

Individual Complaint to:

- **the Special Rapporteur on the situation of Human Rights Defenders;**
- **the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and**
- **the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

Country: Republic of Korea

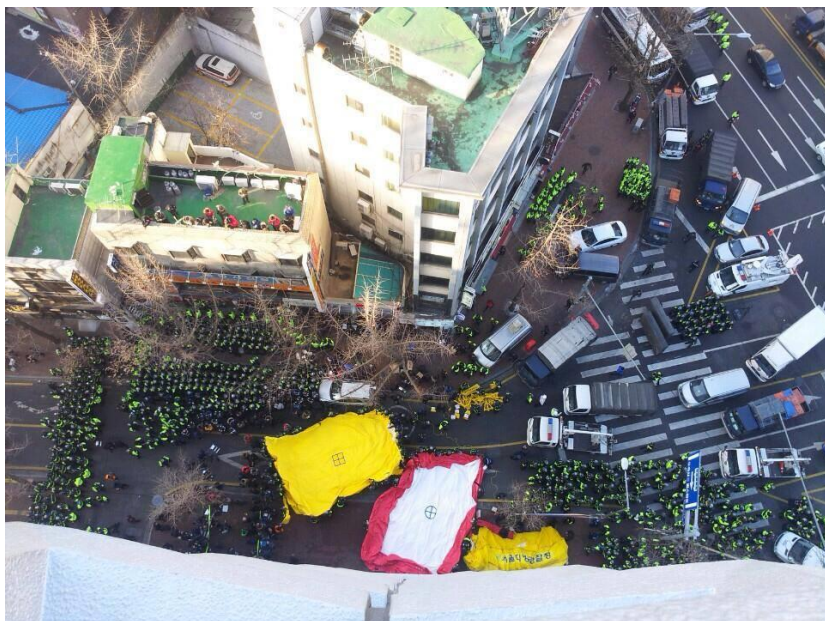
Incident / Violation: Human rights defenders including union labour activist were arrested while protecting their right to strike, freedom of peaceful assembly and associations and freedom of opinion and expression. Around 5,000 police officers were deployed and around 120 human rights defenders were arrested in one day.

Date of Fact Sheet: 22 December 2013

<i>A Essential Information</i>	<i>B Useful information</i>
1. Name of alleged victim/s Members of Korean Railway Workers Union (KRWU) Members of Korean Confederation of Trade Unions (KCTU) Human rights defenders who joined the protest	The Korean Confederation of Trade Unions, www.kctu.org The Korean Railway Workers Union, http://krwu.nodong.net/home2008/main.php
2. Status of the victim as human rights defenders - The KRWU's strike has started since 9 December 2013 against the government's rail privatization and restructuring policy, which will negatively impact on working conditions including wages, working hours, welfare, dismissal and other treatments. As soon as the strike began, the Korean Railroad dismissed 8,565 union members involved in the strikes and accused 194 union members including the leader of the KRWU to the police under the charge of obstruction of business. - On 22 December 2013 , around 5,000 police officers were deployed in the KCTU building where it was assumed that the KRWU leaders were staying.	Korean Confederation of Trade Unions (KCTU) was established in 1995 and it has around 800,000 union members. The Korean Railway Workers Union(KRWU) is a part of the KCTU and has around 22,000 union members . - The current strike by the KRWU is legitimate because it follows proper procedures as specified in the law. The KRWU and the Korea Railroad had conducted collective bargaining since July 2013 and National Labor Relations Commissions (NLRC) 's mediation process which could not reach agreement between two parties. Before starting a strike, the KRWU held a vote on the strike and 80% of union members agreed on the strike. According to the

Arrest warrants were issued for 28 KRWU leaders under the charge of obstruction of business. Two of them were already arrested and the police assumed six leaders were staying inside the KCTU building. The court denied search warrant for the KCTU office, so the police entered the KCTU building without search warrant. At the end of the day, police did not find any KRWU leaders in the building. - Around 135 human rights defenders joined the protest near the KCTU building and protesting inside and outside of the KCTU building were arrested in one day.	Article 42-3 of the Trade Union and Labor Relations Adjustment Act¹, the KRWU maintained the necessary minimum level of maintenance and operation of the essential business. Therefore, it is a legitimate and justifiable strike. - On 18 December 2013, the Korean Railroad filed a lawsuit against 186 labour union members and leaders for damages caused by the strike and charged around 7.7billion KRW(around 7.7million USD). - The KRWU and civil society organisations proposed to establish a committee at the parliament on railway service development plan where various stakeholders can equally and freely discuss. However, the government does not accept this recommendation but only repeating “the current plan suggested by the government is not privatization”. It is hard to say that the government has its political will to solve this problem.
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¹ The Trade Union and Labor Relations Adjustment Act Article 42-3 (Agreement of Essential Business) : The parties of labor relations shall conclude an agreement in writing that stipulates the necessary minimum level of maintenance and operation of the essential business, duties and the necessary number of workers, etc. in order to justifiably maintain and operate the essential business during the period of industrial actions (hereinafter referred as “agreement on the essential business”). In such cases, both of the parties to labor relations shall affix their signatures and seals to the agreement on the essential business.



Police surrounding the KCTU building. View from the roof.

3. Alleged violation/s committed against the victim

- On **22 December 2013**, around 5,000 police officers were deployed in the KCTU building where it was assumed that the KRWU leaders were staying. Arrest warrants were issued for 28 KRWU leaders under the charge of obstruction of business. Two of them were already arrested and the police assumed six leaders were staying inside the KCTU building. The court denied search warrant for the KCTU office, so the police entered the KCTU building without search warrant. At the end of the day, police did not find any KRWU leaders in the building.

As of 22 December 2013 6pm, we note that 135 human rights defenders were arrested and taken to police stations as below. Among these, 121 are union members and 14 are general public.

Gangseo Police Station: 10 people
 Suseo Police Station: 15 people
 Guro Police Station: 10 People
 Songpa Police Station: 11 people
 Dobong Police Station: 15 people

- Human rights defenders including members of the KCTU, members of parliament, civil society organisations as well as general public gathered in front of the KCTU building to protect the union members and prevent the police from entering the building.
- The KCTU building is very old and has a very narrow stairs. As the police forced into the building, it can be very dangerous if physical confrontation occurs.
- The police broke the glass door to enter the KCTU office and some were injured. Pepper spray shot out against the supporters near the KCTU building.

Mapo police station: 15 people
 Yangcheon Police Station: 15 people
 Nowon Police Station: 15 people
 Gwanak Police Station: 9 people
 Gangnam Police Station 15 people
 Hyehwa Police Station: 5 people



The police break glass door of the KCTU to enter the building.



Police shot pepper spray against the supporters

- The Police blocked nearby roads and prevented people from coming near the KCTU office. The KCTU already submitted a notice of an assembly near their office until the end of the year, so it was legal to have such a protest near the KCTU office.
- it was found that the police entered the KCTU office without search warrant but only with arrest warrants for six leaders of the KRWU, under the assumption that these leaders are in the building. At the end of the day, the police did not find any leaders in the building.
- Around **135 human rights defenders** joined the protest near the KCTU

building and protesting inside and outside of the KCTU building were arrested in one day.	
4. Alleged Perpetrators The Government of the Republic of Korea Seoul Metropolitan Police Agency, Jongro Police Station, Namdaemoon Police Station	
5. Action by authorities N/A	Action taken by the victim or by human rights organizations “National Network against Privatisation of KTX” is a network of around 70 labour unions, civil society organisations, academics, religious groups and political parties. It was established on 18 January 2012 and has conducted public campaign and press conference to raise awareness of importance of Railway being public. In addition, on 3 September 2013, “National NGOs Network against Privatisation of Railway and Public Sector” was established with 220 civil society organisations. Regarding 22 December 2013 incident, National NGOs Network against Privatisation of Railway and Public Sector will hold a press conference in front of the KCTU office on 23 December 2013, condemning government’s unjustifiable crackdown on the KCTU. International Transport Workers’ Federation(ITF) issued a statement supporting KRWU strike. [16 December 2013] ITF delegation in South Korea finds union repression leads to safety problems http://www.itfglobal.org/press-area/index.cfm/pressdetail/9954

6. Link between the violation and human rights work Union members of the KCTU and KRWU are conducting legitimate and justifiable strike according to the law. Article 33 of the Constitution of the Republic of Korea stipulates right to collective action. Right to freedom of peaceful assembly, freedom of opinion and expression of supporters who joined the protest in front of the KCTU building must be protected and guaranteed all the time.	Constitution of the Republic of Korea Article 33 (1) To enhance working conditions, workers shall have the right to independent association, collective bargaining and collective action. (2) Only those public officials who are designated by Act, shall have the right to association, collective bargaining and collective action. (3) The right to collective action of workers employed by important defence industries maybe be either restricted or denied under the conditions as prescribed by Act.
7. Who is submitting this information? This letter is submitted by: Ms. Gayoon Baek Coordinator, People's Solidarity for Participatory Democracy Email: pspdint@pspd.org, Phone: +82 (0)2-723-5051, +82(0)10-9436-0316 Mr. Jaehyuk Choi Coordinator, People's Solidarity for Participatory Democracy Email: labor@pspd.org, Phone: +82 (0)2-723-5036, +82(0)10-4740-9143	 <i>OhmyNews</i> The police breaking the KCTU office door with hammer