

# CONCERNS AND RECOMMENDATIONS ON THE REPUBLIC OF KOREA

## RIGHT TO PRIVACY AND FAMILY LIFE FREEDOM OF OPINION AND EXPRESSION SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE

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Submitted by  
People's Solidarity for Participatory Democracy (PSPD)

***People's Solidarity for Participatory Democracy (PSPD)***

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# TABLE OF CONTENTS

Issue 20(b). Warrantless Seizure of Subscriber's Identifying Information -----1

Issue 23. Resurgence of Seditious Libel in the Republic of Korea -----3

Annex. Selected Cases filed by the Government Aimed at Silencing Dissent -----6

## Right to Privacy and Family Life (Article 17)

### Issue 20(b). Warrantless Seizure of Subscriber's Identifying Information

- In the Government's reply to the List of Issues (para. 63), the Government argue that investigation agencies' requests for provision of subscriber information are permitted only when necessity, the principle of proportionality, and legitimate purpose are satisfied. The Government's response cannot be true because Telecommunications Business Act Article 83(3)<sup>1</sup> simply provides that "the investigatory purpose" is the only purpose for obtaining subscriber information without a warrant, and there is no procedural requirement what-so-ever for the telecoms or Internet companies to release any subscriber information. As a result, almost all data requests (more than 99.5% of the data requested) are being automatically filled by the operators without any evaluation and this easy access has given the investigatory authorities an incentive to make even more data requests. As a result, more than 6 million people's subscriber information was accessed without a warrant by the investigative authorities in 2011<sup>2</sup>, and that number has only increased to reach close to 10 million in 2013.<sup>3</sup> Considering that the Republic of Korea is a country of roughly 50 million people, the majority of the Republic of Korean citizens may have been the targets of surveillance, and have been essentially treated as "potential criminals".
- Supreme Prosecutors' Office has insisted on maintaining the warrantless seizure of subscriber information based on the Telecommunications Business Act 83(3), arguing that requiring warrant for acquisition of the subscriber information would severely harm efficient criminal investigation. However, after the portals announced that they will no longer fill the warrantless requests for such acquisitions, the authorities acquired the same data simply by obtaining warrants without suffering any delay or loss of integrity of their investigations. This experience shows that it is okay to require a warrant for acquisition of the subscriber's identifying data.
- In April 2014, the National Human Rights Commission of Korea made recommendations to the Minister of Science, ICT and Future Planning to require

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<sup>1</sup> Telecommunications Business Act article 83(Protection of Confidentiality of Communications) (3): A telecommunications business operator may comply with a request for the perusal or provision of any of the following data (hereinafter referred to as "provision of communications data") from a court, a prosecutor, the head of an investigative agency (including the head of a military investigative agency, the Commissioner of the National Tax Service and the Commissioner of a Regional Tax Office; hereinafter the same shall apply) or the head of an intelligence and investigation agency who need this information for a trial, an investigation (including the investigation of a violation committed by means of a telephone, the Internet, etc. among the offenses prescribed in Article 10 (1), (3) and (4) of the Punishment of Tax Evaders Act), the execution of a sentence and to collect information or intelligence in order to prevent any threats to guarantee of the national security. : 1. Names of users; 2. Resident registration numbers of users; 3. Addresses of users; 4. Phone numbers of users; 5. User identification word (referring to the identification codes of users used to identify the rightful users of computer systems or communications networks); 6. Dates on which users subscribe or terminate their subscriptions.

<sup>2</sup> Statistics of Providing Subscribers' Information in 2011(Korean), 10 October 2012, Korea Communication Commission, <http://bit.ly/1Fk34P8>

<sup>3</sup> Statistics of Providing Subscribers' Information in 2013, 19 May 2014, Ministry of Science, ICT and Future Planning, <http://bit.ly/1KpEp7Z>

court permissions for the acquisition of subscribers' data, and to amend relevant legislations to strengthen requirements by adding two additional requisites such as 'relevance to the crime' and 'relatedness of the required material to the case',<sup>4</sup> however the Minister did not accept the recommendation.

- The only change to this dismal state of affairs happened in 2012 when PSPD Public Law Center filed a compensation law suit against a major portal for providing subscriber information of a netizen involved in the defamation investigation into a video clip featuring the then cultural minister. After losing in the first court, at the appeal court, the High Court of Seoul District ruled the portal company to compensate around 500 USD to the Internet user.<sup>5</sup> After the decision is made, all major portals and Internet companies stopped providing subscriber information according to Article 83(3) of the Telecommunication Business Act within two weeks. The decision was promptly appealed to the Supreme Court where the case is still pending to date.
- The telecoms, responsible for 90% of subscriber data disclosure in the Republic of Korea, still insist on continuing to comply with Article 83(3) requests. Furthermore, the telecoms refuse to disclose to their customers whether Article 83(3) data disclosures have been made when the customers asked, which means that the victims cannot file a suit, because they do not know whether they are victims or not. The Government stated in its replies to the List of Issues (paragraph 63) that the statistics on the provision of the subscriber information to investigative agencies were disclosed to the public twice a year, but through these general statistics, one cannot find out whether his/her information was provided or not, therefore the process cannot be regarded as an appropriate measure to protect privacy.
- Even though subscriber data in the Republic of Korea has been given the least legal protection around the world, the clear trends focusing on the sensitivity and importance of the privacy of the subscriber data are arising. The representative case would be the Canadian Supreme Court case which has ruled that the police' warrantless acquisition of subscriber data as unconstitutional.<sup>6</sup> The Snowden leaks issue also highlight the importance of the subscriber information. The ready availability of the subscriber information makes it very profitable for the authorities to engage in non-individualized, massive surveillance on both the content and the metadata.<sup>7</sup> Post-Snowden, Brazil was the first country that explicitly imposed the

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<sup>4</sup> Press release of NHRCK, "Amendment to Protection of Communication Secrets Act is needed to better protect personal information during investigation"(<http://bit.ly/1NG9k71>)

<sup>5</sup> Seoul High Court, 2011Na19012, October 18, 2012 (Chief Judge Kim Sang-Jun)

<sup>6</sup> R. v. Spencer, 2014 SCC 43. The Court ruled that "[P]articularly important in the context of Internet usage is the understanding of privacy as anonymity. The identity of a person linked to their use of the Internet must be recognized as giving rise to a privacy interest beyond that inherent in the person's name, address and telephone number found in the subscriber information. Subscriber information, by tending to link particular kinds of information to identifiable individuals may implicate privacy interests relating to an individual's identity as the source, possessor or user of that information. Some degree of anonymity is a feature of much Internet activity and depending on the totality of the circumstances, anonymity may be the foundation of a privacy interest that engages constitutional protection against unreasonable search and seizure."

<sup>7</sup> Communications Surveillance in Korea, Kyung Sin Park, <http://bit.ly/1MlGaH1>

requirement of judicial approval for the police's access to subscriber-identifying information.<sup>8</sup> Even before Snowden, Chile has for long required court approval for such access.<sup>9</sup>

### **Suggested Recommendations**

- The government of the Republic of Korea should take active steps to reduce the number of the subscriber data acquisitions, including requiring a warrant for such acquisitions.
- The government of the Republic of Korea should strengthen data protection laws so that when any disclosure of personal data takes place, the involved party should be notified.

### **Issue 23. Resurgence of Seditious Libel in the Republic of Korea<sup>10</sup>**

- “Seditious libel” prosecutions of citizens who criticize government policies and government performance are on the rise in the Republic of Korea.
- The crime of insult, criminal defamation and “truth defamation” laws are still being vigorously enforced in the Republic of Korea, despite the warnings of international human rights bodies, including the General Comment No. 34 of the Human Rights Committee, which condemns incarceration as punishment for defamation, penalization of truthful statements, and penalization of opinions (“statements not subject to verification”).<sup>11</sup> 136 people were incarcerated over a 55 months period between January 1, 2005 through July 2009 in the Republic of Korea,<sup>12</sup> while in comparison only 146 people have been incarcerated for defamation in a 20 months period between January 1, 2005 and August 2007 in all other countries combined.<sup>13</sup> The trend continues to date and in greater intensity. For instance, in 2012, 3,340 people were sued for criminal defamation and 47 were actually incarcerated.<sup>14</sup>
- The former UN Special Rapporteur on freedom of opinion and expression, Frank La Rue, pointed out in his report on the Republic of Korea, that many of these criminal

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<sup>8</sup> LAW No. 12.965, APRIL 23RD, 2014 Article 10 Section 1

<sup>9</sup> Universal Implementation Guide for the International Principles on the Application of Human Rights to Communications Surveillance, Access, May 2015, <http://bit.ly/1NGEgIZ>

<sup>10</sup> Much of the report is drawn from a more detailed paper presented by Professor Kyung-Sin Park, Korea University Law School at Association of Asian Studies Conference in Singapore, July 18, 2014, now available at <http://opennetkorea.org/en/wp/main-free-speech/crisis-seditious-libel-korea>

<sup>11</sup> Para. 47

<sup>12</sup> MP Lee Chun-Seok's Press Release, October 19, 2009

<sup>13</sup> Defamation Map, Article 19, <http://www.article19.org/advocacy/defamationmap/overview.html> (no longer available; last accessed in May 30, 2009)

<sup>14</sup> Statistics on Judicial Rulings, Court of Korea, <http://bit.ly/1NGF9eb>  
<http://www.spo.go.kr/spo/info/stats/stats02.jsp>

prosecutions are the cases where private persons are subjected to criminal prosecution for defamation in defense of public officials' reputation.<sup>15</sup>

- What exacerbates the problem is that criminal prosecution applies also to statements not proven to be true, even in absence of privacy concerns, in contrast to the Special Rapporteur's<sup>16</sup> and UN Human Rights Committee's<sup>17</sup> specific mandates to exempt such statements. The defendant can only escape liability by proving that the statements were made solely for public interest, a burden of proof not so easy to sustain. For instance, some courts of the Republic of Korea refused the public interest defense of a worker making a truthful statement about his employer's non-payment of wages since the court found that the worker's such statement also had an intention to harm the employer's reputation, i.e. the public interest was not the sole motif.<sup>18</sup> The practical effect of this law has been that an individuals who have encountered revealing truths about corruption in the government or other powerful entities could not freely share them with others in fear that they may not be able to sustain the burden of proving that 'public interest' was the speaker's 'sole motif'.
- Also, the crime of insult has also been used by government officials to crack down on the people who shared their negative feelings and opinions against public officials. In 2013, out of 9,417 indictments for the crime of insult, 1,038 of them or a little more than 10% were for insulting police officers. That percentage has only grown as the number of indictments for insulting the public officials increased to 1,397, which represents a 35% increase from the previous year.<sup>19</sup> These "police insult" cases have been used to suppress the participants in demonstrations and assemblies concerning the government policies.
- During the current regime of President Park Guen-Hye and the former regime of President Lee Myung-bak, there were numbers of criminal and civil lawsuits of defamation aimed at chilling and deterring people's opinions that critical of the government. These civil lawsuits were used by the prosecutions, government officials and/or agencies as well as pro-government action groups. (For detailed information, see Annex).

## Suggested Recommendations

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<sup>15</sup> Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, on his mission to the Republic of Korea (6-17 May 2010), A/HRC/17/27/Add.2, paras. 25, 89

<sup>16</sup> *Ibid*, para. 27, "The Special Rapporteur reiterates that for a statement to be considered defamatory, it must be false, must injure another person's reputation, and made with malicious intent to cause injury to another individual's reputation."

<sup>17</sup> General Comment 34, para. 47, "All. . .penal defamation laws. . . should include such defences as the defence of truth.."

<sup>18</sup> Supreme Court 2004.10.15 Judgment 2004Do3912

<sup>19</sup> Last year, average 4 people per day were punished for insulting police officers, Press Release, Member of Parliament Nam-chun Park, 26 March 2015, available at <http://bit.ly/1FR5YG1>

- As per General Comment No. 34, the government of the Republic of Korea should abolish Articles 307 (1)<sup>20</sup> and 309 (1)<sup>21</sup> of the Criminal Act and Article 70(1)<sup>22</sup> of the “Act on Promotion of Information and Communications Network Utilization and Information Protection, etc.”, which criminally punishes statements which are not proven to be false.
- As per General Comment No. 34, the government of the Republic of Korea should abolish Article 311<sup>23</sup> of the Criminal Act which criminally punishes statements of opinions and feelings, which are by nature not subject to verification, for merely being insulting to others.
- As per General Comment No. 34, the government of the Republic of Korea should abolish incarceration as penalty for all defamation and insult provisions in the Criminal Act and the “Act On the Promotion of Information and Communications Network Utilization and Information Protection, etc.”

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20 Criminal Act Article 307 (Defamation) (1) A person who defames another by publicly alleging facts shall be punished by imprisonment or imprisonment without prison labor for not more than two years or by a fine not exceeding five million won.

21 Criminal Act Article 307 (Defamation) (2) A person who defames another by publicly alleging false facts shall be punished by imprisonment for not more than five years, suspension of qualifications for not more than ten years, or a fine not exceeding ten million won.

22 Act On Promotion of Information and Communications Network Utilization and Information Protection, etc. Article 70 (Penal Provisions) (1) A person who commits defamation of another person by disclosing a fact to the public through an information and communications network purposely to disparage his/her reputation shall be punished by imprisonment, with or without prison labor, for not more than three years, or by fine not exceeding 20 million won.

<sup>23</sup> Criminal Act Article 311 (Insult) A person who publicly insults another shall be punished by imprisonment or imprisonment without prison labor for not more than one year or by a fine not exceeding two million won.

**ANNEX<sup>24</sup>. Selected Cases filed by the Government Aimed at Silencing  
Dissent**

**I. Park Geun-hye Administration (Feb. 2013-Present)**

**Year 2013**

**1. Agents of National Intelligence Service (NIS) v. Lawyers for a Democratic Society (LDS) [civil lawsuit for damages for defamation]**

**Case Summary**

Mr. Yoo Woo-seong, a North Korean defector working at Seoul City Hall as a public servant, was prosecuted as a North Korean spy, violating the National Security Law. LDS lawyers, acting for Mr. Yoo, held a press interview saying that the case had been fabricated by NIS agents, appeasing and threatening him. The agents of NIS sued the lawyers for defamation seeking KRW600,000,000 (around USD504,000) in damages.

**Result**

The court rejected to hear the case and turned down the case. (The NIS is a national organization and therefore cannot claim for damages. Thus, NIS nominated its agents as the plaintiffs for the case. However, the nominated agents did not even know that they had been nominated as the plaintiffs, and the court turn down the case.)

**2. NIS v. Choi Seung-ho (internet journal producer) [criminal libel and civil lawsuit for damages for defamation]**

**Case Summary**

Mr. Choi-Seung-ho, an internet journal producer, reported that the NIS agents had treated Mr. Yoo Woo-seong cruelly and led him to make a false confession while investigating the Mr. Yoo's criminal charge for violating the National Security Law (as mentioned above). The NIS agents accused Mr. Choi of defamation and sued him for damages.

**Result**

The court of civil lawsuit found that Mr. Choi was not liable for damages (finalized) but the criminal libel case is still under investigation.

**Year 2014**

**1. NIS v. Lee Jae-myeong (the mayor of Seongnam-city) [criminal libel]**

**Case Summary**

Mr. Lee Jae-myeong, the mayor of Seongnam-city, held a press interview and alleged that he found the evidence that NIS had intervened Seong-nam mayoral election. The NIS agent filed a formal charge against Mr. Lee of defamation.

**Result**

The prosecution did not indict Mr. Lee.

**2. Police officer v. Park Seok-woon (the representative of Korea Alliance for Progressive Movement) [criminal libel]**

**Case Summary**

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<sup>24</sup> Much of these information are drawn from the report "22 selected cases of Park Geun-hye administration aimed to silence dissents"(in Korean only) published by PSPD Public Law Center in 7 September 2015. Now available at <http://bit.ly/1Yi40tP>



The NIS was accused of having manipulated public opinion on the internet to help Park Geun-hye's presidential election in 2012. Mr. Park Seok-woon, the representative of Korea Alliance for Progressive Movement, was having a public gathering that the special prosecutor should investigate the NIS's intervention of the presidential election. But soon the police interrupted the campaign and tried to seize the things used in the campaign as evidence. Mr. Park insisted that the police should present a warrant before the seizure but the police ignored him. Then Mr. Park said the police was stupid and ignorant. The police officer filed a formal accusation against Mr. Park of contempt.

#### **Result**

The prosecution indicted Mr. Park and this case has been still under the trial.

### **3. Maritime Police v. Hong Ga-hye [criminal libel]**

#### **Case Summary**

On 16 April 1994, a ferry capsized and 269 passengers (students who were on school excursion) died while 35 were missing (Sewol Ferry Disaster). Many private divers ran to the accident scene to save the lives. One of the divers, Ms. Hong had an interview with a broadcasting company. She said that maritime police prevented private divers from rescuing people (which later turned out to be true). Soon she was arrested and put into a jail. She was charged with defamation of the maritime police.

#### **Result**

The first trial found Ms. Hong not guilty but the prosecutor appealed and this case is in the appellate court waiting for its judgment.

### **4. Maritime Police v. Anonymous [criminal libel]**

#### **Case Summary**

A netizen, who uploaded the contents on the internet that the maritime police had prevented private divers from rescuing people when the 'Sewol Ferry Disaster' had occurred, was arrested on a charge of defamation of maritime police.

#### **Result**

The netizen was sentenced to one year in prison (finalized).

### **5. The Presidential Secretary Office v. CBS (Christian Broadcasting System) [damages for defamation]**

#### **Case Summary**

After the 'Sewol Ferry Disaster', TV news released a scene that the President Park Geun-hye consoled an old lady who was believed to be a bereaved family of the disaster. CBS, a broadcasting company, reported that the Blue House staffs had fabricated this condolence scene by employing and casting the old lady for the scene. The presidential secretary officers sued the CBS for defamation seeking KRW80,000,000 (around USD67200) in damages.

#### **Result**

The court found the CBS was not liable for the damages but this case is under the appellate court now.

### **6. President Park Geun-hye v. Park Ji-won (Congressman in a leading opposition party) [criminal libel]**

#### **Case Summary**

Mr. Park Ji-won, a member of Parliament in an opposition party, once mentioned that the president Park Geun-hye had a secret private organization and it had secretly influenced

on state affairs. A conservative group accused Mr. Park for the defamation of the president.

**Result**

The prosecution indicted Mr. Park and this case is still under the first trial.

**7. President Park Geun-hye v. Sankei Newspaper [criminal libel]**

**Case Summary**

Sankei Newspaper, a Japanese newspaper, presented a question of the President Park Geun-hye's whereabouts on the day of the Sewol Ferry Disaster. The question is a serious issue because no one, including the chief of presidential secretary office, knew Park's whereabouts for 7 hours since the disaster occurred. The prosecution indicted Seoul branch manager of Sankei newspaper for defamation.

**Result**

The prosecution indicted the Seoul branch manager of Sankei newspaper and this case is still under the first trial.

**8. Kim Seong-tae (ruling party congressman) v. Kang Se-joon (newspaper reporter) [criminal libel]**

**Case Summary**

Mr. Kim, a congressman in the ruling party, proposed a bill. However, Mr. Kang, a newspaper reporter, reported that the bill Mr. Kim had proposed could give a preference to a certain organization and Mr. Kim had had a special relationship with the organization. Mr. Kim filed a formal accusation against Mr. Kang of defamation.

**Result**

The prosecution did not indicted Mr. Kang.

**9. The Blue House v. Reporters in Segye Newspaper [criminal libel]**

**Case Summary**

Segye Newspaper reporters reported that Mr. Jeong Yoon-hwei, who was suspected of secretly having a great influence to the president Park Geun-hye, intervened the state affairs having a regular meeting with presidential secretary officials of the Blue House. The eight secretary officials of the Blue House filed a formal accusation against these reporters of defamation.

**Result**

This case is under investigation.

**10. Kim Ki-choon (chief of the presidential secretary office) v. Dong-a Newspaper reporter [criminal libel]**

**Case Summary**

In November 2014, the documents revealing information that Mr. Jeong Yoon-hwei, who was a close ally of the president Park but not an official of the Blue House, had commanded to change the chief of the presidential secretary office, were leaked out from the Blue House. A Dong-a Newspaper reporter reported that these documents had been written under the direction of the chief of the presidential secretary office, Kim Ki-choon. Mr. Kim filed a formal accusation against the reporter of defamation.

**Result**

This case is under investigation.

**11. Kim Jae-won (ruling party congressman) v. Yoo Kyung-geun (the spokesperson of Family Task Force of Sewol Ferry Disaster) [criminal libel]**

**Case Summary**

Mr. Yoo Kyung-geun, a bereaved of Sewol Ferry Disaster and the spokesperson for the Family Task Force, posted an article on Facebook, requesting that the ruling party leaders who said, “The bereaved families of Sewol Disaster had demanded more money.” should disclose who exactly had demanded as such. Mr. Kim Jae-won, a congressman in the ruling party, filed a formal accusation against Mr. Yoo of defamation.

**Result**

accusation withdrawn

**12. Kim Moo-seong (ruling party congressman) v. People's Solidarity for Participatory Democracy (PSPD: ‘Charm-yo-yun-dae’) and Bae Jae-heum (dismissed professor of Suwon Univ.) [criminal libel]**

**Case Summary**

PSPD, a leading progressive social action group, and Mr. Bae, an ex-professor of Suwon University, accused Mr. Kim of corruption alleging that Kim had excluded Mr. Lee, the chancellor of Suwon University, from the witnesses for the parliament inspection of government administration in return for Lee’s appointing Kim’s daughter as a professor of that university. Mr. Kim filed a formal charge against the Charm-yo-yun-dae (PSPD) and Mr. Bae of defamation.

**Result**

under investigation

**Year 2015**

**1. President Park Geun-hye v. Anonymous [criminal libel]**

**Case Summary**

An environmental activist made flyers and distributed them alleging that the reason the president Park had been emphasizing the security of state was to cover her scandal with Mr. Jeong Yoon-hwei. The prosecution indicted the activist for defamation.

**Result**

still under the first trial

**2. Hong Moon-jong (ruling party congressman) v. NGO [criminal libel]**

**Case Summary**

Mr. Seong Wan-jong, a business person and ex-congressman in the ruling party, had committed a suicide after an interview with a newspaper journalist while he was under investigation by the prosecutor for corruption. Mr. Seong’s memo on a piece of paper was discovered in his pocket and the memo revealed a list of congressmen and high government officials together with the amount and time of bribes paid. One of them in the list was the above-mentioned Mr. Hong, a ruling party congressman. Members of social activity groups in Hong’s electorate held a rally and distributed flyers demanding his explanation for the suspicion of receiving illegal political funds from Mr. Seong. Hong filed a formal accusation against the members of defamation

**Result**

still under investigation

### **3. Gyeongsangnam-do Government (province) v. Local Referendum Campaign Organization for Jinjoo Hospital (LRCO) [criminal libel]**

#### **Case Summary**

LRCO alleged that if Jinjoo Hospital in Gyeongsangnam-do had not been forced to shut down, it would have saved the MERS patients in the province because Jinjoo Hospital had had a negative pressure room, a facility designed for such epidemic diseases. The provincial government argued that Jinjoo Hospital did not have the negative pressure room and filed a formal accusation against LRCO of defamation.

#### **Result**

still under investigation

## **II. Lee Myung-bak Administration (2008~Feb. 2013)**

### **Year 2008**

#### **1. Choi Jae-kyung v. Joo Jin-woo (reporter of weekly magazine) [damages for defamation]**

##### **Case Summary**

Mr. Kim Kyeong-joon, the founder of a company called BBK, manipulated stock prices and was indicted for this. However, during the 2007 presidential election, questions about the relationship between the presidential candidate, Lee Myung-bak, and the BBK were raised. Lee Myung-bak was suspected to be an actual owner of the BBK since he, at a lecture in a university, told the audience that he established the BBK. But the prosecution concluded that Lee Myung-bak was innocent of this stock price manipulation.

Mr. Joo Jin-woo, a famous progressive journalist at Sisa-In, a reputable weekly magazine, reported that the prosecution had appeased Mr. Kim by suggesting they would mitigate his punishment if he made a statement in favor of Lee Myung-bak. Mr. Choi Jae-kyung, the chief prosecutor of Seoul Central District Prosecutor's Office, sued Mr. Joo for defamation seeking KRW600,000,000 (around USD504,000) in damages.

##### **Result**

The court found that Mr. Joo was not liable for the damages.

#### **2. Ministry of Agriculture, Food and Rural Affairs v. Cho Neng-hee (TV program producer) [criminal libel]**

##### **Case Summary**

When the Ministry of Agriculture, Food and Rural Affairs tried to import US beef, Mr. Cho reported the risk of US beef, especially concerning the mad cow disease. Then Mr. Jeong Woon-cheon, the former Minister of Agriculture, Food and Rural Affairs, filed a formal accusation against Mr. Cho of defamation

##### **Result**

The court found Mr. Cho not guilty (finalized).

#### **3. Prime Minister's Office v. Kim Jong-ik [criminal libel]**

##### **Case Summary**

The Prime Minister's Office requested a police investigation of Mr. Kim, who had embedded the popular video clip criticizing the policies of Lee Myung-bak administration

on his personal blog.

**Result**

The prosecution didn't indict Mr. Kim.

**4. Seoul Metropolitan Government v. The Korean Government Employees' Union [criminal libel]**

**Case Summary**

Seoul branch of the Korean Government Employees' Union distributed a press release claiming that their human rights had been violated. They claimed that many public servants working at the Seoul City Support Center had been hospitalized as patients because they had been forced to take part in a cross-country walking campaign in a very hot weather condition and they had done harsh works in farms without being provided with water. The Seoul Metropolitan Government filed a formal accusation against the union leader of defamation.

**Result**

The union leaders were sentenced to KRW1,500,000 (≒USD1,300) fine.

**Year 2009**

**1. Lee Dong-kwan (spokesperson of the Blue House) v. Kyunghyang newspaper reporters [criminal libel]**

**Case Summary**

Kyunghyang newspaper reporters reported that there had been a rumor that Mr. Lee Dong-kwan, the spokesperson of the Blue House, had got into a quarrel with the employees of hostess bar drinking very expensive whiskey. Mr. Lee filed an accusation against these reporters of defamation.

**Result**

Accusation withdrawn.

**2. NIS v. Park Won-soon (Executive Director of the Hope Institute) [damages for defamation]**

**Case Summary**

NIS sued Mr. Park for defamation seeking USD168,000 in damages as he said that NIS inspected individuals illegally, including the executives of a company just because that company has some connections with progressive action groups.

**Result**

The case dismissed.

**3. Seoul City v. Representative of Underground Shopping Mall [criminal libel]**

**Case Summary**

Seoul City, while Mr. Oh Se-hoon was the mayor, filed an accusation against the representative of shopping mall of defamation as he said that Seoul gave preference to a particular company by changing the method of selecting lessees in the shopping mall. He also held convocations objecting the change of lease system, and ran an advertisement in the newspaper to blame Seoul City.

**Result**

The court found him not guilty.

**4. Seoul Metropolitan Police Agency (SMPA) v. Lee Gye-duk (Combat Police Officer) [criminal libel]**

**Case Summary**

SMPA filed an accusation against Mr. Lee, a combat police officer at SMPA, of defamation as he composed the song blaming the police.

**Result**

The prosecution did not indict him.

**5. Lee Dong-kwan v. Hong Sung-tae [criminal libel]**

**Case Summary**

Mr. Lee Dong-kwan, the spokesperson of the Blue House, filed an accusation against Prof. Hong of defamation as he wrote the column raising a question about the conscription exemption of high-ranking officials. In the column, he wrote that Mr. Lee was exempted from compulsory military service through unlawful means.

**Result**

accusation withdrawn.

**Year 2010**

**1. Yoo In-chon (The Minister of Culture, Sports and Tourism) v. 8 netizens [criminal libel]**

**Case Summary**

The minister filed an accusation against 8 netizens of defamation as they humiliated him by posting the video on the internet. The video simply showed that Ms. Kim Yuna, Korean famous figure skating star, looked uncomfortable and made a gesture of leaning backward when the Minister tried to hug her as a greeting.

**Result**

accusation withdrawn.

**2. Lee Dong-kwan v. Myung-jin (Buddhist Monk) [criminal libel]**

**Case Summary**

Lee Dong-kwan, the above-mentioned spokesperson in the Blue House, filed an accusation against Myung-jin, a Buddhist monk, of defamation as he alleged that the Blue House tried to prevent a press interview revealing that the Blue House officials had influenced the affairs in the Temple of Bongeunsa.

**Result**

accusation withdrawn.

**3. Kim Tae-young (Minister of National Defense) v. Park Sun-won (Researcher of the Joint Civil Military Investigation group of Cheonan Warship Accident) and Shin Sang-chul (Invited Researcher of the Brookings Institution, USA) [criminal libel]**

**Case Summary**

The Minister sued Mr. Park and Mr. Shin of defamation as they said the government had concealed the sinking cause of Cheonan warship. Mr. Park argued that the real reason of the sinking was the stranding and collision, not explosion as the governmental announcement. Mr. Shin argued that the government had not recognized the possibility of stranding and collision even though there had been evidence as such.

**Result**

The prosecution dropped the case against Mr. Park. However, the case against Mr. Shin is still under the first trial.

#### **4. 7 Captains (Joint Chiefs of Staff) v. Lee Jung-hee (parliament member) [criminal libel]**

##### **Case Summary**

Ms. Lee, a famous opposition leader, alleged at the Assembly plenary session that, contrary to announcement of the Ministry of Defense that there was no video tape showing the Warship broken down into the two pieces (head and tail), 7 captains and other members in the Joint Chiefs of Staffs had watched the video tape, implying that the Ministry was lying. The captains filed an accusation against Ms. Lee of defamation.

##### **Result**

accusation withdrawn.

#### **Year 2011**

##### **1. NIS v. Lee Seok-hyun (congressman) [criminal libel]**

##### **Case Summary**

NIS filed an accusation against Mr. Lee of defamation as he said that there was the team in NIS inspecting Park Geun Hye, then, a candidate for the presidential election, implying that NIS had influenced the election result.

##### **Result**

The prosecution dropped the case.

##### **2. Kim Jong-hoon (The Minister for Trade) v. Hankyoreh Newspaper Co. [criminal libel and civil lawsuit for damages for defamation]**

##### **Case Summary**

Kim was the representative of trade negotiation delegates for Korea, dealing with the delegates for the USA. Hankyoreh published an article, citing Wikileaks, that Mr. Kim gave a secret promise to the USA delegates for allowing an additional negotiation towards opening the rice market, implying he breached his fiduciary duty for his country since the promise was the completely opposite stance from the official statement of the Korean government. Mr. Kim filed an accusation against Hankyoreh of defamation in a criminal court as well as filing a civil lawsuit seeking damages of USD250,000.

##### **Result**

The criminal accusation was withdrawn and the civil court dismissed the case.

#### **Year 2012**

##### **1. NIS v. Lee Seok-hyun (Congressman) [criminal libel]**

##### **Case Summary**

NIS filed an accusation against Mr. Lee of defamation as he said that there was an allegation that the chief of NIS was caught by the Customs because he smuggled three boxes of tropical fruits.

##### **Result**

The prosecution dropped the case.

##### **2. Military Prosecutor v. Captain Lee [contempt of higher authority]**

### **Case Summary**

Captain Lee was charged with the contempt of higher authority by the military prosecutor because he condemned the president Lee Myeong-bak 13 times on Twitter.

### **Result**

Captain Lee was found guilty. He was sentenced to six months in jail with a stay of execution for two years.

### **3. Choi Yoon-hee (Navy Chief of Staff) v. Kim Ji-yoon (activist and member of Progressive Party) [criminal libel]**

#### **Case Summary**

The navy chief of staff filed an accusation against Ms. Kim of defamation and contempt as she posted the picture on Twitter that she was holding a placard saying, "Objection to Jeju Pirate Base" in Jeju Island.

#### **Result**

The Prosecution dropped the case.

### **4. Ministry of Land, Transport and Maritime Affairs & K-Water Resources Co. v. Park Chang-geun [criminal libel]**

#### **Case Summary**

The Lee Myung-bak administration had proceeded the so-called "Four River Construction Project", spending an astronomical costs of KRW22,000,000,000,000 (around USD18 billion) despite of nation-wide protests and the likelihood of serious destruction of ecosystem. The Ministry and K-Water, a public company, filed an accusation against Prof. Park, an expert civil engineer, of defamation as he announced his findings from his investigation on the project at a press center. He alleged that the Ministry and K-Water had concealed serious problems in a construction site for the project.

#### **Result**

The Prosecution dropped the case.

### **5. NIS v. Naggomsu (internet podcast program) [criminal libel]**

#### **Case Summary**

Naggomsu is the name of the most popular internet podcast program during the Lee Myung-bak government. Especially among young progressive netizens, Naggomsu was the revolution and the legend. Mr. Kim Uh-jun, Mr. Kim Yong-min and Mr. Joo Jin-woo, the panels of Naggomsu, said at the program that NIS helped Park Geun-hye for her presidential election, breaching the rule of neutrality. Their allegation was that NIS funded trolls who secretly wrote internet comments for the Park. NIS filed an accusation against them of defamation.

#### **Result**

The prosecution dropped the case.

## **Year 2013**

### **1. NIS agents v. Pyo Chang-won [criminal libel]**

#### **Case Summary**

NIS filed an accusation against Prof. Pyo of defamation nominating one of its agents as the plaintiff as Prof. Pyo said that NIS was on the state of crisis. He alleged that NIS played dirty roles of influencing the presidential election for Ms. Park Guen-hye, who was



eventually elected as the President.

**Result**

The prosecution dropped the case.