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HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION

**Written statement^{*} submitted by People's Solidarity for Participatory Democracy (PSPD),
a non-governmental organization in 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.

[28 August 2009]

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

Violations of the Right to Freedom of Opinion and Expression and Human Rights by the Lee Myung-bak government in the Republic of Korea

Since his inauguration in 2008, the President Lee Myung-bak of the Republic of Korea (ROK) implemented policies violating the right to freedom of opinion and expression and human rights and undermining democracy. The People's Solidarity for Participatory Democracy (PSPD) would like to report several incidents violating the right to freedom of opinion and expression and human rights in the ROK to the United Nations Human Rights Council and the international human rights community.

1. Public Servants' Right to Freedom of Opinion and Expression and Human Rights

The public servants deserve the fundamental human rights and civil and political rights just like ordinary citizens. However, the Lee Myung-bak government argues that participation in an assembly or endorsement of a public statement violates the duty of obedience and the duty to maintain dignity of the public servant.

On the sudden demise of the former president Roh Moo-hyun who was undergoing the prosecutors' interrogations, people expressed their concerns on violations of human rights and setback of democracy by the government and a series of public statements expressing the concerns were made. Not only people with specialized professions but also ordinary citizens and individuals made their own public statements to express their concern

On June 18, 2009, 17,147 teachers from the Korean Teachers and Education Workers' Union (KTU) also endorsed a statement requesting policy transformation and restoration of democracy. During the press conference on its public statement, the police arrested and detained teachers on the spot. 10 members and the chairperson of the KTU executive committee became dismissed from teaching profession while 78 branch-office managers became suspended by the Lee government (Ministry of Education, Science and Technology) because they just publicly expressed their opinions. Despite the oppression from the government, the KTU announced the second public announcement on July 2, 2009. The Lee government has been attempting to identify those who signed the public statement to impose disciplinary sanctions.

The Korean Democracy Government Employees' Union (KDGEU) also attempted to announce a public statement expressing their concern on the retreat of democracy. However, it failed because the Lee government (Ministry of Public Administration and Security) warned that public servants endorsing a public statement would be punished. Instead, the KDGEU participated in a demonstration held by opposition parties, civil organizations and trade unions on July 19, 2009, and placed an advertisement on newspapers stating "we want to be a public servant for the citizen, not for the government" on July 13, 2009. The Lee government placed criminal charges as well as disciplinary punishment on those public servants.

On May 28 and June 2, 2009, a public servant at the National Tax Service (NTS) expressed his opinion that Hahn Sang-ryul, the former Head of the NTS and the chief executives were responsible for the demise of the former president Roh Moo-hyun on the NTS intranet board. The officer became dismissed from the profession and accused of defaming Hahn by a regional office of the NTS. Lately, the police and the prosecutors found the officer not guilty.

The Lee Myung-bak government's disciplinary punishments and indictments of the public servants who merely expressed own opinion, endorsed in a public announcement, or participated in a demonstration infringe the right to freedom of opinion and expression which are the fundamental rights guaranteed in the constitution. These incidents also violated the General Comment No. 10: Freedom of expression (Art. 19) of the UN CCPR, stating "each state should protect the right to freedom of expression, which includes not only freedom to "impart information and ideas of all kinds" but also freedom to "seek" and "receive" them "regardless of frontiers" and in whatever medium, "either orally, in writing or in print, in the form of art, or through any other media of his choice".

2. Journalists' Right to Freedom of Opinion and Expression and Human Rights

The incidents infringing the freedom of speech and press of the journalist by the Lee Myung-bak government in the Republic of Korea are also happening.

On April 29, 2008, the PD's Notebook aired a series of documentary programs showing the danger of mad cow disease of the US beef, helping the public be acquainted with the risk of importing the US beef. A producer of the PD's Notebook of MBC, one of the mainstream broadcasting stations which kept an independence stance on the government policies, became indicted for defamation by the Lee government (Ministry for Food, Agriculture, Forestry and Fisheries) on June 20, 2008. On January 30, 2009, the Prosecutors' Office took the investigation, searched e-mails and residences of the producers and staffs of the PD's Notebook, and arrested them. During the search of personal e-mails, the privacy of the staff publicized, violating the freedom of thought and conscience. As e-mails are treated as an object, the prosecutors could look into any e-mails over several years.

From May 21 to August 6, 2009, workers of Ssangyong Motors occupied the factory and went on a strike against mass dismissal, firing one third of the total workers. From July 17, the Ssangyong company side and the police prohibited supplies of water, food and medical supplies to workers on strike in the factory. As the police moved into the factory to suppress the strike, it used excessive force on the strikers such as high enriched tear bombs and Taser guns, which was prescribed to be used against terrorists. Journalists reported about such police force activities and unjust exercise of governmental authority while reporting the news on negotiations.

The police arrested 4 journalists on the charge of 'unlawful entry of an edifice'. It was an unconstitutional act in violation of the fundamental right to freedom of press and an act of retaliation against the journalists who were reporting about the inhuman treatment of the strikers by the police. The Constitution of the ROK explicitly states the freedom of speech and press which is an indispensable principle for a democratic society and the police have a duty to allow free access to media outlets.

3. Human Rights Defenders' Right to Freedom of Assembly and Demonstration and Right to Freedom of Opinion and Expression,

On May 20, 2009, the Prime Minister, Han Seung-soo declared that the Lee government would not allow any assemblies and demonstrations within the city area because it would cause traffic congestion and violence. The police barricaded the Seoul Square with police buses to block mourning assemblies on the demise of the former president Roh Moo-hyun except his

funeral day. On May 28, 2009, the Seoul Metropolitan Council remedied ‘the Use and Administration of Seoul Square Ordinance’ and legislated ‘the Use and Administration of Gwanghwamun Square Ordinance’ for its open in August, 2009. These ordinances prohibit demonstration and assembly within the Square. According to the ordinance, national or local autonomous entities will have priority to hold cultural arts events to an assembly, and the authority can accept or deny use of Seoul [Gwanghwamoon] Square even after that a citizen get a permission from it in advance.

In a democratic state, every citizen can enjoy expressing their opinions at a public space. Therefore, human rights defenders in the ROK are campaigning to grab back the right to freedom of opinion and expression and the right to freedom of assembly and demonstration. On August 3, 2009, human rights defenders including staffs and members of the PSPD held a press conference in the Gwanghwamun Square, publicizing that the Gwanghwamun Square Ordinance violates the right to freedom of opinion and expression. In the middle of the press conference, the police arrested 10 human rights defenders. The Prime Minister stated that “I hope there will be no more demonstrations (like the Gwanghwamun case) from now on.” It is apparently illegal to haul people away because they express their own opinions during a press conference. The constitution of the ROK guarantees the freedom and assembly and demonstration, so the Seoul and Gwanghwamun ordinances are invalid because they are not consistent with the Constitution.

Urging the Human Rights Council for Special Attention to the Human Rights Situation in the ROK

There are a number of incidents violating human rights and the right to freedom of opinion and expression, which are not mentioned herein. The PSPD urges the Human Rights Council and the international human rights community to pay attention to the situation in the ROK and also recall case fact sheets submitted to the Special Rapporteur on the right to freedom of opinion and expression (February 6, 2009 & July 8, 2009), and the written statement on the 11th session of the HRC.

The PSPD also reports that 20% lay-off of the National Human Rights Commission of the Republic of Korea (NHRCK), which was established in 2001 to monitor and advise the government policies in the view of human rights. As a result, the NHRCK is unable to properly fulfill its mandates while cases of violations of human rights by the Lee government are dramatically increasing.

The PSPD strongly ask the Special Rapporteur on the freedom of opinion and expression to conduct the country visit to the Republic of Korea and give expert advice to the Lee Myung-bak government to observe and protect the right to freedom of opinion and expression and human rights since the ROK extended its standing invitation to the Special Procedures mandate-holders of the human Rights Council.
