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Agenda item 4

**HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S
ATTENTION**

**Joint written statement* submitted by the Asian Legal Resource Centre (ALRC),
a non-governmental organization in general consultative status, and Asian Forum For
Human Rights And Development (FORUM-ASIA), a non-governmental organisation
with special consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[25 August 2008]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

SOUTH KOREA: Police assault freedom of expression

The sister organisation of the Asian Legal Resource Centre (ALRC), the Asian Human Rights Commission (AHRC), and the Asian Forum for Human Rights and Development (FORUM-ASIA), conducted a joint fact-finding mission in Seoul, South Korea, from July 21 to 24, 2008. The primary purposes of the mission were to examine the situation of human rights defenders and the state of freedom of opinion and expression in light of the candlelight vigils held to protest against the agreement between the United States and South Korea to lift U.S. beef import restrictions. These vigils, in relation to which 1,524 people have been arrested and over 2,500 have been injured as of August 22, continue to date.

The evidence gathered shows that there have been numerous attacks against human rights defenders participating in the daily vigils that began on May 2, 2008. There is a trend towards unduly limiting freedom of opinion and expression, particularly in the media and the internet.

The ALRC and FORUM-ASIA are concerned that, based on the evidence gathered, most of the attacks against human rights defenders and protesters participating in the candlelight vigils were committed by riot policemen. Testimony from the eight NGOs, 12 human rights defenders and the National Human Rights Commission of Korea (NHRCK) that the mission interviewed, as well as videos available on the internet (please see <http://kr.youtube.com/watch?v=XxYG3zxJT7g&feature=related>, <http://www.youtube.com/watch?v=EZ3Peq7lbyY&feature=related>), reveal numerous unwarranted attacks on unarmed demonstrators that were often ordered by riot police commanders.

Moreover, evidence shows that the riot police deployed during these vigils are violating principles of international law in their use of such tools as water cannons. Under the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, governments should “develop non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons.”¹ Water cannons may be deemed as “non-lethal incapacitating weapons” meant to control a violent mob. However, it should be noted that the riot police during these vigils train the water cannons on peaceful crowds. Moreover, water cannons are blasted at full force and at close range directly at the demonstrators, resulting in injuries to people’s ears, eyes, and faces. It is worth noting that in the manual of the National Police Agency of South Korea, water cannons may only be directed at a crowd at a 15 degree angle and only used on people about 20 metres away.

The Basic Principles on the Use of Force and Firearms by Law and Enforcement Officials also stipulate that law enforcers should be equipped with self-defensive equipment, such as “shields, helmets, bullet-proof vests,” in order to decrease the need to use weapons of any kind.² However, riot police use their shields, not as a tool for self-defence, but as an additional weapon to hit peaceful participants in the vigils. An example is the attack of riot police ordered by their commander on protesters from the YMCA on June 28 in Seoul. The

¹ Paragraph 2, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, http://www.unhchr.ch/html/menu3/b/h_comp43.htm.

² Ibid.

police hit the demonstrators with their shields and stepped on them even though they were lying on the ground. As a result, the right arm of YMCA secretary-general Lee Hak-yeong was broken, and his associate, Hong Gyeong-pyo, was kicked unconscious.

Human rights defenders present during the vigils to ensure the people's right to assemble and express themselves have not been immune from this police violence.

Five NHRCK staff members monitoring the vigil on June 28 were injured by the police after being beaten with batons and hit by metal objects thrown by the police, even though they were clearly identified as members of NHRCK. A three-sided metal object that looked like the rear window frame of an automobile that was thrown at the monitors was shown to the mission by the NHRCK.

In another incident at about 1:30 a.m. on June 26, Lee Joon-hyung, a lawyer working with MINBYUN-Lawyers for a Democratic Society, an NGO that provides legal assistance to arrested demonstrators, was hit in the forehead with a shield by a riot policeman, knocking him unconscious. He was wearing a vest that clearly identified him as a member of "A Group of Lawyers Monitoring Human Rights Violations."

An internet video journalist wearing a press armband, Mr. Kim of OhmyNews, was hit in the head with a baton and police shield, and his arm was beaten with a baton as he tried to report on the vigil at about 11:00 p.m. on June 28. He was then kicked for approximately five to 10 minutes by riot policemen, before being taken to the hospital in an ambulance for treatment. He required medication for two weeks and was still undergoing physical therapy nearly a month after being assaulted when the mission interviewed him.

Mr. Pyo, a medical student who volunteered to attend to injured protesters and policemen, was at the vigil on the early morning of June 1 when the police began spraying protesters with fire extinguishers to prevent them from removing a police bus with a rope that had been parked to obstruct them. When the fire extinguishers were empty, the police threw them at the protesters. Mr. Pyo was attending to one unconscious man with a severe head wound whose skull was visible when Mr. Pyo himself, who was wearing a white doctor's gown, was hit on the back by the police with an empty fire extinguisher.

The ALRC and FORUM-ASIA believe that the policy of conscripting young men into the riot police to fulfil their 24-month military duty contributes to the police violence described above. Under international law, "governments should ensure that all law enforcement officials are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions."³ Young, inexperienced men between the ages of 19 and 23 with limited training are clearly not sufficiently qualified to be deployed into such tense and confrontational situations. Rather, it may be more prudent to have only professional and experienced police officers with better training, which includes human rights courses and the understanding of crowd behaviour, deployed at these rallies and all future public assemblies.

During the mission, the ALRC and FORUM-ASIA also gathered evidence of an increasing crackdown on perceived organisers of these candlelight vigils. At least seven human rights

³ Paragraph 18, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

defenders who are leaders of the People's Conference Against Mad Cow Disease, a coalition of 1,700 organisations from throughout the country which have organised the vigils since May 6, have sought refuge at the Jogye Temple, a Buddhist temple in Seoul. Warrants have been issued for their arrest for organising the rallies, and a 24-hour police patrol waits outside the temple to arrest them.

They and other organisers have been charged under the Act on Assembly and Demonstration, a law passed in 1962 under the military government of President Park Chung-hee when a night-time curfew was in effect. Among its restrictions on freedom of expression is a prohibition against assemblies at night.

Other vigil organisers charged and arrested under this law include Ahn Jin-geol and Yoon Hee-sook on June 25 and Hwang Soon-won on June 30. They have been held in police custody pending an investigation against them (Ahn was later released on bail on August 11). Under South Korea's rules of criminal procedure, a person may be held in detention pending an investigation if this person is either a non-permanent resident of the country or there is reason to believe that this person will flee the country or taint evidence against him—criteria not relevant to the cases of Ahn Jin-geol, Yoon Hee-sook and Hwang Soon-won.

The police also obtained warrants to search the offices of the People's Conference Against Mad Cow Disease and Korea Solidarity of Progressive Movements (KSPM), two organisations perceived by the government to be leading and organising the candlelight vigils. During the search, the police seized and confiscated office computers and paraphernalia related to the vigils, which included placards and banners. More importantly, the police took away two police fire extinguishers that had been thrown at demonstrators and police water bottles. These objects indicated the police station from which the police had been deployed and had been collected at the rallies as evidence for legal action.

The ALRC and FORUM-ASIA believe that the purpose of the arrests and police raids was to give a negative impression to the public about these groups and to instil fear in other groups that are helping to organise the protests. These searches and seizures by the police are also believed to be aimed towards instilling fear in the public and discouraging people from joining the vigils.

Curtailed freedom of expression in South Korea has not been limited to attacks by the police on participants at the candlelight vigils. Information gathered shows that there is a trend towards restricting the media's freedom of opinion and expression through the use of defamation laws. The Ministry for Food, Agriculture, Forestry and Fisheries, for example, has taken a number of actions against four producers of MBC TV's *PD Notebook* programme over a report it aired on April 29 this year about U.S. beef and mad cow disease. These actions include criminal and civil defamation cases and a complaint before the Press Arbitration Commission. Furthermore, the Korea Communications Commission (KCC) has ordered MBC TV to make a public apology for this programme.

The proposal of the Ministry of Justice to extend the coverage of criminal defamation laws to the internet is further cause for concern. This proposal goes against the global call to decriminalise defamation. Criminal defamation statutes are viewed as undue infringement

of freedom of opinion and expression since they have often been used by governments to suppress political dissent and democratic discourse.

The attempts to restrict and deny people's freedom of expression and the attacks against human rights defenders outlined in this submission mark a retreat from the gains that South Korea has made in the past two decades in promoting and protecting the human rights of its people. Both the ALRC and FORUM-ASIA over the years have held up South Korea as a country that has successfully made the difficult transition from a military regime to a democratic government that respects people's rights. Now these hard-fought gains by the people of South Korea are in jeopardy of being reversed—concerns that are shared by many of the people that the mission interviewed.

Moreover, the South Korean government, as a member of the U.N. Human Rights Council, has a special responsibility to set a high standard for promoting and protecting human rights, including the freedom of expression of its citizens. At the present time, the South Korean government is not fulfilling this responsibility.

To assist the South Korean government in realising this responsibility, the ALRC and FORUM-ASIA offer the following recommendations:

- a. Conduct investigations into allegations on attacks against demonstrators and human rights defenders and bring the perpetrators to justice;
- b. Abolish the current system of conscripting young and poorly trained men into the riot police;
- c. Amend laws unduly restricting freedom of expression and assembly, particularly those provisions of the Act on Assembly and Demonstration which prohibit public assemblies after dark and which indirectly require a police permit to hold assemblies;
- d. Comply with international human rights standards and decriminalise defamation;
- e. Make human rights training mandatory for all police officers in accordance with international standards.

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UN Human Rights Council
Ninth session
Agenda item 3

Oral statement by Friends World Committee for Consultation (Quakers), an international NGO in General Consultative Status with ECOSOC

Delivered by Rachel Brett, Quaker UN Office, Geneva, on

September 2008

Conscientious Objection to Military Service

FWCC (Quakers) welcomes the positive trends reflected in the Report of the OHCHR on conscientious objection to military service (A/HRC/9/24), at the international, regional and national levels.

In particular, the decision¹ by the Human Rights Committee is a welcome clarification of their consistent position reflected in their General Comment No. 22 on Article 18 (right to freedom of thought, conscience and religion) and Concluding Observations that conscientious objection to military service is protected under Article 18 of the International Covenant on Civil and Political Rights.

Around the world, hundreds of young men and women continue to be sent to prison, some repeatedly, are ill-treated, harassed and suffer discrimination, including in education, employment, and freedom of movement, for their refusal to serve or to continue to serve in armed forces, based on religious, ethical, moral, humanitarian or similar motives.²

The Human Rights Committee has made clear that States' failure to accommodate such conscientious refusal is a violation of the Covenant. We, therefore, call on all States, not only the Republic of Korea, to implement their obligations in this respect, to stop imprisoning, repeatedly punishing, and discriminating against conscientious objectors to military service, and equally (in particular, Canada) not to return them to other countries where they will be punished.

Thank you, Mr President.

¹ *Mr Myung-Jin Choi and Mr Yeo-Bum Yoon*, Communications Nos. 1321/2004 and 1322/2004

² UN Commission on Human Rights Resolution 1998/77



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Oral Statement to the 9th Session of the UN Human Rights Council Item 3 General Debate

SOUTH KOREA

Assaults on freedoms of expression, assembly and conscience

The Asian Legal Resource Centre (ALRC) is increasingly concerned about the protection and promotion of human rights in South Korea. In particular, the freedoms of assembly, expression and conscience are currently facing significant attacks, which risk undermining one of Asia's rare examples of democratic progress and respect for human rights. The ALRC calls on the Council to urge the Republic of Korean government to address these concerns and halt the degradation of hard-earned rights.

The Asian Human Rights Commission and FORUM-ASIA conducted a joint fact-finding mission in Seoul, South Korea, from July 21 to 24, 2008, following a violent crackdown on peaceful demonstrators protesting against the government's lifting of U.S. beef import restrictions. Over 1,500 persons were arrested and over 2,500 had been injured, mainly by riot police, as of August 22. Thorough investigations are required without delay.

The organisers of peaceful demonstrations have been charged under the Act on Assembly and Demonstration, a law passed in 1962 under the notorious military government of President Park Chung-hee. This prohibits assemblies at night and includes strict police permit requirements. The actions by the authorities to restrict the freedom of assembly and expression are unconstitutional and are being accompanied by the excessive use of force. Crowd control equipment, such as water cannons or police shields, have been turned into offensive weapons, causing numerous injuries.

The policy of conscripting young, inexperienced men between the ages of 19 and 23 into the riot police, to fulfil their 24-month military service, is evidently exacerbating the violent nature of the repression and must be abandoned.

Furthermore, the government is also unduly limiting the freedoms of opinion and expression in the media and the internet, notably through the use of defamation laws. The Ministry for Food, Agriculture, Forestry and Fisheries, for example, has lodged criminal and civil defamation cases and a complaint before the Press Arbitration Commission against four producers of MBC TV's *PD Notebook* programme, over a report it aired on April 29, 2008, concerning U.S. beef and mad cow disease. MBC TV has also been ordered to make a public apology. The proposal of the Ministry of Justice to extend the coverage of criminal defamation laws to the internet is further cause for concern.

Separately, the new government is currently backtracking on promises made, notably in voluntary pledges to this Council and following Human Rights Committee recommendations and rulings, to establish alternate service methods for conscientious objectors. An estimated 500 to 800 objectors are reportedly being sent to prison every year due to a lack of alternatives, but the new government is stalling on reforms suggested by a Research Committee to correct this problem.

Thank you, Mr. President.

**Joint Oral Statement by
Asian Forum for Human Rights and Development (FORUM-ASIA) and
People's Solidarity for Participatory Democracy (PSPD)**

**9th Session of the UN Human Rights Council
Item 4: General Debate / 17 September 2008**

Thank you, Mr. President.

While the Republic of Korea has been considered as one of the exemplary countries in the Asian region for its achievements in the promotion of human rights and democracy, FORUM-ASIA and its member organization, PSPD note with grave concern that recently there has been serious setback in the situation of human rights defenders in the Republic of Korea, which need a close monitoring and attention of this Human Rights Council.

In July 2008, regional and international human rights groups - Asian Forum for Human Rights and Development (FORUM-ASIA), Asian Legal Resource Center (ALRC) and Amnesty International – conducted fact-finding missions in South Korea to gather information and investigate the numerous attacks against the human rights defenders participating in the candlelit demonstrations which have been ongoing since May 2008. In this regard, we would like to draw the attention of the Human Rights Council to the written statement A/HRC/9/NGO/21 which covers the findings from our joint fact-finding mission of FORUM-ASIA and ALRC.

The evidence gathered shows that lawyers, human rights group members, staff of the National Human Rights Commission, and even medical workers who were treating wounded people on the scene have fallen victims to outrageous and indiscriminate violence by the police, although they were wearing white or yellow vests clearly showing that they are human rights defenders to prevent any human rights violations on the scene. We would like to invite you to those video clips available on many of the global portal websites where you can easily confirm these human rights abuses by the police. It is striking that only one police officer has been brought to court while 2,500 people were severely injured during the candlelit demonstrations.

Moreover, the government of the Republic of Korea has been using the National Security Law and the Law on Assembly and Demonstration in a very deliberate manner to muzzle the voices of human rights defenders who have advocated the adverse impact of the government policies on the human rights situation.

For the last 100 days, more than 10 millions Korean citizens have participated in these peaceful candlelit demonstrations. Nevertheless, against the will of the people, it is outrageous that the government has announced to offer incentive and the privilege of immunity to the police so that they are more encouraged to arrest as many demonstrators as possible.

In this regard, we urge the government of the Republic of Korea which is the member of this Human Rights Council to:

- ✓ immediately stop criminalizing human rights defenders by releasing all the detained and by lifting their names on the wanted list, and provide all remedies for human rights defenders who have been injured by the police attack;

- ✓ bring all those perpetrators including the police to justice and take all necessary measures not to repeat this violent attack on human rights defenders;
- ✓ thoroughly review and revise the relevant laws and practices in order to ensure and strengthen the work of human rights defenders; and
- ✓ cooperate in earnest with the work of the Special Rapporteur on Human Rights Defenders.

Mr. President,

Now FORUM-ASIA would like to take this opportunity to remind those Asian States which declared a state emergency, Bangladesh, Mongolia and Thailand among others, of their obligations under the International Covenant on Civil and Political Rights (ICCPR). Article 4 of the ICCPR stipulates that any State Party availing itself of the right of derogation in time of public emergency, shall immediately inform the other States Parties, through the intermediary of the UN Secretary-General of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation. The Article 4 further stipulates that no derogation from its obligations to protect the right to life and the right to be free from torture may be made.

While we remain gravely concerned about the Bangladesh's unjustified, unconstitutional and prolonged 20-month state of emergency, we urge all UN members in their preparation for the forthcoming Universal Periodic Review (UPR) on Bangladesh to give particular attention to the following:

- ✓ the suspension of fundamental rights under the illegitimate emergency. We recall that the country's Supreme Court ruled on 13 July 2008, that all 79 ordinances issued by the current military government are unconstitutional;
- ✓ the endemic torture which is a tool of political and governmental repression and an inseparable part of law-enforcement in the county;
- ✓ mass arbitrary detention and the estimated 300 extra-judicial killings perpetrated by the state actors since the emergency began in early 2007;
- ✓ the closure of at least 160 newspapers as well as television news channel CSB News; and
- ✓ the threats, illegal detention and fabricated charges faced by journalist and human rights defenders who dare criticize the military government

Thank you, Mr. President.

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**Joint Oral Statement by
MINBYUN-Lawyers for a Democratic Society and
Asian Legal Resource Center (ALRC)**

**9th Session of the UN Human Rights Council
Item 4: General Debate / 17 September 2008**

Thank you, Mr. President.

MINBYUN would like to draw the attention of the Council to the human rights situation in the Republic of Korea, where the freedom of opinion and expression in particular has retreated since the government of LEE Myeong-Bak took office last February.

Since the beginning of May 2008, daily candlelight demonstrations including up to one million participants were held over three months against the government's conclusion of an agreement with the U.S.A. on U.S. beef imports¹.

The right to assembly and peaceful demonstration has been repeatedly repressed through the excessive use of force by the police. Demonstrations are being deemed "illegal" under the Law on Assembly and Demonstration which prohibits night assemblies and requires seeking the prior approval for assemblies. This law is not in accordance with the Korean Constitution or its obligations under the ICCPR, as noted by the Human Rights Committee.

Since May 2008, over 1,500 people have been arrested and 52 detained through the abusive use of relevant laws and regulations. Moreover, around 2,500 people have been injured by water cannons, shields, and fire extinguishers used by the riot police, in violation of the UN's Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Most of the arrested people, including a 12 year-old girl, as well as disabled or elderly persons, have not been notified of the Miranda Principle, and violence has been used against many of them. The police have even forced a few women to remove their underwear during detention under the pretext of preventing suicide.

The police have also prosecuted citizens for discussing candlelit demonstrations on the

¹ <http://boom.naver.com/BoardRead.nhn?categoryId=1&articleNum=20080629180255010>
<http://blog.naver.com/huruba?Redirect=Log&logNo=90031765193>

internet and for launching a boycott campaign of newspapers favorable to the government. In addition, web-posts written by 400 citizens are being investigated.

The government has taken a number of oppressive measures against the press to silence their criticism of the government's policies. Seven producers of the MBC documentary program, 'PD note,' are in danger of being arrested on the charge of circulation of false reports after having reported on the mad cow disease issue. The police also surrounded the KBS broadcasting station and forced it to dismiss its president, and they violently suppressed journalists demanding the broadcaster's independence.

The freedom of opinion is also no longer guaranteed despite commitments by the government during the Universal Periodic Review (UPR) last June not to infringe on human rights in applying the National Security Law. It arrested seven activists² who were openly advocating socialism only two months later.

We urge the Korean government to immediately implement the commitments it has made during the UPR and its election to the Council, as well as the relevant recommendations of the treaty monitoring bodies. We also call on the Human Rights Council to encourage and facilitate the visit of special procedures mandate holders, inter alia the visit of the Special Rapporteur on Freedom of Expression to the Republic of Korea which declared a standing invitation in March 2008.

Thank you, Mr. President.

² Professor Oh Sechul, one of the activists, has been advocating socialism publicly since 20 years ago when a dictatorial military regime used to be in power. However, it's the first time that he is accused of violating the National Security Law.