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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Korea Center for United Nations Human Rights Policy, 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.

[29 August 2016]

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

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The use of private security companies in the Republic of Korea

The Korea Center for United Nations Human Rights Policy (KOCUN) welcomes the Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination's continued global study of national laws regarding private military and security companies.

In the Republic of Korea, the scope of the legislation, licensing, authorization, and registration, use of force and firearms, etc. are regulated by the *Security Services Industry Act*, article 2(5) of which points to the situations under which private security services are most often used.¹ The article defines "collective petition sites" to specifically include "a place of business where a party to labor relations files an application for labor dispute... or where an act of dispute has occurred" and places where civil petitions or disputes exist for reasons of maintenance and improvement of urban areas and dwelling conditions, vicarious administrative executions, etc.

In effect, private security services are being used for the purpose of or with the result of (a) impeding the legitimate exercise of labor rights or (b) violating the rights of vulnerable persons in a country where the protection of tenant rights remain feeble.

Last month, KB Autotech – an auto parts company – closed its operation and deployed private security forces, in response to the trade union's legitimate industrial action. Just a year ago, violence had broken out at the same workplace, during the company's process of union busting. Mass recruitment under the condition of not joining the trade union was, a couple of months later, followed by offers to join the company union. The confrontation between the "newly recruited staff" and trade union members in resistance eventually resulted in a number of union members incurring serious injuries. More than half of the "newly recruited staff" consisted of former police officers or members of the special forces. In the end, the court recognized the company had carried out an unfair labor practice, as a union-busting scenario was revealed during the trial. The recent closure of operation and deployment of private security forces is also being stated to be an extension of the company's continued attempts at union busting.

However, the use of private security forces as a means of oppressing unions has an extensive history. Namely, the cases of Ssangyong Motor Company in 2009, Yoosung Enterprise in 2011, SJM and Mando Halla Company in 2012 all followed a similar pattern. Despite that, more often than not, private security personnel appear on site equipped and use force and/or violence during confrontations,² the police, who is responsible for authorizing the deployment of private security personnel, monitoring the site of dispute, and giving suspension orders against unlawful acts, has been repeatedly criticized for their passive and laissez-faire attitude. Investigations, indictment and punishment of those responsible, and remedies for victims have been almost non-existent. In the case of Ssangyong Motor Company, while the injuries of private security personnel were recognized as industrial accidents, the right to indemnity exercised by a union member was later repealed.

¹ The Act defines security services as services provided to prevent the occurrence of dangers with regard to establishments and places, cash, securities, precious metals, commodities, and other articles in transit, persons, and information (art. 2(1)). Security service businesses may be established if standards on capital, manpower, facilities and equipment are met and a license is obtained from the commissioner of the district police agency having jurisdiction (art. 4). Only special security guards, who perform security services for key national establishments, may carry firearms under the guidance and supervision of a competent police agency (art. 14). Other (general) security guards are only allowed to carry limited equipment, such as horns, short rods, and gas sprayers, and can use them "to the minimum extent only, if there is a substantial reason deemed necessary for rendering security services" (art. 16-2).

² In 2009, private security personnel used shields and batons, similar to those used by police forces, to assault union members on strike. Some union members were injured after jumping off the roof in flight. In 2011, private security personnel deployed by Yoosung Enterprise charged towards union members in a vehicle, swung iron pipes, and sprayed fire extinguishers. In 2012, private security personnel deployed by SJM were equipped with safety helmets and shields, similar to those used by the Auxiliary Police.

On 18 August, 2016, a zone of street vendors in Ahyeon-dong was forcibly demolished as a vicarious administrative execution. On site were approximately 200 people, including staff from the Mapo District Office, police officers, and private security personnel. In the process, there were physical confrontations between private security personnel and vendors and citizens struggling to prevent the demolition, while glass doors and kitchen facilities were destroyed or removed without any particular safety measures. Subsequently, fork cranes dangerously proceeded to destroy stores although not all of them had been fully evacuated. The base of livelihood that had been built up over the course of 30+ years by the vendors vanished so in less than a day, even before the court could confirm that the forced demolition was indeed legitimate.

A more fundamental issue, however, is that the involvement of private security forces in labor-management disputes or in carrying out government development or improvement projects is unwarranted. In the case of the former, labor and management must resolve the dispute through peaceful and mutually agreed means, whilst in the case of the latter, government authorities must execute projects through an unforced and non-violent approach, only after sufficient consultations with those concerned have taken place.

Furthermore, the existence of private security companies and services in itself can threaten universal human rights. This is because private security forces are more likely deployed when the concerned parties cannot resolve the dispute through means that are peaceful and respect human dignity or when one does not have the capacity or justification to directly exert force on the other. **Therefore, a legal framework to regulate private military and security companies requires an extremely careful approach, as such a framework can also legally recognize their existence and be used instead to justify their actions. In any case, security of the person, a fundamental right of every person, should not be ensured exclusively to those who can afford and access it.**

In the long-term, strengthening the rights of social minorities could be a more effective and lasting solution. For instance, the right of workers to join unions and carry out union activities could be more broadly ensured and reinforced, in order to prevent unfair labor practices by companies and ensure accountability. There could also be measures to strengthen stability in the areas of housing and economic activity for tenants and socioeconomically vulnerable groups. Urgently needed are measures that effectively ensure that fundamental rights and freedoms are protected as a matter that takes precedence over actions to impede them.
