceeding fifteen million won.

Year	2006	2007	2008	2009	2010
Population under arrest	1991	1965	2381	1802	542 (first half)
Sending to Prosecution office (%)	1772 (89.0)	1754 (89.3)	2197(92.3)	1434 (79.6)	434 (80.1) (first half)
No. of sending	206 (11.6)	318 (18.1)	470 (21.4)	448 (34.0)	501 (total)
Innocent cases (%)	5 (2.4)	7 (2.2)	15 (3.2)	20 (4.1)	37 (7.4)

Including a number of detentions, without detention, remitted to summary trials, release with a warning included in judicial action (Source: Police Department statistics 2010)

* Charges of official trial cases of candlelight vigil and average amounts of imposed fine

Charges	No. of Cases	Average Fine
Assembly and Demonstration Act, General Obstruction of Traffic	491	152
Assembly and Demonstration Act	60	62
General Obstruction of Traffic	52	144
Obstruction of Performance of Official Duties	8	200
General Obstruction of Traffic	3	50
Obstruction of Performance of Official Duties	8	200
Assembly and Demonstration Act, General Obstruction of Traffic, Obstruction of Performance of Official Duties	4	238
Destruction of Public Property, General Obstruction of Traffic, Assembly and Demonstration Act	1	300
Total	627	148

Source: MINBYUN-Lawyers for a Democratic Society, MINBYUN Candlelight White Paper

Punishment of Minor Offenses Act

Since 2008 human rights advocate movements have been subjected using Punishment of Minor Offenses Act⁹. There were cases where distributing fliers or doing performances were prosecuted under the Act. This Act was applied to peace activists against the construction of naval base in Jeju Island as breaking and entering along with fines, violence and arrests by the police.¹⁰

Outdoor Advertisements, Etc. Control Act

Lee and Choi who were working on an art project at Gangjeong Village on 25 September 2011, tried to display their art work motivated from the sign near the naval base construction site but was stopped by the police and requested to remove the artwork based on the Outdoor Advertisements Control Act. Under Article 4(1) of the Act and Article 10(1) of the Enforcement Decree of the Act, the

⁹ The Act was legislated in 1954 after the Korean War. Its purpose was to maintain good order and control activities harming public order, such as begging and fly-tipping

¹⁰ Cases) Student K of H University was handcuffed and taken into custody for distributing guide fliers regarding civil movements on the grounds of violation of Punishment of Minor Offenses Act. C of Korean Confederation of Trade Unions was arrested while distributing publications of the confederation

police claimed that the display of outdoor advertisements at 'funeral homes, crematorium and cemetery' is prohibited. However Article 8 of the Act clearly states that 'advertisements or such used for events or assemblies for lawful political activities or labor movements of organization or individuals are excluded from application', therefore there was no reason for the artwork. The District Office requested for the removal arguing that the word 'destruction' suggested the opposition of the naval base and cannot be seen as an art work.

Act on Collection and Use of Donations

Mr. Dong-Gyun Kang, a Chief of Gangjeong Village, faced several charges and investigations¹¹ for fundraising, is a case in which the defective Act on the Collection and Use of Donations¹² was misused. As a response, the Village Council applied to register for donation to the authority but the application was turned down on the grounds that is not provided in the law. It is the subjective interpretation of Article 4(4) of the Act and constituted a severe and arbitrary form of oppression. Moreover the Ministry of Public Administration and Security named the organizations that participated at Task Force against Mad Cow Disease as illegal and violent organizations, resulting in cutting the government project funding. This action was based on the draw up and distribution of '2009 Budget and fund operation plan' that contained 'limit the funding to the organizations that actively took part in illegal demonstrations' by the Ministry. Such an act violates not only the freedom of assembly and demonstration stated in the Constitution but also the autonomy of the civil organizations.

Trade Union and Labor Relations Adjustment Act

The government has refused to recognize the Korean Teachers and Educational Workers Union (KTU) because the KTU's bylaw grants membership to all dismissed teachers. Such a refusal is based on Article 2 of the Act on the Establishment, Operation, Etc. of Trade Unions for Teachers, whereby only current teachers are allowed to be members of unions, and Article 9(2) of the Enforcement Decree of the Trade Union and Labor Relations Adjustment Act, which stipulates that any union that permits membership to displaced workers is subject to lose its status as a union. A similar case occurred when the Korean Government Employees' Union (KGEU), a consolidation of several teachers' unions, launched and submitted a report of union establishment to the Ministry of Employment and Labor (MOEL) first in December 2009, then again in January 2010. The MOEL denied its recognition based on the union's activity related to wrongfully dismissed workers. As a result, the KGEU was classified

¹¹ Afterward, the Village Council made an application for a donation to the Ministry of Public Administration and Security, but the application was rejected due to "receiving donations from an unspecified number of general public is only allowed for the causes of poverty and natural disasters."

¹² The limitation of the Act on Collection and Use of Donations is that it is enacted to regulate donations rather than to encourage them. As a result, there have been movements towards the amendment of the Act to encourage donations while making sure to administrate them transparently. Article 4 of the Act(Registration for Collection of Donations) states that 'a person who intends to engage in the collection of donations prescribed by Presidential Decree, the value of which is not less than ten million won shall prepare a plan for collection and use stating the following matters to register himself/herself with the Minister of Public Administration and Security, a Special Metropolitan City Mayor or a Metropolitan City Mayor, a Do Government, or the Governor of a Special Self-Governing Province, as prescribed by Presidential Decree. Also Article 4(2) states that 'a collection plan clearly stating the purpose of collection, type of donations, target amount of collection, collecting area, method and period of collection, and method of safekeeping collected money and other articles.'

as an unlawful union.

Road Traffic Act (Articles 71 and 72)

Setting up tents, one of the recent means of sit-in protests that human rights defenders adopted were designated as 'illegal facility obstructing traffic' and were forced to be removed then the workers and citizens were arrested. Chung-Ku Ward Office forcibly demolished the protest tents where workers of JEI were protesting to demand the recognition of them as workers on 26 March 2013. Also on 4 April 2013, the tent which was used as incense altar for dead workers of Ssangyong Motor at Daehan-mun, Seoul was forcefully removed.

VI. Entry denial and deportation of foreign human rights defenders

From 2010 till today (as of 30 April 2013), there have been 42 reported cases of entry denial of foreign human rights defenders and peace activists, while these cases might be the tip of an iceberg since these numbers include confirmed cases only. The cases include the refused entry of peace activists against the construction of naval base in Jeju, environmental activists against nuclear plants, as well as participants of international meetings organized by the civil society. The Korean Immigration Service is not giving any clear reasons behind these entry denials other than opaque explanations that such denials are made under Article 11 of the Immigration Control Act.¹³ Naming the international activists as 'potential criminals' for their past history of participating in protests against construction of naval base or visiting Gangjeong is an arbitrary judgment and oppression of human rights defenders. The Declaration on Human Rights Defenders firmly states that 'everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.'

The government of the Republic of Korea has not only been denying entries of the overseas human rights defenders coming into South Korea, but also deporting the activists. Such interventions went so far as to deport Mr. Benjamin Monet from France, before he could even gather his personal belongings, and issuing a deportation order to Nobel Peace Prize candidate Ms. Angie Zelter after arresting her on the grounds of malicious mischief when she entered Gureombi by cutting out barbed wire fence.

VII. Negligence of the National Human Rights Commission of Korea on its duty to protect the rights of human rights defenders

The National Human Rights Commission of Korea (NHRCK) is neglecting its duty to protect human rights defenders, ever since Mr. Byung-Chul Hyun was appointed as the Chairperson of the NHRCK. Mr. Hyun has no prior experience working in the human rights arena and therefore, both national and international communities were against his appointment as he lacks virtues stated in the

¹³ 'Center for Open Information' requested for information disclosure about the details of refused entries from October 2011 to April 2012, including the nationalities of the deportees and reasons behind them, however the Ministry of Justice refused to provide it claiming that revealing the requested information might cause diplomatic conflicts.

National Human Rights Commission Act. Since his appointment, he turned a blind eye to the government's human rights violations and neglected to tackle suppressions on human rights defenders. For example, the Commission failed to respond the request for emergency remedy when Hanjin Heavy Industries stopped supplying electricity when Ms. Jin-sook Kim protested for more than 175 days on a 35-meter high shipbuilding crane against unjust layoff by the company. Subsequently the Committee dismissed the appeal by stating her protest as an "illegal activity". The NHRCK also held that persecutions on the human rights defenders in Jeju Island and surveillance on general public or members of trade unions did not amount to violations of human rights. Furthermore, eleven human rights ombudsmen, who staged a one-man protest or posted online texts criticizing the Chairperson, had to face disciplinary measures. In short, NHRCK has been negligent on its duty to protect the rights of human rights defenders.

Labour Rights Defenders

Mi-kyung RYU / Korean Confederation of Trade Unions(KCTU)

Ki Sun / Kick at Juridical Harassment on Hope Bus

I. Background

As soon as Park Geunhye won the Presidential Elections last year, workers from leading chebol affiliates such as Hanjin Heavy Industries, Hyundai Heavy Industries, Ssangyong Motors and Hyundai-Kia Motors committed or attempted suicide one after another. In the wake of the global financial crisis, prolonged sluggish growth in Korea has accelerated layoffs and the spread of irregular employment and discrimination against irregular workers, thus increasingly threatening the livelihoods of workers. Trade union activities aimed at resisting this threat has been subject to massive oppression, and the workers' suicides were in protest to such oppression.

The Korean Constitution guarantees the three basic labour rights, but the exercise of those rights is overly restricted by labour laws like the Trade Union and Labour Relations Adjustment Act (TULRAA) that does not meet international labour standards. In theory it may appear as if all workers are free to organize and join trade unions, but the TULRAA and other special laws place so much restriction on this freedom that a considerable number of workers are in practice being denied their right to organize. Workers in "disguised employment" such as cargo truck drivers and home-study tutors are classified as self-employed business owners, meaning that the right to form and join trade unions does not apply to them, according to the administrative interpretation of relevant laws by the Labour Ministry. Although the courts have recognized through legal precedents the worker status of people who are unemployed or seeking employment, the administrative authorities have denied this and refused to acknowledge the establishment of trade unions by such people. Government employees and teachers have been granted the right to form trade unions through "special laws," but again there are restrictions on who qualifies for membership. Most importantly, employers have constantly been on the offense, attempting to decapitating trade unions by hiring private security firms that specialize in beating up strikers and

busting trade unions. In short, trade union activities aimed at championing workers' rights are being brutally clamped down on.

Exercising the rights to collective action and bargaining is also severely restricted. The system of "enforced unification of bargaining channels" that was introduced together with union pluralism grants all collective bargaining rights plus the right to sign CBAs and go on strike only to the majority union, meaning minority unions are not allowed to engage in collective bargaining or go on strike, which would have been the main purpose of forming the union in the first place. Also, "labour dispute" is narrowly defined as "disputes that occur due to differing opinions on decisions regarding working conditions such as wages, working hours, employee welfare, dismissals and other forms of employee treatment," thus making strikes protesting issues that fall under "managerial rights" such as layoffs and factory closures and relocations – not to mention strikes demanding the revision of labour laws – illegitimate, even though such issues have a real and considerable impact on workers' wages and working conditions. Unlike the "essential services" defined in international labour standards, "minimum services to be maintained" in the public sector in Korea covers a broad range of services, making it virtually impossible for workers in most major public companies to go on strike. This is the reason why most of the strikes by Korean workers are defined as "illegal strikes." And once a strike is deemed illegal, strikers will be criminally charged with obstruction of business and punished, sued for huge amounts in damage compensation, and subject to provisional seizure of their income and property.

The ILO and the UN Committee on Economic Social and Cultural Rights have repeatedly called for the improvement of legal frameworks and practices that fail to guarantee labour rights, but real changes have yet to happen. Furthermore, the human rights of trade unionists and labour rights champions are being constantly violated. In particular, citizens and human rights activists who championed labour rights by protesting the layoffs in Hanjin Heavy Industries in 2011 were subject to excessive violence and prosecution. Persecuting labour rights champions has emerged as a new form of labour suppression.

II. Human Rights Situation

1. Disciplinary actions and dismissals for defending human rights

1) Dismissals for engaging in the activities of the Korea Government Employees Union¹ (KGEU) and denial of trade union establishment

¹ Despite the fact that acknowledging the establishment of trade unions for civil servants was a precondition to Korea's accession to the OECD in 1996, and despite appeals to stop repressing the KGEU and to acknowledge government employees' fundamental workers' rights submitted by the international investigation delegation including ILO officials during its visit to Korea in 2006, the Korean government has yet to acknowledge the legitimacy of the KGEU. The Act on the Establishment, Operation, Etc. of Public Officials' Trade Unions excessively limits the category of civil servants who are allowed to join trade unions, does not recognize the right to collective bargaining and bans collective action altogether, thus severely restricting the fundamental workers' rights of civil servants. In 2006, this Act went into effect despite the resistance of civil servants, thus providing the legal basis for outlawing the KGEU, on the grounds that the union includes in its platform the aim to "elevate the political standing of civil servants" and acknowledges dismissed employees as members. The Act has also led to the dismissal of 136 civil servants and disciplinary actions against more than 2,900 civil servants.

Alleged Perpetrator: Ministry of Security and Public Administration, Ministry of Employment and Labour

In 2004, the Korean government dismissed some 113 employees simply for being absent from work for just one day to participate in a strike rally protesting the legislation of the Act on the Establishment, Operation, Etc. of Public Officials' Trade Unions, which would have severely restrict fundamental workers' rights. In 2008, after the inauguration of the Lee Myungbak administration, around 20 more civil servants were dismissed for merely expressing disagreement with certain government policies. Although it was unfair labour practice to dismiss employees for participating in trade union activities, the government rejected the trade union establishment report submitted by the KGEU three times on the grounds that the union continued to acknowledge the above-mentioned dismissed people as members. The government was deliberately turning the KGEU into an outlawed organization. In the process, the Ministry of Employment and Labour (MOEL) breached the principle of trade union autonomy by misusing the trade union establishment report system as a de facto approval system, and abused its power as an administrative agency by demanding that the KGEU submit documents not required by law and by conducting examinations to verify whether the union included dismissed persons in its membership.

2) Denial of the KGEU's freedom of expression, and disciplinary actions including dismissals for exercising freedom of expression

Alleged Perpetrator: Ministry of Security and Public Administration (MOSPA), MOEL

Guaranteeing the right of civil servants to maintain political neutrality is a prerequisite for workers employed by the government to perform their public duties fairly and independently from the ruling power, thereby helping to maintain the continuity and stability of the state. But this right has been turned into an obligation, leading to infringement of civil servants' freedom of expression. Government employees have actually faced punitive dismissals simply for publicly stating a certain position with the purpose of exercising labour rights. There have been several cases of civil servants being subject to disciplinary actions or dismissals simply for adopting a declaration criticizing a government policy, for donating funds to a certain political party, or for whistle-blowing. The special rapporteur on freedom of opinion and expression Frank La Rue has expressed concern regarding this situation and provided recommendations for improvement. The following are some prime examples of the problem.

2-1) Civil servants punished for placing political advertisement and for participating in rallies²

In October 2009, the KGEU placed an advertisement in some newspapers criticizing government policies such as the Four River Revitalization Project that went against the public good, summing up its opposition through

² Since the political advertisement in October 2009, the government held a meeting chaired by the Prime Minister to "retrogressively" revise the Public Officials Service Regulations. 1) Civil servants are now banned from criticizing government policies "regardless of relation to performance of duties," meaning their freedom of political expression is fundamentally blocked. 2) Civil servants now have a dress code, and are banned from "wearing attire or relevant items that mark or symbolize any political opinion that undermines workplace discipline," meaning that all trade union activities in the workplace are effectively blocked.

the phrase, “We want to serve the people, not the government.”

In response, the Ministry of Public Administration and Security (currently renamed MOSPA) used the legal provision banning collective action in the State (and Local) Public Officials Act to press charges against 16 civil servants, get 14 indicted, and penalize 57 (including 18 dismissals).

In December 2009, the government initiated a search-and-seizure of trade union offices, indicted five union leaders and punished 60 union officials for their involvement in the political ad and rallies.

2-2) Civil servants punished for small-scale donations to the Democratic Labour Party (DLP)

For donating the small amount of ₩10,000 (about \$9) a month to a progressive political party, more than 1,900 public officials and teachers have been criminally charged with violating the Political Funds Act and disciplined accordingly. The case is currently on its second trial.

The Constitutional court ruled that “political neutrality according to the Constitution means the neutrality of state agencies in performing their duties, meaning the obligation to be politically neutral is applicable only to actions related to the performance of duties as a public official or to actions that make use of one’s public official status.” (Constitutional Court case number 2006Hunma1096, 29 May 2009)

However, there has not been a single case of criminal charges or disciplinary actions against high-ranking public officials who sponsored conservative parties.

2-3) Disciplinary action against whistle-blowers in the National Human Rights Commission (NHRC)

- Jan. 2011 – Investigator Kang Inyoung (Anti-Discrimination Division), vice-president of the NHRC union of the KGEU, was dismissed (extension of employment contract rejected) for criticizing chairperson Hyun Byungchul’s dictatorial management of the NHRC.
- 8 Apr. 2011 – The NHRC trade union filed a petition stating that Kang’s dismissal was tantamount to “discrimination and retaliation for engaging in trade union activities.”
- 18 Apr. 2011 – The NHRC took disciplinary action against two employees who were particularly vocal in protesting Kang’s dismissal and criticizing the NHRC. The two employees forfeited a month’s salary for informing the press prematurely of the jury decision on the Human Rights Journalism Award.

Internal audits were conducted on employees who had been active in protesting Kang’s dismissal, and trade union members who protested the audit were told to sign a “law-abidance” pledge.

- 18 July 2011 – The NHRC convened a high-level disciplinary committee meeting to decide how to discipline the 11 employees who had conducted one-man demonstrations protesting Kang’s dismissal. As a result, three employees above rank 5 and one employee below rank 6 were suspended (heavy discipline) and the other seven had their salaries cut. The grounds for such disciplinary action were that they had violated the obligation to maintain the dignity of public officials (Article 63) and the ban on collective actions (Article 66) in the State Public Officials Act.

3) Refusal to acknowledge the trade union activities of the Korean Teachers and Education Workers Union (KTU) and instigating investigation and indictment of KTU members

Alleged Perpetrator: Prosecution, National Intelligence Service (NIS), Ministry of Education and Science Technology (MOEST)

On 18 June 2009, about 17,000 teachers adopted a declaration on the state of national affairs criticizing the Lee Myungbak administration’s policies such as the Four River Revitalization Project,

press freedom suppression and nationwide standardized examinations. On the same day, the Director of the NIS issued instructions to “work even harder to safeguard national security by stepping up surveillance of still active pro-North Korea leftist groups such as the KTU who disguise themselves as civic or religious groups.” The police conducted a search and seizure of the KTU office at five in the morning on 3 July 2009, and announced on 25 Jan. 2010 that it was going to investigate 280 KTU member teachers suspected of political affiliation to the DLP. This was followed by mass indictment on 6 May 2010 of some 183 teachers for small-scale donations of ₩10,000 (about \$9) a month to the DLP. On 26 Jan. 2011, the Seoul Central District Court acquitted the teachers in question, saying that there was no evidence of the teachers joining the DLP or participating in any of its activities. Only the small-scale donations to the DLP were recognized as an offense and subject to fines of ₩300,000 to ₩400,000. On 18 Feb. 2011, the Director of the NIS issued further instructions to “get regional managers to directly cooperate with the heads of relevant agencies rather than delegating the work to lower-ranking agents in order to ensure that effective disciplinary actions are taken against such organizations as the Korea Confederation of Trade Unions (KCTU) and the KTU, since fighting such internal enemies is becoming increasingly difficult.” This was followed by an announcement by the Jeju Office of Education and MOEST on 25 Feb. 2011 to heavily discipline teachers for supporting political parties. On 13 June 2011, in accordance with guidelines from the Supreme Prosecutors’ Office to ferret out more DLP-sponsoring teachers, prosecutors sent official letters to relevant education offices and schools requesting the employment records of some 1,500 teachers. On 29 July, the prosecution indicted some 1,430 teachers for donating political funds to the DLP. But the court ruled that disciplinary actions against teachers for politically supporting the DLP were invalid, confirming the injustice of such disciplinary actions.

In addition, MOEL is considering ways to outlaw the KTU – which has maintained its legitimacy as an organization representing teachers for 14 years – by taking issue with the KTU’s regulations acknowledging the membership of dismissed teachers.

4) Unfair, punitive dismissals of teachers for expressing political opinions, and attempts to outlaw the KTU for the same reason

Alleged Perpetrator: MOEST, MOEL

When 17,000 teachers adopted a declaration on the state of national affairs on 18 June 2009, the Education Minister announced on 29 June 2009 plans to discipline and press criminal charges against 88 teachers. On 20 May 2010, the same Minister instructed the municipal education offices to also take disciplinary actions against the 134 teachers who had been indicted. When six progressive-minded superintendents were elected in the local elections on 2 June 2010, the disciplinary actions were postponed to after the court ruling. Following instructions from the NIS Director to cooperate with the heads of relevant agencies, the Jeju Office of Education and MOEST announced plans to heavily discipline teachers for political sponsorship. Despite the court ruling on 7 Mar. 2011 that small-scale donations to the DLP was not a crime, the disciplinary committee refused to lighten the disciplinary action for most of the teachers (only one out of nine got his/her dismissal canceled, and only six out of 37 got their suspension canceled). The court had also ruled

that the reasons for the disciplinary actions were invalid. Despite this, the Labour Ministry is now taking issue with KTU regulations that continue to acknowledge the dismissed teachers as members, thereby attempting to outlaw a national organization that has maintained its legitimacy as a body representing teachers for 14 years.

2. Planned Violence against Labour Rights Defenders by Private Security Companies

In 2012, some private consulting firms specialized in labour relations management were found to have interfered in labour relations at several businesses. They helped the management emasculate democratic trade unions and bully targeted union officials. The Environment and Labour Committee of the National Assembly held a hearing about violent actions by contracted private security agencies at industrial worksites on September 26, 2012. According to the findings of the hearing, several labour relations management specialists, the most iconic one of which is Changjo (“Creation”) Consulting, were found to have played a pivotal and extensive role in oppressing trade unions. They were reported to have supported the management to establish yellow trade unions and to employ private security agencies in labour disputes. The consulting firms also played a significant role in intimidating labour union leaders by claiming damages for labour disputes, obtaining an order from a court for provisional seizure of union officials’ assets, and executing disciplinary actions against the union leaders. The firms were also involved in lobbying the Ministry of Employment and Labour, Prosecutors’ Office and National Police Agency to demand support for their plans. In addition, lawmaker Eun Su-mi, a member of the Environment and Labour Committee, obtained and disclosed an internal memorandum of Changjo Consulting. The document showed that the firm had been involved in the busting of 14 trade unions for seven years. The document confirms that the consulting firm was involved in almost all of major union-busting cases, including Valeo Electric System Korea, Sangsin Brakes, Yoosung Enterprise Co. (YPR), Robert Bosch Korea, Continental, KEC and Golden Bridge Securities. All of the listed trade unions faced the same patterns and procedures of union-busting strategies as follows:

Rupture of wage and CBA negotiations → termination of collective agreements → initiation of strikes → lock-out of plants → employment of contracted security guards → establishment of the second (yellow) trade union → damage claims, provisional seizure of assets and other follow-up oppression against union officials → arrest of union officials → breakdown of the democratic union

1) Violence and disciplinary actions against, and arrest and dismissal of the officials of the KMWU YPR local under the planned union-busting campaigns

Alleged Perpetrator: Changjo Consulting, the Ministry of Employment and Labour, Prosecutors’ Office

The Korean Metal Workers Union(KMWU) YPR local began refusal of overtime/holiday work and other passive industrial actions from March 2011 to demand the abolition of night work and adoption of back-to-back shift arrangement. The management initiated a campaign to bust a democratic trade union immediately after signing a contract with Changjo Consulting. The company also signed a contract with a security agency (CJ Security), under which the private

security company would be mobilized on the pre-determined day of initiating a lock-out. On May 18, the company locked out the plant premises and riot police drove out union members on a sit-in on May 24. During the eviction campaign, a security guard drove a van into a crowd of union members. The KMWU YPR local announced its intention to return to work. The management, however, ignored the announcement and allowed a few 'key figures' who were handpicked by the management to return to work. In July, the company established a management-friendly trade union and began to collect pledges to withdraw from the KMWU YPR local from union members.

On October 16, 91 days after the lock-out was released by an arbitration of the legal court, 27 union members, including KMWU YPR local officers, were dismissed and 17 union members were arrested. As these facts are disclosed and expanded into a social problem, the Ministry of Employment and Labour(MOEL) cancelled the approval for Changjo Consulting on October 19, 2012, investigated their unfair labour practices and union-busting activities, and transferred the case to the Prosecutors' Office. The Prosecutors' Office, however, ordered the MOEL to initiate additional investigation. The South Chungcheong Regional Labour Commission of the MOEL finished additional investigation efforts in February 2013 and retransferred the case to the Prosecutors' Office. It has been more than two years that the unfair labour practices happened but no one on the management side has been punished yet. The chair of the KMWU YPR local, Hong Jong-in, staged a 151-day sit-in demonstration on a 5m-high bridge from October 2012, demanding the disruption of union-busting efforts and the arrest of the president of Changjo Consulting.



Contracted security guards equipped with police clubs and shields use water cannon



Union member whose head was attacked by security guards

3. Application of provisions regarding the obstruction of business under the Criminal Act to oppress trade union officers and union activities

One of the most significant problems regarding the oppression of labour rights advocates has been lawsuits for damage claims from union activities and provisional seizure of union officials' assets filed by the management. Noteworthy is that late Choi Gang-seo, a union official at Hanjin Heavy Industries trade union, committed suicide in protest against the lawsuit for provisional seizure of properties filed by the company. His death shed light on the brutality of such a practice. As of January 2013, the total amount of damages claimed against the trade unions affiliated with the

KCTU stands at 130.6 billion won, and the properties of union officials that are under provisional attachment amount to 7.7 billion won. Trade unions at Ssangyong Motors, KEC, Hanjin Heavy Industries, Hyundai Motor Company, 3M, Valeo-Mando, Bosch Korea, Yoosung Enterprise, Mando, Korail and MBC faced such measures.

Lawsuits to claim damages for trade union activities are still used as a main means to oppress trade unions. Article 3 of the Trade Union and Labour Relations Adjustment Act stipulates, “No employer shall claim damages against a trade union or workers in cases where he/she has suffered damage because of collective bargaining or industrial action under this Act.” However, the astronomical numbers of claimed damage are attributable to the fact that almost all of strikes are recognized as illegal by the Court of Law. The Trade Union Act determines the legality of an industry action in terms of its agent, procedure, method and purpose, but the law is interpreted in a so limited manner that almost all industrial actions are determined illegal. For example, trade unions are banned from staging industrial actions against redundancies, movement of plants, outsourcing and other decisions on matters that are classified as being subject to management rights even though they have critical effects on working conditions. Also industrial actions are not allowed to be organized against the operations of public institutions, the allocation of budgets and other items that are regarded as belonging to the government’s national policies. The International Labour Organizations has issued several recommendations on the revision of the Trade Union Act. However, the restrictive provisions of the Trade Union Act and the dominant judgments of the Court of Law tend to deny the legitimacy of many industrial actions. The management in turn holds the trade union civil liabilities for the damages caused by trade union activities, restricting the activities to protect labour rights.

1) Claims for Damages from the Strike of Workers at KEC

Alleged Perpetrator: The National Police Agency, the management of KEC, and the Ministry of Employment and Labour

The KEC local of the Korean Metalworkers' Union had demanded the management maintain the number of full-time union officers after the implementation of the paid time-off system and the two parties had four sessions of special negotiations until March 30. As the KMWU national negotiation on full-time union officers did not obtain desired results, the local demanded the management open another session of special bargaining negotiation on April 5. However, the management rejected the request as it wanted to separate the negotiation on time-off systems from usual wage and CBA negotiations. The majority of KEC union members voted for a strike on May 27. The local had staged partial strikes until June 9 and entered an all-out strike from 21 to 30 September. During the strike actions, the management dismissed 31 union members and began a lawsuit to collect damages against 4 union officers. The company initiated an aggressive lock-out at its plant at 1:30 am on June 30 and ordered contracted safeguards to drive out the union members. At that time, a union officer tried to put himself on fire.

The management employed illegal replacement workers to continue manufacturing operations during strikes that met requirements for industrial actions. However, the management accused union members on strike of obstructing the business and manufacturing operations by force.

<Timelines of the Strike at KEC>

- Mar. 11, 2010: The KEC local of the Korean Metalworkers' Union had demanded the management maintain the number of full-time union officers after the implementation of the paid time-off system and the two parties had four sessions of special negotiations until March 30.
- Mar. 7: The issues related to the time-off system were put aside to the national negotiations of the KMWU, and the KEC local had collective bargaining negotiations on wages and other usual issues with the management. As the national negotiation did not go as planned, the union applied for arbitration from the National Labour Commission. The Commission rejected the application for the reason that the case cannot be subject to an industrial action.
- Apr. 5: The trade union demanded another special negotiation but the management rejected.
- May 27: KEC union members voted for a strike.
- Jun. 2: The Gumi Regional Branch of the KMWU, which had represented all trade unions in Gumi for a regional negotiation, applied for arbitration to the North Gyeongsang Regional Labour Commission. The Regional Labour Commission rejected the application for arbitration on the grounds that the issues are not subject to arbitration and that the discrepancy of positions of the two parties is too large.
- Jun. 9: The trade union had staged partial strikes for five days until June 9 and entered an all-out strike that lasted until September 30. During the strike actions, the management dismissed 31 union members and began a lawsuit to collect damages against 4 union officers.
- Jun. 30: The company initiated an aggressive lock-out at its plant at 1:30 am and ordered contracted safeguards to drive out the union members.
- Jul. 1: The management unilaterally requests the trade union to return vehicles even though the collective bargaining agreement is still valid.
- Sept. 30: The management maintains the lockout of the plant against union members and continues operations by employing replacement workers since July 2.
- Mid-Oct.: The KEC local requested the management to drop disciplinary actions and damage claim lawsuits against rank-and-file union members but the management rejected the request.
- Oct. 21: The KEC local initiated a sit-in at plant premises.

4. Deliberate state intervention to suppress workers in the public sector

On top of the various forms of trade union suppression rampant in the private sector, workers in the public sector are subject to double and triple restrictions simply because they work for public agencies. In the public sector, the employer who exerts actual control or influence over employment relations would be the government itself. In fact, the government controls all aspects of collective bargaining in individual public agencies through various systems such as

on budget planning

△guidelines of labour ca

ministries of CBAs before signing

△guidelines

△approval by

△audit of CB

△administrative guidelines and △evaluation of public agencies. According to TULRAA however, the government is not the employer obliged to engage in collective bargaining with employees, thus making all dispute actions taken against the government illegal. Furthermore, a system of “minimum services to be maintained” is applied to the public sector, especially in areas providing essential public and social services, resulting in broad limitation of the right to strike. In particular,

trade union laws in Korea has a much wider scope for minimum services to be maintained compared to the scope of essential services defined by the ILO in international labor standards. The Enforcement Decree of TULRAA includes most of the main services of essential public utilities in the scope of minimum services to be maintained, making it virtually impossible for workers employed in such utilities to exercise their right to strike. In this restrictive framework, trade unionists in the public sector have been subject to labor oppression in the form of disciplinary actions, dismissals and arrests, all actively orchestrated by the state.

1) Repression of the Korea Railway Workers' Union (KRWU) according to the arbitrary definition of its strike as illegal

Alleged Perpetrator: MOEL

The KRWU, a member of the Korean Public & Social Services and Transportation Workers' Union (KPSU), a KCTU affiliate, went on strike in 2009 for the legitimate reason of protesting the unilateral cancelation of the CBA by KORAIL, the employer. But state intervention turned the legitimate strike into an illegal one. Despite KORAIL's insincere attitude and unfair demands during negotiations, the KRWU had worked patiently and diligently to reach a labor-management compromise, only to be notified on 24 November that KORAIL was unilaterally cancelling the CBA. In a situation where it was no longer possible to continue labor-management dialogue, the KRWU went on strike as of 4 am on 26 November. Initial media coverage on the strike reported that relevant authorities such as MOEL, Prosecution and Police did not regard the strike as illegal³, but when President Lee Myungbak said on 28 Nov. that "it would be unacceptable to reach a compromise with the KRWU and let them stay on strike," the Supreme Prosecutors' Office changed its attitude the very next day and announced that it would investigate the legality of the strike.⁴

As a result, the KRWU strike was deemed illegal, leading to wide-ranging disciplinary actions including dismissals against strikers and union leaders. Union leaders were also charged with the crime of obstruction of business and sued for damage compensation. In the following months, KORAIL took disciplinary action against all those who took part in the strike, and 43 workers have been dismissed for going on strike in 2009 as of October 2012. (Out of 51 at local labor relations commissions and 36 at the central labor relations commission, 68 won administrative litigation cases invalidating their dismissal.)

- 19 March – inauguration of KORAIL CEO Heo Junyoung
- 23 April – 5,115 employees made redundant according to government plans to advance the railway sector
- 25 May – labor and management start collective bargaining and agree to "conduct negotiations once every two weeks," but only four negotiations were conducted in one year

³ It was reported that relevant authorities such as MOEL, Prosecution and Police had held a working-level consultative meeting on public security to analyze the KRWU strike and had concluded that the strike was not illegal. (Reference 12. *The Segye Ilbo*. 26 Nov. 2009. "Complete Halt of Freight Trains Creates Logistics Nightmare.")

⁴ Someone with the Supreme Prosecutors' Office commented that "in consideration of the fact that the all-out strike by the KRWU could seriously hurt the national economy and cause great inconvenience to citizens' lives, investigations will be launched without delay." (Reference 15. *The Hankyoreh*. 1 Dec. 2009. "Government Guilty of Violating Law and Principals." Reference 16. *Seoul Economic Daily*. 29 Nov. 2009. "Full-Scale Investigation on Illegality of Railway Strike.")

- 17 Nov. – Ministry of Land, Infrastructure and Transportation (MOLIT) establishes plans to guarantee 100% normal operation of trains in the metropolitan region (during strikes), and requests the Ministry of National Defense (MND) to supply military personnel
- 18 Nov. – MND rejects MOLIT's request for military personnel (on the grounds that "according to regulations on national crisis management, military personnel can only be deployed to replace strikers if the strike is illegal, which is not the case when it comes to the KRWU strike").
- 23 Nov. – (second) emergency meeting of relevant government agencies convened at the Prime Minister's Office
 - decision made at this meeting to deploy military personnel
 - decision made to consult with BH (Presidential Office) in considering the revision of regulations on national crisis management
- 24 Nov. – KORAIL unilaterally declares the CBA null and void
 - Chungnam Labor Relations Commission determines that the KRWU strike is legitimate (saying that KORAIL's action of sending in replacement workers during a legitimate strike is a breach of the CBA and constitutes unfair labor practice infringing the right to collective action)
- 25 Nov. – consultations between MOLIT and MND regarding early deployment of military personnel
- 26 Nov. – KRWU goes on strike while still complying with the rule of "minimum services to be maintained"
 - KORAIL presses charges against 189 unionists for obstruction of business
 - the government is reported to have examined the illegality of the KRWU strike (at the working-level consultative meeting on public security by the Labor Ministry, Prosecution, Police, etc.) but "concluded after analyzing the nature of the strike that it cannot be considered illegal." (The Segye Ilbo)
- 28 Nov. – President Lee Myungbak comments at a workshop on the advancement of public agencies that "it would be unacceptable to reach a compromise with the KRWU and let them stay on strike," and orders a hardline response to the strike
- 30 Nov. – Police ask for emergency arrest warrant to bring in 15 union leaders suspected of obstruction of business
- 1 Dec. – Chief Secretary to the Prime Minister chairs a Vice-Ministerial meeting of relevant government agencies
 - the government issues an official statement saying that it "deems the KRWU strike as illegal and will adhere to the law and principles in fairly and strictly responding to the strike" (official declaration of the strike as illegal)
- 4 Dec. – KRWU returns to work with no conditions attached
- 7 Dec. – KRWU asks for restart of collective bargaining
- 14 Dec. – KORAIL completely ignores KRWU's request and launches massive disciplinary actions against union leaders instead

2) Sabotage of the Korea Power Plant Industry Union (KPPIU) by the Prime Minister's Office and punitive dismissal of union members

Alleged Perpetrator: Prime Minister's Office, MOEL, Ministry of Knowledge Economy (MOKE)

The KPPIU, a member of the KPSU, a KCTU affiliate, was also classified by government agencies as a "militant trade union" and became a target of repression. According to the "Report on the Repression of KPPIU" published by the KPPIU in Oct. 2012, the Lee Myungbak administration followed up on its announcement of plans to advance industrial relations with instructions to "clamp down hard on the KPPIU" at the meeting on industrial relations chaired by the deputy secretary (Park Youngjun) of the Prime Minister's Office on 17 Sept. 2009 and the BH (Presidential

Office) meeting convened by the employment and industrial relations secretary (Lee Youngho) on 24 Sept. At the meeting, Secretary Lee Youngho reprimanded KEPCO and KOGAS for “failing to carry out existing plans to clamp down on trade unions, unlike KORAIL that is actively cracking down on the KRWU.” He went on to instruct public agencies to “remain uncompromising in exercising their managerial and personnel rights, and take a principled approach in dealing with trade unions.” In the following year, union busting went into full swing during the fifth elections of the KPPIU. According to the “Results of Labor Management Assessment of Power Generation Companies (gencos)” published by KEPCO, getting trade unions to secede from the KCTU was one of the criteria in assessing the business performance of subsidiaries, thus putting pressure on subsidiaries to stamp down on unions. For example, if the union at a subsidiary pledges to renounce KCTU membership during union elections, the subsidiary would be given extra credit, and if the candidate supported by the management is elected, the subsidiary would get double the allocated credit. Qualitative assessment also included judging the commitment of the top management and middle-managers in getting the trade union to secede from the KCTU. East-West Power Co. came in first in this category, thanks to its controversial “apple, tomato or pear” strategy.⁵ In the course of getting trade unions of KEPCO subsidiaries to drop out of the KCTU and establishing company-kept unions, MOKE and MOEL actively assisted KEPCO in busting the KPPIU by conducting real-time monitoring of the election and voting process. The Korea Employers’ Federation published a report in order to cover up the unfair labor practices of gencos, while the police provided full support to gencos, who went as far as to apologize to the police for failing to get the unions to vote in favor of KCTU secession at their general assembly. Even the labor secretary of the Presidential Office was mobilized to smooth the way for company-kept unions in obtaining certificates of trade union establishment. Gencos took things even further, refusing to sign off on completed tasks unless union members agreed to drop out of the KCTU, rejecting applications for leaves, forcing union members to relocate to remote business units, threatening workers to give up union membership, and even visiting the homes of unionists to blackmail their families. Gencos went as far as to demote the heads of departments with poor union dropout rates. As a result, KPPIU membership dropped by a whopping 81.3% from 6,714 to 1,251 members, and many union officials including the union president of Youngheung Thermal Power Plant were fired for “negligence of duty.”

* Current status of dismissed workers in KCTU affiliates

Affiliate	Dismissals	Remarks
Korean Federation of Construction Industry Trade Unions	1	
KPSU	435	
KGEU	135	
Korean Metal Workers’ Union	915	
Korea University Workers’ Union	9	

⁵ assessing the leftist inclination of union members by categorizing them as “red only on the outside or red both inside and outside”

Affiliate	Dismissals	Remarks
Korean Democracy and Federacy Workers' Union	11	
Korea Health & Medical Workers Union	10	
Korean Federation of Clerical and Financial Labor Unions	26	
Korean Federation of Private Service Workers Unions	14	
National Union of Media Workers	15	452 disciplined
KTU	33	
Korean Chemical and Textile Worker' Federation	17	
Total	1,621	

5. Repression against labour rights defenders resisting mass layoffs at Hanjin Heavy Industries (Repression against Hope Bus)

In 2011, tens of thousands of citizens participated in series of activities under the name “Hope Bus” resisting mass layoffs at Hanjin Heavy Industries (HHI). Back in 2003, HHI workers had stopped mass layoffs during which two workers died. When the company once again tried to renege on its promise, Kim Jinsuk, a laid off HHI worker, voluntarily climbed up Crane 85 in January 2011 and started a high-rise sit-in protest that lasted months. Crane 85 is the same crane late Kim Joo Ik committed suicide from in 2003. Citizens, no longer wanting to lose workers and hoping to put a stop to mass layoffs, voiced out “Stop to mass layoffs” and “We are hope”, and gathered at HHI (located in Busan) from all around the country in buses of hope (“Hope Bus”) to meet HHI workers and Kim Jinsuk. On 11th June 2011, the first Hope Bus took off, and until October that year, total of 30,000 people participated in five series of Hope Buses. During the process, the police inappropriately managed the rallies, blasted tear gas liquid and water cannons at participants, used violence, indiscriminately summoned or arrested citizens, rampantly tracked phone and bank records of all participants and arrested human rights defenders who were monitoring rights violations. The police also infringed human rights during their investigation, from issuing arrest, search or seize warrants against Hope Bus organisers, to electronically tailing them to use real-time mobile phone and computer location tracking devices. After the indiscriminate summoning of around 300 activists by the police, prosecutors then indicted a large number of citizens, levied heavy fines (300 million KRW litigation fees expected) and even appealed against any suspension of ruling, exoneration or decrease of fine. Presently, court proceedings against participants who have declared disobedience against legal repression are still under way, as well as lawsuits for compensation for damages and injuries, raised by the state, for those occurred during the violent and forceful crackdown on rallies. The prosecutors also continue to indict activists.

1) Obstructing and violently and forcefully dispersing Hope Bus rallies (Police violence, barricades, isolation)

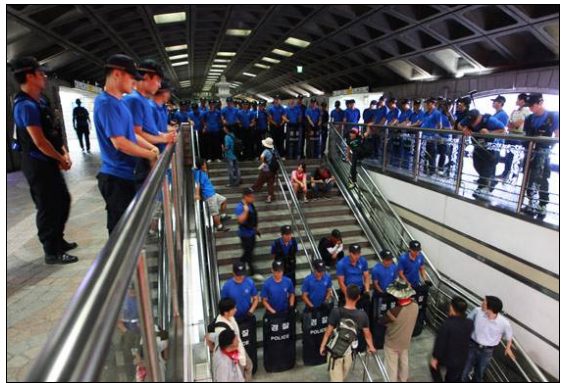
Alleged perpetrator: The National Police Agency

During the second Hope Bus on 9th July 2011, participants had scheduled a march from Busan Station to HHI but were delayed due to obstruction by the police. The police then set up a barricade nearby HHI at around 11pm and prevented participants from marching to their destination, which was lawfully registered. Participants demanded the police guarantee a peaceful march to Crane 85 where Kim Jinsuk was protesting, but at 2:30am on 10th July, the police ordered the protestors to disperse and then forcefully suppressed the rally using tear gas. The police tried to contain the demonstration not by dispersing the rally but rather through use of force including arrests.

There were no attempts to ensure safety. Not only Hope Bus participants but also bypassers were endangered by the indiscriminate and intentional police violence. People incapacitated by the tear gas were arrested en masse. The disabled, teenagers, those who had fallen to the ground were arrested and even those who had backed into alleys were chased and detained (around 50 persons). That day, the police deployed 7,000 riot police constituting 93 squadrons and ten sets of water cannons. The water cannons used 0.5% concentrate tear gas liquid - 4t of water and 20g of tear gas powder (as reported by police). The police even sprayed tear gas liquid directly onto the faces of demonstrators, and it was found that PAVA – safety not verified - was used.

Many participants and citizens were put at great inconvenience and suffered violence due to the rampant evidence collecting, excessive traffic blockage, random search and questioning, and isolation of participants by the police. In particular, during the third Hope Bus, the bridge to Youngdo, where HHI is located, was blocked. Places where barricades could not be set up were blocked directly by riot police, and all passers had to show their ID. Only those who were verified to be Youngdo residents were allowed to pass. Thus, rally participants and citizens were stuck in their buses for two hours. Those who resisted were surrounded by police and detained for hours. Many were forced to walk for hours to their destination, after being prevented from using public transportation and having to detour to streets without police check points. Furthermore, evidence was collected from people who followed routes guided by the police. When conservative groups blocked roads and threatened the protestors, nothing was done.

Rally registrations submitted to the police for the five series of Hope Buses were all rejected. According to the Republic of Korea Constitution, only registration is needed for rallies - however, the police has been approving or disapproving them - stating irrational reasons and procedures when disapproving them or demanding additional documents. As a result, most demonstrations were deemed unregistered or illegal, leading to their obstruction and forceful dispersion. Many participants have been prosecuted for disobeying dispersion orders or obstructing traffic. (In the case of fourth Hope Bus, police rejection of rally and march registrations submitted by the Korean Metal Workers Union is still pending at the Supreme Court, where the registration's due process and accusation of breaching traffic laws are being contested.)



2) Indiscriminate police summoning, litigation for damage compensation and vengeful notifications

Alleged Perpetrator: the National Police Agency, the Prosecutor's Office

After the first Hope Bus, around 150 participants were indicted for trespassing, violating the Assembly and Demonstration Act, disobeying dispersion orders, obstructing traffic, obstructing justice and other violations. Total fines levied against them are expected to amount to 200 million KRW. Also, subpoenas were sent indiscriminately to many participants (365 persons according to police reports), simply on the basis that the police had images of them (so-called photographic evidence), and warrants were issued for analysis of biological evidence. Those who refused to respond to the subpoena or were unable to do so due to work were visited or received phone calls at their homes or their workplaces and were forced to cooperate. There were many who had been issued arrest warrants regardless of whether accusations were properly established.

Presently, most participants fined as a result of summary indictments have applied for formal court proceedings and are refuting the injustice of the prosecutions against them at court. Those who have been formally indicted have taken their cases to the constitutional court to contest the constitutionality of ban on night-time demonstrations, disobedience to dispersion orders, obstruction of traffic and use of real-time mobile phone location tracking.

In the case of Kim Se Gyun, professor of Seoul National University, and 'A', a school teacher, the police sent 'Notification of crimes committed by civil servants' to the Ministry of Education and relevant district office of education, at which the institutions bestowed disciplinary measures, even though the two have not yet received their final sentences. Also, the state claimed compensation amounting to 15 million KRW from some of the indicted participants and also from 'World without Irregular Workers Network'.

3) Violent detention and indictment against 'Police Human Rights Violation Monitoring Team'

Alleged Perpetrator: the National Police Agency

Because police violence against Hope Bus was so severe, human rights groups monitored any rights violations. Activities of the 'Police Human Rights Violation Monitoring Team' involved wearing labeled vests, notifying police officers when there were acts of unlawful violence, and filming and recording those acts. In the process, some human rights activists were arrested for obstruction of justice and were indicted for violating the Assembly and Demonstration Act, disobeying dispersion orders and obstructing traffic.

On 8th October 2011, during the fifth Hope Bus taking place at the Busan International Film Festival (BIFF) plaza (located in Nampodong, Busan), Hoon Chang, an activist working for Sarangbang Group for Human Rights, was arrested whilst monitoring police human rights violations. He was arrested for obstructing justice while moving to another location where rights were being violated as riot police and demonstrators clashed. At that time, a police officer from

the Riot Squad II of Busan Metropolitan Police Agency with surname of Moon, argued that Hoon Chang had used violence against another police officer standing right in front of him. However, Hoon Chang was later ruled innocent at court. The judges decided that the testimony from the police was inconsistent and thus obstruction of justice could not be proven. On 12th June 2012, the court recognized that Hoon Chang was indeed involved in activities of 'Police Human Rights Violation Monitoring Team'



An activist from 'Police Human Rights Violation Monitoring Team' is arrested on 8th October at the BIFF plaza, Nampodong

4) Surveillance over Hope Bus organisers and unlawful collection of personal information

Alleged Perpetrator: the National Police Agency

The police tracked the locations of 4 persons believed to be organisers of Hope Bus by using mobile phones and computers, and conspicuously tailed and illegally monitored them. Such actions were confirmed through police investigation reports that it had tracked real-time the locations of the four during the investigation, and also through notifications sent to them by Youngdo Police Station. However, such real-time location tracking falls under (f) of Article 2 Clause 11 on "communication confirmation data" of Protection of Communications Secrets Act, and according to Article 13 of the law, any prosecutor or any judicial police officer shall obtain permission from the competent district court before receiving location information from authorized telecommunication operators. The police maintain it had followed due process; however, its actions constitute eavesdropping and are thus illegal. The constitutionality of such unlawful acts and surveillance are being tested at the Constitutional Court. Also, mobile phones of those arrested have been confiscated and the records have been probed into using digital forensic analysis. The police looked into whether there were any photos from the demonstrations, or whether the phones were used in the wide vicinity where the rallies took place, and whether any money was sent to Hope Bus bank accounts. If, in the process, the phones or the bank accounts belonged to family members, the police collected personal information and financial records of a third party. The internet community of World without Irregular Workers Network was seized and searched, as well the emails of several website managers.

III. Recommendations by the International Community

The Committee on Freedom of Association (CFA) of the ILO has recommended to the Korean government 30 times in total as the followings.⁶

Issue	Recommendations	Current Status
① Union Pluralism	Full Implementation	Union pluralism at enterprise level introduced but right to collective bargaining is restricted under the forced unification of bargaining channel
② Fundamental Labour Rights of Public Officials and Teachers	Full guarantee of 3 basic labour rights	Special laws which restricts fundamental rights for those workers were introduced
③ Prohibition of the third party intervention	abolition	Abolished in 2006
④ Prohibition on political activities of trade unions	abolition	Abolished in 1998 but political activities are still repressed by the Act on Political Fund
⑤ Wage payment for full time union officials	To leave as a matter of free and voluntary negotiation between labour and management	Time-off system which has upper limitation and multidirectional restriction on union activities was introduced
⑥ Compulsory arbitration in essential services	To define essential services in strict sense	Minimum service system was introduced
⑦ Union membership for the unemployed	Full recognition	Recognised by the case law but denied by the government authority
⑧ Political strike	Political strike with economic background should be permitted	denied
⑨ Expansion of the coverage of labour laws to the workers in disguised employment relations	Full guarantee of fundamental labour rights	Non-recognition of union and overuse of administrative measure to restrict those rights
⑩ Fundamental Labour Rights for in-house subcontracted workers	Full guarantee of fundamental labour rights	Non-implementation and continuous repression
⑪ Fundamental Labour rights for Migrant Workers	Full guarantee of fundamental labour rights	Continuous repression including targeted crackdown and deportation
⑫ Imprisonment of union officials	To minimise imprisonment and criminalization with the article 314(Obstruction of Business) of the Criminal Code	Continuous repression
⑬ Damage claims and provisional Seizure of union asset	Should be restricted	Not implemented

⁶ <http://www.ilo.org/dyn/normlex/en/f?p=1000:20060:0:FIND:NO::>

IV. Recommendations

- Reversal of disciplinary actions and reinstatement of dismissed workers for those disciplined or dismissed for championing labour right
- Repeal or revision of the clause on the crime of obstruction of business (Article 314 of the Criminal Code) in order to protect labour rights champions from charges of obstruction of business, damage claims and provisional seizures. Immediate withdrawal of damage claims by the state and companies against past trade union activities.
- Acknowledgement of the trade union establishment report submitted by the KGEU, and withdrawal of plans to reject the trade union establishment report submitted by the KTU. Government guarantee of the fundamental workers' rights of teachers and government employees as repeatedly recommended by the ILO and UN Committee on Economic Social and Cultural Rights. Revision of TULRAA, which fails to meet international labour standards and is misused as the legal basis for suppressing labour rights.
- Immediate ratification of the core conventions of the ILO and immediate compliance with the recommendations of the ILO Committee on Freedom of Association in order to guarantee the activities of labour rights champions.
- Immediate investigation of acts of violence perpetrated by private security firms and punishment of the culprits. Improvement of the legal system in order to prevent outsourced security guards from interfering in industrial relations matters.
- Withdrawal of indiscriminate subpoenas, investigations and indictments by the police of citizens involved in activities to champion labour rights such as the Hope Bus campaign in support of workers protesting unfair dismissals. Establishment of government plans to stop the police from violating the privacy of citizens by collecting personal information and spying on them and to stop and prevent the police from excessive subpoenas, arrests and detentions.
- Immediate correction of current practices of policing rallies and demonstrations. Such practices include 1) bombarding organizers of demonstrations with requests to modify their plans or banning the demonstration altogether, which is tantamount to a de facto prior approval system 2) ordering and forcing demonstrators to disband if they have failed to report the demonstration in advance 3) disrupting demonstrations by penning demonstrators with lines of huge vehicles, preempting demonstrations by getting police-friendly groups to "squat" on the demonstration site, demanding demonstrators to disperse using loudspeakers, etc. 4) constantly collecting photograph evidence and permanently posting on-site surveillance officers to threaten and detain demonstrators, and using water cannons and tear gas to attack and arrest demonstrators in the process of breaking up demonstrations. These practices should be stopped so that the freedom of assembly as part of efforts to champion human rights is guaranteed.
- Immediate withdrawal of damage claims filed against the Hope Bus campaign. Full-scale review of the systems that oppress workers by facilitating massive layoffs and spreading irregular employment

Housing Rights Defenders

Won-ho LEE / Truth-finding Commission on Yongsan Disaster
Seon-hee LEE / People's Solidarity for Participatory Democracy

I. Background

The Republic of Korea has grown rapidly and became one of the largest economies in the world, but its protection of housing rights for the people has been inadequate, considering its economic level. The government has proposed the 'Housing Redevelopment Project' as a primary policy to realize housing rights, but the project has grossly violated housing rights instead of protecting it.

The suppression of housing rights defenders has occurred in cases of forced evictions without appropriate compensation or provision of housing as a part of redevelopment projects. The frequent types of suppression are excessive use of violence by the police and security guards and arrest and punishment of the defenders. In this section, we report on three specific suppression cases - 1) suppression of responses to the Yongsan Incident 2) suppression of responses to forced evictions 3) suppression during executions of forced evictions by proxy ordered by the local and central government.

II. Human Rights Situation

1. Ex-post Suppression of Involvement in Yongsan Incident

In January 2009, five tenants and one police officer were killed during the protest against force eviction and the police crackdown in Yongsan, a central part of Seoul in the Republic of Korea. The fundamental cause of the Yongsan incident is the Republic of Korea's development projects and subsequent forced evictions. The evictees and people who supported their cause protested against forced eviction without proper compensation and relocation plans, and the private security forces that used violence against them. Unfortunately, some of them were injured, arrested and even died during their struggle and physical suppression by the SWAT. Ten people were arrested for

protesting of whom eight people have received heavy penalties of 4~5 years imprisonment. Of these, one person (Mr. Kyung-Nam NAM) is still serving time in prison. Also, after the incident, during the process of truth-finding and demanding a reconsideration of the development project, five people have been arrested and released, and 100 people have been indicted and stood trial.

1) Abusive indictment and overly severe sentences

Alleged Perpetrators: Mr. Suk-gi KIM (Former Commissioner of Seoul Metropolitan Police Agency. Nominee for Chief of the National Police Agency at the time of the incident), Mr. Jun-kyu KIM (Prosecutor General), Mr. Seung-tae YANG (Judicial panel (Yang, Seung Tae, presiding judge of the Supreme Court))

Eight evictees who participated in the protest have been arrested and received heavy sentences of 4~5 years, but none of the police commanders who gave orders for forceful suppression have taken legal responsibility for their actions. For the last 4 years, the civil society and religious community have continuously asked for the clemency of the convicted, but after years of disregard, it was only in January 2013 that the former President finally pardoned those whose prison terms were near expiration anyway, mainly in order to calm down the public opinion about the pardoning of the President's cronies who were serving time for corruption before he left the office. Even so, one activist was not pardoned under the charge that he commanded the protest against the forced eviction.

2) Restitution of the insurance benefits for the people injured by the police

Alleged Perpetrators: Mr. Jong-dae KIM (Chairman of the Board of the National Health Insurance Service), Mr. Sang-hun HAM (Associate Judge, Administrative Court)

On May 2012, the National Health Insurance Service filed an administrative lawsuit against the people injured during the Yongsan Incident to retrieve the insurance benefits received to treat their injuries. On March 2013, the administrative court ruled that the injured should return the insurance benefits to the National Health Insurance Service on the basis that the injuries were from the 'illegal' protest.

3) Arrest and pecuniary punishment of the Executive Chairman of the Truth-finding Commission on Yongsan Disaster and indictment of activists of the commission

Alleged Perpetrators: Mr. Suk-gi KIM (Former Commissioner of Seoul Metropolitan Police Agency. Nominee for Chief of the National Police Agency at the time of the incident), Mr. Jun-kyu KIM (Prosecutor General), Judicial branch (Judge Ji-ho SUNG and others)

During the campaign to find truth about the incident and to demand a reconsideration of the development project, the executive chairperson and members of the Truth-finding Commission on Yongsan Disaster (In total 5 people : Rae-gun PARK / Jong-hoe LEE / Tae-sun LEE / Yeong-hee HANG / Sam-rae JEONG) were detained and released after 3~12 months. The court sentenced some of the activists from the Commission to probation, ordered fines and community service. The prosecution is continuously suppressing the Commission by abusing its indictment right. Such

suppression points to the dark side of the economic revival policy which includes development projects as a major component. It is also a form of retaliatory suppression that interferes with the efforts to reshape the development policy and to reveal the truth about the abuse of power and violence committed by the state.

2. Suppression of responses to forced evictions

Forced evictions are executed once the development union, primary actor of a development policy, completes the required procedure. During the procedure, the prospective evictees have no voice in decision-making process and they are not given the opportunity to appeal against human rights violations. Due to the readiness and ease with which the forced eviction is processed, forced evictions have been common occurrences. Also, the level of violence witnessed in the execution of forced evictions is dangerously high as evictions are mostly carried out by the security guards of companies hired by the development union. Once the union signs a contract with a security company, security guards are stationed in development project areas and they use threats and violence against the residents and housing rights defenders to force them to leave the area. Despite the apparent illegality in the actions of private security guards, no appropriate measures are taken by the police against such illegal conduct. Instead, those who resist forced evictions and violence of private security guards are often taken to the police station for unlawful interference with the execution of business or public duty and are frequently subjected to indictment.

1) Neglecting security guards' use of violence and frequent taking to the police station and indictment

Alleged Perpetrators: The National Police Agency, Prosecutor's Office

The use of violence by private security guards in development areas is planned and organized for the purpose of forcing evictions. Even when such violence is punished, security guards receive light sentences or they are held only partially responsible for their actions, with the evictees sharing the legal blame. The evictees who are forced to leave and become injured in the process often receive tougher sentences based on charges such as unlawful interference with business or public duty and trespassing. Of the people arrested between 1 January 2008 and 30 August 2011 in cases of forced evictions (excluding the Yongsan Incident), the number of evictees and activists is 111, but the number for security guards and staff from the union is only 14.¹

¹ A number of protesters, who were accused, charged or reported by the construction companies, development union between 1 January 2008 and 30 August 2011.

Site	Period	Number of Arrested People	Applied Charges
Heung-in Deok-un Shopping District	March 2008	33 (1 detention, 32 without detention)	Obstruction of Business
Sky Apartment at Jeong-reung	May 2008	3 (3 without detention)	Violating Assembly and Demonstration Act
Wangsipri Newtown District 2	December 2008	19 (19 without detention)	Obstruction of Business
Former Pfizer Company Site	March 2010	3 (3 without detention)	Violating Assembly and Demonstration Act
Guro, Geumcheon streetscape project	March 2010	14 (14 without detention)	Resist eviction

3. Suppression of human rights and administrative execution by proxy against Neong-ma Community

Since its establishment in 1986, Neong-ma Community has been helping people such as the homeless, the poor, and ex-convicts who work by collecting recyclable materials by providing them with support until after they are able to live on their own. On December 2010, when Gangnam-gu (a local government – one of the wealthiest areas of Seoul) started an administrative execution for the maintenance of the lower part of a bridge, the members of the community lost their residence. While looking for an alternative place to stay, members of the community installed containers, tents, and vinyl greenhouses in the yard of the Tan-cheon sewage treatment center in Daechi-dong, Gangnam-gu on 28 October 2012. Soon after, the Seoul Metropolitan Government issued an administrative execution by proxy notice to inform the members to remove the installed facilities. In the process of the notified administrative execution by proxy by the Gangnam-gu Office, human rights violations such as physical attacks, cutting the electricity and water supply, restriction of access to the location, and forbidding prohibition of bringing in food took place, and the members' housing rights were ignored (no alternative or temporary housing has been provided yet). While an administrative execution by proxy only warrants the power to remove the illegally installed facilities and not the power to force evictions on residents, the local government is abusing the power to force evictions.

1) Confinement, assault, and indictment of Neong-ma Community members during the 1st administrative execution by proxy

Alleged Perpetrators: Employees of the Gangnam-gu Office and private security guards hired by companies selected for the administrative execution

On 15 November 2012(between 4am and 5am), the Gangnam-gu Office carried out its first administrative execution by proxy in the occupied yard of the sewage treatment center without prior notice by bringing in 190 people including employees of the office and security guards, 2 excavators, and 1 dump truck. In the process, they confined 29 members in the container who tried to get out of it, arrested some of them, and damaged the container, vinyl houses, tents, food storage, and cooking facilities using the excavator. After that, the Gangnam-gu Office restricted the bringing of supplies such as water, food, and medicine into the yard, and the community members had to live in miserable conditions (e.g. drinking rain water). Some hired private security guards even assaulted two members as they encountered them at the entrance of the yard even though they were not in the process of carrying out the administrative execution. The administrative execution by proxy was illegal as it did not observe due process, and the assaults and other human rights violations by the employees of the Gangnam-gu Office and security guards were beyond the scope of the administrative execution by proxy. While trying to protect their housing rights, the community members were assaulted and indicted, with their life and health threatened.

Gwangjin Doosan We've Apartment	April 2010	2 (2 without detention)	Violating Assembly and Demonstration Act
Redevelopment Project Cheonwang-dong 12	June 2010	11 (11 without detention)	Housebreaking

2) Assault of 10 Neong-ma Community members during the 2nd administrative execution by proxy

Alleged Perpetrators: Employees of the Gangnam-gu Office and private security guards hired by companies selected for the administrative execution

On 28 November 2012, Gangnam-gu Office carried out the second administrative execution by proxy. Around 5am, the employees of the office and security guards, a total of 100 people, entered six containers in the yard, dragged out 23 members with bare feet in a cold weather, and physically assaulted 9 of them. This execution was not carried out with any notifications or warrants, and the properties such as containers, vinyl greenhouses, tents, food supplies, and cooking facilities were taken out by dozens of trucks. In the first administrative execution, a notice or warrant was not properly issued, and in the second administrative execution, a notice letter was not even delivered. Fully knowing its illegality, the Gangnam-gu Office carried out the second administrative execution, and the private security guards violated the human rights of the community members with actions such as assaults and confinement. However, the police abetted such violations by not taking any actions against them.

III. Recommendations by the International Community

The UN Committee on Economic, Social and Cultural Rights has expressed its concerns and made recommendations with regard to housing rights to the government of the Republic of Korea through its concluding observations in 2001, 2008 and 2009. In all three concluding observations, the committee made recommendations with regard to forced evictions, making it clear that forced evictions should be considered as the last resort and that forced evictions without relocation plans should be banned.

* Recommendation from the UN Committee on Economic, Social and Cultural Rights to the Republic of Korea
– Issues related to forced eviction

Concluding Observations of the Committee on Economic, Social and Cultural Rights, Republic of Korea 17 December 2009 E/C.12/KOR/CO/3	<p>The Committee recommends that forced eviction be used only as a measure of last resort and that no project of development or urban renewal be carried out without prior notification and access to temporary housing for those affected so as to avoid recourse to violence, such as that seen in the Yongsan incident.</p> <p>The Committee urges the State party, as a matter of priority, and in line with its general comment No. 7 on forced evictions:</p> <ul style="list-style-type: none">(a) To ensure that persons forcibly evicted from their homes be provided with adequate compensation and/or offered relocation;(b) To undertake public debate and meaningful consultations with affected residents and communities prior to the implementation of development projects and residential environment clearance plans;(c) To ensure that new housing sites are provided with basic services and utilities, such as drinking water, electricity, washing and sanitation facilities, and easy access to schools, health-care centers and transportation;(d) To provide detailed information on forced evictions with data disaggregated on an annual basis by gender, age and households in its next periodic report.
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<p>Concluding Observations of the Committee on Economic, Social and Cultural Rights, Republic of Korea</p> <p>11 May 2001</p> <p>E/C.12/1/Add.59</p>	<p>25. The Committee regrets the lack of accurate information concerning the number of forced evictions and the specific conditions under which they can occur, in accordance with the Committee General Comment No.7. The Committee is also concerned that victims of private construction projects are not provided with compensation or temporary lodging, unlike private homeowners who are evicted as a result of public projects. Moreover, the Committee is concerned about the affordability of housing for lower income groups, especially the vulnerable and marginalized groups; about the use of "vinyl houses" for dwellings, which pose grave risks to their dwellers; and about the increasing number of the homeless.</p> <p>41. The Committee recommends that the State party establish a focal point within the Government for dealing with complaints or appeals for assistance on housing matters. It recommends that protection be provided, such as compensation and temporary housing, to victims of forced evictions resulting from private development projects. The State party should also ensure that adequate housing is available to members of vulnerable or marginalized groups. Moreover, the State party should take immediate measures to assist all those who are homeless or living in exceptionally sub-standard conditions, such as "vinyl houses".</p>
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IV. Recommendations

- Open a truth-finding investigation on the deaths of Yongsan Incident and prosecute Mr. Suk-gi KIM, a former Commissioner of Seoul Metropolitan Police Agency.
- Strengthen the legal measures against the use of violence by private security guards in redevelopment areas and make precautionary measures to prevent such violence.
- Release all human rights defenders who were arrested for advocating housing rights. All housing rights defenders who were indicted and punished should be granted amnesty and rehabilitation.
- Take responsibility for the injuries occurred in the process of suppressing protests, withdraw the restitution of the insurance benefits, and offer proper medical aids and compensations.
- Enforce the recommendations made by the UN Committee on Economic, Social and Cultural Rights in 2009 that forced eviction should be used as the last resort.
- Take legal measures such as enacting 'Forced Eviction Prohibition Act' to prevent human rights violations against housing rights defenders
- Drop the case on Neong-ma Community members and provide relocation or housing plans while prosecuting those who assaulted the members
- Make efforts to improve the system of administrative execution by proxy so that it is not abused to carry out forced evictions

Environmental Rights Defenders

Boram BAE / Green Korea United

Gye-sam LEE / Miryang Committee Against 756kV Power Transmission Tower

I. Background

Recently in the Republic of Korea, there have been continuous controversies and environmental disputes over the Four Rivers Project, dams, nationwide construction of golf courses, and plans for building various new power plants including nuclear power plants. During the process of various construction projects, conflicts and disputes have sharply divided the residents that try to protect their rights to live and activists of environmental groups on the one hand, and the government and companies on the other. As all sorts of developmental projects were forcibly promoted without the social controversy about the validity of the projects being sorted out, activists and residents have tried to stop the projects. The government and business operators, however, exercised violence or recklessly filed lawsuits, criminal charges and complaints against them.

Such violence, charges and complaints, and excessive administrative sanctions and reactions by the government and business operators were means of oppressing the environmental defenders and residents. Consequently, environmental rights defenders have been faced with financial hardships, as they had to go through civil suits including various compensation suits claiming astronomical sums of money and were charged and fined with obstruction of official businesses, interference with official work, and noncompliance with eviction orders, and this, in substance, resulted in diminished field activity.

II. Human Rights Situation

1. Suppression on the Activity against the Four Rivers Project

In 2010, the government of the Republic of Korea announced the Four Rivers Project, which essentially calls for riverside development and construction of weirs (small dams). As soon as the

project was announced, it was faced with strong public opposition due to concerns about ecological damage and the validity of the claims made regarding the economic benefits the project would bring. Nevertheless, the government ignored increasing public opposition and proceeded with the construction by illegally pushing through the project's approval.

As the environmentally destructive construction work of the Four River Project was carried out, which aimed to develop the riverside of the four main rivers of the Republic of Korea by constructing 16 weirs and straightening the channels, numerous local residents and environmental activists carried out activities to stop the project. In the process, the activists and local residents were severely oppressed.

1) Claim for Compensation for Damages from a Statement in Support of Ipo-Bo (Weir in Ipo) Occupation Protest

Alleged Perpetrators: Constructors of Ipo-Bo (Daelim Industrial Co. et al.), the Judiciary

In the summer of 2010, three South Korean environmental activists climbed up the construction site of Ipo-Bo in Namhan River, Yeosu, Gyeonggi Province, to let people know of the injustice of the Four Rivers Project and the destruction of the river's ecosystem. They went into an occupation protest for 41 days requesting suspension of the Four Rivers Project. Accordingly, environmental groups and religious groups organized a statement, a press conference, and visits to the site in support of the protestors in Ipo-Bo and continued on with their activities to socially inform the public about the problems of the Four Rivers Project.

In response, the constructors of Ipo-Bo Four Rivers Projects filed a civil suit for damages against the environmental organizations including Korean Federation for Environmental Movement (KFEM), insisting that the statement made by the KFEM in support of the environmental activists encouraged and connived the protest. The first court concluded that "it is considered to be an action of aiding and abetting, since the KFEM actively helped the protestors by delivering their position externally and informing them in detail."

This decision was indicating that the environmental groups are responsible for compensation just because they made a statement or a press conference in support of assemblies or protests, in which they were not directly involved with. It was the court's unreasonable decision in an attempt to consider the environmental groups' routine solidarity activity and support statement as subject to punishment and stop their activities altogether. Fortunately, the appellate court overruled the verdict of the lower court and ruled that "the Korean Federation for Environmental Movement that supported the protest against Four Rivers Project has no responsibility to compensate."

2) Merely Speaking Against the Four-River Project is a Violation of the Public Official Election Act

Alleged Perpetrators: The National Election Commission, the Prosecutor's Office

Around the time of the local elections in June 2010, the National Election Commission brought multiple lawsuits against the environmental activists who had been raising issues of the Four Rivers Project for violating the Public Official Election Act. In case of the former Secretary-General of the

Green Korea United, Mr. Seung-Guk CHOI, he was indicted for violating the Public Official Election Act for making a comment implying that candidates who opposed the Four Rivers Project should be elected in the local election. He was convicted and had to pay a fine of 500,000KRW (around 500USD). Also, the Secretary-General of Gyeonggi Federation for Environmental Movement, Myung-Kyun AHN, and the director of Suwon Federation for Environmental Movement, Dong-Bin JANG, was indicted on allegations of violating the Public Official Election Act during the election period for conducting a petition campaign against the Four Rivers Project. Fortunately, they were found not guilty by the court.

Such unreasonable accusation is an attempt to restrain the environmental groups that routinely conduct ecosystem protection activities by monitoring government policies and maintaining a critical stance about them. For the last few years, activities against the Four Rivers Project have been the main project of South Korean environmental groups regardless of elections; and the groups have routinely conducted on-site investigations, public campaigns, collected petitions, and written to the press. However, the National Election Commission is restraining the environmental groups' activities insisting that such ordinary and inherent activities of civil organizations are helping some part of the opposition parties by inspecting and criticizing government policies.

3) The Korea Water Resources Corporation sued Professor Park Chang-Keun who criticized the Four Rivers Project

Alleged Perpetrators: Korea Water Resources Corporation(K-Water), The Ministry of Land, Transport and Maritime Affairs

At the end of June 2012, the Korea Water Resources Corporation(K-Water) accused Professor Chang-Keun PARK of Kwandong University, who had been constantly criticized the Four Rivers Project, of spreading false information and sued him for libel. Professor Park had been raising the issues of Four Rivers based on his professional knowledge and putting continuous efforts in stopping the Four Rivers Project that destructs rivers and ecosystems. In particular, the timing of the K-Water and the Ministry of Land, Transport and Maritime Affairs filing charges against the professor coincided with Professor Park's raising of the issues regarding the Four Rivers Project's fatal problems with expertise such as the stability of weirs, fluvial abrasion process (the phenomenon in which the river bottom could caved in by the fast flow of the water), and the erosion of the tributaries - through the research group named River of Life. Later in November 2012, the Ministry of Land, Transportation and Maritime Affairs also accused Professor Park of spreading false information and sued him for libel. Professor Park was cleared by the prosecution on 7 January 2013 and 19 February 2013 respectively. This was a result of proving that Professor Park's raising issues of the Four Rivers Project was not the spread of false information as the K-Water and the Ministry of Land, Transport and Maritime Affairs insisted. Such charges and complaints of K-Water and the Ministry of Land, Transportation and Maritime Affairs can only be explained to be a measure to suppress the activities of civil experts and activists that are critical of the Four Rivers Project.

4) Stigmatization and Inspection on the Four Rivers Project Opposition Groups, so-called

‘Disobedient External Forces’

Alleged Perpetrators: The National Intelligence Service, the Public Service Ethics Office of the Prime Minister’s Office

On 5 April 2012, the ‘Report on the Results of the Inspection on Carrying Out the Four-River Refurbishment Project (4 pages)’ written by the Public Service Ethics Office’s Team 1 on 10 August 2009 was released. This document contained main pending issues, problems, and the present condition of the Four River Project’s opposition activities. Particularly, it forecasted trends of opposition organizations that are against the Four Rivers Project in detail. In the section ‘Results Report on Four Rivers Main Pending Issues and Problems (Page 2, 3)’, they mentioned ‘civil appeals in Yang-pyeong Du-Mul District due to the accommodation of private land and forfeiture of farming land’ and wrote that ‘there is a concern for liaison strike once the external forces penetrate into the important areas in which civil appeals are expected to arise.’ Subsequently, they wrote that ‘there is still a possibility that disobedient external forces will come into the regions where civil appeals are expected to rise and struggle in solidarity.’

This document clearly proves that the conservative media outlets competitively stigmatized the environmental groups and religious groups, and activists that are against the Four Rivers Project as ‘pro-North Korea’, ‘disobedient external forces’ at the behest of the government’s inspection and order. This is a systematic and explicit act of oppression of the environmental groups.

2. Suppression of the Activities against Construction of Golf Courses in Gangwon Province

There are 84 golf courses planned for construction in Gangwon province. Over the last few years, golf course construction plans centered on the highway interchange have surged as various regulations on the construction of golf courses were loosened and a highway connecting Seoul to Yangyang was opened in Gangwon province. In this process, Gangwon province and local governments pushed ahead the approval of golf courses and resulted in the local residents’ opposition and social controversy.

The victims of Gangwon golf courses had been searching for a way to coexist with community and natural ecosystems by shifting to eco-friendly and organic farming. Hence, building golf courses in this region is an obstruction of the residents’ right to live and the destruction of ecosystems, posing serious threats to forests, endangered species, drinking water, and soil through contamination of pesticides. The residents who are aware of these issues have been fighting against the construction of golf courses for 4-5 years, and for some for more than 10 years. In this process of struggle, not only are they exposed to direct violence by the constructors but also subject to damages and criminal suits.

1) Charges and Complaints on Noncompliance with Eviction Order, Regarding Civil Appeals within Provincial Office, District Office on Construction of Golf Courses

Alleged Perpetrators: Gangwon Province Regional Government, Hongchun District Office, Gangneung City

The ones responsible for issuing approvals for golf course construction in Gangwon province are local governments such as Gangwon Province Regional Government, Hongchun District Office, and Gangneung city. When Gangwon province held an agenda consultation regarding approvals and authorized the enforcement plan the very next day despite the continuing controversy regarding illegal approvals, victims of Gangneung CC Golf Course went on a camp-out demonstration in front of the Gangwon Provincial Government office requesting a dialogue with the official responsible for the approval. The residents had a press conference afterwards insisting upon a dialogue with the responsible official and the governor, and called for the withdrawal of Gangneung CC approval.

As activities of residents, such as the press conference and request for a dialogue, continued, Gangwon Province requested for a facility protection by the police. As a result, the key members of the residents that led the opposition activity faced criminal charges on the grounds that the press conference and protest visits on 4 November 2011 were applicable to violation of the Assembly and Demonstration Act, breaking and entering, and obstruction of the performance of official duties. The press conferences taken place afterwards on 8 and 16 November 2011, 29 December 2011 and 9 February 9 2012 were all charged with violation of the Assembly and Demonstration Act. The civil appeal made on 29 February 2012 was charged with noncompliance with eviction order. After all, Gangwon province's requesting for facility protection was a measure to restrain the residents from campaigning against construction golf courses.

The pressing charges and issuing complaints against the press conferences being held by the residents who tried to inform the public about the problems of the approval process of golf courses and the fact that they were on the verge of being driven out of their homes due to the golf course approval, is an abuse of the legal process and excessive behavior by public authorities that attempts to block the issue raising voices of local residents and environmental groups.

2) Charges on Noncompliance with Eviction Order on Request for a Talk with the County Chief to Resolve the Gangwon Golf Course Issue

Alleged Perpetrators: Hongchun District Office

In March 2011, Hongchun District Office and the local residents agreed on conducting environmental impact assessment on the forest and launched a joint investigation. However, Hongchun District Office unilaterally concluded that there would be no huge impact on the forest by constructing golf course even before the investigation results was finalized. In response, the residents requested for a talk with the county chief to confirm the circumstances of the announcement. As the county chief did not appear in the talk, the residents remained in district office waited for him, and Hongchun District Office sued them for noncompliance with eviction order. Fortunately, the first court found them not guilty but the prosecutor has appealed the decision.

3) Filing Charges on the One-person Demonstration Asking for Resolution on the Gangwon Golf Course

Alleged Perpetrators: Hongchun District Office

The local residents against construction of golf courses in Hongchun District due to the concerns for environmental destruction, living environment pollution, and land expropriation organized an opposition committee. They requested abolition of the golf course construction plans to the county chief, as the plan was ridden with problems of illegitimacy and environmental pollution. In last October, 2012, the residents asked for a talk with the county chief requesting resolution of the golf course issue and provision of measures, but the county chief avoided the talk and did not even meet the residents.



The local residents asking for solving Gangwon golf course issues © Pan-Provincial Committee for Resolution of Gangwon Golf Course

In response, the residents went to a local festival where the county chief was attending, and staged a one-person demonstration in front of him asking for his stance on the golf course construction. Hongchun District Office sued the relevant residents for interference in the execution of office duty asserting that such one-person protest ruined the whole festival. In fact, the person only held a sign board and asked, “What are you planning to do with the golf course? Abolish the plan!” as the county chief was coming down the podium after giving a speech. Such action to file charges and complaints against residents who were peacefully protesting is an abuse of authority’s power and a measure to incapacitate the activities of the key members of the local committee that staged one-person protests.

3. Entry Denial of Foreign Anti-nuclear Activists

From November 2011 to October 2012, a total of seven anti-nuclear activists were denied entry by the Republic of Korean Immigration Office. Most of them were denied entry, because they were classified as ‘harmful for national interests’ in accordance with Article 11 of the Immigration Control Act. Most of these activists are affiliated with international organizations and involved in solidarity activities with activists from numerous countries for a long time. They had a plan to visit the Republic of Korea in order to stand in solidarity with the South Korean anti-nuclear activists and search for a collaborative action, when the government of the Republic of Korea carried out a policy to expand nuclear power plants, in spite of Japan’s Fukushima incident in 2011.

1) Entry Denial of Anti-Nuclear Activists by Classifying Them as 'harmful of National Interest'

Alleged Perpetrators: Korean Immigration Service

On 18 March 2012, No Nukes Asian Forum's Secretary-General Mr. Sato Daisuke was denied entry at the Incheon Airport. Mr. Daisuke planned to participate in the 2012 Nuclear Security Summit in Seoul on 26 March, on top of meeting South Korean anti-nuclear activists and running public campaigns. However, the government of the Republic of Korea denied his entry on the grounds that he is harmful for national interests and he would bring obstruction to public security.

In April 2013, three environmental activists from Greenpeace East Asia¹ departed Hong Kong and tried to enter the Republic Korea on 2 April 2012 through Incheon Airport, but were denied entry by the Immigration Office. They were Greenpeace East Asia's Secretary-General Maria Damato, organization director Keung Fung Ka, and manager of South Korea bureau Rashid Kang. The reason for denial entry was also because they were considered to be 'harmful to national interests.'

On 9 April 2012, chief director of the energy campaign at Greenpeace International Headquarters, Jan Berenek, and radioactive expert, Rianne Teuele, who were to participate in a round-table discussion held by South Korea's 'Collaborative Action for a Society without Nukes' and the Greenpeace Seoul Office, were also denied entry. From November 2011 to October 2012, six anti-nuclear activists from Greenpeace were denied entry by the government of the Republic of Korea. Greenpeace opened South Korea office in response to the government's policy to expand nuclear power plants in spite of the Fukushima crisis in 2010 and planned to send numerous activists to carry out anti-nuclear activity in Korea, but the government blocked it off.

The anti-nuclear activists were denied entry because they were classified as harmful for national interests; a person that could pose threats to the Republic of Korea's interests or public security, in accordance with the Article 11 of the Immigration Control Act. However, classification of these activists simply because they carried out activities with negative stance on the Republic of Korea's nuclear power plants expansion policy is an excessive legal interpretation and an extreme measure to block solidarity activities, information exchange, and anti-nuclear power plants campaigns among human rights defenders.²

4. Indiscriminate Charges and Complaints on Residents In the Process of Construction of Yeongyang Dam in North Gyeongsang Province

In Yeongyang-gun, North Gyeongsang Province, there is an on-site investigation in progress to build Yeongyang dam planned by the Ministry of Land, Transportation and Maritime Affairs. The area is a barely developed and highly respected to be of high conservative value for its pure nature and outstanding ecological landscape. When the plan to build Yeongyang dam was announced, the Republic of Korea's major experts and environmental groups highly criticized it asserting that the plan of the Ministry of Land, Transportation and Maritime affairs to build Yeongyang dam lacks

¹ The Hankyoreh, Greenpeace nuclear activists sue South Korean government, 11 December 2012, http://english.hani.co.kr/arti/english_edition/e_international/564824.html

² For more detailed list of entry denial of foreign human rights defenders, please see p. ____ of this report.

validity and would damage streams and natural ecosystem. The villagers against building of dam established a guard post at the entrance of Yeongyang-gun Soobi-myŏn Sooha-ri in north Gyeongsang province. The villagers are residing in the guard post as to keep the building company off that is carrying out approval of dam construction from entering the village and executing an inspection. The villagers are opposing dam construction and trying to prevent damages to ecosystem and to save their village from getting submerged. The villagers in their 70s and 80s, who spent all their lives there cultivating the land, and farmers are blocking various on-site inspections to carry out approval procedure of dam building. In the process, the residents are subject to charges and complaints of public corporations and government ministries, the organizers of this project. Moreover, they are also frequently exposed to the violence of service providers' staffs and subject to the police's arbitral arrests.

1) The Police's illegally and violently hauling the residents and applying interference in the execution of duty

Alleged Perpetrators: Korea Water Resources Corporation(K-Water), Yushin Inc., Korea Engineering Consultants Corporation, Gyeongbuk Provincial Policy Agency

On 24 March 2013 at noon, 150 heavily-armed police officers stormed into the guard post where the residents opposing dam construction were residing. Although majority of them were farmers and elders, the police surrounded the guard post with three layers and hauled out two of the residents in just five minutes, without even advising them of their 'Miranda Rights'. One of the arrested residents was one of the seven co-chairpersons of Yeongyang Dam Opposition Committee, and another was the person who filmed the Yeongyang dam opposition activities. The time of the issuance of arrest warrant for one of them was exceptionally fast, considering that it was issued on 24 March when he was only charged on March 7.

The police are asserting that they forcibly arrested the residents because they did not comply with summons request on the charges of interference in the execution of duty. However, issuance of arrest warrant and violent arrest are just measures to emasculate the key member residents of dam opposition activity when taking into consideration that the charges took place during an attempt to stop dam construction and they were residents with clear address and no flight risk. Among the residents that were carrying out dam opposition activities, three people were charged with interference in the execution of duty on 27 February 2013, four on 7 March, and another four on 8 March 2013, eleven in total. Most of the charges took place as they were trying to stop the approval procedure of dam construction, which was unilaterally carried out by the Ministry of Land, Transportation and Maritime Affairs.

5. Suppression on the villagers that are against Miryang 765kV Power Transmission Tower

The Republic of Korea has an energy policy that runs counter to the worldwide trends of decreasing nuclear reliance even after the Fukushima nuclear power plant disaster in 2011. If the construction of a new Gori nuclear power plant proceeds as planned, there will be a total of 10 nuclear power plants including Gori plant within a 20km radius and make Busan/Ulsan/Eastern part of South Gyeongsang Province the world's largest reactor-crowded region.

Since transmission lines with large-capacity such as 765kV which are indispensable for transmitting to heavily populated areas, state power and public corporation have been brought human rights violation and stimulated conflicts among villagers. For instance, in the case of the 8 year-long conflict regarding construction of Miryang transmission tower, massive conflicts among villagers have broken out, and a 74-year-old villager immolated himself in protest and a monk was sexually abused in the process.

On-Site Violence against Residents

Korea Electric Power Corporation(KEPCO) pushed ahead with the construction when they couldn't reach a mutual agreement with the villagers. They mobilized privately hired security forces and workers to use insults and violence on the villagers who tried to stop the construction. In the course, many people were injured and hospitalized.



In late August, 2012, workers from subcontractors tied up Jung-Hoe KIM, the chairperson of Donghawjun village in Danjang-myŏn, and assaulted him © Miryang Committee Against 756kV Power Transmission Tower



In August, 2012, the construction workers assaulted Moon Jung-Sun, a Miryang city council (They pushed her down for an hour so that she couldn't approach the heliport. She had to be hospitalized for months after getting treatments and several surgical operations). © Miryang Committee Against 756kV Power Transmission Tower

1) Monk Beopseong, the chief priest of Taegojong Yaksan temple

Alleged Perpetrators: Korea Electric Power Corporation(KEPCO) Gyeongin Construction Corporation(Construction supervisor), Daedong Electricity (Subcontractor), The Ministry of Trade, Industry & Energy

An incident of sexual violence committed by a staff of Daedong Electricity and the supervisor of KEPCO on 10 November 2011: Two men (supervisor of the KEPCO, director of Daedong Electricity) attacked Monk Beopseong who was trying to stop construction with old villagers. They forced to spread Monk Beopseong's legs, assaulted her genital area with fists for numerous times, and threatened her several times with unspeakable abusive language, such as "I will rip your legs and kill you" and "I will come find you and kill you." Monk Beopseong suffered serious damages not only physically but also emotionally, and has been getting psychiatric help ever since.

2) Mr. Lee Chi-Woo's burning himself to death, in protest to the police's violence and oppression of government and KEPCO

Alleged Perpetrators: Service Providers hired by the Korea Electric Power Corporation(KEPCO) Gyeongin Construction Corporation(Construction supervisor), The Ministry of Trade, Industry & Energy, The National Police Agency (Miryang Police Station)

On 16 January 2012, about 50 privately hired security forces were dispatched to the construction site of steel tower No. 102 in Sanyoe-myŏn Bora village at 4am. They used unspeakably coarse language to the elderly and assaulted villagers who tried to block them. In the evening of that day, deeply frustrated and despairing Mr. Chi-Woo LEE who served as the head of the village, a 74-year-old elder, said, "This problem will be solved when I die," and burned himself to death with gasoline in protest against the construction of the power transmission tower. The Miryang police reported that "He died in an accidental fire that he lit on a bundle of sesame leaves in order to warm himself" in their initial report on Mr. Lee's suicide, distorting the meaning of the deceased's death by releasing false information through media.³



A photo taken shortly after Mr. Lee Chi-Woo burned himself to death on January 16, 2012
© Miryang Committee Against 756kV Power Transmission Tower

³ The Hankyoreh, KEPCO takes legal action against poor, elderly protesters, 6 July 2012, http://english.hani.co.kr/arti/english_edition/e_national/541363.html

Inciting conflict among residents through compensation dividing the village community

In 2007, the construction of 765kV power transmission tower between Shingori and Northern South Gyeongsang Province received an approval from the Ministry of Commerce, Industry & Energy and started the construction. However, it has been in a state of drift for 7 years, due to Miryang villagers' fierce opposition. As construction is blocked off with the residents' fierce opposition, KEPCO has fomented extreme conflicts among the villagers through the means of compensation, so as to make people fight over receipt and execution of the compensation money.

1) Compensation payment to Goe-gok village in Miryang-si Sanwoe-myŏn and division of village community

Alleged Perpetrators: Busan Kyungnam Province Office of the KEPCO, The Ministry of Trade, Industry&Energy

A staff at the level of director, along with one director and one section chief from the Division of Busan, South Kyeongsang development at KEPC agreed with five of the village residents on a local support project worth 10.5 billion KRW. Accordingly, they managed to have the resident promise that they will cooperate in the construction of transmission tower that goes through that village. In turn, this agreement brought about massive confusion and conflict to the Goegok community, a village of 87 households. The residents who made the agreement were not representatives of the residents. Although the KEPC was aware of such fact, they still sealed the agreement and induced a division of the village community by contracting the agreement with only a portion of the residents rather than all the residents.

In addition, the KEPCO aggravated the conflicts among the villagers on the issue of for and against the power transmission tower, by negotiating only with those who suffered less damage from the power transmission tower construction. When the other villagers found about the negotiation, the village fell into disarray. The head of the village was replaced and the village community was in indescribable despair due to extreme division surrounding the issue.

III. Recommendations by the International Community

Concluding Observations of the Committee on Economic, Social and Cultural Rights, Republic of Korea, 17 December 2009, (E/C.12/KOR/CO/3)

32. The Committee is concerned about reports on the contamination of village waterworks by radioactive agents, exceeding safety standards for drinking water. It is also concerned that companies commercializing bottled water are using groundwater resources that local communities need for farming and drinking. The Committee is further concerned at the failure to disclose the existence of carcinogenic substances in bottled drinking water.

The Committee recommends that the State party take effective measures to ensure that local communities are not deprived of groundwater resources needed for farming and drinking purposes. It also recommends that the State party ensure that adequate information on health hazards relating to the bottled drinking water that was found to contain carcinogenic substances is made

available to the public. The Committee further recommends that the State party effectively implement adopted World Health Organization standards on drinking water quality and take into account the Committee's general comment No. 14 on the right to the highest attainable standard of physical and mental health, and general comment No. 15 on the right to water, in the information provided in its next periodic report (art. 11).

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mission to the Republic of Korea, 21 March 2011, A/HRC/17/27/Add.2

28. Indeed, the Special Rapporteur is concerned that defamation remains a criminal offence in the Republic of Korea, which is inherently harsh and has a disproportionate chilling effect on the right to freedom of expression. Individuals face the constant threat of being arrested, held in pre-trial detention, subjected to expensive criminal trials, heavily fined, imprisoned, saddled with a criminal record, and stigmatized in society. Additionally, criminal sanctions cannot be justified, particularly in light of adequacy of non-criminal sanctions in redressing any harm to individuals' reputation, as provided for in the Civil Act. Hence, the Special Rapporteur recommends that the Government remove defamation as an offence from the Criminal Act.

55. In addition, on 26 April 2010, the National Election Commission (NEC), responsible for controlling all aspects of elections in the country, issued a guideline entitled "Announcement on the activities of various organizations with respect to election issues", which prohibits organizations, including NGOs and religious groups, from installing, posting or distributing advertisements, posters, photographs, documents "or the like" on main election issues, as an extension of the prohibition to support or oppose a political party or candidate. Consequently, some of the activities of NGOs and religious groups have been restricted, as they are not permitted to disseminate information or hold a rally on key election issues such as the "Four Major Rivers Restoration Project" and "Free School Meals"

57. It is unclear on what basis the dissemination of information related to election issues or candidates may be justified as grounds for limiting the right to freedom of expression. Even if the restrictions mentioned above may be justified as being necessary to achieve one of the purposes listed in article 19, paragraph 3, of the Covenant, the Special Rapporteur is concerned that the six-month ban is a disproportionate length of time to achieve such purposes. Moreover, the Special Rapporteur considers criminal punishment for disseminating information in support of, or in opposition to, a political party, candidate, or election issues to be excessive and disproportionate.

89. The Government should, in line with the global trend, remove defamation as a criminal offence from the Criminal Act, given the existing prohibition of defamation in the Civil Act. The Special Rapporteur stresses that public officials and bodies should refrain from filing defamation suits, as public office entails public scrutiny as part of checks and balances in any democratic society. He also encourages the Government to promote a culture of tolerance regarding criticism, particularly of public officials and bodies and other influential figures, which is essential for democracy.

95. The Special Rapporteur recommends that the Government fully guarantee the right of freedom of expression in the crucial period leading up to elections, including open, free, and public exchange of views and information on key issues related to elections and the candidates.

IV. Recommendations

- Guarantee the environmental rights defenders' right to freely state their opinions on main policies and advocate environmental issues and amend the Public Official Election Act accordingly.
- Stop arresting people under the civil and criminal codes, on the grounds of violating Assembly and Demonstration Act, libel, interference in the official business, and compensation claim and filing damage suits against environmental rights defenders, which are oppressive measures to suspend the activities of the villagers and environmental rights defenders to express their opinions through press conference, filing civil complaints, protest visits, and so on.
- Punish the responsible persons and implement preventive measures so that there will be no police violence in the course of environmental advocacy activities.
- The Korean Immigration Service under the Ministry of Justice should stop denying entries of foreign environmental rights defenders based on arbitrary interpretation of 'a hazardous person who might harm the national interests or public security of the Republic of Korea' in the article 11 of the Immigration Control Act and amend the law.
- The National Human Rights Commission of Korea (NHRCK) has never expressed its opinion amid extreme human rights violations or about the community divide brought about by public companies. The NHRCK should be well aware of the Miryang transmission tower issue and be actively involved in activities such as investigation.
- As a regulatory agency of Korea Electric Power Corporation, the Ministry of Trade, Industry & Energy should investigate the human rights violations mentioned above and severely punish the responsible workers.

Peace Defenders

Gayoon BAEK /

National Network of Korean Civil Society for Opposing to the Naval Base in Jeju Island

I. Background

Since 2007, peace defenders of the Republic of Korea have continued peaceful protest against the construction of a naval base in Gangjeong Village, Jeju Island, by the Ministry of Defense. The decision to construct a naval base on Jeju Island was flawed from its inception, including the administrative decision-making process, the damage being caused to the surrounding environment and the violation of human rights of villagers and peace defenders who are opposed to its construction. It is also eventually to threaten peace and security in Northeast Asia. Therefore the plan for the construction of the naval base should be scrapped immediately. Peace defenders including villagers, peace activists, artists, and religious leaders have continued peaceful protests such as organising a grand march across the country to raise awareness on the issue, continuing one-person demonstration in front of the construction site by holding a banner, and making one hundred bows praying for the construction to be stopped. While peace defenders are protesting peacefully, the Government is using excessive police forces to crackdown peace defenders. According to the information submitted by the Ministry of Justice to Parliamentarian Seo Gi-ho's office, 649 people were arrested between April 2007 and December 2012, and 473 people were indicted due to their protest against the naval base construction. As of May 2013, four peace defenders are in prison.

II. Human Rights Situation

1. Imposing Excessive Fine to Peace Defenders

According to the information collected by Gangjeong Village Association and Jeju Pan-Island Committee for Stop of Military Base and for Realization of Peace Island, around 210 peace defenders with 53 cases(include overlapping) are awaiting trial under the charge of obstruction of official business. In addition, trials are scheduled relating to the cancellation of public waters reclamation, application for an injunction prohibiting construction, and compensation for

disturbing construction. In total, Gangjeong Village Association and peace defenders have paid around 100 million KRW (around 100,000 USD) fine as a result of around 50 criminal lawsuits for their actions with individual fines ranging between 150,000 KRW(150USD) to ten million KRW (around 9,000 USD) per person. The fines in future criminal trials are expected to reach 200 ~300million KRW (around 200,000USD~300,000USD). In addition, a construction company has lodged a 300million KRW compensation claim against the Chief of Gangjeong Village Association. Imposing excessive fine on peace defenders prevents them from exercising their rights and creates a chilling effect on their activities defending human rights.

1) Imposing Fine on Performance in front of Samsung C&T

Alleged Perpetrator: National Police Agency, Samsung C&T

On 29 March 2012, peace activists staged a performance called “Bleeding Gureombi bedrock” in front of the Samsung C&T building, who is the main constructor of Jeju naval base. They used red water paint and called for stop construction. During the performance, red water paint was splashed in front of the building and peace defenders were dragged by private security forces hired by Samsung C&T. Afterwards, six peace activists were imposed 700,000KRW (around 700USD) fine per person (in total, 4,200,000KRW) with a summary order under the charge of violating Assembly and Demonstration Act, Destruction and Damage, etc. of Property (Criminal Code Article 366), Interference with Business(Criminal Code Article 314), and Intrusion upon Habitation, and Refusal to Leave (Criminal Code Article 319). As a result, peace activists have applied for a formal trial and the first trial was held on 10 May 2013.



Private security forces by Samsung C&T who dragged peace defenders during the performance © Catholic News Now & Here

If peace activists are found guilty in this criminal trial, there is a high possibility that Samsung C&T will bring a separate civil suit for a compensation claim. By way of reference, with regard to the red paint protest performance, Samsung C&T has submitted a list itemising damages claims totaling approximately 20 million KRW(around 20,000USD) to the police. The list includes the cost of detergents for the red soluble paint, labour costs, the cost of security guards' clothes and wristwatch. However, such damages were in fact caused by the security personnel's overreaction and Samsung C&T has partially admitted this. Such action by peace activists should be

acknowledged for what it is: an art performance to peacefully raise awareness on the injustice of the naval base construction and destruction of the Gureumbi bedrock, rather than be treated as an assembly and demonstration which is required to be registered with the authorities. Filing criminal and civil lawsuits against peace defender and imposing fines on them amounts to a violation of freedom of expression.

2) Choose to be Imprisoned rather than Paying Fine

Alleged Perpetrator: National Police Agency, Republic of Korea Navy

In November 2011, the Republic of Korea Navy assaulted a female journalist who entered the naval base construction site to cover the news for over 2 hours. To protest against this treatment, Mr. Park (anonymous) entered the construction site and was fined 1,500,000 KRW (around 1,500 USD). Mr. Park, a peace defender, argued that there is no reason for him to pay fine since it is a rightful protest against the navy's illegal action. He refused to pay fine and instead, voluntarily appeared at the police station and chose to be imprisoned. According to the Article 69(2) of the Criminal Act, "A person who does not pay a fine in full shall be confined in a workhouse and work for a term of not less than one day nor more than three years, or in case of a minor fine, from one day to twenty-nine days". One day in prison equates with 50,000KRW fine so he had to stay in prison for 150 days.

Before entering the prison, he said "the government would not believe that peace activists in Gangjeong are too poor and not even be able to pay their cell phone fee" and added "I, a poor activist, also do not have enough money to pay the fine so I have decided to go to prison instead". Fortunately, another person paid the fine on his behalf, so he was released on bail after one week.

2. Excessive Use of Police Forces

According to the information submitted by the National Police Agency to the National Assembly, a total number of police forces dispatched to Gangjeong from 14 August 2011 to 31 August 2012 are 128,401 and 4.18billion KRW(4.18million USD) budget was allocated. Reject ratio of arrest warrant is raised from 26.7% in 2011 to 58.8% in 2012 which indicates arbitral indictment by the Prosecutor's Office.



Police forces surround peace defenders who bow in front of the construction site © Love Gureumbi website

Peace defenders who are against the naval base construction prevents construction truck from going in and out of the construction site by holding a banner in front of the main gate while sitting or standing. The police requested peace defenders to move from the main gate as it obstructs vehicular traffic. If they refuse to move, the police warns peace defenders 2~3 times that they will be punished under obstruction of businesses. After the announcement, the police lift peace defenders who are sitting in front of the main gate and move them to the side of the road and surround them to prevent them from moving.

With the start of 24-hour round-the-clock construction, the police ring-fence the peace defenders even at night and serious human rights violation occur. When the police isolate peace defenders to facilitate traffic, they drag peace defenders out of the main gate and forcibly push them inside the police formation. Many peace defenders are injured during this process. The police drag peace defenders' leg which causes head injuries, kick their bodies and twist their joints. It was reported that six people were sent to hospital due to injuries caused by the police. There was even a case where the police left the injured alone on the road after their operation.

1) Using Air Saw to cut PVC pipe While Peace Defenders' Arms were inside

Alleged Perpetrator: Seogwipo Police Station

On 19 March 2012, around 30 peace defenders including Gangjeong villagers connected their arms with PVC pipe to prevent truck carrying gunpowder from entering the construction site in order to blast Gureumbi bedrock. While the police dispersed and arrested peace defenders, they used hammer and scissors to break the PVC pipe, even though peace defenders' arms were inside the PVC pipes. As a result, some peace defenders were bruised and suffered bleeding. Also, the police restricted journalists and lawyers' access to the peace defenders. Consequently, ten peace defenders were arrested and they were fined 2.5million KRW~4million KRW (2,500USD~4,000USD) per person in the first trial. The appeal is ongoing.



Peace defenders who connects their arms with PVC pipe. © Catholic News Now & Here



The police is cutting the PVC pipe with air saw © Jejusori

Likewise, on 16 April 2012, peace defenders connected themselves with PVC pipes in front of the Jeju naval base construction site to prevent truck from going in and out of the construction site. This time, the police used air saw instead of hammer to cut the PVC pipes. At that time, 12 peace defenders were arrested. One arrestee was not even part of the PVC campaign. She was passing by the site and made a complaint that male police officers dragged women peace defenders by their arms and bodies. The police arrested her on the spot under the charge of obstruction of official business. However, since there were no truck entering the construction site during the campaign, it was unjustifiable to charge her with obstruction of business. Twelve arrestees received 4,000,000KRW(4,000USD) fine per person and the appeal is ongoing.

2) Arrest during the Religious Ceremony

Alleged Perpetrator: Seogwipo Police Station

In Gangjeong village, religious ceremonies such as catholic mass and church service are performed every day in front of the naval base construction business committee site. The villagers requested not to allow access of construction truck during religious ceremonies. However, the police frequently arrest or use violence against people who participated in the religious ceremonies. On 30 September 2011, the police, under the charge of obstructing businesses and official businesses, arrested catholic priests during a mass, and also arrested other men of religions and priests who protested against these arbitrary arrests,. On 10 January 2012, the police requested nuns who were praying in front of the main gate of construction site to stop their prayers. The nuns asked the police for their understanding and told them that they will be leaving after one hour, but a construction company reported the nuns to the police with obstruction of business. As a result, 18 nuns and 2 catholic priests were arrested.



Police arrested catholic priest during the mass on 30 October 2011 © Love Gureumbi website



Police forces were dispatched during the mass in front of the on 13 March 2012 © Catholic News Now & Here

3. Violence against Peace Defenders by the Republic of Korea Navy

It cannot be tolerated that the navy uses violence against civilians during peace time. Most of all, the coastal water of Gangjeong is not military reserve. The navy might argue that the site automatically became a military reserve with the start of the construction, but there are no military facilities to protect yet. In fact, the navy is only protecting security forces that guard the naval base construction. Sea Salvage and Rescue Unit (SSU) is a special forces specialised in deep sea diving, and mainly undertakes such duties as salvage during wartime and peacetime, remove obstacles at harbour and watercourse and foster life savers. However, in Gangjeong village, the SSU is undertaking security services for naval base construction which is irrelevant to its original duties. Moreover, the SSU frequently use violence against villagers and peace defenders in Gangjeong.¹

1) The SSU used Violence against Dr. Gang-ho SONG

Alleged Perpetrator: The SSU under the Republic of Korea Navy

¹ Use of violence by the Republic of Korea Navy, video posted on 28 August 2011, <http://www.youtube.com/watch?v=mGW8IZPM-VU&feature=youtu.be>

From 2 to 4 October 2012, Dr. Gang-ho SONG, a Reverend, prayed on Gureumbi bedrock every early morning. Gureumbi bedrock is not a military facility and therefore, there is no reason for the navy to prevent people from entering the bedrock or use violence against them. When Dr. SONG swam to Gureumbi bedrock for his morning prayer, he was assaulted underwater and his flippers were taken from him by the SSU. A member of the SSU kicked Dr. SONG's chest and stomach underwater and pushed him underwater so that he could not breathe properly. This assault continued for 30 minutes. While members of the SSU kicked Dr. SONG, they verbally abused him by making comments such as "Let's have some fun", "Huh, you are more patient than we expected", "Are you still alive?" and "Are you from North Korea?".



The member of the SSU takes Dr. SONG's flipper away © Gangjeong Village Association

2) The SSU used Violence against a Boat monitoring illegal construction

Alleged Perpetrator: The SSU under the Republic of Korea Navy, Korea Coast Guard

On 6 October 2011, the Navy conducted a trial blast of Gureumbi bedrock while the excavation of cultural heritage objects at the construction site was not finished and slit protector to prevent water contamination that was required by the environment impact assessment report was not properly installed. Peace defenders assessed that the Gureumbi bedrock blast was illegal under these circumstances and decided to sail towards the bedrock. Six defenders took six-seater rubber boat and two defenders took two canoes (one each). Black rubber boat by the SSU rapidly approached to defenders' boats. The boat by the SSU and coast guard boats drew a circle around the canoe with high speed to make waves and current and two canoes were carried away by the wave. Also, two defenders fell into the water as a coast guard boat bumped into defender's boat without warning. One of the defenders who fell into water did not know how to swim, and although he was wearing a life vest, experienced severe shock and extreme fear that he would drown.

When these defenders were arrested, they told the Navy that they were freezing but neither warm water nor blankets were provided. In total, eight defenders were arrested. One rubber boat and

two canoes were seized by the coast guard. It was highly dangerous that the Navy boat deliberately bumped into canoes and made the defenders fall into the freezing water. Also, arresting defenders at Gangjeong coast which is not a military zone is not within the Navy's mandate.

4. Excessive Use of Police Forces

Alleged Perpetrator: Ministry of Security and Public Administration, Public Prosecutor's Office, Seogwipo Police Station

Gangjeong Village Association pointed out that peace defenders in Gangjeong village are facing serious financial problems due to heavy fines imposed and the Prosecutor's Office arbitrarily enforced the Act on Collection and Use of Donations to indict Chief of Gangjeong village. In 2012, the police started investigation on Gangjeong Village Association's bank account on the ground that it raised funds on the Internet without registering for collection of donations. Article 4(1) of the Act on the Collection and Use of Donations stipulates that "a person who intends to engage in the collection of donations prescribed by Presidential Decree, the value of which is not less than ten million KRW, shall prepare a plan for the collection and use stating the following matters to register himself/herself with the Minister of Security of Public Administration, a Special Metropolitan City Mayor or a Metropolitan City Governor, a Do Governor, or the Governor of a Special Self-Governing Province." However, the current Act on Collection and Use of Donations has received many criticisms since it restricts human rights defenders rather than support them, and amendment of the Act is now being discussed.

In this regards, Gangjeong Village Association submitted a registration for the purpose of supporting actions to democratically solve problems related to Jeju naval base construction, but the Ministry of Security and Public Administration and Jeju Special Self-Governing Province did not accept the registration on the ground that an issue where the public opinion is so sharply divided cannot be seen as a public interest activity. However, maintaining peace and preserving the environment is a major public concern and in the public interest of our society. Therefore, rejecting Gangjeong Village Association's registration for fund raising cannot but be interpreted as an arbitrary decision that obstructs the work of human rights defenders who oppose government's policies. Even now, it is still not possible to raise funds under the name of Gangjeong Village Association and the police investigation is ongoing.

5. Denial Entry of Foreign Human Rights Defenders

Many foreign human rights defenders have visited the Republic of Korea to stand in solidarity with No Naval Base campaign in Gangjeong. Unfortunately, some foreign human rights defenders were denied entry and/or forcibly evicted during their campaigns in Gangjeong. As of April 2013, 26 cases of denial of entry to foreign human rights defenders related to the Gangjeong struggle have been documented.

1) Deportation of French activist Benjamin Monnet / Exit Order of British activist Angie Zelter

Alleged Perpetrator: Korean Immigration Service, Ministry of Justice

Mr. Benjamin Monnet is a French activist who had worked against the naval base construction in Gangjeong since May 2011. On 15 March 2012, Mr. Monnet sailed to Gureumbi bedrock on canoe, and entered the construction site. As a result, the Immigration Office decided to deport him literally only minutes after the investigation. Mr. Monnet's lawyer requested for suspension of execution and filed a suit to cancel deportation order, but the Immigration Office enforced his deportation once the order was given. During this process, Mr. Monnet was not able to call his lawyer and he was not even given time to change his wet clothes.

Ms. Angie Zelter, a British peace activist and a Nobel Peace Prize nominee, was arrested by the police on March 2012 because she cut the fence and entered the naval base construction site. After more than 48 hours of interrogation in detention, the Immigration Officer ordered her to leave the country. However, the fence that was cut by Ms. Zelter was built around the place which is irrelevant to naval base construction and Jeju Special Self-Governing Province already requested the Jeju naval base business committee to move the fence twice, but the navy had ignored the request. By the decision of the Immigration Office, Ms. Zelter left the country on 22 March 2012.

2) Entry Denial of Foreign Human Rights Defenders Attending World Conservation Conference

Alleged Perpetrator: Korean Immigration Service, Ministry of Justice

Among peace activists who planned to attend the World Conservation Conference(WCC) which was held on 6 to 15 September 2012 in Jeju, those who have expressed their views against the naval base construction were denied entry to the country and no specific reason of denial was given. It was reported that nine peace activists were denied entry between 6 to 15 September 2012, and five of them were even members of the International Union for Conservation of Nature(IUCN), the main organiser of the WCC.

III. Recommendations from the International Community

In response to individual complaints sent to the UN special procedure mandate holders, a joint letter was sent to South Korean government on alleged acts of harassment, intimidation and ill-treatment against peaceful protesters in Gangjeong village on 30 May 2012.²

The letter was jointly written by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (Frank La Rue), Special Rapporteur on the rights to freedom of peaceful assembly and of associations (Maina Kiai), and Special Rapporteur on the Situation of Human Rights Defenders (Margaret Sekaggya). The letter is included in the Communications Report of Special Procedures (A/HRC/21/49) and is submitted to the 21st Session of the UN Human Rights Council which is now being held in Geneva, Switzerland (10 September~28 September 2012).

² People's Solidarity for Participatory Democracy, Press Release, UN Special Rapporteurs sent a joint allegation letter to South Korean government on human rights violations in Gangjeong, Jeju Island, 13 September 2012, <http://www.peoplepower21.org/English/951056>

In the letter, three special rapporteurs expressed serious concerns regarding the physical and physiological integrity of all persons involved in the actions against the construction of the naval base. It also reminds the Government on principles and values in various international human rights standards including the UN code of Conduct for Law Enforcement Officials, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the International Covenant on Civil and Political Rights, and the Declaration on the Right and Responsibility of Individual, Groups and Organs of Society to Promote and Protect Universally.

The Rapporteurs urged the Government “to take all necessary measures to guarantee that the rights and freedom of all persons involved in” the actions against construction of the naval base respected. They also requested that the Government “adopt effective measures to prevent the recurrence” of these violations.

IV. Recommendations

- Follow the UN Code of Conduct for Law Enforcement Officials, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the International Covenant on Civil and Political Rights, the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms and Declaration on Human Rights Defenders
- Train law enforcement officers including the police on the importance of implement international human rights standards while enforcing laws
- Prevent further human rights violations in Gangjeong Village by taking opinions from peace defenders including villagers in a democratic way
- Stop arbitrary application of the Article 11(3) of the Immigration Control Act saying ‘The Ministry of Justice may prohibit any of the following foreigners from entering the Republic of Korea: A person deemed highly likely to commit any act detrimental to the interests of the Republic of Korea or public safety’ to deny entry of foreign human rights defenders and amend the article

Journalists and Media Workers

Jong-myeon ROH / YTN Union, National Union of Media Workers

I. Background

More and more journalists who strive to secure press freedom and independence are oppressed with measures such as illegal surveillance, criminal charges, and dismissals. The Lee Myung-Bak administration, in particular, explicitly impinged on press freedom and independence by replacing the CEOs of public broadcasting stations with his close aides and abolishing or reducing TV programs and reporting teams that are critical of the government. This was done in order to control the media, especially the public broadcasters, KBS and MBC, and YTN, a news-only majority-publicly-owned media. The prosecution unprecedentedly arrested and charged the producers and reporters of an investigative journalism program from the public broadcasting station MBC called <PD Notebook> that reported about the importation of U.S. beef suspected to be tainted with mad cow disease, when the Ministry of Food, Agriculture, Forestry and Fisheries accused them of defamation and slapped them with a lawsuit. The TV programs that were critical of the government were either abolished or their cast and crew were replaced. Some reporters were even charged with defamation and interference in the execution of duty. When the broadcasters' labour unions resisted with strikes and assemblies, each broadcasting company oppressed the journalists and producers with severe disciplinary measures, such as dismissals. In an unprecedented measure, the mainstream media outlets of the Republic of Korea went on simultaneous strikes against such oppression of the media. During the strikes, the number of people hit with disciplinary actions increased to a total of 450, and among them, 21 people were dismissed. There were continual incidents where journalists were arrested and confined, which had been rarely seen in South Korean society after the end of military dictatorship. The Hankyoreh's reporter Choi Sung-Jin was arrested on the charges of violating communication privacy protection law and subjected to criminal prosecution, for reporting about issues surrounding the Jeongsoo Foundation which concerned the candidate Park Geun-Hye right before the 2012 presidential election. It could be seen that the hand of the Lee Myung-Bak administration was at work behind all the attacks on media, including the dismissal, discipline, arrest, and

detention of journalists. And this continues on in the Park Geun-Hye administration. Recently, the prosecution has sought arrest warrant for reporter Joo Jin-Woo for reporting stories critical of the presidential candidate Park in a podcast around the time of the election. Such suppression of defenders of the right to free speech is a serious issue that results in a significant chilling effect on the media and leads to infringement of the people's right to know.

II. Human Rights Situation

1. Charges and Confinement of Journalists (Criminal Charges Intensified)

The cases where journalists are getting arrested for reporting and carrying out activities to secure the press' independence are increasing.

1) Arrests and Indictment of the Directors of <PD Notebook>

Alleged Perpetrator: The National Police Agency, the Prosecutor's Office, the Ministry of Food, Agriculture, Forestry and Fisheries, MBC

On 18 April 2008, negotiations on U.S. beef imports were settled. The highly controversial and drawn-out beef issue came to an agreement after mere 8 days of negotiating. The agreement allowed importation of U.S. beef from cattle aged more than 30 months and raised the controversy of "hasty negotiation." President Lee Myung-Bak triggered more backlashes in public opinion by referring to U.S. beef as "cheap and high quality." MBC's current affairs program <PD Notebook> aired 'U.S. Beef, Safe from Mad Cow Disease?' on April 29 and the sequel on May 13, directly raising an issue with the beef negotiation. As the government faced escalating national resistance, President Lee Myung-Bak released a statement to the nation expressing regret regarding the beef issue and reserved notification of importation of U.S. beef. Additional talks were made regarding the issue, but controversy continued. On June 24, <PD Notebook> broadcasted 'Emergency Coverage-What Did We Gain From the Beef Additional Negotiation' and repeatedly raised the issue with the government negotiation. At this time, the candlelight vigil in protest to mad cow disease, which had begun in early May, was at its peak. However, the government started full range of attacks on <PD Notebook>. The Ministry of Agriculture and Forestry referred <PD Notebook> to the prosecution for investigation on libel and interference in the execution of duty of the Minister of Agriculture and Forestry on June 20. On July 14, the Ministry requested restrictions to Korea Communication Standards Commission. On July 31, Seoul Southern District Court ordered correction and objection report on the lawsuit filed by the Ministry of Agriculture and Forestry against PD Notebook to request correction and objection report. Accordingly, MBC apologized on the primetime news on August 12 and replaced the directors. In January 7, Im Soo-Bin, the directing prosecutor of criminal investigation bureau 2 at Seoul District Prosecutor's Office, tendered his resignation, saying that "even if MBC did distorted some part of the truth, criminal libel charge is still not valid."

Although unreasonable investigation of the prosecution became the object of heated debate, opening of personal emails of freelancer writer to the media, raiding the directors' houses, arrests of former chief producer Cho Neung-Hee, producer Song Il-Jun, Kim Bo-Seul, and Lee Chun-

Keun, writer Kim Eun-Hee and Lee Yeon-Hee followed. Producer Kim Bo-Seul, particularly, was arrested in front of her future mother-in-law, two days before her wedding. Afterwards on December 21, the prosecution sought 2~3-year prison term for the directors of <PD Notebook>, but the court found them not guilty in the first trial on January 20, 2010, stating that “as long as there is a ground for enough and rational doubt, it belongs to the domain of press freedom” and that “even if the reputation of a public official may have been lowered in the eyes of the society, , libel cannot be applied right away.”

2) Confinement of YTN’s Labour Head, Roh Jong-Myeon, who carried out protest demanding the resignation of the president to defend the independency of the press.

Alleged Perpetrator: The National Police Agency, the Prosecutor’s Office

On July 17, 2008, the board of directors of YTN, a 24-hour news-only channel, appointed Koo Bon-Heung as the president, who served as a special media adviser for then-presidential candidate Lee Myung-Bak. The labour union labelled it as the government’s conspiracy to destroy the fairness of the press and to dominate the media, and staged various struggles, such as trying to stop Koo Bon-Heung from entering the office, going on a black strike, holding a hunger strike and so on. In the process, four union members were arrested by the police in front of their houses and the union head Roh Jong-Myeon was detained. It led to the revival of detention of journalists after a decade of such measures not being used. Moreover, YTN imposed heavy disciplinary action on 38 union members for disobeying post-reshuffling orders and interfering in the execution of duties, transferred 10 news reporters to the provinces away from Seoul, and sued 12 union members with interference in the execution of duties. This includes dismissal of 6 reporters. Such action had never been seen since the mass dismissals of journalists executed by Chun Doo-Hwan’s military authorities in 1980. On November 13, 2009, Seoul Central District Court granted an annulment of dismissals stating that “the fight against appointment of a person who supported a specific party’s candidate as CEO is a fair action taken to achieve public interests, the media outlet’s political neutrality.” Nevertheless, YTN appealed and 6 reporters have not been able to return to work. In addition, in the appeal trial for seven union members that were charged with interference in the execution of duties, a total fine of 51.50 million won was finalized on December 10, 2009.

*Number of Arrests, Confinements, Expulsions, and Dismissals of Journalists from 2008 to 2010

Classification	The Number of Persons	Reference
Arrest	11	6 from MBC <PD Notebook> 4 from YTN The Head of the National Union of Media Workers
Confinement	1	1 from YTN (First time to arrest journalist in 10 yrs)
Fine	7	7 from YTN (51.5 million won)
Expulsion	2	2 from KBS
Dismissal	8	2 from KBS including the president 6 from YTN

* Source: The National Union of Media Workers

3) Prosecution of Choi Sung-Jin, A Reporter from Hankyoreh, for Reporting in Media.

Alleged Perpetrator: the Prosecutor's Office

On October 8, 2012, Reporter Choi Sung-Jin from Hankyoreh interviewed the chairman Choi Phillip via phone about the process in which Jeongsoo Foundation sold its holdings in media outlets. In the middle of the interview, Lee Jin-Sook, Director of Planning Division of MBC, came into the room and started conversing about management of the foundation with chairman Choi. Because chairman Choi did not properly hang up the phone, the contents of the meeting were recorded by the journalist. Believing that some of the contents were worthwhile public interest information, Choi reported them in Hankyoreh. The contents of the report were about Jeongsoo Foundation's method of sale of their shares of MBC and the practical use of the proceeds. The report also revealed that "it was to help candidate Park Geun-Hye. <Jeongsoo Foundation> was a hot issue in the presidential election as Park Geun-Hye's father Park Jung-Hee had extorted Boo-Il Foundation and founded Jeongsoo Foundation with ill-gotten gains. President Park Geun-Hye served as the chairperson of the foundation's board from 1994 to January 2005. The prosecution arrested the journalist Choi with eavesdropping in violation of confidential information protection law

2. Surveillance on the Journalists

The Public Service Ethics Office of the Prime Minister's Office is a secret organization that illegally conducted surveillance of civilians and the media. It constantly kept the YTN labour union under watch by posting a person from the Ethics Office within YTN and has secretly intervened in important issues since August 2008. It has been revealed that the Ethics office. The Ethics Office intervened and exerted influence on YTN because of a lukewarm investigation by the law enforcement authorities on the YTN labour leaders. As a result, four of the YTN labour leadership was unjustly arrested and one of them was detained. Journalists were arrested for the first time in 10 years in Korea for charges unconnected to corruption. Meanwhile, the illegal surveillance team intervened in the replacement of the YTN president and recommended a person that is hostile to the labour union asserting that "He is loyal to the government." That person finally became the president of YTN and continues to be to this day.

1) Illegal Surveillance of the YTN Labour Union at the Behest of the Blue House

Alleged Perpetrator: The Public Service Ethics Office of the Prime Minister's Office (Illegal Surveillance Team Inspection Organization), the Blue House (The Presidential Residence)

From August 2008, the government's illegal surveillance team watched the YTN labour union's movement at all times through a designated person in charge of YTN. The transportation card record, the notebook used for the surveillance, and other various surveillance documents were revealed as evidence of the surveillance activity. The surveillance documents related to YTN, such as 'A Secret Investigation on Illegal Activity of the YTN Labour Union,' '2008 Record of Mission Conducted,' 'Report on Direction of the Replacement of YTN Executives,' 'Report on the Recent Trend of YTN and Appointment of the Management,' were over 10 documents counting only those revealed, the majority of which were done at the behest of the Blue House. The illegal surveillance team also secretly communicated with YTN's top executives. It was revealed that they made phone

calls and were in contact extensively during the period when they were systematically destroying evidence after the illegal surveillance team's crime was reported in the media for the first time in 2010.

2) Influence-peddling on the Investigation on YTN's Labour Leaders.

Alleged Perpetrator: The Public Service Ethics Office of the Prime Minister's Office (Inspection Organization)

From September 2008 to January 2009, YTN's board of directors filed criminal charges against the labour union on a total of 5 occasions, 45 man-days and 20 people in actual number. On March 22, 2009, four labour leaders were arrested for disobeying summons. However, they never disobeyed summons as they made an agreement with the police right before the arrest that they would be investigated on March 26. One of the four was eventually detained by the police. The mastermind behind the law-enforcing authority's unreasonable arrest and confinement was revealed much later in June 2012, when the police reported the investigation result of the prosecution's illegal surveillance of citizens. The prosecution said that the head of testified that they inspected YTN because of the police's lukewarm investigation of the YTN labour union. It is an important testimony that proves the fact that the police was under pressure from the illegal surveillance team that directly reported to the country's president and carried out arrests on invalid grounds.

3) Replacement of YTN President Conducted by the Blue House and Inspection Organization.

Alleged Perpetrator: The Blue House, the Public Service Ethics Office of the Prime Minister's Office (Illegal Surveillance Team)

The inspection organization of the government replaced YTN's president even after YTN's labour leaders were dismissed, arrested, and detained, in order to bring the labour union completely under their control. When President Koo Bon-Heung, a presidential aide hostile toward the labour union, struck a compromise with the labour union and resumed Dol-Bal-Young-Sang, a popular investigative journalistic TV program, and conducted negotiations with the union, he was made to resign. In his place, the executive director Bae-Suk-Kyu, who was extremely anti-labour union, was appointed as the new president. This was revealed through a secret surveillance report that later came to light. The document, entitled 'Report on the Recent Trend of YTN and Appointment of the Management' disclosed shocking details of illegal surveillance and the extent to which the government tried to control a public broadcaster, including statements such as: 'the executive director Bae Suk-Kyu should be appointed as president and be supported, as he is loyal to the government'. Bae was indeed appointed as the president of YTN one month after this document was drawn up. Officially, Koo resigned voluntarily, but these secret surveillance documents revealed that a government office was responsible in drawing up a report on the 'Direction of the Replacement of YTN Executives' at the behest of an official working for the President, , and that immediately after the report was drafted, the official had an one-on-one meeting with the president that left him very pleased. It is apparent that the illegal surveillance team was operated to replace YTN's president at the behest of the Blue House.

4) Prosecution's Poor Investigation and Avoidance of Investigation

Alleged Perpetrator: The Prosecutor's Office (Criminal Investigation Bureau 3, Seoul Central District Prosecutor's Office)

On behalf of those who were illegally put under surveillance, namely KBS, MBC, and YTN, the Korean Federation of Press Unions sued eighteen high-profile figures of the then-administration and the Blue House on April 5, 2012. Nevertheless, the prosecution finished the investigation without indicting any charge of illegal surveillance. Separately, YTN labour union sued two authorities in charge of the YTN surveillance at the Public Service Ethics Office and four executive members of YTN who are suspected to keeping close touch and cooperating with them on April 16, 2012, but this too has not been concluded for over a year since the charges were filed. After that on March 5, 2013, the YTN labour union filed criminal charges against the former President Lee Myung-Bak as the person with the ultimate responsibility for the illegal surveillance of YTN, but investigation by the prosecutor's office has yet to be started. It is assumed that such avoidance of a proper investigation is not an independent decision of the Criminal Investigation Bureau 3 of the Seoul Central District Prosecutor's Office, but of instruction from the top brass in the public prosecutor's office or the government. Meanwhile, Lee Young-Ho and Jin Kyung-Lak, officials who were accused of conducting the surveillance, have all recently been released on bail.

3. Disciplinary Action and Dismissal for Activities to Secure the Independency of the Press

Looking inside the media outlets, infringement of production autonomy comes in various forms in personnel management, reconstruction of organization, program lineup, report, and production.

The autonomy of the press is getting more and more infringed in substance as people in charge of production are controlled and weakened with personnel management, such as expulsion and dismissal, suspension, probation, pay cut, and transfer without consent. In the case of transfer, it comes in various forms; from Seoul to province, from reporting center to composition center, or from reporting center to sports center.

1) Disciplinary Action for shutdown of YTN's Dol-Bal-Young-Sang (Unforeseen Clips_, which was critical of the Lee Myung-Bak Administration.

Alleged Perpetrator: YTN board of directors; the Minister of Culture, Sports, and Tourism, Shin Jae-Min (at the time of dismissals in 2008, now in jail for a bribery scandal)

The production of Dol-Bal-Young-Sang was stopped at the time of the mass disciplinary action in October 2008, since two of three journalists in charge of making the program were dismissed and the other was suspended for 6 months. With the return of the journalist after his suspension period was over, the union and management compromised and the program was resumed, but was stopped again after 4 months as the returned journalist was again suspended. After that, the producer was replaced with a journalist in favour of the YTN board of directors and Dol-Bal-Young-Sang was resumed, but it lost its characteristics of a critical program and the number of its times being broadcast was significantly decreased (from daily to 3-4 times a month). The program has been practically discontinued. It is recorded in the above-mentioned transcript that Shin Jae-Min,

who requested dismissals of labour union leaders to YTN, also asked for the shutdown of Dol-Bal-Young-Sang. In addition, the aforementioned illegal surveillance document reports the fact that the government positively assessed Bae Suk-Kyu for suspending the producer of Dol-Bal-Young-Sang after Koo Bon-Heung resigned. After all, the virtual abolition of Dol-Bal-Young-Sang could be said to be a mission ordered by the government on condition that Bae Suk-Kyu be appointed as the YTN's president.

2) Disciplinary Action, Dismissal, Damage Suit imposed on MBC's Reporters and Producers Who Tried to Protect the Press Independency

Alleged Perpetrator: MBC Board of Directors

With 69.8% of the MBC employees in favour of going on the strike so as to secure the fairness of a public network, guarantee press freedom through guaranteed independency, and to request for MBC president Kim Jae-Chul's resignation, who was accused of misappropriation, went on for 170 days (from January 30, 2012 to July 18, 2012). In the process, MBC imposed severe penalties on 8 people, replacing the reporting chief director, suing the labour union's executives for interference in the execution of duties, and dismissing the union officials. MBC also filed a 3 billion won damage suit against the labour union.

3) Dismissal of MBC reporter Lee Sang-Ho, who criticized the government in his report.

Alleged Perpetrator: MBC board of directors

In the podcast Gobar News, MBC reporter Lee Sang-Ho raised suspicion that MBC secretly interviewed Kim Jong-Nam, Kim Jong-Il's First son, on January 12, 2013 and was planning on reporting it. MBC personnel committee dismissed Lee asserting that he 'disgraced the company and violated the maintenance of dignity.'

III. Recommendations from the International Community

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mission to the Republic of Korea, 21 March 2011, A/HRC/17/27/Add.2

25. The special rapporteur is concerned that many of defamation suits are filed against expressions that are true and for public interests and are being used to punish individuals that criticize the government. The case of the four directors and one writer of MBC's current affairs program 'PD Notebook' is a prime example. This program asserted the danger of mad cow disease in U.S. beef and criticized the government officials that are responsible for the trade negotiation. As a result, the directors and writer were arrested on the suspicion of defamation of the official of the Agriculture Ministry. The Seoul Central District Court acquitted them all in January 2010. The prosecution appealed and was rejected by the same court on February 2, 2010. The prosecution later appealed to a higher court.

27. Furthermore, since protection of rights and dignity is applied not to abstract institutions but to individuals, no individual should be punished for criticizing or slandering the state or the symbol of the state. In addition, the following principles need to be respected. The special rapporteur restates that a statement has to be false, bring damage to other's dignity, and have nefarious intention in order to be established as libel. Furthermore, since protection of rights and dignity is applied not to abstract institutions but to individuals, no individual should be punished for criticizing or slandering the state or the symbol of the state. In addition, the following principles need to be respected. (a) Public officials should be banned from filing for libel, for they should bear higher degree of criticism than ordinary citizens do, (b) requesting only truth in publications linked to public interests is unreasonable, (c) when it comes to opinions, only those that express irrational opinions is regarded as libel, (d) responsibility to prove every element is imposed upon the plaintiff rather than the defendant, (e) in libel suit, the limit of relief should never be applied to apology, correction, criminal sanctions, and especially confinement.

28. Libel still remains as a criminal offence in Korea and we express concern that not only is it a severe measure in essence, but it also unfairly withers the rights to freedom of expression. It is as if an individual is always facing dangers of arrests, confinement before trials, expensive criminal trials, fines, imprisonment, and being stigmatized as a criminal. Also, criminal sanctions lack validity when reflecting the appropriateness of non-criminal sanctions in terms of correcting damages to an individual's dignity as stated in civil law. Therefore, the special rapporteur recommends the ROK government to delete libel from criminal law.

81. While there are some newspapers that share the political view of the ruling party, there are also numerous other media sources that are independent and pro-opposition parties in the perspectives of guaranteeing diversity and plurality. Nonetheless, the special rapporteur expresses concern that the representatives of many media outlets, including KBS, the Korea Broadcasting Advertising Corporation, Arirang TV, Sky Life, and YTN, have been replaced with the presidential aides since the Lee Myung-Bak administration came into office in 2008. The special rapporteur emphasizes the importance of the media sources through effective appointment process, especially the independency of the president and the management of public TV networks.

82. In addition, the revision of the press and broadcasting bills proposed by the ruling Grand National Party were approved in National Assembly in July 2009. Since the revision is known to allow cross-ownership of publication and broadcasting, the special rapporteur is concerned that this bill will pave the way for the conglomerates, newspaper companies, and foreign capitals to enter broadcasting sector and violate the principles of diversity and plurality of the media.

89. Reflecting upon the fact that libel is prohibited under civil code, the ROK government should delete libel from criminal code in accordance with the international trends. The special rapporteur emphasizes the point that public officers and public institutions should not file for libel, since public office in a democratic society is part of checks and balances that accompanies inspection from the public. The special rapporteur urges the ROK government to create a culture in which

they accept critical opinions including critiques on public officers, public institutions and other powerful figures, as such culture is an essential element of democracy.

95. The special rapporteur recommends the ROK government to guarantee open and free exchange of information on election and candidates including the rights to freedom of expression during as crucial time as election day.

101. The special rapporteur highly respect the fact that real pluralism for media sources exists in the Republic of Korea. However, an effective appointment process that guarantees the independency of the presidents and management of media outlets is much needed. Moreover, the special rapporteur urges the ROK government to expand and protect the diversity and plurality of the press by banning the cross-ownership and prohibiting the formation of press conglomerates.

Report of the Working Group on the Universal Periodic Review, Republic of Korea, 12 December 2012, A/HRC/22/10

50. Guarantee the laws in relation to freedom of expression and freedom of press are applied in compliance with international standards (Switzerland).

IV. Recommendations

- Find out the truth about the press surveillance case, including the surveillance of YTN labour union, punish the responsible people and prepare measures to help the victims.
- The Prosecutor's Office should stop charges made against reporter Choi Sung-Jin from Hankyoreh, reporter Joo Jin-Woo, and others for press coverage. In addition, the provision of libel and interference in the execution of duties that is used as a ground to oppress the press and its people should be revised immediately.
- Dismissals and disciplinary actions imposed on the journalists for press coverage, such as reporter Lee Sang-Ho and Roh Jong-Myun, should be dropped and those who were dismissed should be returned to work. Journalists should not be punished for carrying out their proper duty to criticize authorities and keep an eye on them. Neither should Journalists be disciplined for libel and interference in the execution of duties, nor should they be hit with disciplinary actions of arrests, confinement, fine, expulsion, and dismissal.
- The dismissals and disciplinary actions imposed on the journalists from MBC and YTN for participating in labour union strikes and activities to secure the independency of the press should also be suspended. MBC should withdraw the compensation suit filed against the strike. Labour unions' strikes to secure the independency of the press should be guaranteed, not outlawed.
- The appointment process for the media management should be revised in order to secure the independency of the press. The government should guarantee that the laws in relation to freedom of expression and freedom of press are applied in compliance with the international standards.

Annex 1. < Cases of Infringement of Autonomy of KBS Production in 2011>

Date	Main Incidents
2011.01.05	Korea Communication Standards Commission, voted for 'warning' on <60 Minutes Trace>'s episode on 'Cheonan Naval ship'
2011.02.25	Three of the directors of KBS's <60 Minutes Trace> were disciplined with pay cut and reprimand
2011.03.09	Korea Communication Standards Commission, voted for 'recommendation' on <60 Minutes Trace>'s episode on 'Four-River'
2011.2.8	Narration of Yoon Do-Hyun in Sisa Giheok KBS 10, 10 years of the National Human Rights Commission, towards low areas' deleted.
2011. 1.14	KBS Special Live to Help Our Troops – Live Broadcasting of fund-raising campaign for heat-generating vest
2011.8.18	KBS 9pm News – Speech of Choi Jin-Chul, the CEO of Gwi-Ddoo-Ra-Mi's, on the free lunch referendum, deleted.
2011.8	KBS Special "Jung Yul-Sung, the Anti-Japan independence activist" not aired.
2011.6.23	Korean War Special "War and Soldier" - a documentary that glamorized Baek Sun-Yeop
2011.9.27	Order for additional production of Yeongsan river in <Environment Special>'s 'River and Life'
2011.10.4	Composition of programs focused on the four-river: 'Yeongsan River Special', Open Concert's 'Yeoju Namhan river' <Convert 7080>'s Geum river, <KBS Traditional Music Orchestra> Nakdon river.
2011.10.4	'People That Moved the Republic of Korea's' trilogy <Lee Seung-Man, the First President>
2011.9	Request from Chae Il, manager at Chaeil Sports, for a civil appeal article; stir caused by assaulting the reporter who rejected the request.
2011.10.28	KBS reporter Yoo Won-Joong, who was covering 'U.S. army bases' among the contents disclosed by Wikileaks, was transferred to non-production department.

Source: Newsletters and news articles from each media outlet's labour unions.

Annex 2. <The Main Development of Oppression on MBC Programs by the Lee Myung-Bak Administration>

Date	Main Development
2008.06.29	Korea Communication Standards Commission approved apology order on MBC <PD Notebook>'s report regarding mad cow disease.
2008.07.31	The court ruled that some contents of <PD Notebook>'s report on mad cow disease was false and ordered correction and objection report.
2009.03.04	Korea Communication Standards Commission voted for warning on MBC's <News Desk>, recommendation on <Current Affairs Magazine 2580>, and apology to the viewers on <News Who> regarding the revision of media bills.
2009.03.12	Choi Sang-Jae, the president of the National Union of Media Workers, and others related to the full-scale strike summoned for questioning.
2009.03.25	Arrest warrants issued for six directors of MBC's <PD Notebook>, Producer Lee Choon-Keun arrested.
2009.04.13	MBC <News Desk>'s anchor Shin Kyung-Min, replaced
2009.07.22	Parliamentary railroading of the Revision of Broadcast Act
2009.07.31	Korea Communication Standards Commission appointed Kim Woo-Ryong and 9 others as MBC's board of directors.

2010.02.08	Resignation of MBC's president Uhm Ki-Young
2010.02.26	Appointment of Kim Jae-Chul as MBC's president
2010.06.04	President Kim Jae-Chul decided on dismissal of chief director Lee Keun-Haeng and <PD Notebook>'s producer Oh Haeng-Woon
2010.07.13	Intrusion of a police lieutenant from the Seoul Metropolitan Police Agency into the studio of MBC radio <The World is, and We are> requesting interview questionnaire.
2010.08.17	MBC <PD Notebook>'s episode "The Secret of the 6 Meters Depth of the Four Rivers" not aired at the behest of the president.
2010.09.27	In the program composition meeting under the supervision of president Kim Jae-Chul, decisions were made to abolish <W> and <Who Plus> and to move the time slot of weekend <News Desk>
2010.11.23	Seoul Newspaper disclosed the full-range surveillance of civilians (including YTN, MBC, and journalists' union) of the Public Service Ethics Office of the Prime Minister's Office (Notebook of Won Choong-Yeon)

Source: Newsletters and news articles from each media outlet's labour unions.

Annex 3. < Main Development of Lee Myung-Bak Administration's Oppression on TV Programs – KBS>

Date	Main Development
2008.08.11	Decision to dismiss Jung Yeon-Joo, the president of KBS (arrested on the 12th), law enforcement authorities sent into KBS building.
2008.08.26	Appointment of Lee Byung-Soon as KBS president
2008.09.17	Execution of the president Lee Byung-Soon's employee address, transfer of employee action and transfer of duty post, launch of internal audit
2008.10.29	KBS reported a periodic reform proposal to the board of directors. Change of names from <Sisa Tonight> to <Sisa 360>, <Media Focus> to <Media Critique>; change of time slot; abolition of <Danbak Interview>.
2009.01.15	Decision to expel KBS's producer Yang Seung-Dong and reporter Kim Hyun-Suk and dismiss reporter Sung Jae-Ho.
2009.02.24	KBS's <Sisa Gihoek Ssam> broadcasted "1 Year Since Presidential Inauguration – The Way of Four Years Left"
2009.07.22	Parliamentary railroading of the revision of the Broadcasting Act.
2009.08.29	Korea Communications Commission decides on Son Byung-Woo and 10 others as KBS's board of directors.
2009.10.15	Abolition of <Sisa 360>, the sequel to <Sisa Tonight>
2009.11.24	Kim In-Kyu's assuming the office of KBS president
2009.12.29	Termination of KBS <Sisa Gihoek Ssam>, replaced by <Sisa Gihoek KBS10>
2010.06.18	KBS transferred 10 directors of <60 Minutes Trace> to the reporting center.
2010.07.06	Kim Mi-Hwa, sued for libel for her remarks on the 'blacklist'
2010.08.13	Chief director of current affairs and education bureau at KBS ordered to stop the production of item on the chief commissioner nominee of the National Police Agency Cho Hyun-Oh's comments.
2010.11.17	KBS <60 Minutes Trace>'s episode "Cheonan Naval Ship, Has the Questions Ended?" aired on

	the day after non-air controversy
2010.12.08	KBS <60 Minutes Trace>'s episode "Controversy on the Withdrawal of Business, the Major Focus of the Four-River" was not aired, aired on December 22.

Source: Newsletters and news articles from each media outlet's labour unions.

Annex 4. Chronology of MBC strike

- ▲ 27 Jan. 2012 = Labour Union, approval of strike with 69.4% voted in favour.
- ▲ 30 Jan. = Labour Union started a full-scale strike.
- ▲ 1 5 Feb. = MBC, request of an injunction order against the labour union for interference in the execution of duties.
- ▲ 22 Feb. = MBC, replacement of chief reporting director.
- ▲ 27 Feb. = Labour Union, raised suspicions that president Kim Jae-Chul used corporate credit card for private expenses.
- ▲ 27 Feb. = Company, sued the union's executives for interference in the execution of duties.
- ▲ 5 March = MBC, imposed severe penalties on 8 people involved in strike, including the union officials.
- ▲ 6 March = MBC filed a 3 billion won damage suit against the union.
- ▲ 12 March = Labour unions of 18 MBC local offices began strike, MBC, requested a provisional attachment against 16 of the union's executives.
- ▲ 14 May = The labour raised suspicion that president Kim Jae-Chul provided benefits and support to a dancer J.
- ▲ 21 May = The court rejected the arrest warrants of 5 union executives.
- ▲ 31 May = MBC imposed heavy penalties on three people, including dismissal of Park Sung-Ho, the president of reporters.
- ▲ 20 June = MBC imposed heavy penalties on 12 people, including dismissals of producer Choi Seung-Ho and reporter Park Sung-Je.
- ▲ 22 June = MBC increased the compensation to 19.5 billion won.
- ▲ 29 June = The ruling and opposition party agreed in the opening negotiation of the National Assembly that the council of the new Foundation for Broadcasting Culture will take care of the MBC's labour-management issue.
- ▲ 11-12 July = Local MBC, imposed disciplinary actions on 28 union executives.
- ▲ 16 July = The union held a conference to discuss their return to work.
- ▲ 17 July = The union approved their return to work in the general meeting on the 18th at 9am.

Conscientious Objection to Military Service

Yeo-Ok / Korea Solidarity for Conscientious Objections

I. Background

As noted in Article 10 of the UN Declaration on Human Rights Defenders, conscientious objectors who cannot participate in military training that infringes on life, human rights, and liberties of others should not be subjected to punishment or adverse action of any kind for refusing to violate human rights and fundamental freedoms. However, since the Republic of Korea has adopted a conscription system, all male citizens are required to serve in the military. There are two main issues as a consequence.

First, conscripted soldiers must act according to their superiors' orders even if to do so is against their own conscience. They have no choice but to go to jail if they refuse to participate in direct and indirect war or preparation of war, as there are no alternative to military service. Conscientious objectors, who are in a sense the most active frontline human rights defenders, are routinely being jailed for this very reason, that is, for refusing to participate in the preparation of committing violence against other human beings.

Second, a part of the police force, including the riot police, is being replaced by conscripted soldiers as the draft system is widely used by the state as a means to mobilize forces. They are frequently required to suppress civil demonstrations or protect controversial military installations. The state is using the military to fulfill the duties that should be carried out by the police and in doing so, is seriously abusing state power. The crushing of protests is a huge problem in Korea. There have been many incidents in which protesters have died or become wounded due to the disproportionate force used by the riot police. Where the riot policemen who are sent to the scene are soldiers acting as riot police, they have no right to refuse to be a part of this state violence against the people because it is mandatory, in the military system, to obey commands. If they do refuse, they must go to jail.

Despite the United Nation's recommendations, there is no alternative to compulsory military service in the Republic of Korea. If a man does not want to become a soldier, he has to accept punishment. If he does not fulfill his military duty, he will be put on trial and subjected to an 18-month imprisonment per Article 88(1) of the Military Service Act or the Article 44 of the Military Penal Code. Conscientious Objectors who do not want to be trained to kill people or be involved in committing human rights violations by the state must go to jail without exception. Around 17,000 objectors have been imprisoned on this ground since the Japanese colonial period, and as of May 2013, there are currently 750 prisoners.

Persecution of the conscientious objectors does not end with imprisonment. The objectors must deal with the disadvantages of having limited rights as a citizen, such as becoming disenfranchised for five years after their release from prison or having restrictions on employment for some public enterprises. They carry a criminal record for the rest of their lives which inevitably put them at a disadvantage in many other ways including when seeking employment in the private sector.

In some cases the Ministry of Defense even sends an official document to companies and orders the penalizing of a candidate who has a record. There are many social and cultural inequalities for people who refuse the state order, as the statism of "national security first" is wide spread in the Republic of Korea, and the state often sets out to encourage these inequalities.

II. Human Rights Situation

1. Refusal of unjust order

Soldiers have to obey the orders of their superior officers due to the nature of the military. The same can be said of riot police who compulsorily recruited from among the conscripted soldiers. While they are usually assigned to traffic control duties, they are also sent to suppress protests immediately when there is a shortage of manpower. In fact, those drafted are assigned to suppress even lawful protests and assembly, which may constitute an act against their conscience. They are conscripted soldiers, so they cannot refuse orders or quit. If they do so, they are sentenced, usually to imprisonment, just like other conscientious objectors.

1) Gil-jun Lee's Case

Alleged perpetrator: Ministry of Defense, Ministry of Public Administration and Security

In 2008, hundreds of thousands of people held candlelight vigils which were initiated to oppose imports of U.S. beef and the governing administration. Gil-jun Lee, a conscripted policeman at the time, had to repress the peaceful candlelight vigils. He did not want to get involved in a violation of human rights so had a press conference to declare his objection and reasons for leaving the riot police.

After the press conference, he staged a sit-in at Sinwol Catholic Church for five days and voluntarily went to the police station. He was sentenced to 2 years imprisonment, a longer sentence than

other objectors who usually received a one-and-half-year sentence, for disobeying orders and libeling his superior officers. He was released from prison in November 2011 after serving the full term but was not granted amnesty and reinstatement. He still suffers disadvantages in his everyday life because of his criminal record. The police conscription system is still maintained.

2. Conscientious Objection as advocacy of peace

Constructing a military base heightens military tension with neighboring countries undermines the people's right to peace and infringes the local people's housing rights. In Korea, there is a military base that is being constructed in Gangjeong Village on Jeju Island, a place noted for its natural beauty and cultural heritage, despite a concerted effort by the civil society to stop the construction. The state has so far crushed all campaigns against the construction of the military base and is advocating for the rights to peace, and simply pressing ahead with the construction. In particular, anti-military base activists are being forced into the military and are punished if they refuse. Such forced conscription and punishment for refusal is used to apply pressure on the activists for peace.

1) Dong-suk Kang's Case

Alleged perpetrator: Ministry of Defense, Military Manpower Administration

Dong-suk is an advocate of peace in Gangjeong Village. He has lived in the Gangjeong Village community center and has been assiduous in the anti-naval base movement. Seeing the government, military, soldiers, and policemen violating local people and activists' human rights, he thought about the meaning of being a soldier. He decided to be a conscientious objector despite having received a notice of enlistment. Now the enlistment day is delayed a little bit because of his other ongoing anti-naval base action trial. However, if he does not show up on his date of enlistment, he will be accused by the Military Manpower Administration of refusing military service without a valid reason. Soon, he will be sent to prison for 18 months.

III. Recommendations by the International Community

Report of the Working Group on the Universal Periodic Review, Republic of Korea, 12 December 2012, A/HRC/22/10

124.53. With regard to conscientious objection, adapt existing national legislation so that alternative services to military service effectively have a civil nature and that they are placed under the monitoring of civil authorities (France); Abolish imprisonment and establish a non-military service for conscientious objectors (Germany); Ensure that the right to conscientious objection to military service is observed (Poland); Recognize the right to conscientious objection to military service and introduce alternative service in line with international standards (Slovakia); Recognize conscientious objection as a right, guaranteeing an alternative community service to the military service of a truly civilian character, and free all conscientious objectors currently imprisoned

(Spain); Immediately introduce an alternative military service option for conscientious objectors, ensuring it has a non-combatant or civilian character and is not of a punitive nature (United States of America); Introduce alternative service for conscientious objectors (Australia)

Report of the Working Group on the Universal Periodic Review, Republic of Korea, 29 May 2008, A/HRC/8/40

17. To recognize the right of conscientious objection by law, to decriminalize refusal of active military service and to remove any current prohibition from employment in Government or public organizations, in line with the recommendation by the Human Rights Committee (Slovenia);

24. That the National Security Act be brought in line with international standards regarding clarity of criminal law, and that active steps be taken to introduce alternatives to military service for conscientious objectors (United Kingdom);

Views of the Human Rights Committee, 101th Session, Communication No. 1642-1741/2007

(388 people in 2012, 100 people in 2011, 11 people in 2010, 2 people in 2006)

7.2 The Committee notes the authors' claim that rights under article 18, paragraph 1 of the Covenant have been violated, due to the absence in the State party of an alternative to compulsory military service, as a result of which their failure to perform military service led them to criminal prosecution and imprisonment. The Committee notes that in the present cases the State party reiterates arguments advanced in response to the earlier communications before the Committee, notably on the issues of national security, equality between military and alternative service, and lack of a national consensus on the matter. The Committee considers that it has already examined these arguments in its earlier Views and thus finds no reason to depart from its earlier position.

7.3 The Committee recalls its General Comment No 22 where it has considered that the fundamental character of the freedoms enshrined in article 18, paragraph 1 is reflected in the fact that this provision cannot be derogated from, even in time of public emergency, as stated in article 4, paragraph 2 of the Covenant. Although the Covenant does not explicitly refer to a right of conscientious objection, the Committee believes that such a right derives from article 18, inasmuch as the obligation to be involved in the use of lethal force may seriously conflict with the freedom of conscience. The right to conscientious objection to military service inheres in the right to freedom of thought, conscience and religion. It entitles any individual's religion or beliefs. The right must not be impaired by coercion. A State may, if it wishes, compel the objector to undertake a civilian alternative to military service, outside the military sphere and not under military command. The alternative service must not be of a punitive nature. It must be a real service to the community and compatible with respect for human rights.

7.4 In the present cases, the Committee considers that the authors' refusal to be drafted for compulsory military service derives from their religious beliefs which, it is uncontested, were

genuinely held and that the authors' subsequent conviction and sentence amounted to an infringement of their freedom of conscience, in breach of article 18, paragraph 1 of the Covenant, Repression of the refusal to be drafted for compulsory military service, exercised against persons whose conscience or religion prohibit the use of arms, is incompatible with article 18, paragraph 1 of the Covenant.⁸ The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, concludes that the facts before the Committee reveal, in respect of each author, violations by the Republic of Korea of Article 18, paragraph 1 of the Covenant.⁹ In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the authors with an effective remedy, including expunging their criminal records and providing them with adequate compensation. The State party is under an obligation to avoid similar violations of the Covenant in the future, which includes the adoption of legislative measures guaranteeing the right to conscientious objection.¹⁰ Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views. Concluding Observations of UN Human Rights Committee about the third periodic report of the Republic of Korea(2006)CCPR/C/KOR/CO/3/CRP.1

17. The Committee is concerned that: (a) under the Military Service Act of 2003 the penalty for refusal of active military service is imprisonment for a maximum of three years and that there is no legislative limit on the number of times they may be recalled and subjected to fresh penalties; (b) those who have not satisfied military service requirements are precluded from employment by government or public organisations and that (c) convicted conscientious objectors bear the stigma of a criminal record (art.18).The State party should take all necessary measures to recognize the right of conscientious objectors to be exempted from military service. It is encouraged to bring legislation into line with Article 18 of the Covenant. In this regard, the Committee draws the attention of the State party to its General Comment 22 para.11 on the right to freedom of thought, conscience and religion.

IV. Recommendations

- Recognize the right to conscientious objection as a human rights defender who refuse to kill and violate human rights; introduce alternative service for conscientious objectors.
- Try to make national consensus of the rights to conscientious objection on the recommendations of international community and the obligations of Korean government; do not delay the introduction of alternative service on the excuse of the lack of national consensus.

- Grant amnesty and reinstate people who were imprisoned because of conscientious objection as a human rights defender, and expunge their criminal record so that they do not suffer discrimination and unfair treatment in society.

Whistle Blowers

Jeongu-uk JANG / Center for Whistleblowers Support, People's Solidarity for Participatory Democracy
Hae-gwan LEE / KT New Trade Union

I. Background

In the Republic of Korea, the whistle-blower protection system was established when 'The Act on the Prevention of Corruption ' was legislated in 2001. (In 2008, the law was repealed and replaced by 'The Act on the Prevention of Corruption and the Establishment and Management of the Anti-corruption and Civil Rights Commission'). By this law, whistle blowing in the public sector began to be protected. In 2011, 'The Act on the Protection of Public Interest Whistleblowers' was enacted to protect whistleblowers in the private sector as well. However, the current legal system does not provide protection to all whistleblowers. For example, whistle blowing on accounting fraud in companies and corrupt behaviors in private schools are not protected by the two laws mentioned above. In addition, there are many cases where whistleblowers are punished and sued by organizations they belong to or by members of organizations even though the whistle blowing is subject to legal protection. The punishments and lawsuits mostly occur in the process of whistle blowing, but they also occur for acts or behaviors before or after the whistle blowing. Therefore, even if whistle blowing is protected by law, effective protection may not be possible in certain cases. Also, adverse consequences such as ostracism exist for whistleblowers, but they do not receive proper protection. According to the 18 July 2011 report by the Hankyoreh 21 Journal, out of the 38 major whistle blowing for public interest cases since 1990s, only 12 cases(35%) resulted in guilty verdicts against those accused of wrongdoing (excluding suspended sentences). On the other hand, cases where the corruption charges were dropped on the ground that the organizations in suspicion denied the charges or conducted their own investigations numbered 10 in total. Out of the 45 public interest whistleblowers in the 38 major cases, 20 were dismissed from their organizations, and most of the others were subjected to severe disciplinary actions. Among them, 12 were reinstated after winning lawsuits for unfair dismissal, but most of the lawsuits took several years. Seven of the cases ended only in making 'system improvements' but in no punishment of the people charged. Considering that most of the cases surveyed in the report took

place after the anti-corruption law was legislated, it is clear that public interest whistleblowers are not being protected adequately. The Act on the Protection of Public Interests Whistleblowers has been revised to extend protection to whistleblowers in the private sector, but it only warrants protection on the grounds of 'national health, environment, and consumer benefits' and 'violation of fair competition.' A rising number of reports for public interest have been made after the Act on the Protection of Public Interests Whistleblowers was legislated, but many of them have turned out to be unrelated to internal whistleblowing. The representative cases where whistleblowers have received legal protection are those of Shin, Chun Su, who warned of risks with KTX (railroad system), and Lee, Hae Gwan, President of KT New Trade Union, who revealed the malpractices in the international phone service. In these two cases, restoration to the original state order was decided in accordance with the law first, but later this order was challenged by an administrative lawsuit in the appeal process. Mr. Shin was luckily reinstated after a new CEO was appointed to the company, but Mr. Lee is still in the status of dismissal. Effective and systematic protection is needed in the private sector as well.

II. Human Rights Situation

1. The suppression of whistleblowers in the government and public organizations and the lack of protection by the anti-corruption agency

Whistleblowers in the government and public organizations have begun to receive protection since the anti-corruption law came into effect. Protection for whistleblowers and anti-corruption policies are mostly carried out by the Anti-corruption and Civil Rights Commission. The legal basis for such functions is provided by the 'Act on the Prevention of Corruption and Establishment and Management of the Anti-corruption and Civil Rights Commission.' Despite such mechanisms, for people who bring their accusations to the press, NGOs, or the internet, protection is not provided because only those who report to the Anti-corruption and Civil Rights Commission and investigative agencies is subject to protection under the law. Also, criticisms of government policies and disclosures by public servants based on their consciences cannot protect under the anti-corruption act since the subjects targeted by such criticisms and disclosures are not deemed as disclosing acts of 'corruption.' Even when they do receive protection, the whistleblowers receive maltreatment from coworkers, making it difficult for them to continue working. In addition, retaliatory measures such as disciplinary actions, lawsuits, and discriminatory personnel measures often occur after whistle blowing. The current anti-corruption law protects whistleblowers from such retaliatory actions, but courts sometimes dismiss such cases or give the accused light sentences.

1) Unfair personnel measure after the reporting of the misuse of the service contract fund for the design of a stadium by Kim, Bong Gu, a chief clerk of the Ansan City Government

Alleged perpetrator: Ansan City Government

With the help of the NGO, People's Solidarity for Participatory Democracy, Kim, Bong Gu reported the misuse of the service contract fund for the design of a stadium. Mr. Kim who has worked as the

chief clerk of the facility and construction department of the Ansan City Government since 1997 initially expressed his disagreement with regard to the use of the fund. Considering the financial instability of the local government in the aftermath of the 1997-8 financial crisis, the mayor's instruction to order a working design could result in the waste of taxpayers' money with a worth of 3.8 million dollars. After his expression of disagreement, he received offensive remarks and humiliation from the deputy mayor and the president of the design service firm, and he was relocated to the waterworks department on the ground of insubordination. After the relocation, the working design for the stadium continued, and in 2002, Mr. Kim and the People's Solidarity for Participatory Democracy reported the actions of the Ansan City Government to the Anti-corruption and Civil Rights Commission. After that, the city government relocated Mr. Kim again to another department, and Mr. Kim responded by applying to the commission for the order to restore him to his original position. The commission gave the order to restore the original position, but the mayor refused to accept it. In response, the commission fined the government 5,000 dollars for refusing its order. The city government, in response to the fine, filed a lawsuit on the ground that the fine is unjust. The city government lost the case, and it appealed the decision which was also dismissed. With the reporting of Mr. Kim, an investigation was launched to look into the corrupt relationship between the mayor and design service firm. Soon after, with the People's Solidarity for Participatory Democracy, Mr. Kim filed a lawsuit against the city government for unfair personnel measures and defamation, and on 26 October 2004, the court ordered the mayor (defendant) to pay 15,000 dollars to Mr. Kim. However, in the court of appeals, most of the charges were dismissed, and only the defamation charges were accepted, resulting in the fine of 2,000 dollars. The Supreme Court confirmed the verdict of the court of appeals. After a long period of not responding to the commission's order to restore the original state, the city government carried out the order only after the court's verdict to fine the government (17 July 2004) and positioned Mr. Kim in the architecture department of the city government on 1 September 2004. However, Mr. Kim resigned from public service after the appeal.

2) Removal from position and dismissal of a public servant, Lee, Jung Gu of the Goseong County Office after the reporting of the corruption of the governor

Alleged Perpetrator: the Goseong County Office

Lee, Jung Gu, a level-8 public servant¹ in the Goseong County Office, disclosed the fact that the governor, Ham, Hyung Gu, restricted the construction permit for the land of a citizen in order to purchase the land himself. According to Mr. Lee, the governor even forged fake documents to provide ground for the refusal to grant the construction permit. He reclassified the sub-city area to sub-agriculture area and created a coastal-view area, a concept that does not appear in any local law. Mr. Lee collected evidence of documents and testimonies to reveal that several employees of the office aided the corruption, and he sided with the land's owner (a citizen) in an administrative lawsuit case where the owner asked for the disclosure of information (the office turned down the request previously). Mr. Lee testified that the refusal to grant the construction permit was

¹ Public servants are ranked from level 1 to level 9, with 9 being the entry level position and level 1 being the highest.

groundless but the court ruled in favor of the Goseong County Office after Gangwon-do Provincial Government testified that nothing was wrong with the documents involved.

Before the lawsuit, in May 2003, Mr. Lee asked the Anti-corruption and Civil Rights Commission for help. He knocked on the door of the commission with the close associates of the governor, but the employees of the commission and investigators of the prosecutor's office did not receive their files, saying "You should wait. We will look into this later for sure." After a long period of waiting with no response, Mr. Lee revealed the case to the press and submitted a report of accusations to the commission again. Upon receiving the report, the commission responded by saying "We don't have the authority to investigate the matter and we are also short of staff." and turned over the case to the Gangwon-do Provincial Government which supervises the Goseong County Office. The provincial government did not inspect the governor on the ground that the administrative lawsuit was ongoing. After that, no organization investigated the corruption charges against the governor. The governor, however, received a 5-year sentence for taking bribes on another case related to construction affairs, after the reelection. Mr. Lee was originally removed from his position and dismissed, but has since been reinstated and is currently working in Goseong County office.

3) Disciplinary actions and lawsuits after the reporting of the improper maintenance of blood by employees of the Korea National Red Cross

Alleged Perpetrator: The Korea National Red Cross

The employees of the Korea National Red Cross brought the organization's problematic maintenance of blood (ex. distribution of contaminated blood) to light after they cooperated with a broadcasting channel in reporting 'improper maintenance of blood' on June 2003. They had expressed concern about the problem internally, but as no measures were taken, they decided to step up. After the television channel aired the coverage of the blood maintenance, the Korea National Red Cross began searching for the employees who had cooperated with the broadcasting crew. As the employees felt pressure in response to the searching of the organization, they reported the improper maintenance of blood to the Anti-corruption and Civil Rights Commission with the help of the People's Solidarity for Participatory Democracy. The commission recognized the improper maintenance of blood as corruption in September and asked the Board of Audit and Inspection to investigate the case. According to the result of the investigation by the board and the internal investigation by the Korea National Red Cross, 6 people had been infected with AIDS, 10 with hepatitis, and 4 with malaria due to the transfusion of contaminated blood. It was also revealed that blood with syphilis was in distribution. The Korea National Red Cross tried to hide such investigation results but later revealed them after the press reported on the problems. The organization sued the employees for disclosing confidential information of AIDS patients, and they were arrested on 2003.12.4., but soon the case was dropped as their disclosures were all true according to the investigation by the Board of Audit and Inspection.

However, the organization summoned a disciplinary committee on the ground "the employees dishonored the organization and disturbed order within it by reporting exaggerated and distorted information to the press." The organization later withdrew their disciplinary action after the Anti-

corruption and Civil Rights Commission recognized the employees as whistleblowers for public interests subject to protection. Due to the reporting by the employees, progress was made in the area of blood maintenance - an organization to improve the blood maintenance system was established under the Prime Minister's Office, and a department in charge of blood-related policies was established in the Ministry of Health and Welfare.

4) Disciplinary action against Dr. Kim, Lee Tae of Korea Institute of Construction Technology after whistle blowing on the Great Korean Canal Project

Alleged Perpetrator: Korea Institute of Construction Technology

Dr. Kim revealed that the Four Major Rivers Project is in fact the same as the Great Canal Project (which had been voted down by the National Assembly) and the institute he was working for as a researcher was pressured by the Ministry of Land, Transport, and Maritime Affairs to come up with grounds to support the project by writing on a discussion board of an internet portal, Daum. As public attention was drawn to the revelation, the institute assured that no disciplinary actions would be taken against Dr. Kim, but 7 months after, it suspended Dr. Kim for 3 months for "defaming the reputation of the institute with personal statements." The institute received much criticism as to the disciplinary action, and some characterized the action as "threat of a powerful institution to prevent the similar disclosure cases."

On 15 October 2010, during the inspection of government offices conducted by the Knowledge Economy Committee of the National Assembly, a pattern of systematic suppression against Dr. Kim after the disciplinary action was found out and brought to attention. The institute had ordered Dr. Kim to report any contact with the outside, compelled resignation, and persuaded him to write a letter of explanation about his revelation on the internet. Also, it was found that an attempt was made to fire Dr. Kim on the ground of performance evaluation after excluding him from research work. Besides its attempt to get rid of Dr. Kim, the institute suppressed the labor union who opposed the retaliatory actions against Dr. Kim. For example, it appointed the former president of the labor union who was removed and expelled on corruption charges as the head of the inspection team to investigate labor union matters. As a result of such suppression, the percentage of workers belonging to the labor union fell from 90% in 2008 to 15% in 2011. It was also found out that 10 lawsuits were in process due to the institution's abusive disciplinary actions and relocations.

5) Disadvantages after whistle blowing on the corruption in military supplies by Major Kim, Yeong Su

Alleged Perpetrator: The Navy of the Republic of Korea

Major Kim reported the military supplies corruption to the prosecutor's office in Daejeon City with the help of the People's Solidarity for Participatory Democracy on May 2009. The accused were the former budget director in the Navy Headquarters and people who supplied military items. No military personnel on active duty made the list of the accused because he thought the military failed to take appropriate measures internally. In 2006, working as the leader of the service support team in the military headquarters complex, Major Kim found out that furniture and

electronic goods purchased before he came to the position were exaggerated by 40% in their prices as the suppliers faked price evaluation sheets. He reported similar cases of corruption to the military police and the Navy headquarters and tried to fix such problems occurring in the military. In addition, he refused to follow the command to divide a purchasing order worth above 30,000 dollars into several smaller purchase orders and distribute the orders to private contracts (in the military code, when placing an order worth above 30,000 dollars, an open bid is required), uncovered the corruptive practices with regard to the contracting system and price evaluations, and saved half a million dollars for 7 months after conducting market research and hosting an open bid.

Despite such efforts, during the period, Major Kim received the lowest scores on his performance evaluation and was reassigned to a different department while receiving mistreatment such as being forced to share one desk with his subordinate. He failed to get promoted because of his poor performance evaluation, and this failure in promotion meant a curtailed employment term for Major Kim since officers are subject to retirement according to their rank. In February 2007, Major Kim reported the corruption cases to the Korea Independent Commission Against Corruption, and the commission found out that indeed a large amount of money had been wasted. An investigation team of the Ministry of Defense also uncovered one million dollars' worth waste of public funds and ordered the Navy to take disciplinary actions against those involved. The Navy, however, did not take such actions, citing their investigation report, "A waste of public funds cannot be proven as the same products purchased in the private contracts do not exist anymore, and thus proper price evaluations are impossible." After realizing that he could not seek justice within the military, he took the case to the prosecutor's office in Daejeon city. However, the prosecutor's office dropped the case on the basis of lack of evidence. In October 2009, Major Kim appeared in a program called PD Note on MBC channel and testified to the corruption in the military. After the program aired, the Ministry of Defense launched an investigation which resulted in the punishments of 31 people for obstruction of justice and violation of regulation charges. Major Kim retired in June 2011 and is currently working at the Anti-corruption and Civil Rights Commission.

6) Dismissal of a section chief of a local branch of the National Tax Service (Kim, Dong Il) after criticizing the former director of the National Tax Service

Alleged perpetrator: the National Tax Service, Prosecutor's Office

On 9 May 2009, Mr. Kim wrote on the intranet of the National Tax Service, criticizing the special tax audit by the service which led to the investigation of former president, Roh, Moo Heyon. On 15 June, the Gwangju branch of the service dismissed Mr. Kim on the ground that he defamed the reputation of the organization, and 2 days later, it reported the defamation charges to the Prosecutor's office. The case of Mr. Kim is different from others in that he did not reveal his criticism to the outside. But, it must be noted that a pattern of systematic suppression typical in whistleblowing cases was also found in a case like this where the revelation was directed towards the members of the organization.

The police delivered its opinion of 'not guilty' to the prosecutor's office on the ground that "as the location of the former director of the National Tax Service cannot be found, it is difficult to hear the statements that can identify any harm, and the harm supposedly done to the service, a group of people, is not definitive." The Prosecutor's office had a different opinion and brought Mr. Kim to court on defamation charges. The Prosecutor's office did not investigate the former director of the service (Mr. Han) who was suspected of involvement in personnel affairs and who had left for America after the reports and demands for investigation by the United Democratic Party and the People's Solidarity for Participatory Democracy. Considering the rarity of indicting a person on defamation charges without any complaint by the subject of defamation, it was made clear that the Prosecutor's office is always on the watch for criticism towards the administration and its high-ranking officials. Despite the Prosecutor's office's efforts to suppress criticisms, on 10 August 2010, the Gwangju district court ruled in favor of Mr. Kim, and he was cleared of the defamation charges. After appealing to the Appeals Committee of the Ministry of Public Administration and Security, on 15 January 2010, the disciplinary measure was changed from 'dismissal' to 'removal from position.' On 'removal from position' measure, the court ruled that the measure be withdrawn because the criticism of Mr. Kim cannot be deemed false, and its purpose was to protect public interest and not to defame the tax service. On 24 November 2011, by the ruling of the Supreme Court, he returned to his position in the Tax Office

2. Lack of protection and suppression of whistleblowers in the private sector

Whistleblowers in the private sector did not receive protection when the original anti-corruption law was legislated. But, in 2011 when the Act on the Protection of Public Interest Whistleblowers was enacted, whistleblowers in the private sector began to be protected. Still, not all received protection. People who report on corruption cases to the press, civil rights groups, and on the internet find themselves in difficult situations when they need protection. The Act on the Protection of Public Interest Whistleblowers and its enforcement decree restrict the cases of whistle blowing subject to protection to a list of cases that are considered violations of 180 different laws such as food safety violation. Protection by law is not provided to those who make reports on violations of laws such as the Act on Real Name Financial Transactions and Confidentiality, the Act on External Audit of Stock Companies, the Commercial Act, and the Criminal Act. Thus, it is difficult to expect protection when one blows the whistle on cases such as the use of borrowed accounts, accounting fraud, neglect of duty, and embezzlement. Even in cases where the Anti-corruption and Civil Rights Commission makes the decision to provide protection, organizations often reject the decision and appeal to the court or they take retaliatory actions on made-up grounds. Because not much is done to prevent such actions of the organizations, the dismissal of whistleblowers continues to persist.

1) Dismissal of the president of KT New Trade Union who reported on the fake international call service.

Alleged perpetrator: KT

In 2011, the phone voting system of the World's 7 Great Wonders provided by KT, the biggest communications company in South Korea, in cooperation with the New 7 Wonders in the UK

charged voters international phone service fees when in fact the calls were not international calls. Mr. Lee, after finding out this fact, reported to the press and the relevant government agencies from January to March in 2012. After the whistle blowing, KT took disciplinary action by suspending him for two months and relocating him to a local branch that takes five hours for him to commute. Despite the Anti-corruption and Civil Rights Commission's decision ordering the withdrawal of the relocation decision and to place Mr. Kim in branches near his house, KT ignored the commission's decision and dismissed Mr. Lee in December 2012. The punitive character of the dismissal against the human rights defender is obvious as one of the reasons for his dismissal was that he left his place of work one hour earlier than the designated time to attend the award ceremony hosted by the Transparency International to receive '2012 Transparent Society Award.' Despite the fact that the Board of Audit and Inspection confirmed that Mr. Lee's disclosures were true, KT went ahead with its dismissal decision and even filed a civil lawsuit against Mr. Lee for 300,000 dollars in damages on grounds including defamation. The Anti-corruption and Civil Rights Commission ruled that the dismissal was a retaliatory action against the whistleblower and ordered that Mr. Lee be reinstated, but KT announced that it will pursue an administrative lawsuit. Currently, Mr. Lee has not been reinstated to his job and is out of work.

2) Retaliatory personnel measures against Mr. Won, Byun Hee who reported illegal expulsion of personnel by KT

Alleged perpetrator: KT

In 2002, KT was privatized and remains the biggest telecommunications company in South Korea. But after the privatization, the company created many problems that drew public attention such as making undue profits by providing false information to customers and developing a program that ostracized and expelled workers as a means of layoff. Furthermore, the company had taken retaliatory personnel measures such as relocation and dismissal against whistleblowers who report on malpractices by the company. In Jeonbuk Province, KT's surveillance of the workers was so severe that in 2004, two workers were granted occupation health and safety insurance benefits in recognition of the fact that their health deteriorated as a result of the surveillance and discrimination by the company.

In April 2004, it was found out that the company had followed a female worker and taken pictures of her, using the pictures to force resignation, and this incident served to heighten public awareness about the severity of KT's violation of labor and human rights. As a result of the incident, in 2004, 'Jeonbuk Area Response Committee for Protection of Labor and Human Rights from KT' was founded. Mr. Won, a KT employee in Jeonbuk Province, participated in the committee actively and fought for the protection of labor and human rights of KT workers, only to be listed on the dismissal list in 2005 compiled by the company (the stated reason for his dismissal is the fact of his membership of an organization that fights for KT workers' labor and human rights). Later in June 2011, Mr. Lee was dismissed after a long period of suffering from the persistent oppression by the company. He was reinstated in July as the Central Labor Relations Committee ordered it, but KT relocated Mr. Lee to a branch that is 350km away from his hometown.

3) Refusal to renew the contract after whistleblowing on the embezzlement of bus fares

Alleged perpetrator: Bunchang Transport (company)/Seoul Metropolitan Government

In 2007, Kwon, Tae Gyo found out about the embezzlement of bus fares by the company and reported it to the press. The Seoul Metropolitan Government had run the city bus system in cooperation with private bus companies, co-managing the income and making up for any deficit. The bus company where Mr. Kwon worked abused this system and embezzled bus fares paid in currency by reporting a reduced number of customers to the Seoul Metropolitan Government.

Later the Seoul Metropolitan Government installed security cameras to prevent such embezzlements, but the bus company used these security camera tapes and uncovered that Mr. Kwon is the whistleblower. After that, the company refused to rehire him on the ground that his work attitude was inappropriate after the contract expired. Because of Mr. Kwon's report, further corruptive practices in the bus business could be prevented, but Mr. Kwon could not find any job in the bus or taxi business as his identity as a whistleblower was widespread in the business. Luckily, with the help of a whistleblowers support group and city council man of the Democratic Labor Party, he found a job in a bus company managed by the city government.

4) Dismissal of a high school teacher, Kim, Hyung Tae after whistle blowing on corruptions of the school foundation

Alleged perpetrator: Yangcheon high school, Seoul Metropolitan Office of Education

In April 2008, Mr. Kim reported to the Seoul Metropolitan Office of Education on the embezzlement of school funds (millions of dollars in amount) by the board director of the school foundation. He submitted evidence in a 300-page document that supported his allegations including overstatement of school construction costs, collection of non-existent alumni membership fees, manipulation of meeting minutes of the school management committee, illegal sales of gym clothing, improper collection of study room fees, and fake registration of short-term teachers which all led to the embezzlement of subsidies from the Ministry of Education. The Seoul Metropolitan Office of Education investigated the matter and uncovered that there was indeed embezzlement, but it concluded its investigation by simply giving a warning to the accused to "return the embezzled money and improve the system." After the investigation, Mr. Kim's identity as the whistleblower was uncovered, and next year in 2009, he was dismissed by the disciplinary committee on the ground he "brought dishonor to the school."

Later, the Appeals Committee of Education ordered the reinstatement of Mr. Kim on the ground of procedural problems, but 5 days after the decision, the school board dismissed Mr. Kim on the ground that he uploaded a confidential document to the internet and gave pamphlets criticizing the government to students. Mr. Kim reported the corruption case to the local prosecutor's office, but the Yangcheon police station to which the case was assigned only interviewed Mr Kim once and three months later, concluded its investigation on the basis of 'insufficient evidence to constitute a crime.' The Seoul High Prosecutor's Office also pursued only part of the reported wrongdoings, such as the fact the director of the school board paid his fine of thousands of dollars

with school funds, and concluded its investigation with suspension of indictment, that is, no further investigation or prosecution.

Mr. Kim held a one-person protest in front of the local prosecutor's office and Yangcheon high school for 218 days. Later in June 2010, he was elected as a member of the educational committee in Yangcheon area. On 28 June, soon after the election, the prosecutor's office conducted a search and seizure of Yangcheon high school and investigated its bank accounts. On 3 September 2010, the prosecutor's office indicted the school board director, Mr. Jeong, on the charge of "embezzling school food money (amounting to 600,000 dollars) through the operating of his own food distribution company." The remaining allegations for investigation include taking the bribe of 65,000 dollars from a construction company and embezzlement of 46,000 dollars. On 7 November 2010.11, the Seoul Administrative Court ruled in favor of Mr. Kim in the case that he brought against the Ministry of Education Teachers Examination Council regarding his unfair dismissal, ordering the decision of dismissal be withdrawn.

5) Dismissal after whistle blowing on the causes of KTX train accident.

Alleged perpetrator: Korean Railway (a. k. a. KORAIL)

Shin, Chun Su, an employee of KORAIL and member of the railway union, reported to the press on the causes of the accident in which passengers had to evacuate the train heading for Busan city due to the severe noise and shaking. According to Mr. Shin, the cause was the use of a transaction motor after its lifespan and the melted bearing of the transaction motor. KORAIL responded to the report by explaining "the trains only slowed down to cool off the overheated engine. There was no problem with the engine." MBC, a TV network, asked the railway union to find out about the status of the train in dispute, and the union in turn asked the local branch (head of the branch was Mr. Shin) to find out instead. Mr. Shin, upon request, discovered that the transaction motor parts were severely damaged and worn out (including the complete meltdown of the bearings), and the parts were past their use-by-date after he analyzed the pictures from the accident. Later, he reported to the union headquarters on the high risk of accident, and the content of his report aired on TV by the network, MBC.

KORAIL made an announcement that it would replace the old parts of KTX-1 trains and investigate the KTX-Sancheon model as part of the 'special response to railway safety.' The special response team confirmed that the disclosures by Mr. Shin were true as they admitted to the use of outdated parts and decided to replace all the related parts. However, on 22 August, KORAIL took disciplinary actions against Mr. Shin and the employee who gave him the photographs (dismissal for Mr. Shin and 3-month suspension for the employee). Mr. Shin asked the Anti-corruption and Civil Rights Commission for protection measures, and on 19 December, the committee made the decision to annul the disciplinary measures. KORAIL appealed to the administrative court, but after the appointment of a new CEO, Mr. Shin was allowed to return to his position.

III. Recommendations by the International Community

According to Article 33 of the United Nations Convention Against Corruption which the South Korean government ratified on 27 March 2008, "Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention."²

Also, the Guidelines for Multinational Enterprises³ of OECD of which the Republic of Korea is a member, states that employees who report on internal problems to the management and relevant government agencies should not receive discriminatory or disciplinary treatments.

IV. Recommendations

- Revise the anti-corruption act so as to provide protection to whistleblowers who report on cases besides corruptions such as unfair policies and unjust orders.
- Improve the system so that whistleblowers of private companies can be fully protected. Revise the Act on Public Interest Whistleblowers so that the court can suspend the implementation of disciplinary actions as companies can reject the order of the Anti-corruption and Civil Rights Commission to withdraw the actions by appealing to the administrative court.
- Take legal actions against the suppression and surveillance of the whistleblowers by the companies.
- The judicial and administrative branch should both make efforts to prevent abusive defamation and damage claims against whistleblowers.

² United Nations Convention Against Corruption,
http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

³ OECD Guidelines for Multinational Enterprises,
<http://www.oecd.org/daf/inv/mne/oecdguidelinesformultinationalenterprises.htm>

Student Rights Defenders

Gwang-Hyuk KIM / Youth Human Rights Action Asunaro
Kyung-Nae BAE / Human Rights Education Center DEUL

I. Background

In the Republic of Korea, elementary, middle, and high schools are considered to be in the blind spot of the Korean Constitution and the Convention on the Rights of the Child (CRC), as the human rights of students continue to be arbitrarily violated by school regulations or teachers under the pretext of guidance. Cases of violations include corporal punishment; verbal abuse; enforcement of hair or dress codes and forced haircuts; forced worship and religion classes in religious private schools; compulsory participation of early or supplementary classes and after-school study; discrimination of minorities based on disability, sexual orientation, academic performance, and race; random searching of students' personal belongings; restricting freedom of expression; punishment against assemblies within the school; repression of student government activities; and reprisals against students. According to article 28 paragraph 2 of the CRC, which the Korean government has ratified, and the continued recommendations of the Committee on the Rights of the Child, school regulations must respect the human rights of the child and be in accordance with the Convention. However, there are no laws in Korea that specify students' human rights standards¹ and the Ministry of Education and Office of Education has turned a blind eye and/or overlooked arbitrary human rights violations under the guise of ensuring school autonomy; as a result, students have no means of appeal and students who advocate for human rights are punished in retaliation or forced to drop out of school.

¹ In the Republic of Korea law, there are only two sections where student human rights are mentioned. Framework Act on Education article 12 paragraph 1 "The human rights of learners, including students, are respected and protected in the school education and social education processes.", Elementary and Secondary Education Act article 18 paragraph 4 "(Protection of student human rights) The school's founder manager and principal are required to protect the human rights of students set out in the Constitution and international human rights treaties." However, this article merely states that students' human rights should be protected, but the enactment of school regulations is at the discretion of the principal, which allows the principal to restrict the human rights of students, and this has caused many cases of arbitrary violations of human rights through school regulations.



Left: "Guidance" and corporal punishment taking place at the school entrance in the morning



Right: Hair code enforcement

In order to resolve these issues, human rights defenders have demanded for the establishment of a student rights law that includes specific rights standards, but no laws have been enacted so far. In response, efforts were made to protect the human rights of students through the introduction of the Student Human Rights Ordinance, a local government law, and such a measure was enacted in Gyeonggi-do and Gwangju in 2010, and Seoul in 2011.² It is worth noting that citizens themselves drafted, received signatures for, and succeeded in enacting the Seoul Student Human Rights Ordinance. Such a process was presented as a model case of democratic governance achieved through citizen participation at the UN Social Forum held in Geneva, Switzerland on October 2, 2012.



Left: Youth human rights defenders gathering signatures of citizen initiative for the enactment of the Seoul Student Human Rights Ordinance



Right: In May 2011, the list of signatures of citizen initiative for the enactment of the Seoul Student Human Rights Ordinance was submitted to the Office of Education)

² Among the 16 municipal and provincial offices of education, only 3 offices have enacted a Student Rights Ordinance.

However, the Ministry of Education filed a lawsuit for the nullification of the Seoul Student Human Rights Ordinance, as soon as it was promulgated in January 2012, and ordered the suspension of all revisions of school regulations.³ In April 2012, the Ministry of Education made retrogressive revisions to the Elementary and Secondary Education Act, permitting schools to ignore the Student Human Rights Ordinance and restrict the human rights of students through school regulations. As a result, there has been an increased tendency to ignore the Ordinance in schools. The current superintendent of the Seoul Metropolitan Office of Education, who took office in December 2012, has not been fulfilling his duties in accordance with the Student Human Rights Ordinance, on grounds that there is an ongoing litigation on the nullification of the Ordinance; this is despite the fact that the Ordinance clearly has legal force. As a result, cases of student human rights violations are increasing once again in 2013. The Ordinance has practically lost effect, and students who are demanding the protection of human rights are facing increased levels of repression.

II. Human Rights Situation

1. Suppression against student rights defenders

In many cases, students who protest against human rights violations by schools or teachers, or those who engage in activities to promote the revision of school regulations, are subject to punishment and disadvantages. These cases include the expulsion of Uei-suk Kang of Daegwang High School due to his one man protest in front of the Office of Education against forced worship (2004); Byung-hun Oh of Dongsung High School, who staged a one man protest in front of the school against corporal punishment and hair restrictions, was punished and required to complete a special educational program (2006); the Suwon Chungmyung High School incident which involved a candlelight rally organized by student council members, who were later punished, in order to protest the retrogressive revision of the school's hair code (2006); the Pyongchon High School (in Anyang) incident which involved students who were forced to write statements on their acts and received threats of punishment, because they handed out promotional flyers for a student rights discussion (2007); students of Ulsan's Shinjung Middle School and Okdong Middle School, who were subject to forced dispersal, corporal punishment, and threats of punishment because they held a protest against forced attendance of early classes, corporal punishment, and group punishment (2007); Jinsung High School's demand for the deletion of a UCC posted on the internet by students on cases of human rights violations that occurred within the school (2008); the case of Ik-shik Kim of Songkok High School who was disqualified in the student council elections due to the fact that he participated in a candlelight vigil outside the school and in a signature campaign for the revision of school regulations (2009); the Bundang High School incident, where a candidate for student council president was told to remove a part of a speech that mentioned the Student Human Rights Ordinance and the school forced the student to withdraw candidacy and attempted to apply punishment after the candidate informed other students of the school's censorship (2010).

³ The Ministry of Education is claiming rights that are not included in the Elementary and Secondary Education Act, a superior law to the Student Rights Ordinance. The Ministry is also arguing that the provision that allows the appointment of Student Rights Officers, who can investigate and provide remedies in cases of student human rights violations, are in violation of the superintendent's jurisdiction over personnel affairs.

Although there have been cases where acts of repression have been brought to a halt due to the activities of human rights organizations and the local community, most students give up on human rights advocacy due to the fear of disadvantages and punishments of the expulsion type⁴ which would limit their right to learn, or they choose to drop out of school because of the psychological pressure they experience after engaging in the promotion of human rights. Even after incidents are brought to light, many human rights defenders in schools fear revealing their names or faces due to concerns of additional harm. It is unfortunate that cases like this repeatedly occur even after the enactment of the Student Human Rights Ordinance.

1) Seojung Hong, a student who was forced to quit school because of her involvement in promoting freedom of religion

Alleged perpetrator: Myungji High School/Seoul Metropolitan Office of Education

Seojung Hong entered Myungji High School in Seoul in 2012 and was forced to participate in religious worship ever since the school's orientation. Upon matriculation, she was forced to attend morning prayer sessions, worships every first class period on Mondays, religion classes held once a week, and revivals. There were also issues of corporal punishment, hair code enforcement, compulsory supplementary classes, and fines for tardiness, all of which were reported to the Office of Education in April 2012, but not investigated. In July 2012, with the help of her classmates, Hong gathered information on cases of human rights violations within the school and visited the Office of Education to file a complaint, and she also reported this to the media. She created and distributed flyers to gather student opinion, which received an extremely positive response. After the Myungji High School incident was covered by the media, the formerly reluctant Office of Education conducted a special inspection and, as a result, an alternative to the religion class was created.⁵

However, the school spread false information and criticisms regarding Hong such as "Her actions have damaged the school's reputation", "All students of Myungji High School will suffer from disadvantages in the college admissions process because of her", "Those students who have poor grades try to defend human rights", and Hong started to become isolated from her peers. Some teachers openly criticized Hong during class, and she was pressured through school broadcasts and morning assemblies to "transfer to another school." As acts such as these repetitively occurred, Hong eventually dropped out of school, unable to tolerate the feeling of isolation and intimidation any longer. As seen in this incident, once the students who report cases of human rights violations within schools are removed, the situation in the school returns to its past state. This is the main reason why schools stigmatize human rights defenders as troubled students and try to drive them out. In December 2012, Hong was awarded the "Righteous Person Award" by the Public Interest Disclosure Support Group of the People's Solidarity for Participatory Democracy, and she continues

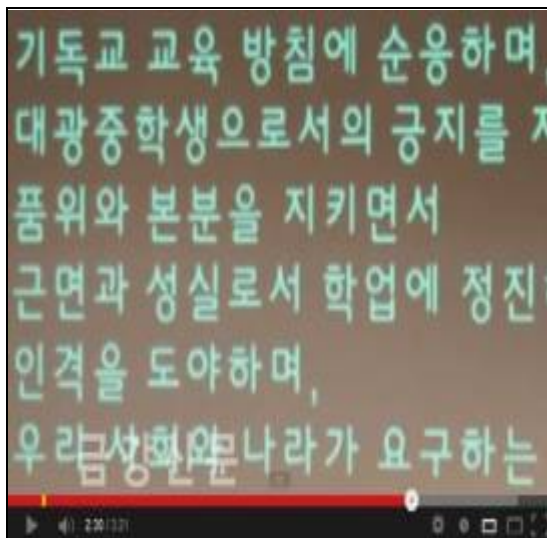
⁴ Coercive drop outs, forced transfer, and expulsion are all forms of punishments of the expulsion type.

⁵ According to the Ministry of Education's guidelines on elementary and secondary education, when opening a religion class, alternative classes such as philosophy, education, etc. should be provided, but many religious private schools ignore these guidelines.

to take part in human rights activities; however, expulsion from school has left her with deep emotional wounds.



Seojung Hong was awarded the "Righteous Person Award," which is given to people who disclose information of public interest © People's Solidarity for Participatory Democracy



Left: In March 2013, it was revealed that Seoul Daegwang Middle School was forcing students to take an oath of compliance with the school's Christian education policy and weekly worship (once a week)



Right: Interview of a Daegwang Middle School student, URL: <http://www.pressbyple.com/news/articleView.html?idxno=16330>

2) A student of Ewha Media High School whose election for student council president was cancelled for opposing censorship

Alleged perpetrator: Ewha Media High School/Seoul Metropolitan Office of Education

On November 16, 2012, a joint speech and voting took place for candidates of the student council president of Ewha Media High School. Student 'A' refused to follow the orders of the school's election guidance committee (composed of teachers monitoring student conduct) to delete and edit her campaign speech, and she went on to deliver the original speech. Student A decided that the order to edit or delete parts of her speech that made references to student rights, student government, and democracy, was unfair censorship. Although student A was elected as student council president, her election faced cancellation as the election guidance committee claimed that she had failed to comply with election rules that state that one must follow orders given by the election guidance committee. Teacher B, who became aware of this incident, requested an emergency remedy from the Student Rights Commission, which was established under the Student Human Rights Ordinance.

The Student Rights Commission stated that the school's election rules violate students' freedom of conscience, freedom of expression, and rights to autonomy, and also that nullifying an election on the grounds that the student opposed teachers' unjust censorship is a violation of the right to engage in the promotion and protection of human rights. In order to cancel an election, it must be proven that one gained unfair advantages by violating the fairness of an election. However, student A did not attempt to gain any unfair advantages, but rather engaged in human rights advocacy despite the possible disadvantages she may suffer. The Student Rights Commission sent the final recommendations to the school on November 22 and, as a result, the school promised to revise the election rules and to hold a reelection after discussing the matter with the student council and election candidates. Student A was elected as vice-president after the reelection.

In the student council elections, in which representatives for the student body are supposed to be selected, teachers frequently censor pledges and speeches under the pretext of "guidance," and even after the student council is formed, the council is often required to seek permission from the school on its meeting agendas. This is due to the school's perception of student autonomy as part of extracurricular activities rather than a form of student rights. Student A had the courage to engage in the human rights advocacy by rejecting the unjust intervention and censorship of teachers during student council elections, and overcome repression. Unfortunately, most students in the Republic of Korea conform to the censorship of teachers and restrictions of the right to autonomy.

3) Dongdaemun Middle School's prohibition on surveys and promotion regarding the Student Human Rights Ordinance as well as corporal punishment and hair code enforcement

Alleged perpetrator: Dongdaemun Middle School /Seoul Metropolitan Office of Education

In January 2012, the Seoul Student Rights Ordinance prohibiting corporal punishment and ensuring the freedom of hairstyle was promulgated, but the Dongdaemun Middle School of Seoul failed to comply with the ordinance and continued to set earlier school start times, and punished students who were late by making them hold chairs over their heads or allowing physical education teachers to put them in the pushup position. Hair checks continued to take place in front of the school entrance in the morning and those who violated the school's hair code (bangs 7cm, top

3.5cm, back 1.5cm) were given penalty points or forced to get buzz cuts. Students were humiliated by their excessively short hair and expressed their opposition to the school's hair code enforcement, but the school repeatedly responded that hair code enforcement is within the school's discretion.

In response, the student council held a meeting and decided to promote the Student Rights Ordinance, as well as distribute questionnaires on revising school regulations, but the vice-principal prohibited the distribution of the questionnaires claiming that the amendments to the Elementary and Secondary Education Act, made by the Ministry of Education, allows schools to enforce hair codes. In addition, the school denied the student council's request to revise the school's regulations on the grounds that the Ministry of Education had ordered schools to suspend any revisions of school regulations. The enforcement ordinance of the Elementary and Secondary Education Act states that school regulations must be established through a democratic manner in which students' opinions are reflected, and even when there is an ongoing litigation concerning the Student Rights Ordinance, the ordinance is still in force and should be upheld. However, the school has carried out only the administrative orders of the Ministry of Education and has, on the contrary, suppressed students' autonomy and opinions

According to international human rights standards and the Student Rights Ordinance, students should be guaranteed rights to gather opinions through surveys, to conduct signature campaigns, and to collectively express their opinions. The autonomy of student government must be guaranteed in order for it to engage in activities to promote student rights. However, schools restrict even the most basic rights such as these, and activities to promote human rights are repressed as soon as they are initiated.

4) Increase in student rights violations after the appointment of Yong-lin Moon, the Superintendent of the Seoul Metropolitan Office of Education

Alleged perpetrator: school principal, Superintendent of Seoul Metropolitan Office of Education

The Superintendent of the Seoul Metropolitan Office of Education, Yong-lin Moon, who took office in December 2012, declared even as a candidate that he would amend or abolish the Student Rights Ordinance. He has failed to carry out his duties according to or take measures against violations of the Ordinance. In response, student rights organizations initiated a campaign in March 2013 and received reports of human rights violations. As a result, a considerable number of cases were collected.

At A Middle School, students who violated the hair code received corporal punishment and penalty points; in B Middle School, a religious private school, class times were extended 1-2 times a month in order to force students to participate in prayer sessions, and teachers checked students' use of BB creams in a humiliating way by wiping their faces with cleansing tissues while they stood in line for food in the school cafeteria; in C Girls' High School, a student's uniform was confiscated because it was tailored; in D High School, student's mobile phones were uniformly collected every morning to prevent students from using them even during breaks; in E High School,

school regulations were revised so that students were only allowed to cut their hair in “monk” or “soldier” styles, and those in violation of the regulations were given penalty points and were forced to get buzz cuts at a barber shop nearby; in F High School (Girls’ Vocational High School), students were openly subject to insults and verbal abuse; in G Girls’ Middle School, the school even regulated the type and color of hair ties and gave penalty points to students who had excessively short hair, and limited the color of socks to either black or white; in H Middle School, there was an incident in which the head of the school’s student conduct department gave a student a forced haircut. Students reported such cases, making statements such as “Help me” or “The school is a prison and students are the prisoners.”

Refusing to comply with unjust interventions imposed by the school or reporting to external organizations in order to stop human rights violations is an action that is in clear recognition and promotion of student rights. Due to the closed nature of schools, it is difficult to expose the problems within the school unless students actively report incidents or demand for change, which is why such activities in defense of human rights hold more significance. However, due to the disadvantages students may face in the college admissions process and employment based on records of penalty points or punishments, they have no choice but to report incidents anonymously and have to live in constant fear of being discovered. Students are put in a difficult position where they have the choice of either engaging in human rights advocacy in spite of possible punishments or career disadvantages, or going against their conscience by conforming to unjust orders. The current Superintendent of the Seoul Metropolitan Office of Education has been implementing plans that go against student rights. Since these actions are being interpreted as a statement that the protection of student rights is unnecessary, the situation is worsening.



On the morning of April 3rd 2013, a group of students with short hair are entering S High School in Nowon-gu, Seoul. This school requires students to maintain "monk" or "soldier" hair styles. © Reporter Bon-kyu Kim, The Hankyoreh

5) Repression against youth human rights defenders conducting a campaign to promote the Student Rights Ordinance

Alleged perpetrator: A teacher of student conduct at O Girls' Commercial High School/Seoul Metropolitan Office of Education

On March 3 2013, a group of youth human rights defenders were conducting a campaign in front of O Girls' Commercial High School in Seoul to raise awareness on the Student Rights Ordinance and to distribute flyers with information on institutions where human rights violations could be reported. After some time, two teachers of student conduct began to interfere with the campaign and threatened students not to take the flyers. The youth human rights defenders protested against these acts, but the teachers yelled back in a sarcastic and disparaging manner, "Report us if you want." Due to the teachers' threats to suspend the campaign and repression against students, the youth human rights defenders were unable to carry out their most basic human rights advocacy work which involved urging students to report cases of human rights violations.

2. Repression against student rights organizations

In accordance with the Seoul Student Rights Ordinance, the Student Rights Commission and the Student Participatory Group were established in May 2012. The Student Rights Commission is an organization that reviews the Office of Education's student human rights policies and makes recommendations, and is constituted by human rights organizations, education organizations, members of city councillors, legal professionals, school inspectors from the Office of Education, and student representatives. The Student Participatory Group consists of approximately 100 students, and aims to allow students to actively participate in student rights advocacy and also to reflect student opinions on education policies. The establishment of the Student Rights Commission and the Student Participatory Group can be seen as part of the institutionalization of the roles of student rights defenders. However, these two organizations are facing difficulties due to interference by the Ministry of Education and the uncooperative stance of the Office of Education. At the time when the Seoul Student Rights Ordinance was enacted, the Student Rights Officer, who is responsible for investigation and remedy of student rights violations, was to be appointed through a separate ordinance due to difficulties in budget allocation and the need for additional discussion. On March 8, 2013, the Student Rights Officer Ordinance was enacted and promulgated, but has yet to take effect as a result of a Supreme Court litigation.

1) Attempts to nullify the Student Rights Ordinance through litigation and retrogressive revisions of superior laws

Alleged perpetrator: Former Minister of Education Jooho Lee /Ministry of Education

The Ministry of Education has repeatedly expressed opposition to the protection of student rights through local government ordinances claiming that it can infringe upon the school's authority to enact school regulations as well as cause damage to the teachers' authority. Student Rights Ordinances were enacted in Gyeonggi-do and Gwangju in 2010, and Seoul in 2011, and the ordinances were promulgated in January the following year. In response, on January 26, 2012, the

Ministry of Education filed for an injunction suspending the effect of the Student Rights Ordinance and initiated litigation for confirmation of nullity.

On January 27, 2012, the Seoul Metropolitan Office of Education sent an official notice to schools ordering them to revise their school regulations in accordance with the ordinance, but the Ministry of Education ordered schools to suspend any revisions of school regulations on the 30th. On April 20, the enforcement ordinance of the Elementary and Secondary Education Act was amended to allow schools to establish school regulations without consideration of the Student Rights Ordinance.⁶ On July 9, after the Student Rights Officer Ordinance was passed by the Seoul Metropolitan Council, the Ministry of Education pressured the Office of Education to demand reconsideration by the Council. On October 12, the Seoul Metropolitan Council once again passed the Student Rights Officer Ordinance, but the Office of Education was pressured again to carry out an additional reconsideration on November 2.

This indicates that the Ministry of Education has prioritized school regulations over the human rights of students and that it has taken purposeful actions to deter the efforts of human rights defenders to protect student rights. Yet, the Government of the Republic of Korea displayed a hypocritical attitude in its state party report for the Universal Periodic Review submitted to the United Nations Human Rights Council in August, 2012, stating that, "although there are no laws that specify students' freedom of assembly and freedom of expression, there are also no laws that restrict them. Many regional offices of education have enacted Student Rights Ordinances, and all such ordinances contain provisions ensuring students' freedom of expression. Some ordinances further guarantee the freedom of assembly."

2) The Seoul Metropolitan Office of Education's refusal to appoint Student Rights Officers and its rejection of recommendations by student rights institutions

Alleged perpetrator: Yonglin Moon, Superintendent of the Seoul Metropolitan Office of Education/Seoul Metropolitan Office of Education

⁶ Article 9 paragraph 1 (Items to be included in school regulations) of the revised Enforcement Decree of the Elementary and Secondary Education Act lists the items that need to be included in school regulations. According to this article, items on 'Appearance such as hair and/or dress, searching of personal belongings for educational purposes, use of mobile phones and electronic devices' must be included in school regulations. On the other hand, article 12 of the Seoul Student Rights Ordinance (Right to express individuality) states that 'The school must not go against the will of the students by placing restrictions on the appearance of students such as dress and hair, but the school may restrict the dress of students under school regulations.' Also, article 13 (Freedom of privacy) paragraph 2 states, 'Unless there is an urgent situation concerning the safety of students and teachers that requires the searching of students' belongings, the school must not search or confiscate the belongings of students without consent. When searching the belongings of student's is inevitable, it must be done in a minimally invasive manner, and random collective searches or searches performed without reasonable suspicion should not be carried out.' In paragraph 4 of the same article, 'The school must not prohibit the possession or use of mobile phones or electronic devices, but under article 19, the school may limit the time and location in which the student may use and possess electronic devices through school regulations in order to guarantee the students' right to learn and also to implement educational activities.' As seen above, schools have the capacity to comply with, through a democratic decision-making process, the Elementary and Secondary Education Act as well as the Seoul Student Rights Ordinance, but they refuse to comply with the Ordinance on the grounds that it is invalid because it violates a superior law.

The former Superintendent of the Seoul Metropolitan Office of Education, who was supportive of the Student Rights Ordinance, resigned due to violations of election laws and Yonglin Moon was newly elected in December, 2012, through a reelection process. As a candidate, Moon publicly stated that he would either amend or abolish the Student Rights Ordinance. Moon refused to promulgate the Student Rights Officer Ordinance, which was passed by the Seoul Metropolitan Council on March 8, 2013, through a democratic process; he further refused to appoint Student Rights Officers even after the Head of the Council promulgated the ordinance. On March 28, Moon filed for an injunction suspending the effect of the Student Rights Ordinance and also initiated litigation for confirmation of nullity. The Student Rights Commission, which was established under the Seoul Metropolitan Student Rights Ordinance, noticed that the number of student rights violations had starkly increased with the beginning of the new semester in March 2013 and held an emergency meeting to take measures against violations on March 5. The Commission demanded the dispatch of official notices for the prevention of corporal punishment, hair and/or dress code enforcement, threatening of students by teachers, unilateral revision of school regulations; the Commission urged the department within the Office of Education responsible for the absence of Student Rights Officers, to establish a guideline for remedy of rights in order that the department fully carry out its role; the Commission demanded the establishment and implementation of a plan for human rights education and the promotion of the ordinance.

However, the Office of Education did not comply with the Student Rights Commission's recommendations and failed to provide any justification. On March 26, the Student Rights Commission requested the Office of Education to establish a plan to implement the recommendations and re-urged the Office to send effective official notices to eliminate human rights violations in schools. Yet, there has been no response from the Office of Education until this day. The Student Participatory Group itself planned an investigation in October 2012, but they experienced difficulties in carrying out the investigation because the Office of Education did not permit the posting of the survey on its website and did not even provide basic administrative assistance. The refusal to accept the recommendations, without any justification, of an official institution engaging in human rights advocacy and the restrictions imposed on students' rights advocacy and on participation in policy related matters can be all considered acts of repression against human rights defenders.

III . Recommendations from the International Community

Concluding observations on the Republic of Korea's 2nd periodic report on the Convention on the Rights of the Child (CRC/C/15/Add.197)(January, 2003)

32. The Committee recommends that the State party enact legislation explicitly prohibiting discrimination in order to include all grounds enumerated in article 2 of the Convention. In addition, the Committee recommends that the State party undertake all necessary proactive measures to combat societal discrimination, in particular against children from single parent families, children born out of wedlock, children with disabilities, children of migrant workers and girls through, inter alia, public education and awareness campaigns.

35. The Committee recommends that the State party, in accordance with article 12 of the Convention.

a) Ensure that the Child Welfare Act, amended in 2000, be revised to include the right of children to express their views freely in all matters affecting them, and take effective measures, including legislation, to promote respect for the views of children and facilitate their participation in all matters affecting them, by courts, administrative bodies, schools and disciplinary proceedings in the education system.

b) Provide educational information to, inter alia, parents, educators, government administrative officials, the judiciary and society at large on children's right to have their views taken into account and to participate in all matters affecting them.

c) Undertake regular reviews of the extent to which children's views are taken into consideration and of the impact this has on policies, programmes and children themselves.

37. In the light of articles 12 to 17 of the Convention, the Committee recommends that the State party amend legislation, guidelines issued by the Ministry of Education and school regulations to facilitate children's active participation in decision-making processes and in political activities both within and outside schools and ensure that all children fully enjoy their right to freedom of association and expression.

39. The Committee recommends that the State party.

a) Implement the recommendation of the National Human Rights Commission that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions.

b) Carry out public education campaigns about the negative consequences of ill treatment of children in order to change attitudes to corporal punishment, and promote positive, non-violent forms of discipline in schools and at home as an alternative to such punishment.

Concluding observations on the Republic of Korea's 3rd, 4th periodic report on the Convention on the Rights of the Child (CRC/C/KOR/CO/3-4)(October 6, 2011)

11. The Committee recommends that the State party undertake measures, including by considering further relevant legislation, to ensure that all the provisions of the Convention are adequately applied in its judicial decisions. The Committee further recommends that the State party review its legislation on abortion with a view to ensuring that it is in full compliance with the principle of the best interests of the child, including by ensuring that single adolescent mothers are allowed access to safe abortions and adequately protected from the risks of illegal abortions and the forced adoption of their children.

23. The Committee recommends that the State party undertake additional measures to raise awareness by, inter alia.

a) Further including education on child and human rights in the school curriculum.

b) Ensuring adequate training on the Convention for all professional groups working with or for children.

c) Strengthening measures to raise awareness of the Convention among the general public

28. The Committee regrets that the draft Anti-discrimination Act of the State party was discarded without consideration at the National Assembly in December 2007 and that the legislative definition of discrimination does not contain an express prohibition of discrimination based on sexual orientation and nationality. Furthermore, the Committee is concerned at the multiple forms of discrimination that continue to persist in the State party, including those against Children from multi-cultural or migrant backgrounds or who have come from the Democratic People's Republic of Korea; refugee children; children with disabilities; and, single mothers, particularly those who are adolescent, including with regard to their preclusion from State support measures.

29. The Committee urges the State party to:

- a) Expeditiously enact anti-discrimination legislation with the objective of adopting legislation that is in full compliance with article 2 of the Convention.
- b) Take all necessary measures, including awareness-raising and public education campaigns, to eradicate and prevent discriminatory attitudes towards children in vulnerable or minority situations.
- c) Provide adequate support to single mothers, including those who are adolescent.

35. The Committee recommends that the State party consider amending its legislation to ensure that children have the right to express their views and have these taken into consideration in all decisions affecting them, and reiterates its previous recommendation that the State party in accordance with article 12 of the Convention:

- (a) Ensure that the Child Welfare Act, be revised to include the right of children to express their views freely in all matters affecting them, and take effective measures, including through legislation, to promote respect for the views of children and facilitate their right to be heard in all matters affecting them, by courts and administrative bodies, including schools and disciplinary proceedings in the education system;
- (b) Provide educational information to, inter alia, parents, educators, government administrative officials, the judiciary and society at large on children's right to have their views taken into account and to be heard in all matters affecting them;
- (c) Undertake a regular review of the extent to which children's views are taken into consideration and of the impact this has on policies, programmes and children themselves;
- (d) Take into account the Committee's general comment No. 12 (2009) on the right of the child to be heard.

39. The Committee recommends that the State party undertake further measures to ensure, that in practice and in all settings, the right of the child to freedom of thought, conscience and religion is fully respected in accordance with Article 14, paragraph 3 of the Convention. The Committee further recommends that such measures be taken with a view to facilitating an atmosphere conducive to the appreciation of religious diversity that accords due regard and sensitivity for the specific requirements or constraints of particular religions, including with regard to dietary requirements.

40. The Committee expresses concern, that despite its previous recommendations, (CRC/C/15/Add.197, para.37) schools continue to prohibit the political activities of students. Furthermore, the Committee is concerned that the management committees of schools preclude the participation of students, and that there are limited opportunities for children out of school in urban and rural areas to exercise their right to freedom of expression and association.

41. The Committee reiterates its previous recommendations and in the light of articles 12 to 17 of the Convention calls upon the State party to amend legislation, guidelines issued by the Ministry of Education and school regulations to facilitate children's active participation in decision-making processes and in political activities both within and outside schools and ensure that all children fully enjoy their right to freedom of association and expression, including with regard to allowing for students to (i) take part or conduct political activities, including in the school context; and, (ii) meaningfully participate in the management committees of schools.

42. The Committee reiterates its previous concerns (CRC/C/15/Add.197, para. 38) on the continued prevalence of corporal punishment in the domestic, school, and alternative care context.

43. The Committee reiterates its previous recommendation to:

- a) Implement the recommendation of the National Human Rights Commission that the relevant legislation and regulations be amended to expressly prohibit corporal punishment in the home, schools and all other institutions;
- b) Carry out public education campaigns about the negative consequences of ill-treatment of children in order to change attitudes to corporal punishment, and promote positive, non-violent forms of discipline in schools and at home, including the pilot green mileage system as an alternative to corporal punishment in school;
- c) Establish mechanisms which allow for children who are victims of corporal punishment to report such incidents.

63. The Committee recommends that the State party:

- a) Evaluate its current system of education and related examinations, with due regard to article 29 and the Committee's general comment No. 1 (2001) on the aims of education;
- b) Increase its efforts to strengthen public education with a view to addressing the root causes of the widespread dependence on extra-curricular private education and the resulting inequality in access to higher education;
- c) Ensure the right of children to enjoy adequate leisure, cultural and recreational activities, in compliance with article 31 of the Convention;
- d) Systematically collect information on specific outcomes related to achieving equality in access to school for inclusion in the State party's next periodic report;
- e) Strengthen the measures taken to combat bullying, pay special attention to children of foreign origins, and to ensure the participation of children in the initiatives aimed at reducing bullying. Such measures should also address new forms of bullying and harassment outside classrooms or school yards, including by mobile telephone and in virtual meeting places.

Letter sent to the Chairperson of the Seoul Metropolitan Council by the Chief of the UN OHCHR Asia-Pacific and Middle East and North Africa Branch (January 3, 2012)

United Nations Office of the High Commissioner for Human Rights
January 3, 2012

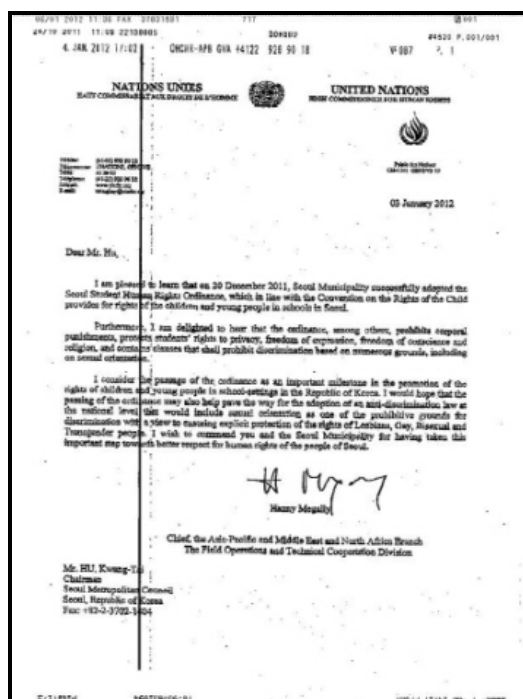
Dear Mr. Hu,

I am pleased to learn that on 20 December, Seoul Municipality successfully adopted the Seoul Student Human Rights Ordinance, which is in line with the Convention on the Rights of the Child provides for the rights the children and young people in schools in Seoul.

Furthermore, I am delighted to hear that the ordinance, among others, prohibits corporal punishments, protects students' rights to privacy, freedom of expression, freedom of conscience and religion, and contains clauses that shall prohibit discrimination based on numerous grounds, including on sexual orientation.

I consider the passage of the ordinance as an important milestone in the protection of the rights of children and young people in school-settings in the Republic of Korea. I would hope that the passing of the ordinance may also help pave the way for the adoption of an anti-discrimination law at the national level that would include sexual orientation as one of the prohibitive grounds for discrimination with a view to ensuring explicit protection of the rights of Lesbians, Gay, Bisexual and Transgender people. I wish to commend you and the Seoul Municipality for having taken this important step towards better respect for human rights of the people of Seoul.

Hanny Megally
Chief, the Asia-Pacific and Middle East and North Africa Branch
The Field Operations and Technical Cooperation Division



IV. Recommendations

- The Ministry of Education should immediately withdraw all suits for the abolishment or nullification of the Student Rights Ordinance.
- The Ministry of Education should revise the Elementary and Secondary Education Act according to the UN Convention on the Rights of the Child (CRC) and the recommendations of the CRC Committee, and include provisions to ensure the protection of student rights, as well as specific standards.
- The Seoul Metropolitan Office of Education should fulfill all responsibilities set out in the Seoul Student Rights Ordinance and appoint Student Rights Officers.
- The Seoul Metropolitan Office of Education should immediately investigate and provide remedies for cases of human rights violations occurring in schools, and take all necessary measures to prevent further such occurrences, including revisions of school regulations, improvements in the guidance of student conduct, and increased human rights education.
- The Seoul Metropolitan Office of Education should respect the recommendations of the Student Rights Commission, and establish and implement education policies after being reviewed by the Commission.
- The Seoul Metropolitan Office of Education should provide necessary administrative and financial support to stimulate student government activities and participation in policy-making of the Student Participatory Group.
- The Seoul Metropolitan Office of Education should promote and provide education on the text and spirit of the Student Rights Ordinance.
- The Ministry of Education and the Seoul Metropolitan Office of Education should publicly promulgate and provide institutional guarantees for the right to defend human rights, so that students, teachers, parents, and human rights defenders that advocate for student rights do not experience unjust repression (such as punishments, disadvantages, threats, and emotional isolation).

Disability Rights Defenders

Byung-Jun NAM / Solidarity Against Disability Discrimination

I. Background

According to the 2011 survey on the status of persons with disabilities conducted by the Ministry of Health and Welfare, the percentage of persons with disabilities within the South Korean society is estimated to be 5.61 percent. The average monthly income of a disability household was 1,982,000 won, which is roughly half the amount of the national average of 3,713,000 won. This means most disability households are living in poverty. Among all persons with disabilities, 17.0 percent are beneficiaries of the National Basic Livelihood Guarantee System; this number is 5.5 times higher than the national percentage of 3.1 percent. The national employment rate of those over the age of 15 is 60.3 percent, yet the employment rate of persons with disabilities reaches only 35.5 percent, while 45.3% of all persons with disabilities under 65 have not received education beyond primary school.¹ The main reasons for not attending or dropping out of school were “financial difficulties (75.5%)” and “severity of disability (9.4%).” Although a personal assistant service system, which is much needed in the daily activities for persons with disabilities, has been established, the amount of time that individuals can actually make use of such a system is severely limited. As the main targets of public social care services only cover 10.8 percent of the entire population of persons with disabilities, 4.8 percent have been found to have made an outing fewer than 10 times a year.²

¹ Education situation of persons with disabilities according to the 2011 survey on the state of persons with disabilities conducted by the Ministry of Health and Welfare

Received no education	12.3%
Attended primary school	33.0%
Attended secondary school	18.4%
Attended high school	24.5%
Beyond college	11.8%
Total	100.0%

² Frequency of outings of persons with disabilities according to the 2011 survey on the state of persons with disabilities

Amidst such a disheartening situation, disability rights defenders are actively carrying out advocacy work to eliminate discrimination against persons with disabilities, particularly in the areas of labor, education, and welfare. A falling accident from a lift in the subway station in 2001 sparked a mobility rights movement, leading to the establishment of the Act on Promotion of the Transportation Convenience of Mobility Disadvantaged Persons in 2005, as well as societal improvements including the introduction on non-step buses and special transportation methods. From 2003 there was a movement for education rights of persons with disabilities; in 2007, the Act on Special Education for the Disabled Persons, Etc. was established, institutionalizing the percentage of support personnel needed proportionate to the number of students with disabilities. However, ever since the former President Lee Myung-Bak took office, the 5-year national action plan for the mobility enhancement for the mobility impaired is not being implemented, while inclusive education is not in place because support personnel for special education, required under national legislation, are lacking. As a result, the movement for the implementation of the national action plan is spreading to all parts of the country.

In 2005, an accident occurred in which a person with disability living alone froze to death at home. As a response, a movement for a personal assistant service system arose in 2006, resulting in the introduction of a national project to provide personal assistants for persons with disabilities in 2007. In 2011, the Act on the Support for the Activities of Persons with Disabilities was established, converting the previous project to the current activity support system for persons with disabilities. However, due to the restriction on the eligibility to apply based on disability ratings and the cap on the time of usage – both of which restrict system utilization – disability rights defenders must continue their struggle to ensure that these rights can be exercised.³ In addition, the same disability ratings that are restricting access to the personal assistance service system are also serving as a barrier to accessing other various social services.⁴ In order to ensure independent living, living in the community rather than in institutions, the activity support system for persons with disabilities must be revised. As a result, disability rights defenders have been carrying out a demonstration for the “abolition of disability ratings, abolition of the obligation to support, (and)

conducted by the Ministry of Health and Welfare

Almost everyday	66.6%
1~3 times per week	20.0%
1~3 times per month	8.5%
Less than 10 times a year	- *
None	4.9%
Total	100.0%

³ In reality, it is difficult to take advantage of the personal assistant service due to restrictions on the eligibility to apply based on disability ratings, caps on the time of usage (persons with the most severe types of disabilities can use a maximum of 100 hours per month, persons with the most severe types of disabilities living alone can use a maximum of 180 hours per month), high rate of personal costs (maximum of 15% of total service costs), etc. As a result of the death of the late Ju-Young Kim in 2012, persons with the most severe types of disabilities living alone can use up to 350 hours per month, starting March 2013.

⁴ The disability rating system gives a grade to individual bodies in relation to the degree of impairment and according to such grades, the government deprives eligibility to services or decreases service provision. For instance, only grades 1 and 2 are eligible to apply for the personal assistant service and disability pension.

full provision of personal assistant services” at the underground walkway in Gwanghwamun Station, since August 21, 2012.

In order to improve the human rights situation for persons with disabilities, human rights defenders cannot but actively engage in activities to protect and promote the rights of persons with disabilities. Nonetheless, ever since the inauguration of former President Lee Myung-Bak, suppression against such human rights defenders, in the form of physical violence or putting economic pressure by imposing fines, has been worsening. Moreover, the National Human Rights Commission is not only neglecting, but adding to such government suppression. During such a process, one human right defender passed away.⁵

II. Human Rights Situation

There are numerous cases in which disability rights defenders face physical violence or the fines while rallying for improvements in the disability rights system. Although such human rights defenders with disabilities are less frequently arrested due to the lack of appropriate facilities at detention centers, in turn, they more often face physical violence; for instance, their wheelchairs could be forcefully blocked or they could be pulled down from their wheelchairs altogether. After the demonstrations are over, they also face suppression in the form of exorbitant fines based on photographic evidence.

1. Economic Pressure against Disability Rights Defenders: Fines

The imposition of fines is one of the methods of suppression against activists participating in disability rights advocacy. Based on photographic evidence taken at demonstrations, most of them are indicted for violating the Assembly and Demonstration Act or the Road Traffic Act and imposed fines. However, indictments take place even if no physical violence was involved and too often fines are imposed for simply participating in press conferences. Fines accrued until 2012 reaches 16,200,000 won and fines on the 30 people who attended a funeral for a disability rights activist are continuing to be imposed.

* Current status of fines as of 2012 (unit = ten thousand won)

Name	Year/Month	Case Title	Fine	Status	Etc
Kim, A	2010/09	Occupation of the disability rating determination center	30	Decided	
Lee, A			30		
Lee, B			50		Dismissal of request of community service
Park, A			30		
Choi, A			50		
Ahn, A			30		
Yang, A			50		

⁵ Dong-Min Woo, a disability rights defender with cerebral palsy, caught pneumonia during a sit-in demonstration against the National Human Rights Commission in December, 2010, held on the 11th floor of the Commission building, and passed away the following January.

Name	Year/Month	Case Title	Fine	Status	Etc
Moon, A			30		
Choi, B			30		
Park, B			50		
Cho, A			30		
Park, C			50		
Cho, B			30		
Kang, A			100		
Nam, A			-	1-year sentence, 2-year suspension, 80 hrs of community service	Decided
Koo, A			-	10-month sentence, 2-year suspension, 80 hrs of community service	Decided
Noh, A			100	Decided	Paid on January 31, 2012
Ahn, B	2010/12		100		
Park, D			30		
Choi, C			50		
Choi, D			50		
Nam, B			50		Paid
Kim, B			50		In seizure
Koo, B	2010/05		100	Dismissal of demand for trial	
Jung, A	2010/05		50	Demanded for trial	
Park, E	2010/05		50	Decided	
Choi, E	2011/04		70	Demanded for trial	
Ha, A	2010/11		100	Demanded for trial	Gyeongsan Center
Cheon, A			100	Demanded for trial	Nodeul Night School
Hong, A			100	Demanded for trial	Daegu Parents Society
Lee, C	2010/12	Occupation of NHRC on World Disability Day	30 (Summary of order)	Demanded for trial / Trial scheduled on March 22	Gangdong Center
Choi, F					
Joo, A					Seokam Emergency Response Committee
Kim, C					Disability Cultural Space
Park, F					
Lim, A					Nowon Center

Name	Year/Month	Case Title	Fine	Status	Etc
Lee, D					Gyeonggi SADD
Han, A					
Noh, B					Daegu
Chun, A					Independent Living
Lee, E					Center
Park, G					Daegu Disability
Park, H					Community
Moon, B					Mindeul-rae Night
Shin, A					School
Kim, D					Incheon Center
Jung, B				Paid	
					Pinocchio Center
Park, I				1-year sentence, 2-year suspension	Nodeul Night School
Nam, C				10-month sentence, 2-year suspension	Solidary Against Disability Discrimination
Koo, C				8-month sentence, 2-year suspension	
Moon, C				8-month sentence, 2-year suspension	Seongbuk Center

* Current Status of fines for participants of the 2012 World Labor Day demonstration

Name	Case Date	Fine	Status	Organization
				Contact No.
Noh, A	2012.04.20		Investigated on April 20, in the process of internal investigations	Kangdong Center
Yoon, A	2012.04.20		Investigated, found not guilty	Korea Solidarity for Human Rights of Disability people with Brain lesion
Bae, A	2012.05.01		Home visit scheduled	Nodeul Night School
Students of Sungkyunkwan University				
Park, A	2012.04.20			

* Current status of fines for participants of the demonstration for dismissed Ssangyong Motors workers in May 2012 (unit = ten thousand won)

Name	Case Date	Fine	Status	Organization
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				Contact No.
Nam, A	2012.05.19	200	Demanded for trial	SADD
Ha, A	2012.05.19	?		Seoul SADD

In response, disabled people's organizations are supporting the preparation of data and the filing of a lawsuit against the fines on disability rights activists (by providing information on the criminal and trial procedures, such as police investigations, demanding a trial, appealing to a higher court and by providing legal support for the arrest and indictment of Mr. Byeong-Yong Kim). In addition, they are also raising funds to cover the fines.

On August 7, 2012, 8 disability rights activists who were wanted for insufficient payment of fines held a press conference announcing that they were giving themselves in, were then arrested, and signed themselves up for labor.^{6 7}

(unit = ten thousand won)

Name	Disability	Other Info	Case Info	Fine Status
Young-Hee Yang	Female, Disability Grade 1	Requires a personal assistant in most daily activities	Demanded for: abolition of the disability rating system Participated at: demonstration in occupation of the disability rating determination center in 2010	50
Gil-Yun Park	Female, Disability Grade 1	Requires a personal assistant in most daily activities	Demanded for: abolition of the disability rating system Participated at: demonstration in occupation of the disability rating determination center in 2010	30
			Demanded for: resignation of Chairman Hyun Byung-Chul Participated at: demonstration in occupation of the NHRC in 2010	30
Jin-Young Choi	Female, Disability Grade 1	Requires a personal assistant in most daily activities	Demanded for: abolition of the disability rating system Participated at: demonstration in occupation of the disability rating determination center in 2010	30
Kyu-Shik Lee	Male, Disability Grade 1	Requires a personal assistant in most daily activities	Demanded for: abolition of the disability rating system Participated at: demonstration in occupation of the disability rating determination center in 2010	50
Kang-Min Choi	Male, Disability	Requires a personal assistant	Demanded for: abolition of the disability rating system	50

⁶ The Hankyoreh. "Experts call for overhaul of system to assist the disabled." October 30, 2012. URL: http://english.hani.co.kr/arti/english_edition/e_national/558150.html

⁷ They confirmed that they were wanted for insufficient payment of fines and applied for community service, yet their application was declined due to their disabilities. As a result, the 8 people decided to serve their terms in prison; however, 2 of them had to pay a partial amount of the fine and return home due to decubitus and dislocation of bones. The other 6 were imprisoned and requested for an emergency remedy in regards to the jail environment to the National Human Rights Commission. After 2 nights and 3 days, they were all released after their fines were paid off by the jail.

Name	Disability	Other Info	Case Info	Fine Status
	Grade 1	in most daily activities	Participated at: demonstration in occupation of the disability rating determination center in 2010	
Sangrae Cho	Male, Disability Grade 1	Requires a personal assistant in most daily activities	Demanded for: abolition of the disability rating system Participated at: demonstration in occupation of the disability rating determination center in 2010	30
Yong-Ki Choi	Male, Disability Grade 1	Requires a personal assistant in most daily activities	Demanded for: increase in personal assistance services Participated at: demonstration against disability discrimination in 2009	50
			Demanded for: increase in personal assistance services Participated at: filing of public complaint in 2010	70
Jung-Hyuk Park	Male, Disability Grade 1	Requires a personal assistant in most daily activities	Demanded for: increase in personal assistance services Participated at: press conference in condemnation of the Minister of Health and Welfare in 2006	30
			Demanded for: resignation of Chairman Hyun Byung-Chul Participated at: demonstration in occupation of the NHRC in 2010	30

1) Summary order (fines) against participants at funeral for the late Ju-Young Kim

Alleged perpetrator: The National Police Agency

On October 26, 2012, human rights defender Ju-Young Kim (34, female), who had severe disabilities, died due to a fire at her home without the presence of a personal assistant. The accident was deemed as caused by the shortcomings of the personal assistant service system. After her funeral, which took place on October 30, participants marched to the Ministry of Health and Welfare, during which they were blocked of way by the police; for 3 hours, the two groups stood confronting each other on the roads. Later, the police conducted an investigation on the 250 people who participated in the funeral and the march, 30 of which have gone through a police investigation. Fines are being decided – 1 million won for Mr. Park and 0.8 million won for Mr. Lim – and serious economic suppression awaits around 30 people.

2) Summary order (fines) against demonstrators for increased support of personal assistants in Chun Cheon, Kangwon Province

Alleged perpetrator: The National Police Agency

A press conference, which occurred at the Chun Cheon City Hall on July 13, 2012, has been classified as an illegal assembly and fines are being imposed on participants. One member each from the Chun Cheon Parents' Network for People with Disabilities (CCPNPD) and Solidarity Against Disability Discrimination (SADD) have been indicted, while 2 members of SADD and 4

members of CCPNPD have received a summary order of 1 to 2 million won each, cases over which disability rights activists have demanded jury trial.

3) Fines and price of indemnification imposed on rally participants at the disability rating determination center

Alleged perpetrator: The National Police Agency, National Pension Service

For occupying and demonstrating at the disability rating determination center from September 13 to 17, 2010, fines amounting 5 million won were imposed upon 13 individuals and two received a suspended sentence and community service orders. Later, the owner of the center building received a compensation for damage on the grounds that damages occurred during the demonstration by persons with disabilities; in turn, the insurance company demanded for a price of indemnification to the National Pension Service, which lost the trial and had to pay 17 million won to the insurance company. On February 2013, the National Pension Service demanded 17 million won for the price of indemnification and an additional 4.5 million won for trial costs to SADD.

2. Physical Violence against Human Rights Defenders with Disabilities

When human rights defenders with disabilities participate in or move to participate in demonstrations, the police often block their way using excessive means and physical violence.

1) Funeral for Ju-Young Kim, press conference for immediate action by the Ministry of Health and Welfare to improve the system

Alleged perpetrator: The National Police Agency (Jongro Police Station)

In order to stop persons with disabilities in wheelchairs from proceeding, the police blocked the way using their shields, isolating around 300 people for over 3 hours. Those in protest of the blockage were forcefully removed; those in wheelchairs were removed in their wheelchairs. Suppression against participants followed, in the form of police summons and fines, again based on photographic evidence.

On October 30, 2012, from 11am to 12:30pm, around 700 people gathered for the funeral for Ju-Young Kim, a human rights defender with severe disabilities. After the funeral, participants were in transit to the Ministry of Health and Welfare to hold a pre-organized press conference to prompt immediate action by the Ministry to improve the personal assistance service system when they were blocked by the police causing the march to stop. From 1pm to 4pm, they stood in confrontation with the police; those who protested and attempted to continue the march were forcefully removed – those in wheelchairs still in their wheelchairs – eventually leading to a falling accident from a wheelchair and consequent injuries. Those protesting in response were later imposed fines based on photographic evidence and physically violent means were used to remove people in wheelchairs.



October 30, 2012. The police blocking the demonstrators' march.



October 30, 2012. The police are forcefully removing a participant with severe disabilities in a wheelchair.

2) Press conference in condemnation of Yongin's Light Rail Transit disregarding mobility rights **Alleged perpetrator:** City of Yongin, The National Police Agency

On April 26, 2013, at 1:30pm, with the participation of around 30 persons with disabilities, a press conference took place at a plaza in front of Yongin City Council in order to condemn the introduction of the Yongin Light Rail Transit, which does not ensure mobility rights of persons with disabilities. After the press conference, the plan was to deliver the complaint during the ceremony to celebrate the launch of the Light Rail Transit at 2pm at Yongin City Hall. However, the City had prepared wooden bunks in advance and had set up a temporary barricade preventing wheelchairs access. Persons with disabilities in wheelchairs who were protesting against the situation and attempting to reach the City Hall were taken down from their wheelchairs and their wheelchairs were turned off, the batteries separated. Any protestors were physically assaulted, while completely surrounded by the police.



April 26, 2013. The City of Yongin newly launched a light rail transit, but did not ensure the mobility rights of persons with disabilities. When persons with disabilities attempted to complain against the situation, the City blocked them from approaching by laying wooden balks on the ground.



April 26, 2013. The police are stopping a person with disabilities from complaining against the situation depicted in the above photo.



April 26, 2013. An injury from violence inflicted by the police.



April 26, 2013. Damage to an electric wheelchair caused by police violence.

3. Suppression by the National Human Rights Commission: Cessation of Electric Power and Heating

On December 3, 2010, disabled people's organizations began a demonstration on the 11th floor of the National Human Rights Commission (NHRC) building demanding the resignation of Commission Chairman Hyun Byung-Chul and the establishment and/or reform of 3 major disability-related laws. At the time, other human rights organizations were occupying the 7th floor of the same building also demanding for the resignation of Chairman Hyun, while conservative anti-North organizations were also demonstrating. At around 9pm, December 2, the night before the World Disability Day, around 200 persons with disabilities had occupied level 8 to 13 and began a daylong demonstration. In the afternoon of December 3, all occupations and demonstrations ceased, except for a handful of persons with disabilities on the 11th floor. However, the NHRC stopped elevator operation preventing disability rights activists from moving and added suppression in the form of prohibiting entry of food and ceasing electric power and heating. As a result, 6 human rights defenders were eventually taken away in emergency ambulances due to deteriorating health. Such human rights violations were revealed in a 2012 public hearing on the re-election of Chairman Hyun; currently, the Prosecutor's Office is conducting an investigation on accusations of perjury.

1) Violation of rights to health and life of disability rights activists through cessation of electric power and heating

Alleged perpetrator: National Human Rights Commission of Korea

On the evening of December 3, 2010, a "blackout" of no electricity continued for 2 to 3 hours, hours during which demonstrators were left in complete darkness, unable to see anything. Moreover, all demonstrators were wheelchair users, meaning they were unable to charge the batteries of their wheelchairs making them incapable of moving. All 10 demonstrators were also persons with severe disabilities and required a personal assistant; however, by restricting entry to only 1 male and 1 female personal assistant, the NHRC severely limited the most basic daily activities of the demonstrators.

Previous demonstrations at the NHRC building had at least ensured heating, considering the vulnerability of persons with disabilities, compared to those without any disabilities, in regards to the surrounding environment. In contrast, despite the extremity of the weather in December 2010, the NHRC did not file in a demand for heating to the building maintenance, demonstrators had to shiver in the cold, and in the process Mr. Dong-Min Woo caught pneumonia and passed away in 2 weeks. A complaint was filed twice to the NHRC against such human rights violations, yet the first was deterred because elevator operation was stopped, while the second was canceled when the NHRC's demand to exclude Chairman Byun, the perpetrator, from the complaint was declined.

III. Recommendations from the International Community

Concluding Observations of the Committee on Economic, Social, and Cultural Rights (1995, E/C.12/1995/3)

15. The Committee is of the view that the Government, in view of its economic resources, has inadequately addressed the economic, social and cultural rights of the most marginalized members of society. Among categories of person who are in need of greater attention and concern are the very poor, the homeless and especially victims of severe physical and mental handicap.

Concluding Observations of the Committee on Economic, Social, and Cultural Rights (2009, E/C.12/KOR/CO/3)

22. The Committee, noting the information provided by the State party that the national basic livelihood security system is under review in relation to the "duty to support" standard or wealth standard and universal access to the system, urges the State party to conclude the review expeditiously and guarantee access to the system for persons that have not completed a minimum period of stable living, including the homeless and those living in shelters.

Country Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (March 2011)

96. The Special Rapporteur recommends that the Government ensure the right of all individuals to freedom of assembly and peaceful demonstrations, as a collective exercise of the right to freedom of expression, by refraining from any de facto practices of prior approval in violation of article 21 of the Constitution. In addition, the Special Rapporteur calls upon the Government to ensure that allegations of excessive use of force by law enforcement officials be effectively investigated and that the persons responsible be held accountable.

IV. Recommendations

- The Government of the Republic of Korea should cease immediately the usage of economic sanctions, such as fines, on disability rights defenders and ensure the right to freedom of assembly and expression, such as participation in demonstrations or press conferences.

- The Government should abolish the duty to support in accordance with the recommendations from international human rights instruments, as well as the advocacy work of disability rights defenders, and improve the personal assistant service system.
- The Government should educate the police on the rights of persons with disabilities in order to prevent further occurrences of physical violence and restriction of mobility rights against disability rights defenders and establish a plan to prevent recurrence.
- Chairperson of the NHRCK Hyun Byung-Chul should immediately apologize and resign for the death of a disability rights defender and the Government should immediately start an investigation on the accusations of his perjury and human rights violations.

LGBT Rights Defenders

Tari Youngjung NA, Mong, Horim/ Rainbow Action Against Sexual-Minority Discrimination

I. Background

Discrimination against sexual minorities continues to be severe in South Korean society, and, in a situation without sufficient legal institutions to protect them such as a comprehensive Anti-Discrimination Act,¹ the oppression of LGBT rights defenders arises. In recent years, conservative groups have openly engaged in activities to prevent the legislation of an Anti-Discrimination Act that includes sexual orientation among the prohibited grounds of discrimination, which international human rights organs have repeatedly recommended. Since the instatement of a conservative regime in 2008, hatred as well as violent speech and acts against sexual minorities have worsened, with conservative Christians [mainly Protestants] at the forefront. Nevertheless, the government and public organs of South Korea have remained indifferent to such hatred instead of responding to it, even going on to disregard legal institutions that stipulate the rights of sexual minorities. The oppression of LGBT rights defenders encompasses: interference with and the taking and indictment of people engaged in peaceful activities on occasions such as the 10th International Congress on AIDS in Asia and the Pacific (ICAAP 10); refusal by Mapo-gu Office, the local government of a district within Seoul, publicly to put up a banner created by LGBT rights defenders; and, on the part of the government and public organs, indifference to and even tacit approval of the distortion of human rights-defending activities by homophobic groups through the unjust branding of LGBT rights defenders as “pro-North Koreans.”

II. Human Rights Situation

1. Oppression at International Congress on AIDS in Asia and the Pacific(ICAAP) 10²

¹ Though the official English names are “Discrimination Prohibition Bill” and “Discrimination Prohibition Act,” “Anti-Discrimination Bill” and “Anti-Discrimination Act” are in wider currency and therefore have been used throughout this section.

² Video clip of the 10th International Congress on AIDS and the Pacific, posted on 29 August 2011, http://www.youtube.com/watch?feature=player_detailpage&v=jx0de3Uo7sA

Act UP Paris, Korean activists arrested and threatened with criminal actions for peaceful protest, Press Statement, 27 August 2011, <http://www.actupparis.org/spip.php?article4630>

The ICAAP is an international conference sponsored by the Joint United Nations Program on HIV and AIDS (UNAIDS), which is the organ under the UN concerned with HIV/AIDS, and organized by the AIDS Society of Asia and the Pacific (ASAP). ICAAP 10 was an international event sponsored by an organ under the UN and attended by representatives from the governments not only of diverse countries but also of South Korea. However, at ICAAP 10, an unprecedented incident occurred where a lawyer participating in the event was taken by the police and an activist attempting to stop the taking was indicted and tried for supposedly having obstructed the performance of official duties. Furthermore, in the process, many participants were injured by the police, two of them even needing to receive hospital treatment afterwards.



Lawyer Chang who was arrested by the police during the ICAAP.



South Korean and foreign human rights defenders who protested against the arrest of lawyer Chang.

On August 27, 2011 (Sat.), the second day of the event, participants including HIV-positive people from home and abroad staged a performance opposing the conclusion of the Korea-US Free Trade Agreement (KORUS FTA) and the India-European Union (EU) FTA because they would block the production of generic drugs and lead the prices of AIDS drugs to skyrocket, which would be tantamount to forcing on HIV-positive people a statement relinquishing life. Such performances are also a tradition of international AIDS events, which stresses the voices of the interested parties themselves. In addition, the performance in question proceeded indoors so that there was no room for conflict with South Korea's domestic laws, either.

Regarding the occurrence of such an incident during an international conference, activists demanded official statements and responses from the UNAIDS, ASAP, and the Local Organizing Committee of ICAAP 10 (ICAAP 10 LOC), all of which were responsible for holding the event and ensuring the safety of the participants. However, these organs responded very tepidly in the process of resolving the incident.

1) Illegal taking of lawyer Suh-yeon Chang as she protested against illegal evidence collection

Alleged perpetrator: The National Police Agency

On August 27, 2011, while those against the conclusion of FTAs were marching in the Busan Exhibition and Convention Center (BEXCO), the venue of the international conference, a plainclothes police officer illegally collected [photographic] evidence on participants in the event. As activists protested, the police attempted to take the performance participants. In the course of asking the police of the reason for illegally taking the participants, lawyer Chang was forcibly taken. Although examined for approximately 2 hours, she was eventually released because there was no reason for her to be detained. Without having gone through the procedures for arresting flagrant offenders such as the notification of the arrest of flagrant offenders and the issuance of arrest warrants, this is an unlawful act under Article 124 (Unlawful Arrest and Unlawful Confinement) of the Criminal Code.

2) As he was protesting against illegal evidence collection, activist Jae Kim was subjected to violence during police attempts to take him and later tried for having supposedly obstructed the performance of official duties

Alleged perpetrator: The National Police Agency

A plainclothes police officer illegally collected photographic evidence of participants as they were marching in BEXCO, the venue of the international conference, on August 27, 2011 to express opposition to the conclusion of FTAs. When activist Jae Kim, the community coordinator for the event, protested against this act, the police attempted to take him. In the process, his body, arms, and legs were forcibly lifted by some 10 police officers, and, after being dragged for approximately 5 meters, he was flung down on the ground. Afterwards, he was ordered by the police station to appear and examined, then issued a summary order of 1 million won for supposedly having obstructed the performance of official duties. Objecting to this, Kim applied for a formal trial and was declared innocent in May 2012, only to be entered an appeal by the public prosecutor. However, Busan District Court rejected the appeal in December 2012. The district court judged that it was actually unlawful performance of duties for a police officer to have entered the venue of the performance and attempted to photograph the participants without possessing a warrant, notifying the organizers of the assembly, and wearing a police uniform even though indoor assemblies are not subject to regulations such as obligatory reporting and ICAAP 10 participants' indoor assembly did not cause urgent danger to public peace.

2. Refusal publicly to put up banners defending LGBT rights created by the Mapo Rainbow Residents' Alliance

Alleged perpetrator: Mapo-gu Office

The Mapo Rainbow Residents' Alliance applied for the posting of two banners—reading, “One out of ten people passing by this place now is a sexual minority” and “We, LGBT, live here now. L – lesbian G – gay B

– bisexual T – transgendered,” respectively—on the facility for advertisements managed by Mapo-gu Office, and the banners were to be put up starting on December 5, 2012.



“One out of ten people passing by this place now is a sexual minority” – “We, LGBT, live here now”

However, both Mapo-gu Office and its designated banner manufacturer demanded a revision of the phrases, claiming, “Older citizens will be uncomfortable with words such as ‘lesbian,’” and the former even said that the phrases and the contents were “disgusting” when members of the Mapo Rainbow Residents’ Alliance made inquiries and protested by telephone. Mapo-gu Office stated, “We cannot permit [the posting of the banners] because the words ‘lesbian’, ‘gay’, ‘bisexual’, and ‘transgendered’ are harmful to adolescents and the expression that one out of ten people is a sexual minority is exaggerated.” Although members of the Mapo Rainbow Residents’ Alliance and activists from human rights organizations have sought to resolve this problem by staging one-person demonstrations in front of Mapo-gu Office for over 3 months and holding interviews with officials at the gu office and have made a petition to the National Human Rights Commission of Korea (NHRCK), the outcome remains to be seen.³ Moreover, in the process, the NHRCK even demanded the petitioner for precise statistics on whether sexual minorities constituted 10% of the total population, the content of one of the banners and the reason for Mapo-gu Office’s refusal to post them, which was in itself discriminatory and could not be seen as a key issue in determining the occurrence of discrimination. Furthermore, based on this demand, the commission has not made a decision for over 5 months, citing insufficient data. The head of Mapo-gu Office said in the interview process that it was difficult to permit the posting of the banners due to pressure from local [Christian] churches, and several months have passed since then. At the same time, Mapo-gu Office has stated that it would establish the Mapo-gu Human Rights Ordinance, which local human rights organizations including the Mapo Rainbow Residents’ Alliance have criticized, arguing that the legislation of the ordinance without resolving the incident involving the rejection of the posting of the banners is but a deception.

³ Even before the incident involving Mapo-gu Office’s refusal publicly to put up the banners, Seocho-gu Office [another local government under Seoul] likewise had rejected the posting of a banner stating, “Some of the citizens of Seoul are sexual minorities. All citizens [of South Korea] have a right people not to be discriminated against based on sexual orientation” on the ground that it “[went] against established morals and customs and hinder[ed] the [provision of] protection and guidance to adolescents.” Gye-deok Yi, the applicant, inquired the metropolitan government of Seoul about this, to which he received the reply: “All citizens have a right not to be unjustly discriminated against based on the Constitution, which stipulates equality and the prohibition of discrimination, and the National Human Rights Commission of Korea Act (NHRCKA), which stipulates specific prohibited objects of discrimination such as sexual orientation.” Regarding this issue, on January 11, 2013, the NHRCK commented, “This is discrimination based on sexual orientation without a reasonable ground” and recommended, “Seocho-gu Office should establish plans to prevent the recurrence of the rejection of the posting of advertisements on the ground that they concern homosexuality or sexual orientation” (case no.: 12 petition 0485900).



One-person demonstration against the Mapo-gu Office

Although the Mapo Rainbow Residents' Alliance and LGBT rights defenders have continued to engage in human rights-defending activities such as the staging of one-person demonstrations every day from January to March 2013, Mapo-gu Office still refuses to post the banners. This is a symbolic case in which a public organ rejects human rights-defending activities that publicize the existence of LGBT people on a local level due to pressure from conservative Christians.

3. Branding of LGBT rights defenders as “pro-North Korean” and hate speech at them; and the incitement of discrimination by public organs including the government

1) Distortion of and attacks against LGBT rights as revealed in the process through which the Constitutional Court of Korea (CCK), in response to a court-martial's recommendation for a legal sentence of unconstitutionality the homophobic clause in the Military Criminal Act, gave the verdict of constitutionality in 2011

Alleged perpetrator: Coalition for Moral Sexuality (CFMS); National Council of Mothers for True Education Concerned about the Future of the Nation and Children; Association of Patriotic Parents of Students; National Coalition against the Anti-Discrimination Act; Coalition of Professors for Correct Education, etc./Ministry of National Defense (MND)

Homophobic forces opposed both [a court-martial's] recommendation for a legal verdict on the unconstitutionality of [Article 92(6) of] the Military Criminal Act in 2011 and sexual minorities' protest against the clause stipulating the criminal punishment of homosexuals [in the military who engage in consensual sex, whether inside or outside military installations, a treatment not given to their heterosexual colleagues].⁴ They openly expressed hatred against sexual minorities, claiming, “Having

⁴ In specifically and only punishing same-sex acts, the current Article 92(6) violates rights including those to equality, privacy, and sexual self-determination. Symptomatic of the homophobia rampant in the South Korean military, this clause has in fact deteriorated over time (see below for English translations of the actual article). Established as a part of the Military Criminal Act in 1962, the original Article 92 was classified under “Chapter XV. Other Crimes” along with other, non-sexual crimes, and infamously penalized “sodomy” with 1 year of imprisonment prison labor. In 2009, however, a separate “Chapter XV. Crimes of Rape and Molestation” was created, covering a host of previously unmentioned sexual crimes including rape (whose potential victim was defined as a “woman”). Here, the clause in question, renamed Article 92(5), actually increased the punishment to 2 years.

joined the armed forces to protect the country, will my son turn into a homosexual and come back with AIDS? If homosexuality in the armed forces is permitted, I'll never send my son to the military. Homosexuals' probability of infection with AIDS is 730 times [that of heterosexuals]. If homosexuality is permitted, our armed forces will collapse and only [North Korean leader] Kim Jong-il will be happy" (see photo below). However, Article 92(6) (Sodomy) of the Military Criminal Act is an anti-human rights clause whose revision the 2nd UN Universal Periodic Review (UPR) has recommended and whose abolition the NHRCK likewise has recommended for its discrimination against homosexuals.



Opposition to “homosexuality in the military”: a press conference opposing the abolition of Article 92 of the Military Criminal Act; banner on the left: “If homosexuality is permitted, military discipline will collapse, AIDS will spread, and only Kim Jong-il will be happy”

2) Attacks against LGBT rights and the relevant government ministry’s promotion of discrimination as revealed in the process of legislating the Seoul Student Rights Ordinance

Alleged perpetrator; National Council of Mothers for True Education Concerned about the Future of the Nation and Children; Association of Patriotic Parents of Students; National Coalition against the Legislation of Homosexuality; National Coalition of Teachers for Correct Education, etc./Seoul Metropolitan Council (SMC); Seoul Metropolitan Office of Education (SMOE); Ministry of Education (MOE)⁵

In 2011, homophobic forces opposed the legislation of the Seoul Student Rights Ordinance on the ground that if it was enacted, “Homosexuality will be permitted to and pregnancy and childbirth will be promoted among primary and middle school students.” While the ordinance was presented to the SMC through a ballot proposition by the citizens of Seoul, in the discussion process at the city council, some sought to delete clauses prohibiting discrimination against sexual orientation and pregnancy and childbirth. Opposing such a move, sexual minorities staged a sleep-in in the lobby of a SMC building for 6 days. Even in this process, those against the Seoul Student Rights Ordinance would come and express contempt, saying, “Are you all homosexuals?” When checked, they even engaged in hate speech such as

Furthermore, in 2013, the phrasing of the clause, now called Article 92(6), was changed to “anal sex,” thus making even clearer its target. In addition, the scope of persons with whom same-sex acts could be penalized was defined for the first time, to include: civilian military employees; military school students, officer candidates, non-commissioned officer (NCO) candidates, and students in the military service; and members of the reserve, recruit, and militia services performing actual duties. In other words, while older versions of the homophobic clause implicitly presupposed only sex between officers and/or soldiers on service, the current Article 92(6) explicitly punishes even sex with civilians. In conclusion, this law has become increasingly specific and inclusive in punishing homosexual or “deviant” (i. e., not involving penile-vaginal penetration) sexual acts, even when performed in private between consenting adults.1/20/1962Article 92 (Disgraceful Conduct) A person committing sodomy or other disgraceful conduct shall be punished by imprisonment with prison labor for not more than 1 year.11/2/2009Article 92(5) (Disgraceful Conduct) A person who commits sodomy or other disgraceful conduct shall be punished by imprisonment with prison labor for not more than 2 years.4/5/2013Article 92(6) (Disgraceful Conduct). A person who commits anal sex or other disgraceful conduct on a person falling under any provision of Article 1(1) through 1(3) shall be punished by imprisonment with prison labor for not more than 2 years.

⁵ Formerly, the Ministry of Education, Science, and Technology (MEST).

“Remove that filthy hand!” In the process of discussing the Seoul Student Rights Ordinance at a plenary session of the SMC, councilor Duck Young Kim stated, “And I’d like to say a few things about the problem of guaranteeing pregnancy, childbirth, and sexual orientation [with the ordinance]. If homosexuality, which is disapproved even by society at large, is permitted, does it mean schools are some kind of experiment groups? I can’t but wonder just how such a destructive and ruinous idea is possible, trying to do whatever to this country... [If passed, the ordinance will] turn the light of the East [i. e., Korea], the pure people of white clothes⁶ of the East into a ruined nation with AIDS, into a hotbed of AIDS, which is an incurable disease, so that students will go to school, an arena of fear and terror. The future of the white people, the Republic of Korea, will disappear.”



Press conference opposing the Seoul Student Rights Ordinance (left); a banner put up in front of the SMC (right): “Repeal the ‘Student Rights Ordinance Bill’, which permits homosexuality and incites pregnancy and childbirth among primary, middle, and high school students; turns [these students] into a political force; and oppresses mission schools”

Even after the passage of the Seoul Student Rights Ordinance, the SMOE demanded a reconsideration of the ordinance. When the SMC rejected this, the MOE even raised a suit for the confirmation of the nullity of the Seoul Student Rights Ordinance, arguing, “The Ordinance contains many contents that have not yet reached a social consensus such as sexual orientation and that transcend the scope delegated by higher laws.” The government and public organs thus have led the denial of sexual minorities’ rights.

3) Opposition to the Anti-Discrimination Act, homophobic movements, and the indifference of the government and the National Assembly

Alleged perpetrators: Korean Association of Church Communication; Korean Churches’ Emergency Committee to Stop the Legislation of Homosexuality and Same-sex Marriage; National Coalition against the Bad Anti-Discrimination Act; Christian Committee against Religious Bias; Christian Committee against Poisonous Clauses in the Anti-Discrimination Act; National Coalition against the Anti-Discrimination Act, etc./Ministry of Justice (MOJ); the National Human Rights Commission of Korea (NHRCK)

6 March 2013: Korean Association of Church Communication, announcement of a comment claiming grounds for the Anti-Discrimination Bill to be a “bad law”

12 March 2013: Korean Churches’ Emergency Committee to Stop the Legislation of Homosexuality and Same-sex Marriage, a press conference against the Anti-Discrimination Act (Main Conference Room, National Assembly Building)

Composition: World Holy City Movement; Korea National Prayer Breakfast; Legislative Mission Coalition to Stop the Anti-Gay Discrimination Bill; Korean Christian Council on Public Policy; Christian Council of Korea (CCK); Communion of Churches in Korea (CCIK); Korean Church Council of Lay Believer

⁶ This is a reference to Koreans’ traditional custom of wearing white clothing in daily life.

Organizations; National Council of Presbyterian Churches; International Council of Christian Lay Believers in Korea; Association of Lay Believer Leaders in Churches in Korea; Christian Volunteers Union; Solidarity for Reform in the Church in Korea, et al., announcement of a statement against the Anti-Discrimination Act

Participants: National Assembly member Hwang Woo-yea (Saenuri Party; co-representative, Korea National Prayer Breakfast), et al.



Banner (right): “We oppose to death the Anti-Discrimination Bill, which, without a national consensus, confounds state identity and destroys moral and ethical views!”

13 March 2013: National Coalition against the Bad Anti-Discrimination Act, a press conference against the Anti-Discrimination Act (National Assembly Building)

13 March 2013: Korean Churches’ Emergency Committee to Stop the Legislation of Homosexuality and Same-sex Marriage, a presentation meeting with church leaders as the guests

18 March 2013: Christian Committee against Religious Bias, a press conference urging the abolition of the Anti-Discrimination Bill (Korea Ecumenical Building)



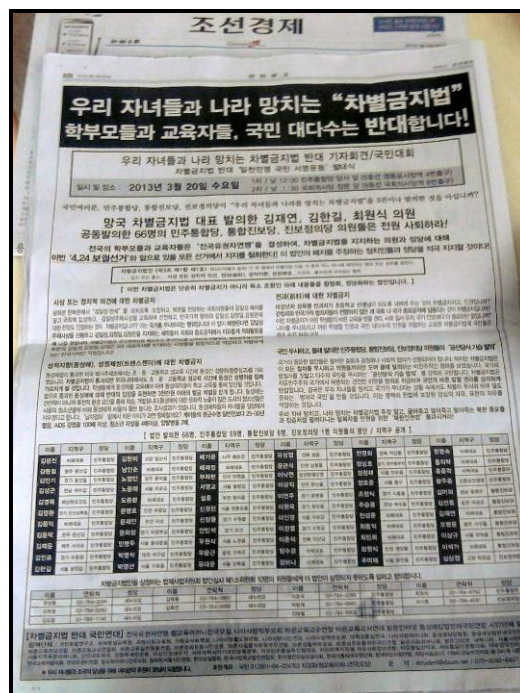
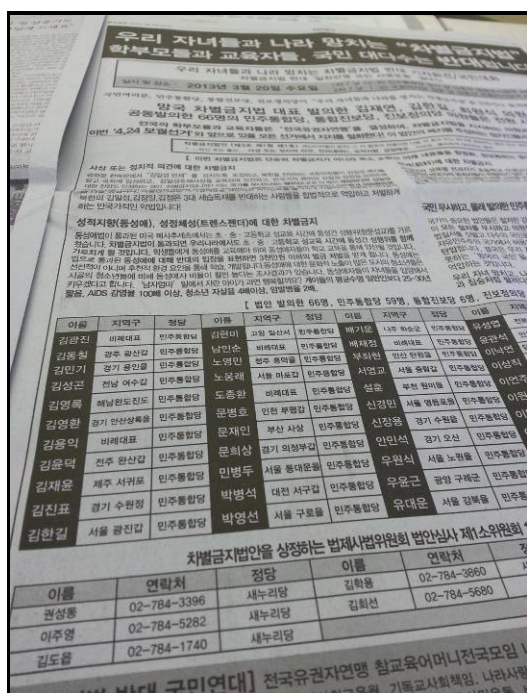
19 March 2013: Publication of a full-page advertisement in the [daily] Chosun Ilbo

20 March 2013: National Coalition against the Anti-Discrimination Act, a press conference against the Anti-Discrimination Act, “which will ruin our children and country”/National gathering and inauguration ceremony for the “campaign for the signatures of 10 million citizens” against the Anti-Discrimination Act (1st venue: in front of the Democratic United Party building; 2nd venue: in front of the National Assembly Building)

National Coalition against the Anti-Discrimination Act co-representatives: Yonghee Lee, Byeong-dae Yi, Seong-hui Jeong

Composition: Yonghee Lee (professor, Gachon University; representative, Esther Prayer Movement; Coalition of Professors for Correct Education; co-representative, Bright Internet World Creation Movement Headquarters, etc.); Byeong-dae Yi (pastor; secretary-general, Korean Association of Church

Communication), Seong-hui Jeong (professor, Agape Theological Seminary; Jubit Church; National Council of Mothers for True Education Concerned about the Future of the Nation and Children; representative, National Coalition Urging the Verdict on Nohyun Kwak; National Coalition against the Legislation of Homosexuality; director-general, Coalition for Moral Sexuality; director, International Exchange Association Organ; co-representative, Bright Internet World Creation Movement Headquarters, etc.)



Title of the advertisement in the Chosun Ilbo: "Parents, educators, and the majority of the people oppose the 'Anti-Discrimination Act,' which will ruin our children and country!"

22 March 2013: Christian Committee against Poisonous Clauses in the Anti-Discrimination Act, initiation of the distribution of a flyer against the Anti-Discrimination Act to churches across the country (40,000 flyers; over 200 areas nationwide)

Flyer at the right (in part): "If the Anti-Discrimination Act is passed, they will teach not only homosexuality but same-sex sexual acts in sex education classes at primary, middle, and high schools in South Korea, too. If so, homosexuals will be mass produced through school education. If you express opposition to legally passed homosexuality, you will be punished with a fine of 30 million won or below. Would that be all right with you?"

Flyer (left, in part): “Isn’t it natural to criticize heretical and false cults that oppress human rights, engage in terrorism, and delude people in the name of religion and attempts to enrich religion with the nation’s taxes? The Anti-Discrimination Act amounts to the oppression of the ‘freedom of religion’ guaranteed in the Constitution”

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9 April 2013: National Coalition against the Anti-Discrimination Act, a press conference against the Anti-Discrimination Act (National Assembly Building) and delivery of its statement to the Legislation and Judiciary Committee [of the National Assembly]



Title of the flyer: “Homosexuality, a sign of the last days! South Korea, a nation of holy high priests, cannot turn into Sodom and Gomorrah”

10 April 2013: Emergency (SOS) Prayer Assembly for Peace on and Reunification of the Korean Peninsula (Seoul Station Plaza)

Organizers: Korea National Prayer Breakfast; Legislative Mission Coalition to Stop the Anti-Gay Discrimination Bill; World Holy City Movement

“Along with North Korea’s threats of [military] provocation, the prior announcement of the legislation of the Anti-Homosexuality and Same-sex Marriage⁷ Discrimination Bill was made in the National Assembly on the 9th [of April, 2013]. This is a total crisis situation, where we are beset by a crisis of national security, a crisis of morality, and a spiritual crisis of South Korean churches all at once”

Since the initial proposal for the Anti-Discrimination Act in 2007, there have been organized movements against it on grounds that it would lead to economic and religious restrictions. With the recent proposal for the Anti-Discrimination Bill in the 19th National Assembly by three legislators [from the largest opposition party], antagonistic and organized movements have become fiercer (press conferences, full-page advertisements in national dailies, several hundred telephone calls per day, several thousand Internet posts per day, etc.). The proponents of the bill have been branded as “pro-North Korean gays,” and the argument that [the Anti-Discrimination Act] is “ultimately pro-North Korean because [it] incites social confusion by promoting homosexuality” has been spread. Such oppositional movements block opportunities for South Korean society to discuss and reach a consensus on the Anti-Discrimination Act and LGBT rights and, instead, maliciously distort and oppress human rights-defending activities. Recently, in the tendency to distort human rights defenders as “pro-North Korean,” LGBT-related cases have increased explosively. Furthermore, regarding such problems, the government has not responded at all, and the National Assembly has failed to play its proper role, withdrawing the proposed bill due to antagonistic opinions instead.

4) Hate speech against Rev. Bora Lim of Sumdol Presbyterian Church

⁷ This phrasing, of course, is preposterous and misleading since the Anti-Discrimination Bill nowhere mentions same-sex marriage, which is legally unrecognized in South Korea to begin with.

Alleged perpetrator: Anonymous figures' posts on the church homepage and telephone calls to the church, the Ministry of Justice

On April 24, 2013, Rev. Lim said through a telephone interview on the MBC radio program Focus with Son Seok-hee that the Anti-Discrimination Act was necessary to protect the socially weak and did not run counter to the intrinsic purpose of Christianity. After the program was broadcast, anonymous figures called Sumdol Presbyterian Church, where Rev. Lim serves, denouncing her qualifications as a pastor and pouring forth abuses such as "Crazy bitch" and "She is out of her mind." Due to such antagonistic calls, the church had to unplug the telephone and was unable to carry out its duties. In addition, approximately 20 hostile posts were uploaded on the church BBS for about 4 days, which included comments such as "A representative of heresy and pseudo-religions" and "Rev. Bora Lim must not be left alone."

III. Recommendations of the International Community

1) Regarding Student Rights Ordinances

Concluding Observations, UN Committee on the Rights of the Child, Consideration of the 2nd, 3rd, and 4th Reports Submitted by State Parties under Article 44 of the UN Convention on the Rights of the Child (see the "Student Rights Defenders" section)

2) Regarding the Anti-Discrimination Act

Recommendations, UN UPR, 2008 (A/HRC/8/40)

23. That discrimination on basis of sexual orientation be also included in the draft antidiscrimination bill (Czech Republic); [original emphasis]

Concluding Observations, UN Committee on Economic, Social and Cultural Rights, 2009 (E/C.12/KOR/CO/3)

9. The Committee is concerned that a comprehensive anti-discrimination law has still not been adopted by the State party owing to the fact that the anti-discrimination bill submitted to the seventeenth National Assembly in December 2007 was discarded without consideration. The Committee is also concerned that the present version under assessment by the task force does not exclusively enumerate anti-discrimination grounds, but rather stipulates a list of typical anti-discrimination grounds as an example, and that it only contains certain grounds for discrimination, excluding others that had been indicated in the original bill, such as nationality and sexual orientation (art. 2).

9. The Committee urges the State party to adopt expeditiously a comprehensive anti-discrimination law that clearly spells out all the grounds for discrimination, as set out by article 2.2 of the Covenant and in line with the Committee's general comment No. 20 on non-discrimination in economic, social and cultural rights (art. 2, para. 2).

Concluding Observations, UN Committee on the Elimination of Discrimination against Women, 2011 (CEDAW/C/KOR/CO/7)

15. The Committee calls on the State party to take urgent steps towards the adoption of a comprehensive Anti-Discrimination Act, in line with articles 1 and 2 of the Convention and General Recommendation 28 (2010), which includes a clear prohibition of all forms of discrimination, covering both direct and indirect

discrimination, and also taking into account article 2 (4) of the National Human Rights Commission Act (Korea 2005), which prohibits discrimination on the grounds of sexual orientation.

Concluding Observations, UN Committee on the Rights of the Child, 2011 (CRC/C/KOR/CO/3-4)

29. The Committee urges the State party to:

a) Expeditiously enact anti-discrimination legislation with the objective of adopting legislation that is in full compliance with article 2 of the Convention;

Report of the Working Group on the Universal Periodic Review, Republic of Korea, 12 December 2012, A/HRC/22/10

23. Continue its ongoing efforts to arrive at a national consensus on a general act on anti-discrimination (Indonesia); Strengthen efforts and take measures towards adoption of the law to fight discrimination (Palestine); Accelerate efforts to adopt an Anti-Discrimination Law (Chile); Step up efforts to adopt a comprehensive Anti-Discrimination Bill in line with the relevant international human rights instruments (Slovenia); Adopt an anti-discrimination law to replace the law that was suspended in May 2008 (Chad); Ensure the passage of the Anti-Discrimination Act (India); Adopt a comprehensive and broad-based anti-discrimination law (Australia);

24. Adopt the Anti-discrimination Act as a matter of priority while encompassing also grounds for discrimination on the basis of sexual orientation (Czech Republic); Include in the Anti-discrimination Law a specific prohibition on discrimination on the basis of sexual orientation (Spain)

33. Study the possibility of intensifying measures aiming at eliminating all discriminatory treatment on the basis of sexual orientation or gender identity (Argentina)

3) Regarding the Military Criminal Act which penalizes homosexuality

Report of the Working Group on the Universal Periodic Review, Republic of Korea, 12 December 2012, A/HRC/22/10

34. Review the possibility of repealing laws that criminalize on the basis of sexual orientation within the military (United States of America); [original emphasis]

IV. Recommendations

- To prevent actions by conservative groups such as the National Coalition against the Anti-Discrimination Act, which distort LGBT rights-defending activities and incite hate crime, the South Korean government must clarify its position and take necessary legislative measures
- The government must make efforts to legislate the Anti-Discrimination Act, which will serve as a basis for LGBT rights defenders' activities, and must abolish clauses that act as the legal grounds for penalizing homosexuality such as Article 92(6) of the Military Criminal Act. In addition, the state must fundamentally assume responsibility for points of contention including sexual orientation and the freedom of religion, actively declare the principle of human rights, and make efforts to reach social consensus.
- Mapo-gu Office must stop its refusal publicly to put up banners defending LGBT rights and must put up the banners and establish plans to prevent the recurrence of such incidents. In addition, the

NHRCK must promptly announce its opinions regarding the refusal of Mapo-gu Office to put up the banners

- To prevent open statements from government officials including National Assembly members, high-ranking officials, and heads of gu offices that express hatred against sexual minorities and unjustly brand LGBT rights defenders, the government must implement measures including regular human rights education for and inspection of such figures to raise their sensitivity to sexual minorities.
- The Korean National Police Agency (KNPA) must officially apologize for police oppression of LGBT rights defenders at ICAAP 10 and establish plans to prevent the recurrence of such incidents. In addition, the government must make concerted efforts to promote the human rights of HIV-positive people such as the legislation of an AIDS Prevention Act, provision of support to organizations that engage in activities to ensure HIV-positive people's rights, and securement of a budget.

Rights of Migrants and Migrants' Rights Defenders

Udaya Rai / Migrants Workers' Trade Union

I. Background

The migrant population has been increasing intensively and there are now over 1.4 million migrants currently residing in the Republic of Korea. However, these people still experience severe discrimination, based on gender, race, color and country of origin.

People who are against multiculturalism, such as those who run anti-multiculture websites have justified their existence by using as means of attack, making victims out of targets, and creating unreasonable sense of fear and threat in a wide range of issues from those of economy and race-related to religion and conspiracy theories.¹ In this situation, the government is responsible to achieve social integration, to ensure that no discrimination or violation of human rights is acceptable in its territory, to protect migrants and migrants' rights defenders, and to enforce punishments for acts of xenophobia or of racism. The current South Korean government, on the other hand, is not only neglecting the growing xenophobic sentiments but even reflecting some of these sentiments in its policies while subjecting migrants and migrants' rights defenders to control in the name of social order.

At workplaces where the population of migrants is dense, the workers are constantly subjected to physical violence, verbal abuse, delay of salary payment and violation of the minimum wage law among other forms of injustice. Migrants Workers' Trade Union(MTU) was independently formed by the workers themselves 9 years ago in order to confront these issues, but the Supreme Court of Korea still has not recognized the legal status of the Union. Moreover, the core members and committee persons were deported after raids on the grounds of undocumented migrant status.

¹ Jin-gu KANG, 'A Study on the Anti-Multicultural Discourse of Korean Society With a focus on the Internet domain', 『Humanities & Sciences Study』, No.32 (2012. 3, Kangwon National University Institute for humanities & Sciences), pp.5-34.

Even the only committee person who had a valid visa was oppressed unjustly on the false accusation of falsified employment.

II. Human Rights Situation

1. Spread of Anti-Multiculturalism, Xenophobia and Racism

Despite the fact that the fundamental right to freedom of expression is not supposed to protect the dissemination of claims of racial supremacy or the incitement to racial hatred, such hate speeches are proliferating in the media and on the internet without being subject to any kind of government regulation or scrutiny.² Today there are over 20 active xenophobic groups online³ including 'Group against Multicultural Policies' (with over 10,000 members)⁴, as well as one of the most influential online communities called 'Ilbe (an extreme conservative community)⁵' also showing strong xenophobic sentiments. These groups are conducting aggressive attacks on individuals, groups of migrants and migrants' rights defenders online, and extending their field of operations offline.

2. Attacks on Migrants, Migrants' Rights Defenders and Negligence

Alleged perpetrator: Ministry of Justice (Korea Immigration Service), Ministry of Public Administration and Security, the Police, Xenophobic and Racist organizations

2012. 10. 20., the word 'refugee law' became the most searched word on Naver, one of the most popular search engines in South Korea. The 'refugee law' had already been passed by the Congress in December 2011 and was to be enforced from July 2013, therefore there was no apparent reason for the term "refugee law" to become the most searched term out of the blue. As it turned out, it was the result of a deliberate smearing campaign by Ilbe, the xenophobic online community, tweeting and posting tens of thousands of obscene messages and comments such as 'refugees are sexual offenders', 'refugees spread AIDS in South Korea', together with threats and verbal assaults targeting related human rights organizations and the lawmaker who proposed the bill.

2013. 3. 31., when articles regarding the educational rights of undocumented migrant children appeared in the media, countless comments were posted immediately.⁶ The comments not only were profane but also contained threatening comments such as 'national traitors', 'hypocrites', and 'let us kill them'. On 2013. 4. 10., at a debate session held at the National Assembly regarding the rights of undocumented migrant children,⁷ xenophobic groups including 'Korean Culture Loving

² UN Committee on the Elimination of Racial Discrimination (UNCERD), Final Observation, (CERD/C/KOR/CO/15-16), 31 August 2012, para. 10.

³ Committee on Policy for Foreigners, 『2013-2017 the 2nd Basic Plan of Policy for Foreigners』 (2012. 12., Korea Immigration Service of the Ministry of Justice), p.18.

⁴ The url of the website is: <http://cafe.daum.net/dacultureNO/>

⁵ The url of the website is: <http://www.ilbe.com/>

⁶ Yonhap News 2013. 3. 31, "Undocumented Children's Rights to Education – NGO's efforts on New Legislation", 31 March 2013, <http://news.naver.com/main/read.nhn?mode=LSD&min=sec&oid=001&aid=0006176560> (Korean).

⁷ Segye, "Undocumented Children without Medical and Education Benefits", 10 April 2013, <http://www.segye.com/Articles/NEWS/SOCIETY/Article.asp?aid=20130410004824&subctg1=&subctg2=&OutUrl=naver>

Citizens' Solidarity'⁸ made threatening phone calls to the Ministry of Justice and other human rights organizations protesting against the absence of xenophobic groups on the panels, and threatened to sabotage the event. It is believed that as soon as any articles advocating the rights of the migrants, these xenophobic groups post negative comments intentionally. Moreover these groups are conducting movements to exclude 'race', 'country of origin' and 'nationality' from prohibited grounds of discrimination in the Anti-Discrimination Bill proposed at the National Assembly.

The government is already aware of such movements. The issue is not whether the government is aware of it or not, but that it has accepted these xenophobic and racist sentiments as objective "view of the people" and has decided to reflect the sentiments fully in on any relevant legislations, and be encouraged instead of condemning them as a bigotry and negative social phenomenon.

Concerns of South Korean nationals about recent policies⁹

- * Concerns regarding crimes committed by foreigners, and conflicts due to racial and cultural differences
 - Since the violation of regulations on basic social order including petty crimes, reckless garbage dumping, DUI violence committed by foreigners, concerns are being raised among the citizens
- * Requests for balanced policies on expression of anti-multicultural sentiments and foreigners
 - Centering the low-middle class forced out of the competitive workforce and the victims of international marriages ((ie. The hapless Korean men tricked by foreign wives), the strong sentiments of 'reverse discrimination on Korean people'. 'Anti-multicultural sentiments' is rising with the heavy and accelerating criticisms on multicultural family favored policies
 - After the infamous homicide case committed by a migrant in Korea, voices against the government supporting the foreigners together with the criticisms on the loose regulations of violating acts of foreigners
- * Increased sense of crisis regarding identity of the Republic of Korea
 - Although the concept of cultural diversity has rapidly spread into the society, there is no national consensus on such a concept in the Republic of Korea. Especially there has been some controversy when it come to the idea of granting citizenship to migrants and their families who have not yet fully adapted the 'Korean identity'.

Even more serious and urgent issue is that not only does the government merely reflect these xenophobic and racist views and sentiments to policies but also make it the very core of the 2013-2017 Second Basic Plan for a Foreign Resident Policy.

The differences between the First Plan¹⁰ and the Second Plan

- The 2nd Basic Plan reflects the diverse and conflicting opinions of the South Korean people to the fullest extent and proposes a balanced policy structure for the stable future.
- The 2nd Basic Plan fully reflects public awareness, putting special emphasis on social order, security as well as responsibility and contribution provided by the migrants in the South Korean society.

(Korean)

⁸ The url of the website is: <http://cafe.daum.net/amc21/>

⁹ Committee on Policy for Foreigners, 『2013-2017 the 2nd Basic Plan of Policy for Foreigners』 (2012. 12., Korea Immigration Service of the Ministry of Justice), p.18-19

¹⁰ Committee on Policy for Foreigners, 『2013-2017 the 2nd Basic Plan of Policy for Foreigners』 (2012. 12., Korea Immigration Service of the Ministry of Justice), p.21

In addition, the Ministry of Justice has built the refugee camp distant from residential areas near heliport and sewage disposal plants, arguing that the local residents would consider the refugee support facilities as unpleasant.¹¹ Also the police at a national level consistently leak information on crimes committed by foreigners to the press. In most of the cases, the police puts great emphasis on the absolute number of the crimes, instead of its ratio, encouraging wariness and fear of migrants¹² even though the actual crime ratio of foreign criminals is only 1/2 of that of the nationals.¹³ Whether intended or not, it appears that the government is responsible for leading xenophobic aggravation in the society.

3. Issues regarding the Employment Permit System

The Employment Permit System, adopted in 2004, recognizes each migrant worker as one of the laborers in the country but does not guarantee laborer's three fundamental rights. The Act on Foreign Workers' Employment subordinates the migrant workers to their employers by giving the employers a complete control over the terms of the employment. As a result, migrant workers inevitably end up being victimized by exploitation, discrimination and abuse at the workplace. For example, the limitation of the migrant worker's ability to change their workplaces obstructs their rights to free employment and labor of migrant workers, and subordinates them to their employers. Even though the ILO Panel of Experts have already pointed out these shortcomings through their Conventions and Recommendations and made specific recommendations to amend current law to improve current conditions and to deter these discriminations, the South Korean government has not yet provided any solution to these issues.

4. Oppressions upon Migrants Workers' Trade Union (MTU)

1) Forced Raids and Deportation targeting the Union managements since the formation

Alleged perpetrator: Ministry of Justice (Korea Immigration Service)

Chronology:

24 April 2005: Formation of the Migrants Workers' Trade Union (MTU) in Seoul, Gyeonggi and Incheon

14 May 2005: The first President of the Union, Mr. Anwar (Nationality: Bangladeshi) was physically assaulted and arrested due to targeted raid at Ttukseom Station at 1:00 a.m.

11 December 2006: At 1:00 p.m. Mr. Jaman (Age: 35, Nationality: Bangladeshi), the branch manager of the MTU at Jungbu Region was pulled in by seven forcefully entered immigration

¹¹ Yonhap News 2010. 4. 28. Refugee Rights Center opposing construction of 'refugee camps' at Yeongjong Island, <http://www.yonhapnews.co.kr/bulletin/2010/04/28/0200000000AKR20100428134400004.HTML>.

¹² Yonhap News 2012. 9. 26. Crimes committed by foreigners reached 88,000 in past 3 years, <http://news.naver.com/main/read.nhn?mode=LSD&mid=sec&sid1=102&oid=001&aid=0005838898>,

¹³ As of 2008, the proportion of the foreigners populated in Korea has reached 2.34% out of the total national population, however the crime rate was only 1% of the total crimes in Korea. Jun-Tae IM, 『A Study on Foreigner's Crime in Korea』 (2010, IOM Immigration Research & Training Center), p.31.

officers without warrants and verifiable identifications during lunch time at the factory he worked in Gunpo.

11 July 2007: Mr. Subasu (Nationality: Nepali), a member of the Union, was illegally taken in by the police and deported on 2008. 1. 30. In spite of the fact that he was suffering from various diseases including serious diabetes, not even a single medical examination was performed after countless requests from himself and other migrants' rights organizations. While customarily such medical requests at this stage are permitted in general, his requests were completely ignored, therefore this case was clearly discriminatory. The Ministry of Justice spread false information arguing that Mr. Subasu was the branch manager of Seongdong branch and pointed out his activities as a member of the Union a problem.

3 September 2007: Ex-Vice branch manager of Seoul branch, Mr. Mintu (Nationality: Bangladeshi) was pulled in due to forced entering and raids

23 August 2007: Ex-Secretary-General of Seoul branch, Mr. Shohak (Nationality: Bangladeshi) was arrested by the raid squad in front of the factory he worked

28 August 2007: At 1:00 p.m. during protests against illegal raids taken place in front of the Seoul Immigration Office, a squad of immigration officers conducted raids at the office of MTU.

1 November 2007: Mr. Gurung(Nationality: Nepali), the chief of an affiliated society to Dongdaemun branch of Seoul, was arrested by the police and raid squad who forcefully entered his workplace

27 November 2007: At 9:00 a.m. President Kajiman, Vice-President Raju and Secretary-General Moniruzzaman were objected to raids at the same time but at different places

2 May 2008: At 8:00 p.m. President Torna, Vice-President Sabur were objected to raids at the same time but at different places

10 February 2011: Seoul Immigration Office cancelled the visa of President Michel Catuira on the false ground of falsified employment and ordered the immediate departure. Although subsequently he received a valid G-1 visa with a favorable judgment by Seoul Administrative Court, when he came back to South Korea on 30 April 2012 to prepare for the court case, his reentry was barred from at Incheon Airport on the grounds that his history of violation of the employment permit law. He was deported to the Philippines on the next day.¹⁴

2) Disapproval of Migrants Workers' Trade Union (MTU)

Chronology: oppression and litigation procedure since the establishment of MTU in Seoul, Gyeonggi and Incheon

¹⁴ Please refer to an English article: The Hankyoreh, "Former Migrant Union Organizer Denied Entry", 2 May 2012, http://english.hani.co.kr/arti/english_edition/e_international/530855.html

24 April 2005: Establishment of MTU in Seoul, Gyeonggi and Incheon

3 May 2005: Establishment of the Union was reported to the Ministry of Labor

3 June 2005: The Ministry of Labor rejected the registration of the Union

20 June 2005: Legal suit was filed for the revocation of the rejection.

7 February 2006: The first instance court ruled in favor of the Ministry of Labor stating that undocumented migrant workers were not legally residing in the Republic of Korea under the Immigration Control Act, therefore they did not have any labor rights.

22 February 2006: MTU appealed.

1 February 2007: The High Court ruled in favor of the Union, turning over the first instance decision, stating that the rejection of registration is unjust, and the right to establish a trade union should be respected regardless of the status of the workers

23 July 2007: The Ministry of Labor objected to the ruling of the High Court and filed an appeal to the Supreme Court. The Supreme Court fails to make the final decision for over 6 years.

III. Recommendations by the International Community

1) Regarding legal recognition of MTU

ILO Case No. 2620

Complaint against the Government of the Republic of Korea presented by the Korean Confederation of Trade Unions (KCTU) and the International Trade Union Confederation (ITUC)

Allegations: The complaints allege that the Government refused to register the Migrants' Trade Union (MTU) and carried out a targeted crackdown on this union by successively arresting its President Anwar Hossain, Kajiman Khapung and Toran Limbu, Vice-Presidents Raj Kumar Gurung (Raju) and Abdus Sabur and General Secretary Abul Basher Moniruzzaman (Masum), and subsequently deporting many of them. The complaints add that this has taken place against a background of generalized discrimination against migrant workers geared to create a low-wage labor force that is easy to exploit.

ILO Governing Body Recommended

(a) The Committee urges the Government to refrain from any measures which might involve a risk of serious interference with trade union activities and might lead to the arrest and deportation of trade union leaders for reasons related to their election to trade union office. It requests the Government to enforce the decision of the Administration Court cancelling all punitive measures until a final judgment has been rendered, including by granting the renewal of Mr. Catuira's residence permit. The Committee requests the Government to submit detailed information on the current status of Mr. Catuira's work permit in reply to the complainant's communication of 28 September 2011 and any other information related to this case.

(b) The Committee expresses its firm expectation that Government will proceed with the registration of the MTU without delay, and supply full particulars in relation to this matter.

(c) The Committee once again requests the Government to ensure that the Committee's conclusions, particularly those concerning the freedom of association rights of migrant workers, are submitted for the Supreme Court's consideration and to provide a copy of the Supreme Court's decision once it is handed down.

(d) The Committee once again request the Government to undertake an in-depth review of the situation concerning the status of migrant workers in full consultation with the social partners concerned, so as to fully ensure and safeguard the fundamental rights to freedom of association and collective bargaining of all migrant workers, whether in a regular or irregular situation and in conformity with freedom of association principles, and to prioritize dialogue with the social partners concerned as a means to find negotiated solutions to the issues faced by these workers. The Committee requests to be kept informed of the progress made in this regard.

2) UN Committee on Elimination of Racial Discrimination (UNCERD), Final Observation

CERD/C/KOR/CO/15-16 31 August 2012

Criminalization of racial discrimination

8. The Committee regrets that the draft bill of the Discrimination Prohibition Act did not provide for the criminal punishment of discriminatory acts. It further notes that the existing legislation is not in full compliance with the article 4 of the Convention, including the absence of criminal sanctions for incitement to racial discrimination and acts of racially motivated violence.

Recalling its general recommendation No.1 (1972) on article 4, the Committee reiterates the mandatory character of the provisions of article 2 and of article 4 and urges the State to amend its Criminal Code to include racial discrimination as a crime and to adopt comprehensive legislation which criminalizes racial discrimination, provides for adequate punishments proportional to the gravity of the offence, considers racial discrimination as an aggravating circumstance and provides for reparations to the victims.

Racist hate speech

10. The Committee notes that racist hate speech directed against non-citizens is becoming more widespread and explicit in the media and on the internet. The Committee notes that the fundamental right to freedom of expression of the individuals involved does not protect the dissemination of ideas of racial superiority or incitement to racial hatred.

In accordance with its general recommendation No.7 (1985), No. 15 (1993), and No. 30 (2004), the Committee recommends that the State party monitor the media, internet and social network to identify those individuals or groups who disseminate ideas based upon racial superiority, incite to racial hatred against foreigners. The Committee recommends that the State party prosecute and adequately punish the authors of such acts.

Migrant Workers

11. The Committee takes note of the amendments in the Employment Permit System but remains concerned that migrant workers are subjected to discrimination, exploitation and lower or unpaid wages. The Committee expresses further concern that migrant workers cannot de facto become eligible for permanent residency in the Republic of Korea, which requires five years of continuous presence in the country, as the maximum employment period amounts to 4 years and 10 months

renewable once after a break of three months outside the country. The Committee is greatly concerned about the information that migrant workers, especially those who become undocumented, cannot enjoy their right to organize and join labor union and that some of their union executive members have been expelled from the country. The Committee fully shares the recommendations of the Committee on Economic, Social and Cultural Rights (E/C.12/KOR/CO/3) in this regard.

The Committee recommends that the State party to further amend the Employment Permit System in particular relating to: the complexity and variety of types of visa; the discrimination based on country of origin; the limitation of the migrant worker's ability to change their workplaces; the maximum employment period; and to ensure that migrant workers can fully enjoy their rights and that migrant workers and their families, in particular, children, enjoy adequate livelihood, housing, healthcare and education. The Committee urges the State party to guarantee the right of all persons to form and join trade unions freely. The Committee requests the State party to report on these specific issues. The Committee recommends the State party to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

IV. Recommendations

- Establishment and implementation of overall policies in order to achieve social integration and society without anti-multiculturalism, xenophobia and racism
- Establishment of firm measures to counteract xenophobic and racist speech and conducts
- Improvement of the overall Employment Permit System in order to guarantee basic labor rights and rights to stay of migrant workers
- Legal recognition of MTU to guarantee labor rights of migrant workers
- Prohibition of any measures that may interfere activities of the union, including arrests and deportation of the union managements
- Guaranteed access to public services, protection of rights and suspension of raids and deportation targeting undocumented migrant workers

Defenders working on the DPRK

Gyung-wook JANG / Unification Committee, MINBYUN-Lawyers for a Democratic Society

I. Background

The society of the Republic of Korea has a system which 'produces' North Korean defectors in abundance. The government of the Republic of Korea (hereinafter, the government) adopts a broad definition of North Korean defector - "a resident who has left the North Korean border." Thus, by definition, even North Koreans who travel to China on business, and those who left North Korea to visit their family are all considered North Korean defectors, regardless of their intention to defect. Since tens of thousands of dollars are provided in the name of settlement assistance to any North Korean who comes to South Korea, a large number of 'defection' brokers exist, seeking to get shares of the settlement money. And they comprise a large portion of the defection system.

The defection system has been used by the government as part of the hostile policy towards North Korea. As the government sees the treatment of North Korean defectors as an extension of system competition with North Korea, (there is a form of state competition in which both states try to prove their superiority in their ideological, social, and economic systems - a remnant of the Cold War), it is of importance that there is an increasing number of defectors from North Korea. Defection brokers view North Korean defectors as a source of income. The interests of the government align with those of the defection brokers. Due to this reality, Korean-Chinese (Chinese nationals of Korean descent) often come to South Korea, disguising themselves as North Korean defectors.

As the government sees North Korean defectors as part of the system competition with the North, in many cases, their human rights are not protected but violated.

II. Human Rights Situation

1. Human rights violations during the process of entering South Korea

North Korean defectors enter South Korea with the help of defection brokers or North Korean human rights organizations. Since the brokers and organizations view North Korean defectors as a source of income and treat them accordingly, the defectors often become victims of crimes. The crimes include the extortion of settlement assistance funds, assault, human trafficking and abduction.

1) Extortion of settlement assistance funds of North Korean defectors after leaving Hanawon (the government center for assisting North Korean defectors in settling in South Korea)

Alleged perpetrator: Defection brokers

Defection brokers attract North Korean defectors by telling them that they will receive a large amount of money. After the defectors go to South Korea, they demand an 'introduction fee' from them. On 26 Dec. 2006, Pressian, an online newspaper, reported that 83% of the North Korean defectors came to South Korea through the route of defection brokers and that on average, defectors paid 4,000 dollars to the brokers for introduction fees.¹

On 24 Oct. 2012, a member of the National Assembly, DaeSung Moon, revealed the situation of violations of human rights of North Korean defectors by defection brokers during the inspection procedure conducted by the Ministry of Unification. The types of violations revealed are ① assaulting North Korean defectors who do not pay their introduction fee when they come out of Hanawon ② visiting and threatening North Korean defectors with information such as the address and phone number which should be kept confidential. It was also revealed that Hanawon, which is supposed to help North Korean defectors, had helped the transfer of introduction fees to brokers. (Newsis article dated 24 Oct. 2012.) Hanawon is in fact ignoring the extortion of money by the defection brokers.

For North Korean defectors who have to pay security fees for their apartments and various settlement fees, introduction fees demanded by the brokers are a huge burden. It is said that North Korean defectors, after paying their introduction fees to brokers, find themselves financially strapped and become highly exposed to crimes.

2) Sexual assault of a teenage North Korean defector in 2009

Alleged perpetrator: Defection brokers

There are cases of sexual assaults of female North Korean defectors as perpetrators exploit their instable status. North Korean defectors must obey their brokers until they safely arrive in South Korea. Especially those who have left their family in North Korea find it difficult to report brokers

¹ Pressian, "Did you just say that all the female defectors from North Korea were sex workers?", 26 December 2006, http://www.pressian.com/article/article.asp?article_num=60061221171024&Section= (Korean)

to authorities because they think that the only way they can bring their family members to South Korea is with the help of the brokers.

Congresswoman, Young Sun Park, revealed in 2009 that a teenage North Korean defector A (aged 16) was sexually assaulted by a defection broker B in the process of defection. When assigning rooms for North Korean defectors, B told A "I will send you to America while I send others to South Korea." After separating her from the others, B sexually assaulted A.

2. Treatment of North Korean defectors as potential criminals

The government, which views North Korea as a hostile enemy, treats North Korean defectors as 'potential spies' instead of seeing them as South Korean nationals. Such a hostile attitude is reflected in the government's assistance programs for the defectors.

1) 6 month joint investigation (de facto, detention) and 3 month settlement education for North Korean defectors

Alleged perpetrator: National Intelligence Service, Ministry of Unification, Ministry of Justice, Ministry of Defense, National Police Agency, Hanawon

Under the Act on the Protection and Settlement Support of Residents Escaping from North Korea (hereinafter, the Act) North Korean defectors are subject to investigation upon arrival at the Joint Investigation Center run by the National Intelligence Service in Siheung, Gyunggi-do which can last up to 6 months (investigation is jointly led by the service, police, and military) and to settlement education of 3 months. The current joint investigation which lasts up to 6 months is an abnormal process for which there are no precedents in other countries. The investigation is conducted on the premise that all North Korean defectors are potential spies, and during the period of investigation, the defectors are placed in solitary confinement. Also, during this period, contact with the outside and visits by family members or relatives are forbidden. According to the article by the Hankyoreh dated 23 March 2012, a newspaper in South Korea, physical and verbal abuse takes place during the period of investigation.²

After being investigated and getting their identities confirmed, North Korean defectors are transferred to Hanawon, a 'social adaptation education facility.' All North Korean defectors, regardless of their will, are subject to receiving the settlement education offered for 3 months. With the abolition of the 'long leave program', a family visit (family of direct descent) is allowed only once during the total of 12 weeks of education is the only visit provided. The life of 12 weeks at Hanawon is so isolated from the outside world that forcing such a life has the possibility of being a human rights violation. The defectors cannot live with their family members (of direct descent), and the use of cell phones and the Internet are prohibited. Leaving the center is not allowed except when defectors go outside to receive adaptation training (ex. job training, purchasing training in markets).

² The Hankyoreh, "A member of the National Intelligence Service assaulted North Korean defectors with pens", 23 March 2012, <http://www.hani.co.kr/arti/society/rights/524997.html> (Korean)

2) Collection of personal information and surveillance under the pretext of protection

Alleged perpetrator: Ministry of Unification, National Police Agency

Article 28 of the Act states "where a person eligible for protection changes his/her domicile, occupation or place of work within five years from the date of moving into the place of first residence, he/she shall report it in writing to the head of the local government concerned within 14 days from the date when such change has occurred, while the head of the local government who has received such report shall submit a copy of the written report to the Minister of Unification via the Minister of Public Administration and Security." Under the Act, the Ministry of Unification collects personal information of North Korean defectors and based on the information, manages the Settlement Assistance Service network(3S-NET).¹ In the network detailed, private information on matters such as relocation, birth, and family relations are contained. According to the news from Oh My News (internet newspaper) dated 7 Oct 2012, a congressman, Jae Kwon Shim, revealed that the Ministry of Unification continues to collect personal information after the mandated 5-year period. Even the congressman, Myung Cheol Cho, a North Korean defector, was found to be included in the list of people subject to information collection after the mandated period.³

One North Korean defector wrote on his blog (blog service run by Oh My News) that a North Korean defector who has participated in the anti-North Korea activities (sending leaflets of pro-South Korean content to North Korea in balloons) for 10 years is still followed by police officers, and the officers invade their privacy and disclose sensitive information that could threaten his life. He also claimed that all North Korean defectors are under the surveillance by the local police regardless of their will.

3. Being Mobilized for 'anti-North Korea political activities'

North Korean defectors are also easily exploited politically just because they are from North Korea. Also their low income or unemployed status make them participate in 'anti-North Korean political activities' when such activities promise them money.

1) National security lectures, anti-North Korea activities

Alleged perpetrator: Local government, military, National Intelligence Service

For a long time, North Korean defectors have delivered lectures on national security at local governments and military units. Sometimes, they have delivered lectures containing anti-North Korean sentiments at church in the form of testimonies. The reasons for using North Korean defectors to deliver lectures on national security are to criticize North Korea, to instill negative images, and to further political causes based on such negative images. The organizations that host the lectures demand that the content to be provocative. Also, the defectors delivering the lectures try to exaggerate the contents so as to receive better payments. Thus, lectures often contain exaggerated or even false statements on North Korea's situations.

³ Oh My News "Congressmen from North Korea are also under surveillance", 7 October 2012, http://www.ohmynews.com/NWS_Web/View/at_pg.aspx?CNTN_CD=A0001786836 (Korean)

In addition, North Korean defectors are mobilized to participate in anti-North Korean activities such as air-dropping(using balloons) of leaflets of pro-South Korean and anti-North Korean contents in North Korea.

Some North Koreans criticize such situations. According to a 2012 April article of the 969th edition of Weekly Kyonghyang, an anonymous defector said "Most North Korean defectors do not agree with the opinions of the conservatives. The few North Koreans who side with the conservatives and their appearances in the media send a false image that they speak for all North Korean defectors." An image that all North Korean defectors are irrational people is spreading because some North Korean defectors are participating in activities such as delivering anti-North Korea lectures and siding with the conservatives.⁴

2) Case of a spy who pretended to be a North Korean defector

Alleged perpetrator: National Intelligence Agency, Military

In 2008, there was a spy case in which Ms. Jung Hwa Won stole confidential military information through a military officer and officials of North Korean defector organizations. A captain who was in relationship with Ms. Jung Hwa Won as well as her stepfather were arrested as a result. On 2012.7.5., the Supreme Court ruled that the stepfather, Mr. Dong Sun Kim, was innocent. Mr. Kim, a North Korean defector, was framed to be a high-ranking spy by the false testimonies offered by investigation agencies.

Recently, a controversy arose when the sister of a Seoul Metropolitan Government employee who was the primary suspect of a spy investigation confessed that she was forced to make false statements about her brother. The sister claimed "the National Intelligence Agency led me to confess that my brother is a spy. If I make the confession, the agency agreed to reduce the sentences, and they also promised that I could live with my brother in South Korea." Also, "during the investigation, I was hit in the head and kicked. I was put in solitary confinement with a security camera. The door was locked, and I tried committing suicide once.

The National Intelligence Service detained the woman for 6 months. During the investigation there, she could not make phone calls to anyone including her family. The whole spy investigation started with the sister's statements. Access to a lawyer was denied. She could finally leave the place after 6 months when the lawyers of MINBYUN-Lawyers for a Democratic Society filed a release suit in court.

III. Recommendations from the International Community

⁴ Weekly Kyonghyang, "Unconservative, young and vibrant North Korean defectors emphasize the peaceful relationship between North and South Korea", April 2012, <http://newsmaker.khan.co.kr/khnm.html?mode=view&code=115&artid=201203271735251&pt=nv> (Korean)

A Complete revision of the Act on North Korean Defectors Protection and Assistance

The Act on the Protection and Settlement Support of Residents Escaping from North Korea was legislated to protect and assist North Korean defectors considering the unique situation of the division of the Korean peninsula. The act must be revised as to follow the standards provided by the Refugee Act which specify refugee status, treatment, refugee status application, and evaluation process.

As stated above, the Act does not guarantee the rights protected by the Refugee Act such as the right to seek an attorney's counsel, the right to family presence, and the right of the UNHCR to interview or participate in the interview of refugees, and it does not specify any inspection process by either court or UNHCR.

On the subject of placing North Korean defectors under protective custody in solitary confinement at the Joint Investigation Center, the government argues as follows: For the placement of defectors under protective custody in solitary confinement at the center, it claims there is a need for protecting North Korean refugees once they enter South Korea since the North Korean government has made it clear that the defectors are 'traitors', thus are subject to retaliatory actions. Therefore, the Act (Article 12(1)) allows the confinement of defectors under protective custody at the Joint Investigation Center as a 'temporary protection measure'. North Korean defectors held at the center all have applied for protective custody provided by the Act as they wished so, and can ask for the removal of protective custody anytime. Moreover, the defectors under protective custody live together and are only placed in solitary confinement when there are needs to do so (when one is suspected to be a spy who can potentially harm other defectors and collect confidential information about the center; when the sharing of information about the investigation makes it difficult to identify the genuine North Korean defectors). On the prohibition of visits from the outside, it states that it is done so to protect the person under protective custody from the possible harm from the outside, to prevent the collection or release of confidential information in the possession of the center, and to block any outside intervention to provide assistance to North Korean defectors under disguise.

For the reasons stated above, the government asserts that placing North Korean defectors (applicants of protective custody) in the Joint Investigation Center is not a 'detention,' and attorney's counsel and visits from the outside are prohibited as the Criminal Procedure Act does not apply to investigations required by the Act on the Protection and Settlement Support of Residents Escaping from North Korea.

While the name suggests it provides protection and assistance, under the Act on the Protection and Settlement Support of Residents Escaping from North Korea, the North Korean defectors are subject to up to 6 months of detention and rigorous investigation in the name of seeking spies, It also justifies the prohibition of contact with the outside and inhumane treatments by investigators.

Thus, the Act on the Protection and Settlement Support of Residents Escaping from North Korea itself, and the Joint Investigation Center established under the Act can be defined as an evil law

and facility. The Act must be completely revised in the light of the spirit of the Refugee Act, and the investigation center must be closed.

Human Rights Defenders and Corporations of the Republic of Korea which operate in Foreign Territories

Hyun-Phil NA / Korean Transnational Corporations Watch

I. Background

The economic size of the Republic of Korea is the 15th largest in the world and 13 Korean corporations were included among the 500 world biggest corporations selected by Fortune in 2012. However, very few Corporations of the Republic of Korea explicitly include international human rights norms and standards in their corporate social responsibility (CSR) policy although 213 corporations of the Republic of Korea are members of UN Global Compact (UNGC) since April 2012. According to National Human Rights Commission of Korea's research service report of 2008, among the corporations taking part of the survey, the rate of conducting human rights impact assessments for new business or project was very low: 16.7 percent in domestic projects and 15.6 percent in overseas projects. Companies were passive in reporting their human rights policies, systems and accomplishments. Respect of sovereignty and local culture in abroad operations (written policy: 43.8 percent, actual compliance: 53.1 percent), and avoiding complicity in human rights violations by others including host country (written policy: 36.4 percent, actual compliance: 50.0 percent) are some examples. They were also passive in dialogue with external stakeholders, especially with NGOs (35.7 percent). It has to be taken into consideration that corporations taking a given survey keep their CSR in a high level. In short, it is inferred that the terminology "Human Rights" is still new to corporations of the Republic of Korea even though most companies (93.5 percent) see the high possibility that an enduring human rights violations would eventually have a significant impact on their business.

In this sense, Korean companies operating abroad fail to recognize labor unions and tend to understand CSR as just a kind of social contributions which also is a common idea shared by South Korean companies operating in the Republic of Korea. A number of members of labor unions have

faced human rights violations such as losing their jobs. Violations on the rights of local people who oppose the development project and of the human rights defenders are continuously reported.

II. Human Rights Situation

1. Phils Jeon Case; No Union Policy and Attack on the Labor Union

To avoid high wages and cost, Korean textile, garment, and electronic companies have moved their factories from the Republic of Korea to developing countries. These companies especially prefer regions with weak governance zones such as the Special Economic Zone on South-East Asian and Latin America region. As a result, many workers are forced to accept severe working conditions without receiving assistance from their states. If workers try to build a union, the companies terminate union leaders, mobilize police or goons, and close the factory. There is no maternity protection system for female workers who occupy main labor force in these industries.

The case of 'Phils Jeon', manufacture apparel in the Special Economic Zone in Philippines, represents the severe conditions of human rights defenders under factories of the Republic of Korea in a weak governance zone. The employees established a labor union and asked for the collective bargaining according to the local laws. The company, however, did not recognize the union and refused the collective bargaining which led to a legal strike since September 15th, 2006. The company fired members of the union and the police violently repressed their peaceful strike. The management of Phils Jeon, the police, and security guards violently dismantled the union's picket line on October 19th, 2006. After they had dismantled the picket line (makeshift tents), the strikers no longer had any "roof" or tent to protect themselves from the heat of the sun, rain, or the dew during nighttime and dawn time. They also did not have temporary comfort rooms. It was a very difficult and uncomfortable condition for the workers on strike.



Laborer who got attacked by the police



Korean officials and security guards
dismantling the Picket line

In such a harsh condition, the union kept the picket line in front of the factory for 10 months. On August 6th, 2007, however, two women strikers guarding their picket line were taken/abducted against their will by unidentified men wearing ski masks/bonnet-masks. According to the two

women, at around midnight, roughly ten unidentified men wearing mask/bonnet to cover their faces suddenly entered the makeshift tents of the union. When the men came in through, destroying their picket line, they loaded everything including the strikers' personal belongings on the truck. Then they carried the two women and put them in the front seat of the vehicle. They came out of the Special Economic Zone and deserted the women on the street. The place where the union members were deserted by those unidentified men was only 100m away from a security company owned by a Phils Jeon's attorney. These women felt terribly threatened and the picket line could not be continued.



The abductees – Aurora (left) and Galon (Right) – are standing on the grass where they were deserted. The company still does not recognize the labor union and 63 dismissed union members have not resumed their seats yet.

2. POSCO India project and Human Rights Defenders

The government and corporations of the Republic of Korea have expanded overseas natural resource development project. In order to promote these projects, the government of the Republic of Korea may give financial aid, loan, and/or tax benefit to the companies. However, No government agencies, corporations, and organizations of the Republic of Korea join “Extractive Industries Transparency Initiative (EITI)”, “Voluntary Principles on Security and Human Rights,” and “Equator Principles”. Considering the international commitment of the Republic of Korea and the risks of resource development project on weak governance zones, the current behavior of extractive industries is hardly understandable, and their present system requires urgent reforms.

Pohang Iron and Steel Company (also known as POSCO, the 4th largest steel company of the world in South Korea)'s project in Odisha, India, was originally designed in the Memorandum of Understanding (MoU) between POSCO Corporation and the government of Odisha. The project includes a plan of constructing a 12 million-tons-per-year steel plant and a captive port and iron ore mine. It has been widely celebrated as the single largest infusion of Foreign Direct Investment (FDI) since the Indian economy was liberalized in 1991. The project involves the investment of 120 billion USD for the development of iron-ore reserves and the establishment of a massive integrated steel plant along with harbor facilities sprawling over a total of 4,004 acres of land in Odisha state

in India. It has encountered vehement resistance from local residents and raised serious concerns regarding violations of Indian law and regulations, and perhaps due to the relatively lower level of international attention, the POSCO movement has been even more violently repressed.

The appropriation of the 4,000 acres of the land earmarked for the project would result in the eviction of an estimated 22,000 people and indirectly disrupt the livelihoods of further 30,000 people, just in Jagatsinghpur district in Odisha. The local communities in Jagatsinghpur have withheld their consent three times in order to keep the project from proceeding according to the law. However the project proceeds against the will of the local people, threatening them with forced eviction. This is a grave violation of several fundamental human rights including housing, food, water, health and work. Removal from their arable land has cut them off from their previous means of economic independence, leaving them dependent on a cash payment of 20 rupees (or 4 cents in USD) per day and eventually moving from economic prosperity into poverty.



Women and Children have been peacefully protesting against forcible land acquisition since June 2011, but Odisha state government brutally dispersed this peaceful protest on 3rd February 2013.

There have been actual violent practices against the local people by hired goons. The police, state agencies and goons hired by the company have repeatedly attacked villagers, made false arrests, burned houses, abused women and killed local activists. Recently on March 2nd, 2013, three village activists opposing the project were killed by a bomb thrown by pro-POSCO goons. Following the killings, the district administration put prohibitory orders on the whole Patna area in order to prevent villagers and activists from meeting to arrange rallies objecting to the murders while carrying out land acquisition and destroyed 22 betel vine plantations by March 5th. On the contrary to what actually happened, the police gave the media their statement falsely claiming that the three activists were in fact making a bomb which exploded and killed themselves. Despite the tragic event, 3,000 villagers and supporters gathered on March 6th to protest against the brutality of POSCO and the state police, who have worked by hand in glove with the company, and stated that the POSCO's project will not be allowed on their lands. A number of women described themselves as desperate but peaceful protestors against the brutal repression and war waged on their villages. Many of them were beaten with sticks by the police and more than 60 were injured

in total. Protestors have been charged with several cases, which means that the company needs to arrest them in order to proceed with Land acquisition. The village is under police occupation and they are carrying on house to house search. People cannot return to their villages because the police are everywhere and they will get tortured when they get caught.

There are many other incidents involving brutal repression against protestors. On September 26th, 2011, as the villagers were participating in a peaceful protest against the construction of the coastal road along the India Oil Refinery Complex, they were viciously and unexpectedly attacked by some 400 armed unidentified men. Those people attacked the villagers with sticks and country-made bombs while the police took no action. In the process, more than 30 protesting villagers, including 6 women, were badly injured. The injured could not get proper medical treatment because they were afraid of getting arrested due to false cases filed against them. On June 3rd, 2011, at around 9 in the morning, the Odisha police and administration officials brutally beat villagers of Nuagaon who opposed the forceful acquisition of their land. Basu Behera, a villager of Gadkujang Panchayat was injured in the attack. The police destroyed their betel vines and arrested 17 people including women and children of 5-12 years of age. On a previous day, the state police injured 10 villagers and arrested two people one of which got beaten and tortured at the station. Earlier on May 15th, 2010, the State police also burned huts and carried out beatings and set fire to villages. This costs more than 100 villagers getting injured and a number of houses burned down to ashes.



During the land acquisition, on 3rd February 2013, some employees of POSCO-India were seen on the site with the police (See above pictures). According to Collector S K Mallick, a team of officials from the district administration, IDCO (State-owned Industrial Infrastructure Development Corporation) and POSCO-India collaborated to carry out the operation. Five members from POSCO-India were accompanying the administration and the police to help them. The General Manager Construction of POSCO-India (He wore redshirts on the pictures) insisted that they were just helping the administration with the GPS system. This is clear evidence that they were more than just helping in the GPS system.

III. Recommendations from the International Community

The Republic of Korea is a member of the OECD and its government has operated National Contact Point (NCP) according to the OECD Multinational Enterprises Guideline since May 2001. As a result, petitions were presented to South Korean NCP for Phils Jeon and POSCO cases.

NGOs and Labor Unions of the Republic of Korea and the Philippines submitted a joint complaint to the South Korean NCP on 6th September 2007. However, according to the South Korean NCP's 2012 annual report, Phils Jeon case is still in progress. From 2007 to the present, the South Korean NCP did not take next steps such as starting arbitration process or giving recommendations as its' operational regulation. The reason of delay is that the NCP needs time to check the local law process. The complaint should be judged only on the OECD Guideline for Multinational Enterprises. But the South Korean NCP only judges the case based on whether or not the company violated the local laws of the Philippines.

After updates of the OECD Multinational Enterprises Guideline in 2011, the international civil society expected that the Guideline would provide a breakthrough in the dispute between Odisha people and POSCO India. In order to claim responsibility to Dutch pension funds ABP and APG and the Norwegian Government Pension Fund – Global who had invested in POSCO's project, the Indian organization and supporting coalitions in the Republic of Korea, the Netherlands, and Norway filed complaints with the South Korean, Dutch, and Norwegian NCP on 27th October 2012. Norwegian NCP already released its' initial assessment on 27th November 2012¹: "The Norwegian NCP will seek to collaborate with the Dutch NCP and the South Korean NCP to further investigate the claims and/or offer dialogue and mediation to all parties involved". The Dutch NCP also announced its' initial assessment (on 18th January 2013) and preliminary statement on 19th March 2013²: "The Netherlands NCP is of the opinion that an independent Review and Assessment Mission in Odisha, India as stipulated in the joint agreement of parties could contribute to a resolution of the conflict through a meaningful stakeholder consultation between POSCO and all affected stakeholders."

Contrary to the positions of Other NCPs, the South Korean NCP expressed that the NCP did not consider further investigation, including an independent Review and Assessment Mission on March 2013. The reason is that the South Korean NCP was able to review this case without any field research whether Joint Mission or not. According to the initial draft of assessment of the South Korean NCP on May 2013, "The South Korean NCP considers the complaint to be related to the administrative activities of the state government of India rather than business activities of POSCO India, and it is not the South Korean NCP but the Indian court that should determine legality and legitimacy of such activities. Therefore, the Korean NCP has decided that there will be no additional proceedings." Trade Union Advisory Committee to the OECD (TUAC) and

¹ OECD NCP NORWAY, INITIAL ASSESSMENT, 27 NOVEMBER 2012, <http://www.regjeringen.no/UPLOAD/UD/VEDLEGG/CSR/KONTAKTPUNKTET/121126-INITIAL-ASSESSMENT-NBIM.PDF>

² NETHERLANDS NATIONAL CONTACT POINT, INITIAL ASSESSMENT, 18 JANUARY 2013, http://www.oecdguidelines.nl/wp-content/uploads/ncp_specific_instance_posco_abp_initial_assessment.pdf

International and South Korean NGOs have continuously pointed out that the performance of the South Korean NCP has severe problems. For instance, according to the TUAC's 2008 report, the Korean NCP missed an opportunity to achieve a much earlier solution and to play a constructive role itself. Moreover, the National Human Rights Commission of Korea (NHRCK) submitted a recommendation to the South Korean NCP that it is necessary to improve the composition and operation of the NCP on November 2011. However, the government of the Republic of Korea still avoids its responsibility and is not willing to operate NCP according to the OECD Guideline, as seen in Phils Jeon and POSCO cases.

The Committee on the Rights of the Child (CRC) recently expressed its concern that businesses from South Korea "are reported to be signing or planning to sign land leases in various countries with negative implications for, inter alia, the right to water and housing". The CRC recommended that the Republic of Korea remedy this problem by developing "a legislative framework that requires companies domiciled in the Republic of Korea to adopt measures to prevent and mitigate adverse human rights impacts in their operations in the country and abroad, whether by their supply chains or associates". The Republic of Korea was also advised to take measures to ensure that companies "cooperate with the foreign governments that are carrying out processes of free, prior and informed consent when projects affect indigenous peoples or impact assessments on human/child rights".³

IV. Recommendations

- The government of the Republic of Korea should establish a neutral and independent NCP in which the civil society can participate and should regulate the NCP in accordance with the revised OECD Guidelines.
- The government of the Republic of Korea should build the institutional system to fulfill due diligence of its corporations, and develop non state-based judicial mechanisms for the victims who are living in extra territories and could not easily access to remedy.
- The government of the Republic of Korea should apply human rights-based approach (RBA) system to ODA projects, especially, Public Private Partnership (PPP).

³ COMMITTEE ON THE RIGHTS OF THE CHILD, CONCLUDING OBSERVATIONS: REPUBLIC OF KOREA, UN DOC. CRC/C/KOR/CO/3-4 PARAS. 26-27 (02 FEBRUARY 2012)

The National Human Rights Commission of South Korea's Abandonment of its Duty to Protect Human Rights Defenders

Action to Place the National Human Rights Commission to its Place in Korea

I. Background

From its establishment in 2001 to until 2007, the National Human Rights Commission of South Korea (Chairperson: Byung-Chul Hyun; hereinafter "the Commission") had received positive appraisals from the civil society at home and abroad regarding its functions and independence. However, ever since the inauguration of the Myung-Bak Lee Administration in 2008, the Commission has been failing to properly fulfill its duties as its independence has continuously been compromised through actions such as the attempt to make the Commission part of a Presidential organization, the reduction of the size of the Commission (by 21%), the appointment of an unqualified chairperson, and the layoff of the Commission employees, etc. Especially after Byung-Chul Hyun became the Chairperson in 2009, the Commission became reluctant to judge against government policies that violate human rights. As a result, the Commission too often fails to play its protective role for human rights defenders that advocate against the Government's violation of human rights.

There are three main tendencies of the Commission in abandoning its duties to protect human rights defenders. First is that the Commission exonerates the Government's and/or corporations' act of repressing human rights defenders. More specifically, this is done by dismissing or overruling complaints filed against the Commission related to human rights issues. In 2011, during a lengthy aerial protest by Jin-Suk Kim on top of a cargo crane against the layoffs by Hanjin Heavy Industries and Construction Co. that received international attention and support, the company cut off electricity supply to the demonstrator which was critical to her survival. Request for an emergency relief was made to the Commission but the Commission dismissed it by classifying the protest as an "illegal activity." The UN Declaration of Human Rights Defenders emphasizes "the lawful exercise of the occupation or profession of human rights defender" against a broad range of

human rights violations. The second tendency is indefinitely postponing decisions regarding complaints of suppression against human rights defenders. The more sensitive the issues are to the Government, the longer the delay lasts. Lastly, there is a tendency to turn a blind eye to the requests by human rights defenders and instead, to engage directly in their repression. In response to the December 2010 sit-in demonstration of disability rights defenders, who demanded the resignation of Chairperson Hyun and the improvement of 3 major disability laws, the Commission committed serious human rights violations, such as ordering power and heat suspension. This incident was revealed to the South Korean public only after the National Assembly held a public hearing in 2012 and the Commission was questioned by the members of the National Assembly.

II. Human Rights Situation

1. The Commission's acquittal on repression of human rights defenders

Ever since Chairperson Hyun took office, the Commission has continuously turned a blind eye to the Government's and corporations' act of repressing human rights defenders. The Commission claimed that the arrests and indictments of the production crew of MBC's <PD Note> (see below) was not a violation of human rights. Furthermore, on the civilian surveillance by the Prime Minister's Office, Defense Security Command, and National Intelligence Service, the Commission avoided the issue by dismissing and/or overruling such cases three times. Only when the former President Lee neared the end of his presidential term in February 2013 did the Commission announce an ex officio investigation into these cases of illegal surveillance (see below).

1) Dismissal of complaint against the arrests and indictments of the MBC <PD Note> production crew

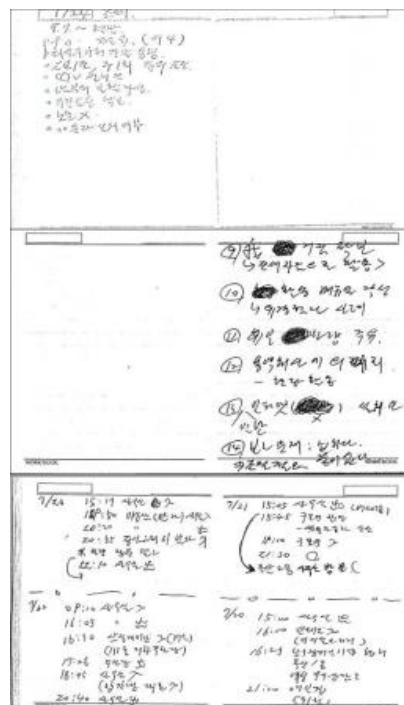
On the MBC's <PD Note> coverage and broadcasting on the risks of US imported beef with mad cow disease in 2008, the Prosecutor's Office indicted five production crew members under the charges of obstruction of duty and defamation of the Minister of Agriculture, Food and Rural Affairs Woon-Chun Jung by spreading false information. Bringing criminal charges for defamation of a government official simply for criticizing a national organization's work or policies results in a chilling effect on the media and constricts the freedom and functions of the press. In response, the Standing Commissioners of the Commission and employees prepared an agenda to submit an opinion to the Department of Justice with regards to this incident. However, the opinion could not even be expressed due to the opposition from the newly appointed Commission Chairperson and Commissioners in December 2009. The pro-government Commissioners in opposition stated, "in such matter where two groups are in conflict, there is a concern that the Commission's expression of its opinion can give the impression of imbalance, which can harm the neutrality or impartiality of the trial." Furthermore, Chairman Hyun rejected the agenda to submit an opinion by abstaining from voting, without stating his stance. Meanwhile, in January 2009, Seoul Central District Court's criminal justice department (Judge Sung-Gwan Moon) declared the five production crew members not guilty on the grounds that "it is difficult to view the <PD Note>'s coverage as completely false."

2) Dismissal of a victim's complaint against the Defense Security Command (DSC) surveillance

During the Ssangyong Motor strike by the Korean Confederation of Trade Unions held in Pyeongtaek, Gyeonggi Province, in August 2009, Captain Shin, a DSC investigator, was discovered by a number of protesters to have been video-taping the site; his identity was revealed once his camcorder and notebook were taken away. This incident was formalized on September 12th at a press conference held by the civil society and Jung-Hee Lee of the Democratic Labor Party. The video included scenes of the daily lives of civilians including civil society members and the Democratic Labor Party staff. Surveillance occurred by means of direct tailing and/or video recording and involved serious human rights violations, such as detailed recordings as to what the individuals were doing with who and what they were eating.

Despite the submission of a complaint regarding this case to the Commission, the Commission kept stalling the case and eventually dismissed it on December 29, 2010 under Article 32 of the National Human Rights Commission Act, which states that "the Commission may dismiss a case over which a year or more has passed and/or that is currently being investigated by an investigative agency." Even though related regulations permit investigations and decisions at the Commission's will, such regulations were ignored and the Commission simply decided to dismiss the case.

The victims of the surveillance filed a claim for damages against the state. On September 2012, the Supreme Court confirmed the original verdict that ordered a compensation of 8 million to 15 million won (approximately 7,300 to 13,500 USD) per person. However, before the court ruling on August 7, Mr./Ms. Um, a victim of the DSC's surveillance, tragically committed suicide as a result of severe depression, an aftereffect of the incident.



Notebook of the DSC investigator that has detailed records of individuals' whereabouts from tailing

2. Neglecting and delaying in investigation and decisions on repression against human rights defenders

Complaints have been submitted to the Commission on cases in which human rights advocacy has been impeded or on human rights violations, but the Commission stalled and dismissed or overruled such cases if they were deemed to raise issues sensitive to the government. For the case of discrimination in which the Mapo-gu Office refused to display a banner on sexual minorities, the Commission did not make a decision for over five months, claiming that there was a lack of information. In addition, the complaint against human rights violations that occurred in Gangjeong village during opposition activities against the construction of a naval base is being processed at a glacial pace.

Furthermore, despite the press report about the Blue House's compilation of a blacklist of the Commission employees, the Commission neither followed up on nor investigated the case. The employees of the Commission are clearly human rights defenders or at the very least, given the nature of their job, they have a special obligation regarding the protection of human rights, yet a number of Commissioners, including the Chairperson, consider them merely as public servants whose obedience is to the government.

1) Violation of student rights by standardized scholastic aptitude exam

University rankings and competitive admission procedures in the Republic of Korea seriously violate the human rights of students. The introduction of the standardized scholastic aptitude exam has especially contributed to forced education for the purpose of entering universities and has consequently posed grave human rights concerns.¹ In response, student rights defenders advocated against the exam and submitted a group complaint in December 2009. However, the Commission delayed the process of investigating and making a decision for over a year and a half, then dismissed or overruled most of the complaints. The standardized scholastic aptitude exam was also an issue that was recommended to be reviewed by the UN Committee of Economic, Social, and Cultural Rights in 2009, as it contained the potential to violate human rights.

3. The National Human Rights Commission violating the human rights of human rights defenders

Despite the Commission's duty to protect human rights defenders, ever since Chairperson Hyun took office, the Commission continues to not only neglect this duty but also directly oppress human rights defenders. In December 2010, during a sit-in demonstration by disability rights defenders against the Commission, the Commission suspended electric power and heating and restricted the entry of personal assistants. In previous protests against the Commission, those

¹ The standardized scholastic aptitude exam is a national exam that is held twice a year and uniformly ranks every student in the country.

kinds of human rights violations, such as suspending heating or elevator operation, had never taken place.

In addition, the Commission fired by means of a discontinuation of contract the Vice-Executive Officer of the Commission's Union for criticizing Chairperson Hyun's undemocratic ways of management. Eleven other employees, who protested against this unjust dismissal through one-man demonstrations and press submissions, were subjected to disciplinary action. The Commission for human rights itself is clearly committing suppression against human rights defenders.

III. Recommendations

- The Commission must actively investigate and express opinions on cases of suppression against human rights defenders, in accordance with international human rights standards.
- The Government must revise the National Human Rights Commission Act as well as nominating procedures to ensure the independence of the Committee and an independent selection of Commissioners.
- The Government and the Prosecutor's Office must thoroughly investigate the case in December 2010, in which Chairperson Hyun repressed disability rights activists.

The Examples of the Suppression on Human Rights Defenders by the National Security Act

**Solidarity for the Abolition of the National Security Act
Solidarity for Peace and Reunification of Korea**

I. Background

The National Security Act is a representative law that suppresses human rights defenders in various fields. Since the conservative Lee Administration assumed the reins of government, particularly, the National Security Act violations have increased rapidly.

The government booked on a charge of lawful activities towards North Korea in the past, and even regulated freedom of expression of netizens on the Internet. Extensive and exhaustive investigation into National Security Act violations constricted freedom of expression significantly, and it showed enmity toward unification movement camp.

II. Human Rights Situation

1. Suppression on the organizations and individuals that led visits to North Korea

Thanks to the interKorean reconciliation policies during the Kim Dae-jung and Roh Moo-hyun administrations, many reunification activists led interchange and cooperation undertaking between South and North Korea, but the Lee administration oppressed the organizations and individuals that visited North Korea through the National Security Act. The cases of the Korea Alliance for Progressive Movement, Solidarity for Practice of the South-North Joint Declaration, the Pan-National Alliance for the Unification of Korea, and Eun-hye Kim are the examples. The National Security Act was utilized for suppression on the individuals and organizations that defended peace and reunification. Solidarity for Practice of the South-North Joint Declaration was ruled as enemy-benefiting organization, and many members of the organization were arrested and tried in court.

1) The case of the Korea Alliance for Progressive Movement

Alleged perpetrator: The National Intelligence Service, the Security Investigation Division of the National Police Agency, and the prosecution

On 29th of June, 2010, National Intelligence Service conducted a search and arrests of three personnel including Han Chung-mok, the joint representative of the Korea Alliance for Progressive Movement and their offices, and arrested them. Only the joint representative Han Chung-mok was taken into police custody for questioning. During the initial investigation by the National Intelligence Service, KAPM was cleared of a charge that it was a enemy-benefiting organization, and further, the three were found not guilty from special infiltration and escape, and meeting and corresponding at the first trial(January 2011). All of them were sentenced to suspended sentence, and found not guilty at the second trial (December 2011).

2) The case of the Pan-National Alliance for the Unification of Korea

Alleged perpetrator: The National Intelligence Service, the Security Investigation Division of the National Police Agency, and the prosecution

In May 2009, public safety agency arrested and imprisoned six people including Kyu-jae Lee. The prosecution identified some process of interchange and cooperation undertaking between South and North Korea during the Kim Dae-jung and Roh Moo-hyun administration and prosecuted them for special infiltration and escape. At the first trial (December 2011), they were found not guilty regarding special infiltration and escape, but violation of meeting and corresponding, and praise and incitement were found guilty. They were found not guilty at the second trial (July 2012) and in the Supreme Court.

3) The case of the Solidarity for Practice of the South-North Joint Declaration (Solidarity)

Alleged perpetrator: The Security Investigation Division of the National Police Agency, and the prosecution

On September 27th 2008, imprisonment, search and seizure were conducted for activists of the Solidarity and related organizations. Six personnel including Han-uk Choi, the president of the executive committee, were taken into police custody, and summon was issued.¹ On July 23rd 2010,

¹ The people that were taken into police custody: Han-uk Choi(the manager of the Solidarity), Kyung-whan Moon(the policy committee chief of the Solidarity), Jin-gu Kang(former manager of the Solidarity), Dong-gi Kwak(a standing researcher of the Korea Human Rights Research Institute), Sungil Kim(a member of secretariat of the Solidarity), Young-ran Kim(the head of academic administration of the 6.15 Academy)

※ A summon was issued to Seung-kyo Kim (representative of the Solidarity)

* Kyung-man Oh, secretary general of the Solidarity of Gwangju-Junnam was released after voluntary company.

* The places that were conducted search and seizure

- The six people above that were taken into police custody, the Solidarity office(located in Sungbuk-gu, Seoul), the Solidarity of Seoul, the Solidarity of Gyeonggi, the Solidarity of Gwangju-Junnam, the Solidarity of Busan, the Solidarity of Jeju. Other: the house of the BOOKBOONara SARANG youth group chairman, the house of Chul-sin Yoon (the managing editor of 6.15 TV), 6.15 TV office, 6.15 Press office. The Solidarity of youth and students manager was taken into police custody.

the Supreme Court ruled it as an enemy-benefiting organization, and Sung-il Kim, a staff of the executive office, was sentenced to two years' imprisonment.

On March 20th 2010, the perpetrators additionally conducted a search and seizure for the houses of two executive members of the Solidarity for Practice of the South-North Joint Declaration and the representative of Mire, an opera troupe, a member company of the Solidarity, for their student movement activities in the past.²

4) Mi-ja Park, peaceful reunification activist and former vice chairperson of the Korean Teachers & Educational Workers' Union (KTU) and other three members were prosecuted

On the suspicion of violating the National Security Act, National Intelligence Service and police violently conducted search and seizure for the former vice chairperson Mi-ja Park, peaceful reunification activist and former chief chairperson of the KTU and other three members for their houses and schools on January 18th 2012, and the prosecution indicted them on forming an enemy-benefiting organization.

The KTU activists above were the teachers that had assumed key posts such as former director of the KTU Reunification Committee and they were active mostly in peaceful reunification education, peaceful education exchange between South and North Korea, and humanitarian assistant to young students in north Korea. National Intelligence Service indicted the KTU activists on the grounds of enemy-benefitting organization despite their actions were about policy discussion and teaching activities. . It also suppresses education activities and basic human rights by stamping peaceful education exchange between South and North Korean teachers since the 6.15 Joint Agreements as a 'North Korea sympathizing association'.

Alleged perpetrator: The National Intelligence Service, the Security Investigation Division of the National Police Agency, Seoul Central Supreme Court, police force

² Aug 13th, 2010: The secretary general of the Solidarity of Busan was sentenced to two years in prison with suspended four year sentence and two years of qualification suspension.

Oct 3rd 2010: The standing representative of the Solidarity of Jeju was sentenced to two years in prison with suspended four year sentence and two years of qualification suspension, and a year and a half in prison with suspended three year sentence and one and a half years of qualification suspension for the secretary general.

In 2010: The representative of the Solidarity of Gyunggi was sentenced to two years in prison with suspended three year sentence and four years of probation.

Feb 16th : Two years and six months in prison with suspended four year sentence and two years and six months of qualification suspension for Organizational Development Chairman Jin-gu Kang, Two years in prison with suspended four year sentence and two years of qualification suspension for the Executive Committee Chairman Han-uk Choi, one and a half years in prison with suspended three year sentence and one and a half years of qualification suspension for policy committee chief Kyung-whan Moon and a policy committee member Dong-gi Kwak.

Oct 11th 2012: Representative Seung-kyo Kim was sentenced to two years in prison with suspended four year sentence and two years of qualification suspension

Oct 2012: Young-ran Kim(then head of academic administration of the 6•15 Academy) was sentenced to two years in prison with suspended four year sentence, two years of qualification suspension and four years of probation.

Since the 6.15 Joint Agreements 2000, the KTU has promoted education exchange between South and North Korean teachers. The KTU together with the Korean Federation of Teachers' Association (KFTA) initiated education exchange to leave peace to students beginning with South and North Korean Teachers Reunification Convention along with Chosun Education, Culture and vocation general confederation at Mt. Geumgang. Education exchange between South and North Korea, joint business of the KTU & the KFTA, was held by reunification committee, and KFTA formed and held Education exchange between South and North Korea council. On January 18th 2012, the National Intelligence Service and the prosecution conducted search and seizure for the houses and schools of Mi-ja Park, peaceful reunification activist and former vice chairperson of the KTU and other three members who had provided humanitarian assistance to young students in North Korea and to peaceful reunification, and filed charge against them by applying the NSL on 21st of February 2013. The KTU Reunification Committee has been in charge of education exchange between South and North Korea for peaceful reunification and humanitarian assistant to young students in North Korea in a peaceful manner. However, the National Intelligence Service and the prosecution regularly suppressed the current and former Reunification Committee directors of city-province branches who were regional officers of the KTU Reunification Committee, and indicted them by irrationally applying the National Security Act. It is not only private human rights abuse but oppression on human rights defenders who are in charge of peaceful reunification and humanitarian assistance to regularly suppress them.

2. Oppression on Peaceful Activists

1) Search and seizure by the National Intelligence Service for Hye-ran Oh, Secretary General of the Solidarity for Peace and Reunification of Korea (SPARK)

Alleged perpetrator: the National Intelligence Service, and the prosecution

On February 8th 2012, the National Intelligence Service conducted a search and seizure for the SPARK office and Secretary General Hye-ran Oh's house on violating the National Security Act. The National Intelligence Service clarified that there is resemblance between its opinion and that of North Korea, such as stopping the construction of Jeju naval base, opposing Korea-US military drills, realizing peace treaty, carrying out U.S. troop withdrawal, and conducting arms cut campaign. the National Intelligence Service recklessly carried out a search and seizure for the 10 members of the SPARK on similar reason. On February 26th 2013, the prosecution indicted Secretary General Oh and a SPARK activist without any investigation, and the first trial is planned to take place on April 26th. It is highly likely that the prosecution will make a supplementary indictment against SPARK activists in the future.

It is evident that antiwar peace movement and peaceful reunification movement unfavorable to the government's policies will be interrupted if the peace activists are found guilty in the trial. The SPARK was established in 1994, and it has never indicted with the suspicion of the NSL violation over the last 20 years. It is because the SPARK, unlike other NSL cases, is a pure peaceful reunification organization activists have neither connected to nor visited North Korea not even on sightseeing.

Secretary General Oh argued that problems of Key Resolve, necessity of peaceful treaty, U.S. troop withdrawal and nonnuclear arms cut by lawful and peaceful means such as press interviews, assemblies and media contribution, and the prosecution brought such activities into question. It is considered as infringement on the freedom of expression to carry out search and seizure and indict peace defenders with the suspicion of the NSL violation.

3. Oppression on Socialist Organizations

Socialist movement, long-established social movement in Europe since 19th century, is recognized as legal in most countries, and engaged in various activities such as organizing political parties and participating in elections. However, Republic of Korea, a divided nation, has been suppressed not only a pro-democracy movement and reunification movement, but also socialist movement using the NSL. In 1989, the Constitutional Court pointed out unconstitutionality of the arbitrary application, and political freedom has been oppressed by labeling socialist movement as activity that benefits enemy, arresting and incarcerating even after elimination of international communism clause from Article 3 which prescribed forming an anti-government organization. What's worse, it has recently tried to make a legal principle of organization for rebellion propaganda and agitation, which is absent from the clause.

1) The phrase “proletarian dictatorship” in the “Korean Socialist Workers Party Draft Platform (tentative)”

Alleged perpetrator: The Security Investigation Division of the National Police Agency, the prosecution

After defecting from the Democratic Labor Party in 2008, Solidarity for Practice of Labor Liberation drew up a tentatively named document for discussion “Korean Socialist Workers Party Draft Platform” to establish a socialist party. Even though the phrase ‘proletarian dictatorship’ in the document means laborers should assume political power, they gave a commentary purporting that they would not use the phrase because there was a high possibility of being misunderstood. Furthermore, the phrase officially appeared just once. However, the police claimed that they pretended they are not but in fact they pursued a proletarian dictatorship (=violent revolution=the denial of democracy). The police indicted them under the National Security Act on June 7th 2012, claiming they were pursuing violent revolution. The National Security Act does not carry out punishment for actualized criminal acts but for one’s idea. That is, even when a thought is not expressed into spoken or written words, the prosecution may arbitrarily judge its legality. And that is why the Law is seriously problematic.

Solidarity for Practice of Labor Liberation is a legitimate political party and was an active member of the Democratic Labor Party that advocated for coming to power via fair election of the people and combination of election and civil movements rather than election with emphasis on mere numbers. It clearly demonstrates that they do not try to seize power through a violent revolution or an armed uprising.

2) The information spill of the members of the Solidarity for Practice of Labor Liberation

Alleged perpetrator: The Security Investigation Division of the National Police Agency

In order to slow the members' activities, team 2 section 4 of the Security Investigation Division of the Seoul Police Agency threatened them by text messages to inform their companies of the investigation that the activists are conducting on, and intentionally notified the owner and managing directors of a subcontractor of the Ulsan Mipo Dockyard where a member worked of the fact that the person was being investigated for the National Security Act violation. The member is at risk of being fired from the company as a result. According to article seven of 『The regulation for criminal investigation』 (The National Police Order No.669), a policeman must keep confidential about what they come to know about the person involved with the case during investigation. It is to protect the accused's human rights during investigation under the principle of the presumption of innocence.

3) The order to delete North Korea praising postings on the free board of the homepage of the Solidarity for Practice of Labor Liberation

Alleged perpetrator: The Korea Communications Standards Commission (KCSC)

On Feb 12th 2012, the Korea Communications Standards Commission sent an official document ordering to delete three postings on the homepage bulletin board claiming they included illegal information of praising and inciting North Korea. Generally, KCSC automatically put down the material as a case of illegal information when the National Police Agency refers an enemy-benefiting online material to the review of the KCSC.³ If undeleted, the Communication Act may sentence monetary penalty of imprisonment by bringing criminal charges. As a result, it severely infringed the freedom of expression on the Internet, and covered the activities of the Solidarity for Practice of Labor Liberation.

4. The oppression on the Twitterian and netizen that assumed a critical attitude toward the Government

The proportion of the case of praise and incitement was 33%(15/46) among the cases of National Security Act in 2008, it rapidly increased in 2009 to 40%(23/57), in 2010 to 64%(62/97), and finally to 85%(35/41)⁴ on July 2011. Majority of the cases were concerning posting or sharing North Korea praising online writings. The case of the "People's Cyber Defense Command" is a typical example. The police investigated 70 netizens the posted writings on the website of the People's Cyber Defense Command. Most of them expressed their opinion hoping peaceful reunification or posted writings about North Korea. Even the case of Jung-geun Park and another case that was about sharing information by re-tweeting North Korean account were punished under the National Security Act.

³ According to the law regarding the promotion of information and communication network use and protection of information, KCSC may review illegal information and give order to delete the information to the site administrator. The government reviews illegal information through KCSC and seriously violates the freedom of expression. The violation of the Article 7 of the National Security Law includes the case of praise and incitement. The government intercepts political postings under the Article 7 and severely violates human rights.

⁴ Nov 28, 2011, The Hankyoreh.

1) Suppression on the members of some internet cafes including the People's Cyber Defense Command

Alleged perpetrator: The Security Investigation Division of the National Police Agency, the prosecution

The Security Investigation Division of the Gyeonggi Province conducted a search and seizure on Jung-geun Park's house and Jogwang Photo Studio on 21st of September 2011. There was a suspicion that Jung-geun Park shared 394 enemy-benefiting materials, 200 postings that went along with North Korea by creating Twitter account. It was highly controversy that mere agreement on an opinion of North Korea could lead to imprisonment and found guilty.

Jan 11th 2012: The prosecution requested for the arrest warrant under the Article 1 clause 1 and 5 of the National Security Act.

Jan 31st 2012 The prosecution indicted Jung-geun Park.

Feb 20th 2012 Jung-geun Park was freed on bail.

Nov 21st 2012 Imprisonment

Oct 2012 He was sentenced to suspended two year sentence at the first trial, and the second trial is in progress.

2) The suppression on writer Mora Shinjung

Alleged perpetrator: The Security Investigation Division of the Seoul Police, the prosecution

Mora Shinjung, a feminist writer, who has been actively conducting movement for using surnames of birth parents, was victimized by search and seizure and imprisoned on suspicion of praise and incitement under the Article 7 of the National Security Act. Mora Shinjung created an Internet café and constantly posted writings about the excellence of North Korean system, and about South Korean government with criticism. Mora Shinjung was arrested and charged even though she had a young daughter with autism. She was sentenced to two years in prison with suspended three year sentence at the first trial, sentenced to a year in prison at the second trial, and the Supreme Court confirmed the second trial on April 21st 2013.

III. Recommendations from the International Community

Observations of the Human Rights Committee (1st): the Republic of Korea (25 September 1992, CCPR/C/79/Add.6)

5. The Committee expresses its concern over the fact that the Constitution does not incorporate all the rights enshrined in the Covenant. Also, the non-discrimination provisions of article 11 of the Constitution would seem to be rather incomplete as compared with articles 2 and 26 of the Covenant. These concerns are not allayed by the argument that, pursuant to article 37 of the Constitution, various rights and freedoms not enumerated therein are not to be neglected.

6. The Committee's main concern relates to the continued operation of the National Security Act. Although the particular situation in which the Republic of Korea finds itself has implications on public order in the country, its influence ought not to be overestimated. The Committee believes that ordinary laws and specifically applicable criminal laws should be sufficient to deal with offences against national security. Furthermore, some issues addressed by the National Security Act are defined in somewhat vague terms, allowing for broad interpretation that may result in sanctioning acts that may not be truly dangerous for State security and responses unauthorized by the Covenant.

7. The Committee wishes to express its concern regarding the use of excessive force by the police; the extent of the investigatory powers of the National Security Planning Agency; and the implementation of article 12, particularly in so far as visits to the Democratic People's Republic of Korea are concerned. The Committee also considers that the conditions under which prisoners are being re-educated do not constitute rehabilitation in the normal sense of the term and that the amount of coercion utilized in that process could amount to an infringement of the provisions of the Covenant relating to freedom of conscience. The broad definition of State secrets in connection with the definition of espionage is also potentially open to abuse.

8. The Committee also expresses concerns about the still high number of offences liable to the death penalty. In particular, the inclusion of robbery among the offences carrying the death penalty clearly contravenes article 6 of the Covenant. The very long period, allowed for interrogation before charges are brought, is incompatible with article 9, paragraph 3, of the Covenant. Other areas of concern relate to the continued imprisonment of persons on grounds of their political opinion; the persistence of discrimination against women in certain respects; problems relating to the principle of the lawfulness of the penalties covered by article 15 of the Covenant and the requirement for advance authorization of assemblies and demonstrations.

E. Suggestions and recommendations

9. Taking into account the positive developments regarding respect of human rights that have taken place in the State party over the last years, the Committee recommends that the State party intensify its efforts to bring its legislation more in line with the provisions of the Covenant. To that end, a serious attempt ought to be made to phase out the National Security Act which the Committee perceives as a major obstacle to the full realization of the rights enshrined in the Covenant and, in the meanwhile, not to derogate from certain basic rights. Furthermore, measures should be taken to reduce the cases in which the death penalty is applied; to harmonize to a greater extent the Penal Code with the provisions of article 15 of the Covenant; and to reduce further the restrictions on the exercise of the right to peaceful assembly (art. 21). Finally, the Committee suggests that the Government actively consider withdrawing its sweeping reservation in respect of article 14 and take additional steps with a view to enhancing public awareness of the Covenant and the Optional Protocol in the State party.

Observations of the Human Rights Committee(2nd) : Republic of Korea.

(1999-11-01, CCPR/C/79/Add.114)

8. The Committee reiterates its grave concern expressed after consideration of the initial report regarding the continued existence and application of the National Security Act. According to the State party, the National Security Act is used to deal with legal problems that arise from the division of Korea. However, the Committee is concerned that it is also used to establish special rules of detention, interrogation and substantive liability that are incompatible with various articles of the Covenant, including articles 9, 18 and 19.

The Committee reiterates the recommendation made after consideration of the State party's initial report that the State party phase out the National Security Act.

9. The Committee considers that the scope of activities that may be regarded as encouraging "anti-state organizations" under article 7 of the National Security Act is unreasonably wide. From the cases that have come before the Committee in individual communications under the Optional Protocol, and other information provided on prosecutions brought under article 7, it is clear that the restrictions placed on freedom of expression do not meet the requirements of article 19, paragraph 3 of the Covenant, as they cannot be regarded as necessary to protect national security. The Covenant does not permit restrictions on the expression of ideas, merely because they coincide with those held by an enemy entity or may be considered to create sympathy for that entity. The Committee also emphasizes that internal directives regarding prosecution policy do not provide adequate guarantees against the use of article 7 in a manner that is incompatible with the Covenant. The State party must urgently amend article 7 so as to make it compatible with the Covenant.

Observations of the Human Rights Committee(3rd): REPUBLIC OF KOREA (CCPR/C/KOR/CO/3, 28 November 2006)

18. The Committee notes the attempts in recent years to amend the National Security Act and the absence of consensus concerning its alleged continued necessity for reasons of national security. However, it is concerned that prosecutions continue to be pursued, in particular under article 7 of this law. Under such provisions, the restrictions placed on the freedom of expression do not meet the requirements of article 19, paragraph 3 of the Covenant (art.19). The State party should as a matter of urgency ensure the compatibility of article 7 of the National Security Act, and sentences imposed there under, with the requirements of the Covenant.

Concluding Observations of the Committee on Economic, Social and Cultural Rights(2nd) : Republic of Korea. (2001-05-21, E/C.12/1/Add.59)

32. The Committee is concerned that the National Security Act is being used to curtail the activities of intellectuals and artists. Under this law, not only are their works being censored, confiscated or destroyed, but the intellectuals and artists themselves are being subjected to criminal prosecution.

Human Rights Council, Report of the Working Group on the Universal Periodic Review—Republic of Korea (1st) (29 May 2008, A/HRC/8/40)

13. The Democratic Peoples' Republic of Korea expressed concern at the continued application of the Security Law as a source of systemic violations of, in particular, freedom of expression and assembly. The "Ideology Conversion System" was once a cause of serious concern raised by the Special Rapporteur on freedom of expression. The people of the North have been defined as enemies and any contacts and communications with them are criminalized by the Security Law. While recalling that the Human Rights Committee, in its concluding observations of 1992, 1999 and 2006, expressed grave concern at the restrictions imposed on articles 9, 18 and 19 of the International Covenant on Civil and Political Rights (ICCPR) through the Security Law, the Democratic Peoples' Republic of Korea recommended to the State to take concrete measures with a view to abolishing it. Furthermore, it expressed concern at the Security Surveillance Law, which restricts freedoms of former political prisoners and of prisoners of conscience and recommended that measures be adopted to address the situation. It also noted the concern expressed by the Committee against Torture in relation to allegations of torture in detention facilities and the improper definition of torture in the Criminal Code, and by the Committee on the Rights of the Child in relation to limitations on freedom of expression and assembly of students. It recommended the adoption of relevant measures for legislative and criminal justice improvements.

47. Enquiring about policies in place to ensure that vague definitions in the National Security Act are not used to arbitrarily arrest and detain or intimidate individuals and whether there are plans to amend this law to ensure that it does not limit freedom of expression, the United States of America recommended amending the National Security Act to prevent abusive interpretations of the law.

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Abid Hussain, (E/CN.4/1996/39/Add.1, 21 November 1995)

The Human Rights Committee considered ordinary laws and criminal laws to be sufficient to deal with offences against national security. The Government of the Republic of Korea is strongly encouraged to repeal the National Security Act and to consider other means, in accordance with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to protect its national security.

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue (June 2011)

97. While protection of national security is one of the legitimate aims for limiting the right to freedom of expression, the Special Rapporteur recommends that the Government abolish article 7 of the National Security Act, as it is vague, inhibits legitimate discussions on matters of public interest, and has a long history of seriously infringing on human rights, in particular the right to freedom of opinion and expression.

98. The Special Rapporteur encourages the Government to give effect to the concluding observations and views of the Human Rights Committee on individual cases where it found the application of the National Security Act to be in violation of the right to freedom of opinion and expression.

Report of the Working Group on the Universal Periodic Review (2nd)

(28 May 2008, A/HRC/8/40)

55. Releasing all prisoners that were unfairly arrested and imprisoned including the patriots who support reunification (Democratic People's Republic of Korea (DPRK))

56. Reviewing the application of the National Security Act in order to guarantee the principles of human rights (Australia); Specified the National Security Act not to be used for infringing the rights to freedom of peaceful assembly and of association (France)

57. Clarifying the articles and clauses of the National Security Act (Germany); amending the National Security Act to prevent arbitrary and abusive interpretation by the Act (Norway); amending National Security Act so that it may protect and respect the freedom of expression (Spain); amending the National Security Act to prevent abusive interpretation by the law (United States of America); Abolishing the criminal law as “National Security Act” (DPRK)

IV. Recommendation

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- The Government should stop suppressing reunification organizations by the reason of anti-North Korean. It must stop all indictments, release the prisoners, and guarantee the freedom of activities.
- The government should put effective efforts to abolish the National Security Act in order to prevent the application of the Article 7 of the National Security Act that oppresses the freedom of expression of netizens.
- The government should stop suppressing socialist organizations by labeling them as enemy-benefiting organizations. To this end, it must propose an action plan to guarantee the freedom of thought and conscience.
- The government must rectify the investigations of human rights advocates that were indicted by public security division, which violated human rights

Foreign Human Rights Defenders who were denied entry to the Republic of Korea

People's Solidarity for Participatory Democracy, International Solidarity Committee

Since 2010, People's Solidarity for Participatory Democracy (PSPD) has documented cases where foreign human rights defenders were denied entry to the Republic of Korea with the broad interpretation of Article 11 and 12 of the Immigration Control Act (especially Article 11(1)(3) and 11(1)(4)) by the Immigration Office. When a foreign human rights defender is denied entry at the airport, they do not have access to the lawyer as the lawyer is not permitted access to the area where the human rights defender is held in at the airport. In all cases, specific reasons of entry denial were not given to human rights defender.

On 6 September 2013, PSPD made a request for information disclosure to the Ministry of Justice regarding entry denial of foreign human rights defenders but the Ministry did not reveal the information reasoning that it was related to self-sovereignty.

Article 11 and 12 of the Immigration Control Act reads as follow:

Article 11 Prohibition, etc. of Entry

(1) The Minister of Justice may prohibit the entry of a foreigner who falls under any of the following subparagraphs:

1. Persons carrying an epidemic disease, narcotic addicts or other persons deemed likely to cause danger and harm to the public health;
2. Persons who intend to enter the Republic of Korea unlawfully carrying firearms and guns, swords, explosives, etc. as prescribed by the Control of Firearms, Swords, Explosives, etc. Act;
3. Persons deemed likely to commit any act detrimental to national interests of the Republic of Korea or public safety;
4. Persons deemed likely to commit any act detrimental to economic or social order or good morals;
5. Mentally handicapped persons, vagabonds, the destitute or other persons in need of relief;
6. Persons for whom five years have not elapsed after departure from the Republic of Korea under a deportation order;
7. Persons who have taken part in slaughter or cruel treatment of peoples on the grounds of race,

ethnicity, religion, nationality, political opinion, etc. under instructions from or in liaison with the Japanese government, any government which was in alliance with the Japanese government, or any government on which the Japanese government exercised predominant influence from August 29, 1910 until August 15, 1945; and

8. Persons who correspond to any of subparagraphs 1 through 7 and who are deemed by the Minister of Justice as persons whose entry is improper.

(2) If the home country of a foreigner who intends to enter the Republic of Korea refuses an entry of a national of the Republic of Korea for any reason other than those as referred to in any of subparagraphs of paragraph (1), the Minister of Justice may refuse the entry of such foreigner for the same reason.

Article 12 Entry Inspection

(1) If a foreigner desires to enter the Republic of Korea, he/she shall undergo an entry inspection by the immigration control official at the entry and departure port.

(2) The proviso of Article 6 (1) shall be applicable to the case as referred to in paragraph (1).

(3) In conducting the entry inspection, the immigration control official shall permit the entry after examining whether or not the following requirements are satisfied:

1. The passport or seaman's pocketbook and the visa shall be valid: Provided, That the visa is limited only to case where it is required;

2. The object of entry shall comply with the status of sojourn;

3. The sojourn period shall be determined under the conditions as prescribed by the Ordinance of the Ministry of Justice; and

4. The foreigner shall not be subject to the prohibition or refusal of the entry as prescribed in Article 11.

(4) If the immigration control official deems that a foreigner fails to meet any of the requirements as referred to in subparagraphs of paragraph (3), he/she may refuse to grant entry permission.

(5) Upon granting entry permission to a foreigner falling under Article 7 (2) 2 or 3, the immigration control official shall qualify him/her for sojourn and determine the period of sojourn under the conditions as prescribed by the Presidential Decree.

(6) The immigration control official may enter vessel, etc. for the purpose of conducting the inspection as referred to in paragraph (1) or (2).

(7) The provisions of Article 5 (2) shall apply mutatis mutandis to the case as referred to in paragraphs (1) and (2).

Below is the list of cases documented by PSPD regarding foreign human rights defenders entry denial to the Republic of Korea.

1. G20 International People's Conference organized by Put People First! Korean People's G20 Response Action (November 2010)

PSPD documented eight Filipino human rights defenders who were denied entry at the airport even though they had a valid visa to enter the country issued by Korean embassy in Manila. Six human rights defenders who applied visa to attend G20 International People's Conference could not obtained the visa.

Date	Name	Nationality	Occupation / Background
6 Nov.	Mr. Jesús	Philippines	Progressive Filipino Singer. Obtained a valid visa

2010	Manuel Santiago		issued by Korean embassy in Manila.
6 Nov. 2010	Mr. Jose Enrique Africa	Philippines	IBON International. Obtained a valid visa issued by Korean embassy in Manila.
6 Nov. 2010	Mr. Joseph Purugganan	Philippines	Focus on the Global South. Obtained a valid visa issued by Korean embassy in Manila.
6 Nov. 2010	Mr. Josua Fred Tolentino Mata	Philippines	Alliance of Progressive Labour. Obtained a valid visa issued by Korean embassy in Manila.
6 Nov. 2010	Ms. Maria Lorena Macabuag	Philippines	Migrant Forum Asia. Obtained a valid visa issued by Korean embassy in Manila.
6 Nov. 2010	Mr. Paul L. Quintos	Philippines	IBON International, Policy and Outreach Director. Obtained a valid visa issued by Korean embassy in Manila. He had been invited by Korean government to attend the 20 Civil Dialogue in October 2009, but denied entry in 2010 at the airport.
6 Nov. 2010	Ms. Jean Enriquez	Philippines	World March of Women, Coalition Against Trafficking in Women-Asia Pacific. Obtained a valid visa issued by Korean embassy in Manila.
6 Nov. 2010	Mr. Rogelio Maliwat Soluta	Philippines	Kilusang Mayo Uno. Obtained a valid visa issued by Korean embassy in Manila.
List of Human Rights Defenders whose applications for South Korean visa were rejected during this period			
Mr. Bernadinus Steni		Indonesia	HUMA (environmental organisation)
Mr. Henry Saragh		Indonesia	Indonesian Peasants Confederation Via Campesina
Ms. Khaliq Bushra		Pakistan	Unspecified women's organisation
Mr. Umesh Upadhyaya		Nepal	Unspecified Nepalese labour union
Mr. Sarba Raj Khadka		Nepal	Rular Reconstruction Nepal
Mr. Abhas Ghimire		Nepal	LDC Watch

2. Foreign Human Rights Defenders who have worked against the construction of Jeju naval base

In solidarity with Gangjeong villagers, many foreign human rights defenders visited the Gangjeong village. Unfortunately, some of them were denied entry at the airport while the others were deported during their work in Gangjeong.

Two non-Korean human rights defenders were deported due to their involvement and protest regarding a naval base construction in Gangjeong village. On 15 March 2012, the Government ordered the immediate deportation of Mr. Benjamin Monnet, a French activist, while Ms. Angie Zelter, a peace activist and Nobel Peace Prize nominee from the UK, was asked to leave the country before 22 March 2012. When Mr. Monnet was deported, it was not properly notified to his lawyers

and he did not even have a chance to file the revocation litigation against the compulsory eviction order.

From 2011 to 2013, PSPD documented 26 cases of entry denial among which nine cases happened during the World Conservation Conference(WCC) organized by the International Union for Conservation of Nature(IUCN).

Date	Name / Country		Occupation / Background
Year 2013			
24 Apr. 2013	Ms. Wang Yu Hsuan / Taiwan		Peace activist who has worked in Gangjeong since 2011 / Obtained valid religious visa when she entered the country.
During the World Conservation Conference (6-15 September 2012)			
Date	Name	Nationality	Occupation / Background
4 Sep. 2012	Ms. Imok Cha	USA	Medical doctor, a member of Emergency Action Committee to Save Jeju Island, a consultant of the Center for Humans and Nature, a member organization of the IUCN. Invited as a speaker to the Knowledge Café of the WCC held on 7 September 2012. Registered as a participant to the WCC meeting
5 Sep. 2012	Mr. Yagi Ryuji	Japan	Peace activist. Invited as a speaker to the 5 th International Symposium on Environmental Violations caused by US military bases in East Asia. Held invitation and reference from Ms. Hana Jang, a Member of the Parliament
5 Sep. 2012	Mr. Tomita Eiji	Japan	Peace activist. Invited as a speaker to the 5 th International Symposium on Environmental Violations caused by US military bases in East Asia. Held invitation and reference from Ms. Hana Jang, a Member of the Parliament
5 Sep. 2012	Mr. Takahashi Toshio	Japan	Peace activist. Invited as a speaker to the 5 th International Symposium on Environmental Violations caused by US military bases in East Asia. Held invitation and reference from Ms. Hana Jang, a Member of the Parliament
5 Sep. 2012	Mr. Timiyama Masahiro	Japan	Peace activist. Invited as a speaker to the 5 th International Symposium on Environmental Violations caused by US military bases in East Asia. Held invitation and reference from Ms. Hana Jang, a Member of the Parliament
6 Sep. 2012	Mr. Umisedo Yutaka	Japan	A singer from Okinawa. A Japanese delegation to the ICUN. A member of Hanrasan Association and a

			representative of Save the Dugong, a member of the IUCN.
6 Sep. 2012	Mr. Matsushima Yusuke	Japan	A member of Save the Dugong, a member of the IUCN
6 Sep. 2012	N/A	Nigeria	Registered as a participant to the WCC meeting. Not confirmed whether he/she planned to attend any demonstration related to No Jeju Naval Base Campaign.
6 Sep. 2012	N/A	Nigeria	Registered as a participant to the WCC meeting. Not confirmed whether he/she planned to attend any demonstration related to No Jeju Naval Base Campaign.
Year 2011~2012 August			
Date	Number / Country	Occupation / Background	
28 Aug. 2012	2 people / Japan	Two activists from Asia Wide Campaign	
28 Aug. 2012	2 people / Japan	Two activists from Asia Wide Campaign	
29 Jun. 2012	2 people / Japan	Two members of Asian Wide Campaign	
5 Jun. 2012	1 person / Japan	A peace activist from Okinawa	
6 Apr. 2012	1 person / Japan	A peace activist from Okinawa	
2 Apr. 2012	1 person / Japan	A musician / Planned to attend memorial ceremony of 3 April Massacre and Gangjeong peace demonstration	
31 Mar. 2012	1 person / Japan	A peace activist	
27 Mar. 2012	2 people / Japan	A school teacher and her daughter / visited Gangjeong in the past	
14 Mar. 2012	3 people / USA	Three members of Veterans for Peace	
26 Aug. 2011	3 people / Japan	Two activists from Asia Wide Campaign and a child of the activist	

3. Foreign Human Rights Defenders who have worked on the issues of nuclear plant

PSPD, together with other environmental NGOs in Korea, documented eight cases of foreign human rights defenders who were denied entry to the country due to their activities related to anti-nuclear plant.

Greenpeace International filed a lawsuit against the Ministry of Justice, compensation for damages caused by entry denial of their staffs. Their first hearing will be held on 1 May 2013.

Date	Name	Nationality	Occupation / Background
19 Apr. 2013	Mr. Ban Hideyuki	Japan	Co-director of Citizens' Nuclear Information Center. Was planning to attend the awarding ceremony of Kyobo Life Award for Environment
20 Apr. 2012	Mr. Gavin Timothy Edwards	U.K.	Greenpeace International employee and has been partially seconded to Greenpeace East Asia from December 2011 to December 2012 to serve as a campaign advisor in the Republic of Korea. Planned to visit the country to discuss about alternative energy to nuclear power plant with civil society and relevant government branches.
9 Apr. 2012	Mr. Jan Bernek	Czech Republic	Team leader for the Energy Campaign at Greenpeace International. Planned to attend as a panel of discussion on Candu nuclear power plant.
9 Apr. 2012	Ms. Janne Marie Teule (a.k.a. Rianne Teule)	Netherlands	Radiation expert and energy campaigner at Greenpeace International. Planned to attend as a panel of discussion on Candu nuclear power plant.
2 Apr. 2012	Mr. Kang long Nian (a.k.a. Rashid Kang)	Malaysia	Leader of the Organisation Development Team at Greenpeace Seoul Office. Planned to advocate No Nukes campaign by Greenpeace to civil society representatives and relevant government branches.
2 Apr. 2012	Mr. Fung Ka Keung Christopher	U.K.	Head of the Organisation Development and Operation Support Department at Greenpeace East Asia. Planned to advocate No Nukes campaign by Greenpeace to civil society representatives and relevant government branches.
2 Apr. 2012	Mr. Mario Damato	Malta	Executive Director of Greenpeace East Asia and legal representative of Seoul office. Planned to advocate No Nukes campaign by Greenpeace to civil society representatives and relevant government branches.
20 Mar. 2012	Mr. Sato Daisuke	Japan	Secretary General of No Nukes Asia Forum. Planned to attend solidarity programme of Asian activists who are against nuclear and to visit various nuclear plant site.