

Joint Fact-Finding Mission
to
South Korea
Final Report

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ASIAN HUMAN RIGHTS COMMISSION

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I.

EXECUTIVE SUMMARY

Two regional human rights non-governmental organizations (NGOs)—the Asian Forum for Human Rights and Development (FORUM-ASIA) based in Bangkok and the Asian Human Rights Commission (AHRC) located in Hong Kong—conducted a fact-finding mission from July 21 to 24, 2008, in Seoul, South Korea, to examine human rights violations during the daily candlelight vigils that have been held since May 2. The specific focus of the mission was curbs on freedom of opinion and expression and riot police attacks on human rights defenders—lawyers, journalists and medical workers—at the vigils, which have been held to protest the April 18 agreement with the U.S. government to import U.S. beef into South Korea. The vigil participants have been concerned about insufficient safeguards to protect people from contracting mad cow disease, i.e., threats to people’s right to health.

The mission met with South Korean NGOs and human rights defenders who have been affected by the police violence at the vigils as well as government officials. Attempts to meet with additional government officials, especially in the Ministry of Justice and National Police Agency, were not successful, and a visit with several people arrested at the vigils was not granted by the Seoul Detention Center.

The mission’s findings are contained in this report, which, in short, ascertained that riot police have violently attacked human rights defenders at the vigils who have been clearly identified as lawyers, journalists or medical workers as well as brutally assaulting protesters. Moreover, the police have ignored the instructions in their own police manual about the use of such equipment as water cannons and fire extinguishers as well as batons and police shields. A number of organizers of the vigils have also been arrested under a law that prohibits public assemblies at night. Among the recommendations of the mission is the need to amend this law, the Act on Assembly and Demonstration, as soon as possible to remove this prohibition and to end the use of conscripted young men in the riot police. It is the view of the mission that their youth and inadequate training contributes to the police brutality at the vigils.

In addition to these troubling findings, the mission found that recent defamation cases against a TV program about U.S. beef and mad cow disease and the government’s announcement of policies to extend criminal defamation to the internet point to further attempts by the government to silence criticism of President Lee Myung-bak’s policies.

These findings would be alarming in any context, but they are especially worrisome in South Korea, a country which has made significant strides in the past 20 years in protecting human rights and instituting a democratic political system after decades of military rule. Concern about the reversal of these gains under the new government of President Lee were shared by the mission participants and many of the Korean people that the mission interviewed.

II. INTRODUCTION

The Asian Forum for Human Rights and Development (FORUM-ASIA) and the Asian Human Rights Commission (AHRC) conducted a four-member fact-finding mission to South Korea from July 21 to 24, 2008, in light of numerous reports of human rights violations since May. The two regional human rights organizations consider the events recently occurring in South

Korea of regional importance. South Korea is viewed as a benchmark for democracy and

human rights in Asia. It is believed that a decline in democracy and an increase in human rights violations in South Korea will have a negative impact on the rest of the region.

The main focus of the mission has been to examine the situation of human rights defenders and the state of freedom of opinion and expression. This mission was undertaken in light of the rallies held against the agreement between the governments of the United States and South Korea to lift U.S. beef import restrictions. It is especially significant to look into the situation of human rights defenders since this year is the celebration of the 10th anniversary of the U.N. Declaration on Human Rights Defenders. The adoption of this declaration is important as it is viewed as a step towards the promotion and protection of the rights of human rights defenders. It outlines the responsibilities of states and non-state actors in protecting these persons' rights.

During its visit, the mission met with eight non-governmental organizations (NGOs), 12 human rights defenders (e.g., lawyers, NGO workers, journalists and medical workers), the Ministry of Foreign Affairs and Trade (MOFAT) and the National Human Rights Commission of Korea (NHRCK). The mission also attended the trial of a human rights defender, Ms. Yoon Hee-sook. An appointment with the Ministry of Justice was requested, but it was not possible to meet officials from the ministry



The threats posed to freedom of expression in South Korea by the response of the police to the series of candlelight vigils was an impetus for the FORUM-ASIA and AHRC fact-finding mission in July 2008.

because of their busy schedule during the week the mission was in the country. There was no response to the mission's request for an appointment with the National Police Agency. The mission also sent a request to the Seoul Detention Center to meet with four detainees, Mr. Ahn Jin-geol, Mr. Hwang Soon-won, Ms. Yoon Hee-sook and Mr. Moon Yong-sik, but the request was refused.

Background of the Anti-U.S. Beef Protests in South Korea

I. U.S.-Korea Trade Agreement on Beef Importation

On April 18, 2008, the government of South Korea signed an agreement with the U.S. government to lift U.S. beef import restrictions into South Korea. Before this trade agreement, South Korea imported only boneless cuts of beef from U.S. cattle. However, the current agreement is said to contain only a few restrictions on what meat would be allowed into the country. Under the current agreement, imports of U.S. beef will be expanded gradually with boned cuts of beef from cattle younger than 30 months allowed in as a first step.¹

A ban on the importation of beef from the United States has been intermittently imposed in South Korea. The government of South Korea first imposed a ban on beef imports from the United States in 2003 due to fears of mad cow disease (BSE). It was in 2003 that the U.S. Department of Agriculture identified two BSE-infected cows, one was born in the United States and the other was born in Canada. At that time, South Korea was the third largest importer of U.S. beef, its imports having an annual value of \$850 million.²

About 50 other countries banned the importation of beef from the United States in 2003, including Japan and Taiwan. In 2005, Japan lifted the ban, only to reinstate it after a month later due to the fact that a backbone was found in a shipment of veal, which violated the trade agreement it had with the United States.³

The current trade agreement between South Korea and the United States is alleged to be a less restrictive import deal than the one Japan and Taiwan have with Washington.⁴ This trade agreement is also said to be one of the efforts of Lee Myung-bak, South Korea's new president, to improve trade relations with the United States.⁵

On the other hand, some groups claim that the current trade agreement merely shows that Lee Myung-bak has failed to stand up to pressure from the United States, a humiliating concession to the U.S. government. Some also see the current trade agreement as a manifestation of Lee Myung-bak's authoritarian way of running the

¹ "South Korea Relaxes U.S. Beef Ban," BBC News, April 18, 2008, available at <http://news.bbc.co.uk/2/hi/business/7353767.stm>.

² Ibid.

³ "If Koreans Won't Eat Our Beef, Should We?" *The Daily Green*, July 11, 2008, available at <http://www.thedailygreen.com/healthy-eating/eat-safe/south-koreans-protest-beef>.

⁴ Ibid.

⁵ "Protests Greet S. Korea-U.S. Beef Deal," CNN Asia, June 22, 2008, available at <http://www.cnn.com/2008/WORLD/asiapcf/06/21/skorea.beef.ap/>.

government, the lack of consultation with the public and the failure to consider public opinion about health risks.⁶

At the height of the protests against the trade agreement, the South Korean government renegotiated the agreement with the United States in June, agreeing not to export beef from cattle older than 30 months, which is thought to carry a higher risk of mad cow disease.⁷

II. *The Current Protests*

It is alleged that dissent over the current trade agreement started surfacing in cyberforums over the internet. The lifting of the ban of U.S. beef imports quickly became a topic of debate among younger Koreans in these cyberforums. The discussion allegedly started first among teenage girls gathering at fan web sites for television personalities. Later the discussion spread to Agora, a popular online discussion forum at the web portal Daum.⁸

According to reports, it was at the discussion on Agora where the suggestion to stop talking and take to the streets first appeared. It was also on Agora where a petition was begun calling for Lee Myung-bak's impeachment. The petition was able to gather 1.3million signatures within just one week.⁹ On May 2, 2008, thousands of young Koreans who had networked online and coordinated through mobile phones marched on the streets of Seoul chanting, "No to mad cow!"¹⁰

At the beginning, the protests were largely ignored by mainstream media and the government. However, the protesters, mainly tech-savvy younger Koreans, undertook the role of "citizen reporters" and started conducting interviews, taking photographs and videos. These materials were then uploaded on the internet through blogs and various web sites. In one video uploaded on the internet, a young female protester was beaten by policemen. This video caused intense outrage on the internet, prompting more people to join the protests.¹¹

The protests have gained momentum since then, and more and more people have joined the initial group of young protesters. Korean human rights organizations, labor unions and opposition parties have joined the protests.¹²

Many people joining these protests carry with them different issues and grievances against the new government of Lee Myung-bak. There are groups who are in favor of the pending free trade agreement with the United States but are opposed to the

⁶ Ibid.

⁷ "Thousands in S. Korea Beef Protest," BBC News, July 5, 2008, available at <http://news.bbc.co.uk/2/hi/asia-pacific/7491482.stm>.

⁸ "Korea's New Generation of 'Web 2.0' Protesters," *International Herald Tribune*, June 16, 2008, available at <http://www.ihf.com/articles/2008/06/16/technology/protest.php>.

⁹ Ibid.

¹⁰ "South Korean Web Protesters Take to the Streets over U.S. Beef, Internet & Democracy, June 18, 2008, available at <http://blogs.law.harvard.edu/idblog/2008/06/18/south-korean-web-protesters-take-to-the-streets-over-us-beef/> (note: Internet & Democracy is a team blog for the Internet & Democracy Project, a research initiative at the Berkman Center for Internet and Society at Harvard University).

¹¹ Supra note 8.

¹² Ibid.

authoritarian style¹³ of Lee Myung-bak and his policy of making unilateral decisions on important public interest issues, such as the right to food safety and health.¹⁴

III. Government Response to the Protests

At least 35,000 people had taken to the streets at the height of the protests. The biggest crowd gathered in front of City Hall in Seoul.¹⁵ Other protests have also been held in other cities in Korea (e.g., Busan, Daegu, Incheon, Gwangju and Chuncheon) and in other parts of the world (e.g., Berlin, Frankfurt, Paris and Auckland).¹⁶

As stated earlier, the government has exerted efforts to renegotiate the trade agreement with the United States in light of these protests. However, reports also reveal that undue force and violence has been used on the people joining these protests. Police have fired water cannons into the crowds¹⁷ and arrested hundreds of protesters.

Amnesty International, after a two-week fact-finding investigation, concluded that there was an “excessive use of force” by the police against the protesters. It documented human rights violations cases, such as the arbitrary detention of protesters and onlookers, a targeted crackdown on some protesters (e.g., rally organizers) and a lack of medical care for those detained.¹⁸

On June 10, 2008, the police set up a two-story barricade made up of cargo containers to block protesters from marching into the Gwanghwamun area of Seoul. The barricade was given the nickname “Myungbaksanseong,” which literally means “Lee Myung-bak’s fortress.” It was removed the next day upon the orders of the South Korean secretary of defense.¹⁹

IV. Freedom of Expression and Human Rights Defenders at the Protests

Reports reveal that the government of Lee Myung-bak has started investigations into who organized these protests and has also begun cracking down on these alleged “instigators.”

Below are summaries of recent reports on the efforts of the government to contain the protests.

A. Raids of NGO Offices

On June 29, 2008, at around 6 a.m., about 50 policemen from the Seoul Metropolitan Police forcibly entered the office of People’s Solidarity for Participatory Democracy

¹³ Supra note 3.

¹⁴ Joint NGO Urgent Appeal, MINBYUN-Lawyers for a Democratic Society, et. al, July 14, 2008.

¹⁵ Supra note 7.

¹⁶ Supra note 14.

¹⁷ “S. Korea Beef Protesters Detained,” BBC News, June 1 2008, available at <http://news.bbc.co.uk/2/hi/asia-pacific/7429758.stm>.

¹⁸ “Amnesty Criticises Rights Violations,” *Korea Times*, July 18, 2008, available at <http://www.koreatimes.co.kr/www/news/include/print.asp?newsIdx=27818>.

¹⁹ “Demolition of Myungbaksanseong,” www.naver.com, June 11, 2008.

(PSPD) in the Tongin-dong District where the People's Conference Against Mad Cow Disease temporarily had an office. The policemen confiscated office computers, picket placards, sandbags, flags, fire extinguishers and various protest paraphernalia. Mr. Ahn Jin-geol, a member of the PSPD staff, was in the office during the raid and was arrested.²⁰ The PSPD is part of the NGO coalition People's Conference Against Mad Cow Disease. The raid was brought about by allegations from the government that the PSPD and other NGOs in the coalition are the "instigators" of the protests.

B. Tightening Cyberspace Regulations

In the middle of June 2008, Lee Myung-bak issued a warning that "the spread of false and incorrect information through the internet and spam e-mail is threatening the people's rational thinking and mutual trust." Following this statement, the Korea Communications Commission (KCC) announced that it would consider strengthening its identity verification system, introduced last year, "to curb cyber-bullying." For instance, users may be required to verify their identity or be asked to register a nickname when they post comments or participate in online discussions.²¹

Kim Young-sun, a lawmaker from the ruling party, the Grand National Party (GNP), also proposed a bill stating that "an internet site using news stories for more than 50 percent of its content on its main page should be regulated as media under the media law." The proposal includes a provision that prevents internet portals from publishing news stories and providing news search services when they fail to dedicate at least half of their main page content to journalism.²²

C. Arrests of CEOs of Major Online Storage Companies

The CEOs of five companies were arrested by the Seoul district prosecutor's office for "promoting the illegal circulation of domestic and foreign films online by giving 'heavy uploaders' 10 percent of their revenues from downloaders," which is essentially a violation under Korean copyright laws. One of those arrested, however, was Moon Yong-sik of Nowcom, a company that runs the streaming site called Afreeca.²³ Afreeca has become popular for its real-time broadcasts of candlelight vigils by the protesters.²⁴

It is believed, however, that the arrest of Moon Yong-sik of Nowcom is part of the government's crackdown on internet sites containing information about the protests. Nowcom released a statement, saying, "As Afreeca became a mecca of online protests

²⁰ Asian NGOs Condemn Police Brutality and the Raid on NGO Offices in S. Korea, Asian Forum for Human Rights and Development (FORUM-ASIA), July 3, 2008, available at http://www.forum-asia.org/index.php?option=com_content&task=view&id=1928&Itemid=32.

²¹ "South Korea Considering Closer Watch on Internet after Mass Protests," www.opennet.net, June 24, 2008, available at <<http://opennet.net/blog/2008/06/suth-korea-considering-closer-watch-internet-after-mass-protests>>.

²² "Portals Bite Back against Regulator," *Korea Times*, July 18, 2008, available at http://www.koreatimes.co.kr/www/news/biz/2008/07/123_27824.html.

²³ "Korea Using Copyright Law to Crack Down on Protests It Doesn't Like?," available at <http://english.chosun.com/w21data/html/news/200806/200806180025.html>.

²⁴ Supra note 22.

with over seven million watching live broadcasts of candlelight vigils, we remain suspicious of the nature of this investigation.”²⁵

²⁵ Supra note 23.

III.

FREEDOM OF EXPRESSION

A. Act on Assembly and Demonstration

An essential part of civil and political life in a democratic society is the right and freedom to association, expression and assembly in a peaceful manner. These are enshrined in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and in a lengthy list of other U.N. and regional instruments. The UDHR states in Article 20(1) that “everyone has the right to freedom of peaceful assembly and association.” Article 21 of the ICCPR states that “the right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” The Constitution of South Korea also recognizes freedom of assembly. Article 21, Clause 1, stipulates that “all citizens enjoy freedom of speech and the press, and of assembly and association.”

Contrary to the aforementioned guarantee of freedom of assembly, the Act on Assembly and Demonstration of 1962 in South Korea not only restricts the people’s right to assembly and demonstration but also prohibits such civil activities at certain hours of the day and night. Article 10 of the act prohibits public assemblies and demonstrations after sunset and before sunrise. Additionally, this act demands that all public assemblies and demonstrations need to obtain prior permission from a designated authority, such as a police station near the site of the assembly. In other words, this act is not a rights-based law that guarantees people’s rights enshrined in international human rights instruments. It is a legal barrier that violates the South Korean Constitution by making it difficult and illegal for individuals and groups to gather and exercise their basic civil and political rights.

Many of the human rights defenders interviewed by this mission were either charged or accused of violating the Act on Assembly and Demonstration, among other offenses, including the NGO workers currently being held under the criminal procedure of investigation with detention (please see Section IV[D] of this report). For those currently detained, defense lawyers plan to challenge the act in the courts, based on the grounds that it violates people’s constitutional rights.

South Korea is a signatory of the ICCPR. However, it has yet to actualize its obligations and complete the process of incorporating these obligations into domestic law.

B. *PD Notebook* Defamation Case

The *PD Notebook* case is symptomatic of the tightening restrictions by the government on freedom of expression of broadcast media in South Korea. *PD Notebook* is a weekly television magazine program produced by the Munhwa

Broadcasting Corporation (MBC). It features segments tackling prevalent issues in the country. On April 29, 2008, *PD Notebook* featured an interview with Ms. Robin Vinson, the mother of an American woman, Aretha Vinson, who died of a brain disease. During the interview, Ms. Vinson discussed several causes for her daughter's death, and some of those mentioned as probable causes included Creutzfeldt-Jakob Disease and its variant, the Creutzfeldt-Jakob Disease, the human form of mad cow disease.

The following week after the broadcast of the above-mentioned interview the Ministry for Food, Agriculture, Forestry and Fisheries made a complaint against the producers of *PD Notebook* with the Media Arbitration Committee (MAC). The complaint alleged that the program defamed the agriculture minister. The MAC brought the two parties together for arbitration but was not able to resolve the dispute. The Ministry for Food, Agriculture, Forestry, and Fisheries thereafter filed a civil defamation suit as well as a criminal defamation suit against the producers of *PD Notebook*. The producers of the show also received a notice from the KCC which stated that the commission received complaints from the audience regarding the above-mentioned interview with Ms. Vinson.

At the time of the mission, the criminal defamation and civil defamation suits were still pending in the courts. With respect to the alleged complaint filed before the KCC, the commission issued an order on July 16, 2008, to MBC, particularly to the producers of *PD Notebook*, to make a public apology for broadcasting the interview with Ms. Vinson.

Criminal Defamation and Freedom of Expression

Most jurisdictions define defamation as a “public communication that tends to injure the reputation of another.”²⁶ The enactment of defamation laws has been viewed in many societies as necessary to protect unwarranted attacks on people's reputations. However, by making certain public remarks unlawful, defamation laws also run against a basic human right under the UDHR—the right to freedom of opinion and expression.

Article 19 of the UDHR states that “[e]veryone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”²⁷ This is echoed in Article 19(2) of the ICCPR which provides that “[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.”²⁸

Many countries provide criminal sanctions for defamation, but the criminalization of defamation has always been viewed as an undue infringement of the right to freedom of expression. By criminalizing defamation, there is a clear state interest in controlling

²⁶ Bonnie Docherty, *Defamation Law: Positive Jurisprudence*, 13 Harv. Hum. Rts. J. 263, 264 (2000).

²⁷ UDHR, Art. 19.

²⁸ ICCPR, Art. 19, Para. 2.

statements which may only be potentially defamatory. It is for this reason that courts all over the world have urged governments to “exercise restraint in applying criminal remedies when restricting fundamental rights.”²⁹

The initiation of a criminal investigation against the producers of the current affairs program *PD Notebook* and the moves by the South Korean government to expand the law on criminal defamation to include information posted on the internet run contrary to the growing body of jurisprudence from around the world moving towards limiting defamation’s infringement on freedom of expression.

Given the choice between affording redress for a damage done to a private interest, such as one’s reputation, and protecting a human rights defender’s right to freedom of opinion and expression, the latter should be favored since the right to freedom of opinion and expression assists in protecting other rights. If people can speak freely, they can assert their rights openly and protect any infringements.³⁰ Violations of the right to freedom of opinion and expression also pave the way towards violations of other rights, such as the right not to be subjected to arbitrary arrest, detention or exile,³¹ the right to a fair and public hearing by an independent and impartial tribunal³² and even the right to life.³³

It should also be noted that the complaint pending before the prosecutors’ office for criminal defamation charges against the producers of *PD Notebook* was filed by the Ministry for Food, Agriculture, Forestry, and Fisheries and was based on the allegation that the segment aired on the program defamed the agriculture minister. By allowing the ministry to pursue a criminal defamation complaint against the producers of the *PD Notebook* program, the South Korean government is ignoring the fact that a growing body of jurisprudence around the world agrees to the denial of governments from having standing to bring defamation suits against individuals. In the case *Derbyshire County Council v. Times Newspapers Ltd.*,³⁴ the court denied standing to the local authority to bring an action for damages against a newspaper based on the ground that it is in the public interest that “a democratically elected governmental body should be open to uninhibited public criticism” and that “the threat of civil actions for defamation would place an undesirable fetter on the freedom to express such criticism.” Moreover, in the case *Goldsmith v. Bhoyrul*, the court clearly held that “[d]efamation actions or threat of them would constitute a fetter on free speech at a time and on a topic when it is clearly in the public interest that there should be none.”³⁵

The European Court on Human Rights (ECHR), while it has not ruled that criminal defamation should be abolished, has clearly limited in its decisions the prosecutorial powers of governments and their agents by ruling that public bodies and officials must tolerate higher levels of criticism.³⁶ It ruled in the *Lingens* case that a democratic

²⁹ Article 19, *Defining Defamation: Principles on Freedom of Expression and Protection of Reputation* (London: July 2000), p. 8, available at <http://www.article19.org/pdfs/standards/definingdefamation.pdf>.

³⁰ *Supra* note 2 at 266.

³¹ UDHR, Art. 9.

³² UDHR, Art. 10.

³³ UDHR, Art. 3.

³⁴ 1 All E.R. 1011 (H.L. 1993) (U.K.).

³⁵ 4 All E.R. 268, 270, (Q.B. 1997) (U.K.), pp. 270–271.

³⁶ *Supra* note 2 at 270.

government must accept more criticism than private individuals.³⁷ Specifically, it held in that case that the limits of acceptable criticism are wider for politicians than for private individuals. Unlike a private individual, a politician “inevitably and knowingly lays himself open to close scrutiny of his every word and deed by both journalists and the public at large, and he must consequently display a greater degree of tolerance.”³⁸

Finally, as set out by the Siracusa Principles on the Limitation and Derogation Provisions in the ICCPR, laws limiting freedom of expression, such as defamation laws, “shall not be used to protect the State and its officials from public opinion or criticism.”³⁹

C. Online Campaign against Conservative Newspaper Advertisers

Those who expressed their deep concerns about the safety of U.S. beef imports and who participated in the candlelight vigils were individuals. The candlelight vigils they participated in have continued much longer than expected, and the government has alleged that there must be masterminds behind the protests. Some newspapers, such as *Chosun*, *Dong-A* and *Joong-Ang*, supported these allegations by publishing several articles to that effect in their newspapers. Many protesters believed that these newspapers distorted the truth, which is one major reason why the people held vigils and started rallying.

The demonstrators, who spent entire nights on the street asking for renegotiation of the beef agreement, began to compare the articles published by these newspapers during their vigils. They also noticed that these same newspapers now strongly support the government’s policy on beef imports and label the demonstrators as instigators controlled by masterminds, namely leftists. Before the new government came to power in February 2008, however, these newspapers had severely criticized the former government’s policy agreement on beef imports and had written articles saying that U.S. beef is not safe. People became more aware of how these newspapers failed to consider the people’s demands. Their distortion of the truth was the reason that the candlelight vigils began in the first place.

Then some individuals started campaigning via the internet. They created a web site where they made a list of companies that had provided advertisements for these newspapers and uploaded the list. At the same time, they asked others to phone the companies requesting them to withdraw and stop buying advertisements in these newspapers, especially a person by the name of Mr. Lee, the owner of an internet cafe who uploaded the list several times on another web site and called for a campaign to commence.

Because of the pressure generated by this campaign, some companies made public apologies, regretting their failure in meeting the demands of the people. Furthermore,

³⁷ Case of *Lingens v. Austria*, 103 Eur. Ct. H.R. (ser. A), available at <http://www.legislationline.org/legislation.php?tid=219&lid=7137&less=false>.

³⁸ *Ibid.*

³⁹ U.N. Commission on Human Rights, *The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, September 28, 1984. E/CN.4/1985/4. Online. UNHCR Refworld, available at <http://www.unhcr.org/refworld/docid/4672bc122.html>. [accessed September 9, 2008]

they announced that they would reconsider where they would place their advertisements, and, as the campaign continued, companies became reluctant to publish advertisements in these newspapers. Subsequently, the newspapers began writing articles in which they said that the campaign constituted an obstruction of their business and asked for an investigation.

Accordingly, the prosecutor's office started an investigation, even though it had received no formal complaint from the companies. It has also been reported that government officials encouraged or attempted to persuade CEOs of the companies to register a complaint so that its investigation would have credibility.

Some 20 individuals, including Mr. Lee, the owner of an internet cafe, were banned from leaving South Korea while the investigation takes place. Not one of them had been informed of this ban until a person attempting to fly to Rome for a meeting was made aware of the government restriction at the airport. Such sanctions are usually imposed on people involved in corruption involving huge losses or foreign exchange fraud, murderers and the like. However, these individuals were put under such a sanction simply because they were actively involved in the campaign. Later police confiscated one person's computer at his workplace as well as the one in his home. This case is currently under investigation by the prosecutor's office.

D. Real-Name Internet Registration

Beginning in 2007, 37 internet portals were forced by the government to adopt the system of self-verification of one's identity when posting comments or articles on the internet. Under the law, if a person wishes to write an article or post a comment for these selected web sites, which are determined by their daily number of visitors that is set at 200,000 to 300,000 visits per day, they have to fill out a form with their name and national ID number, the so-called Resident Registration Number, or RRN. The RRN is assigned to a person when he or she is born through registration with the responsible government office. It is not possible to change this number once it is imposed. The number shows the date of birth, place of birth and sex of the individual.

After the South Korean government agreed in April to begin importing U.S. beef again, the people's understanding about mad cow disease spread through the internet. Internet users criticized the president and the government for failing to protect the people's right to health in the agreement. Moreover, people who were unable to take part in the demonstrations watched the protests on the internet. They took part in the demonstrations, indirectly, by writing notes or articles and posting them on the internet. People's concerns, especially about mad cow disease, spread quickly. The government understood that the reason for its failure to stop the spread of what it claimed were "rumors" about mad cow disease was, in its view, weak controls over the verification of the identity of authors of comments and articles on the internet.

Subsequently, the president of the KCC announced a plan to amend the law and increase the number of web sites requiring the self-verification identity system to 268 from the current number of 37, decreasing at the same time the number of daily visitors necessary to qualify for this system to 100,000 visitors per day. According to the current law that pertains to these 37 web sites, whenever government officials or the police want to identify a person who wrote an article on a web site, they can

obtain the information about the person without permission from the courts. Even more worrisome, the proposed new plan by the KCC also states that the owner of the web site has the duty to keep records of internet exchanges in chat rooms or comments made about articles posted on the internet. In this way, government officials and the police can easily track down and obtain information about a person for their own purposes.

The removal of articles from web sites and the denial of access to information should be decided by the courts. However, under the present law, the KCC can take preliminary action. They can request the owner of web sites to delete an article for a month that the KCC has chosen until a court decision is rendered. However, during the series of candlelight vigils since May, the KCC has abused its power. They asked web site owners to delete any article related to government policy and criticism or allegations of corruption on the part of the president of South Korea or other government officials. As such, an article on a web site can easily be deleted, making internet users reluctant to write an article for fear of being investigated by the authorities.

IV.

HUMAN RIGHTS DEFENDERS

The mission's initial findings released on July 25, 2008, indicate that there have been numerous incidents of attacks against human rights defenders. These attacks, occurring during the past two months, were mostly carried out by riot police dispatched to a series of rallies.

A. Lawyers

MINBYUN—Lawyers for a Democratic Society is a NGO whose members regularly attend demonstrations. They provide legal advice to those arrested if required and monitor human rights violations by the police. They wear a vest plainly identifying themselves as “A Group of Lawyers Monitoring Human Rights Violations.” Depending on the number of protestors, five to 30 lawyers usually are present at a demonstration.

Whenever people are arrested, lawyers, even though they show their badges to the police, are not allowed to interview them. Instead, those arrested are sequestered in police vehicles at the site of the protest. The lawyers must wait for a phone call or message from the police station from the people arrested before going to the police station to visit those who have been arrested, who are taken there at a much later time. In this way, the police systematically prevent lawyers from immediately meeting with people arrested at the candlelight vigils.

When there is a forcible dispersal of protestors, the police simply ignore the normal procedure for arrest that is stipulated in both the Korean Criminal Code and its Procedure Act. Lawyers identifying themselves and appealing against an illegal arrest are also arrested with the demonstrators. Attorney Lee Jae-jung, in fact, was arrested twice. On June 1, when she was monitoring an incident with Mr. Kim Gwang-jun, another lawyer who was wearing a vest indicating his professional status, they were both suddenly arrested by policemen, who were not able to be identified. Even though they stated they were lawyers, it proved to be of no use. Ms. Lee was beaten with a police shield several times. Her arms were forced tightly behind her, and she was taken to the Young-san Police Station, illegally detained and later released.

On June 25, hearing the news that several people were arrested by the police in front of Exit 1 of the Gyung-bok Palace subway station, she went there to provide legal advice. When she arrived, she saw about 20 people surrounded by police attached to the Jong-ro police station. She asked the reason for this action. The riot police commander attached to the police station replied that they had assembled on the pavement. She appealed again, but the commander ignored her and ordered the riot police to arrest the people, which they did. She, with two other lawyers, appealed against this illegal arrest for which they too were arrested. Some people who tried to help the lawyers were also arrested and taken to Gang-buk police station and released 48 hours later. During their illegal detention, Ms. Lee explained the situation to the senior superintendent of police, who said, “Your case appears to be unfair. Why didn't

you tell me earlier?” Thus, in this manner, arbitrary arrests have frequently taken place during the protests.

Whenever the police forcibly attempt to disperse protestors, several are usually arrested and injured by police shields and batons. The case of Mr. Lee Joon-Hyung, another lawyer, is one indicator. At 2 a.m. on June 26, when the riot police were chasing protestors with their police shields held horizontally, the people turned and started running away. Suddenly, an unidentified riot police officer hit Mr. Lee on the forehead with his police shield, knocking him unconscious—a serious injury that required hospitalization for eight days. As a result of this attack, his skull and eye socket sustained fractures, and there were injuries to his entire face. Bruises also covered his whole body. A definite, clear scar caused by the police shield was visible on his forehead as well.



Voiceofpeople

Attorney Lee Joon-hyung receives emergency care at the protest site after being beaten by the riot police. He suffered a concussion and could not remember what happened to him.

B. Journalists

The mission met three journalists from the mainstream media and alternative online publications who were attacked while covering the candlelight vigils in Seoul. The journalists—a reporter from *The Hankyoreh* and a photographer and video cameraman for the web sites *Voiceofpeople* and *OhmyNews* respectively—said they were pushed to the ground and kicked by riot policemen or hit with batons and police shields. Two of the three journalists went to the hospital for their injuries—one in an ambulance—and were given medical treatment for two weeks after the attack. At the time of the interview, one of the journalists was still receiving physical therapy for his injuries even though he had been beaten almost a month earlier. All three journalists were wearing helmets and/or armbands that clearly identified them as members of the press at the time of the attack. Two of the three journalists told the mission that they verbally told the police they were journalists when they were being beaten, but the assaults continued nonetheless.

In addition to injuring the journalists, their camcorder and video camera were damaged by the police to such an extent that the equipment was inoperable. The journalist from the newspaper *The Hankyoreh*, Mr. Ha, said that his camcorder was intentionally twisted and broken by the riot police so that he could no longer film those who were beating him and the police's violent response to the protest outside the Samsung Tower on June 29. Furthermore, Mr. Kim of Voiceofpeople said that journalists' equipment has been damaged by the police's use of water cannons and fire extinguishers directed at journalists.

Why have these tactics now been employed by the police?

Mr. Ha noted that the police never beat journalists at protest rallies in the past. Mr. Kim confirmed this assessment, saying that it was rare for police to attack journalists in the past, although it did happen occasionally. Mr. Kim, a photographer, added that he thinks he was beaten on June 11 in front of the Press Center because the police did not want any images of police brutality at the rallies.

The mission heard that the reaction of the police to the presence of journalists at the rallies has changed in other ways as well. Whenever someone was arrested or injured in the past, Mr. Kim said, journalists always would take pictures; but under the new government of President Lee, the police block the path to those who are arrested or injured, or the police put their hands over the lense of the journalists' cameras. The police also pull the arrested person inside the police line, said Mr. Kim, so journalists cannot approach them.

Police commanders at the scene of the rally, noted Mr. Kim, also have ordered the riot police under them to stop journalists from doing their job. Moreover, he said, a special unit of the police used at the rallies to arrest protesters are trained to block journalists from covering the event by surrounding them or pushing them.

As well as the assaults on these three journalists, the mission was told by them that up to seven other journalists from the same news organizations were beaten by the police as well during the incidents they described that occurred between June 11 and June 29.

All three news organizations—*The Hankyoreh*, Voiceofpeople and OhmyNews—have written letters to the National Police Agency asking for a public apology and compensation for medical treatment for their journalists and damaged equipment. However, at the time of the mission in July, only *The Hankyoreh* had received a favorable response from the police even though the incidents described above took place approximately a month earlier in June.

C. Volunteer Medical Workers

The mission interviewed three staff members of the volunteer medical team. They were victims of violent police attacks while on-duty during the candlelight vigils and rallies. At the time of the attacks, all of them wore clear identification markers indicating that they were medical staff.

Ms. Jin, 28, was attacked in front of the Press Center at 10 o'clock in the evening of June 28. The attack was captured on video by a citizen reporter (see http://fr.youtube.com/watch?v=pjzOF_4K1NQ) showing a group of riot police rushing toward her and attacking her with police shields. She was wearing a helmet and vest at the time clearly identifying her as a member of the volunteer medical team. Despite her own injuries, she got up from the ground and continued to assist other injured people nearby for the next six to seven hours, including several riot policemen. Mr. Cheon, 34, and Mr. Pyo, a 23-year-old volunteer medical student, were on the same medical team and experienced similar attacks but in separate incidents. Mr. Pyo was attacked on three separate occasions: June 1, June 15 and July 20. On two occasions, the riot police attacked him from behind while he was treating a civilian injured by excessive pressure from the police water cannon; on another occasion, the police threw an empty fire extinguisher at him while he was treating another severely injured civilian. The third occasion occurred when he spotted his teammate, Mr. Cheon, being attacked by the riot police in a buffer zone between the police and the protestors. He came forward to assist Mr. Cheon while shouting at the police to stop the attack. In each incident, he was wearing a white doctor's coat clearly identifying him as medical personnel.

None of the medical staff interviewed to date have filed a formal complaint or brought a legal case against the police because they do not want to jeopardize their work at future rallies to serve people in need.

D. NGO Rally Organizers

During its visit to South Korea, the mission was told by a variety of people it interviewed that the government's perception of the protests has changed over time. Apparently influenced by the opinions expressed in the country's three leading conservative newspapers and National Assembly members of the conservative Grand National Party (GNP) of President Lee, the government came to view the protests as being not simply against the importation of U.S. beef and concerns about public health but as attempts to challenge the government and that professional organizers were behind the series of protests that had been held since early May. Consequently, after it had officially gazetted its trade agreement to import U.S. beef on June 25, the government began to take action against those it believed were responsible for organizing the rallies. Principal targets of its response to the rallies were leading members of the People's Conference Against Mad Cow Disease, a coalition of 1,700 organizations from throughout the country, and some of their offices. When it was formed on May 6, the coalition publicly announced it would regularly organize candlelight vigils to provide a platform for people to express their views and to gauge Koreans' views on the importation of U.S. beef.

It is in this environment that on June 27 arrest warrants were issued for six people: Park Won-seok and Han Yong-jin, co-chairs of current affairs of the People's Conference Against Mad Cow Disease; Kim Gwang-il and Kim Dong-gyu, team leaders of organizing of the People's Conference Against Mad Cow Disease; Paik Eun-jong, vice president of the internet cafe Anti-Lee Myung-bak; and Baik Seong-gyun, president of the internet community Minchincow. The police unsuccessfully went to their homes looking for them, and the six men thus went into hiding. Since July 5, they have sought sanctuary in Jogye Temple, a Buddhist temple in the center

of Seoul, and cannot leave without being arrested by the police, which have maintained 24-hour patrols around the temple. Among the laws under which they are charged are the Act on Assembly and Demonstration, which prohibits assemblies after dark, and the Road Traffic Act for obstructing traffic. Since then, another person—Gwon Hye-jin, general secretary of Hung-Sa-Dan Education Movement Headquarters—has joined them after an arrest warrant was issued for him on July 10.

In addition to acquiring arrest warrants from the courts, the police also obtained search warrants for the offices of the People's Conference Against Mad Cow Disease and Korea Solidarity of Progressive Movements (KSPM), a member of the coalition. At about 6:00 a.m. on June 30, approximately 15 to 20 police officers arrived at the office of the People's Conference Against Mad Cow Disease and between 30 and 40 police officers at KSPM's office. Both groups rent space from well-established organizations in South Korea—the former from coalition member People's Solidarity for Participatory Democracy (PSPD) and the latter from the Korean Confederation of Trade Unions (KCTU).

When the police arrived at the office building of PSPD, they only briefly presented the search warrant to the PSPD staff member who met them at the entrance. Because it is not required under South Korean law to furnish a copy of the search warrant, none was provided. Consequently, PSPD is not aware of the judge's name who issued the search warrant nor the warrant's date nor the detailed contents of the search warrant. The police only indicated that they had come to search the first and fifth floors of the building that had been rented by the People's Conference Against Mad Cow Disease. While the coalition had initially rented both floors, they had ceased to rent the fifth floor by mid-June, and thus, at the time that the search warrant was served, the fifth floor was once again only used by PSPD. Even on the first floor, the mission was told that some items taken by the police belonged to the coalition and some belonged to PSPD.

The items seized by the police included three computers and various materials used for the rallies, such as protest placards and banners, sandbags for climbing over the containers the police erected to block the path of the demonstrators and raincoats used when water cannons are employed as well as for inclement weather. In addition, and more importantly, the police took away two police fire extinguishers that had been thrown at demonstrators and police water



Newsis

NGO organizers display objects that the police threw at them at the candlelight vigils during a press conference on June 29, 2008.

bottles. These objects, which had been collected at the rallies, had been displayed at a press conference and indicated the police station from which the police had been deployed.

Mr. Park of the People's Conference Against Mad Cow Disease in his briefing to the mission said he believed that the purpose behind the police raid was not just to collect materials related to the rallies but that the government wanted to send a message to the public and the staff of the coalition: for the former, the government intended to give a negative impression to the public about the coalition; and to the latter, it sought to spark fear in the staff of the People's Conference Against Mad Cow Disease and PSPD.

Meanwhile, at about the same time that the police arrived at the coalition's office, dozens of police officers also went to the office of KSPM, an alliance of workers, peasants, the poor, students and youth that is part of the coalition. Based on their search warrant, the police seized 23 computers—all of the organization's computers—100 placards for the rallies and other materials.

The police also arrested Hwang Soon-won, KSPM's director of democracy and human rights, who had played a leading role in organizing the candlelight vigils. Specifically, Hwang, first of all, reported injuries to the medical staff at the rallies, brought the injured to the hospital and checked on their condition in the hospital afterwards and, secondly, contacted lawyers to provide legal advice to those who were arrested. He was arrested under investigation with detention for violating the Act on Assembly and Demonstration and the Road Traffic Act.

According to Mr. Han of KSPM, it is unusual for people to be detained during the investigation period for violating these laws. In the past, he explained, people charged under the Act on Assembly and Demonstration were only fined.

These responses by the police must be viewed within the context of the escalation of the people's pressure on the government in the weeks leading up to the issuance of the arrest and search warrants. On June 10, for example, approximately one million people joined the rallies throughout the country with 500,000 to 700,000 of them protesting in Seoul. In interviews with the media after this rally, leaders of the People's Conference Against Mad Cow Disease stated that the people's words and actions had challenged the government to reconsider its decision to import U.S. beef and that the government had 10 days to respond or the coalition would intensify the campaign. Two or three days later President Lee publicly apologized to the nation and sent a representative to Washington to renegotiate the agreement. These talks yielded a new agreement in which the two governments concurred that only beef less than 30 months old would be exported by the United States to South Korea—a key demand of the coalition and the protesters. This new agreement, as noted above, was published in the South Korean government's official gazette on June 25, thus finalizing the policy to begin importing U.S. beef again.

The government's action, however, did not stop the rallies as the organizers and the demonstrators did not believe that enough safeguards had been incorporated into the renegotiated agreement. For example, only 2 percent to 3 percent of the imported beef would actually be inspected by the South Korean government. Consequently, the

candlelight vigils continued. The government's tolerance, however, had apparently been exhausted; and to Mr. Han of KSPM, the warrants were the government's attempt to thwart the candlelight vigils by arresting the organizers and weakening their organizations.

E. National Human Rights Commission of Korea

Since the candlelight vigils began in May, the NHRCK has sent their staff to monitor the rallies in an attempt to ensure that the police do not use excessive force. Mr. Kim Chil-joon, NHRCK secretary-general, explained to the mission that between five and 30 monitors have been deployed depending upon the anticipated size of the vigil. Five to 10 monitors, he said, are sent to smaller rallies, and 25 to 30 are dispatched to larger vigils. The police are informed of the presence of the NHRCK monitors; and when the police use excessive force, he said, the monitors seek to intervene to prevent or minimize the violence.

In spite of these efforts, NHRCK's monitors themselves have become victims of the violence at the rallies, said Mr. Kim. While monitoring the rally on June 28, five NHRCK monitors were injured by the police after being beaten with batons and hit by metal objects thrown by the police, like the object in the photo at the right taken by the mission.



In response to this violence directed at their staff, who were clearly identified as members of the NHRCK, a letter of protest was sent to the National Police Agency to which they received an apology from the national police commissioner. A formal complaint, however, has not been filed with the police.

At the time of the mission's visit during the week of July 21, the NHRCK had received 98 complaints related to the rallies since they began in May, which Mr. Kim said the NHRCK is investigating. He also explained that because of the ongoing rallies and the continuing violence at them the NHRCK had initiated its own investigation about three weeks before the mission arrived in South Korea. A five-member task force, he said, had been assigned to conduct this investigation.

In addition to these measures, the NHRCK, Mr. Kim said, had produced four statements in the past two months related to the violence at the candlelight vigils.

V. OTHER FINDINGS

A. Conscription of ‘Riot Police’

South Korea is a country where every man usually between the ages of 19 and 23 has the constitutional duty to serve in the military. After being conscripted, the primary areas for completing this duty are service in the army, navy or air force. There are also other forms of military service, such as the auxiliary police or a professional in their field of expertise.

Young men conscripted to serve in the army are randomly recruited as members of the battle police. Those who do not wish to complete their duty in the army can apply for service with the auxiliary police. There is no difference between them in terms of completing one’s duty.

During the recent candlelight vigils, these young men from the battle police and the auxiliary police have been deployed to protest areas and ordered to forcibly control protesters. They are armed with batons and shields and, as a result, are considered “riot police.” These so-called riot police, in the Korean context, are not professionally trained police officers but are young, inexperienced conscripted men. Each unit from a police station has its own commander, who is a professional police officer.

The battle system has its roots in the Korean War. The Act on Establishment of Battle Police was enacted on December 31, 1970, to suppress partisans from North Korea left behind in South Korea during the war. The law was amended on December 31, 1975, in which the mission of the battle police was expanded to operations against spies and assistance to professional police overseeing public security. However, members of the battle police were dispatched to places where anti-government demonstrations or labor strikes were taking place. In 1983, in order to respond to the increasing numbers of assemblies and demonstrations that occurred because the people suffered under a military dictatorship, the act was once again amended, and the auxiliary police system was added.

The job of these young men is only to assist the professional police officers, but, in reality, they are the ones sent as the first line of defense to confront protesters and are under orders to use force. These conscripted young men are not well-trained in the use of police equipment to disperse protesters in a peaceful manner. Instead, they are instructed how to prevent themselves from being photographed while forcibly dispersing people. Several videos taken by individuals, for instance, have shown a commander shouting at the young conscripts to hit protesters in the head with their shields. When a photographer tried to take a photo showing the manner in which the police arrested a protester, the commander ordered his men to block them by holding up their shields to prevent them from being identified.

If a young man refuses to follow the orders of his commander, he receives a departmental order, including an order of detention. This order is not from the courts

but from a committee consisting of professional police officers. This period of detention is not included in the period of required military service. Therefore, the conscripted man has to serve extra time in his unit to make up for the days in detention. The case of Mr. Lee Gil-gun is a good example. Mr. Lee, doing his military service as an auxiliary policeman, declared his objection to police service requiring the use of violence on protesters. He then held a sit-in for two days in protest and returned to his unit two days late. However, even after knowing his objection to violence in the course of discharging his duty, his commander repeatedly ordered him to mobilize to which Mr. Lee again objected. He was given detention for 15 days for disobedience.

Several reports showed that these young conscripted men have suffered from sleep deprivation, from poor quality rations and from long hours of heavy-duty labor, which breaches the article on forcible labor of the International Labor Organization (ILO). Most significantly, respect for their freedom of conscience has been seriously violated. They have been obliged to follow orders from their commanders—professional police officers—to assault unarmed, civilian demonstrators with batons and police shields. If they want to complete their national duty without detention and without any trouble, they have to follow orders. These young conscripts have, in fact, been the victims of the system for a long time.

B. Misuse of Police Equipment

Thousands of protesters participating in a “technically” illegal, but peaceful, demonstration were injured when police forcibly dispersed them. The primary goal of the police in resolving this kind of demonstration should be how to induce the protesters to leave voluntarily without resorting to the use of force. However, if force is needed, it should be minimal, and any unnecessary use of force should be restricted. Furthermore, in order to prevent police from using force arbitrarily, they should follow regulations governing the use of police equipment. However, several photographs and videos taken by protesters and journalists clearly indicate that the police have used their equipment, not to protect themselves, but to attack demonstrators.

For example, the police used a vehicle mounted with a water cannon to spray the protesters. Several were injured after being sprayed by the extremely high pressure of the cannon. Some experienced ruptured eardrums with a few even losing one-half or two-thirds of their eardrum due to being hit directly in the head by the water. However, according to Article 82(5) ((7)) of the Rule of Maintenance of Police Equipment, which is a directive of the National Police Agency, “police shall maintain the water cannon launcher at a 15 degree angle and shall not shoot water directly at demonstrators within 20 meters of their vehicle.”

Demonstrators were also assaulted by the police with their shields and batons in the process of forcibly dispersing them. Concerning the use of police shields, Article 82(5) ((1)) a. states, “[Police] shall thoroughly conduct a preliminary inspection to insure that the edges of their shields are not sharp due to damage or usage,” and 82(5) ((1)) b. directs police to “pay attention and not use the edge of the shield to hit vital parts of a person’s body, in particular, a person’s head.” Concerning the use of batons, Article 82(5) ((3)) c. mandates that “[p]olice shall not directly attack the face or head

of a demonstrator.” However, it has been shown over the last three months that protestors who were running away were attacked from behind by the police with shields held in a horizontal position.

Moreover, the police have assaulted protesters with their fists and boots while holding their necks rigid as they were arrested or even after they were arrested. Major news programs broadcast images of a woman, a university student, kicked by a policeman’s boot after she was pushed and fell to the ground on June 1.

As police violence continued, some people organized themselves into a “lying down group.” They were determined to make a peaceful response to articles published against them by some newspapers. Their aim was to prevent further police violence and to protect peaceful protesters. Thus, when the riot police rushed at them on June 29, the group simply lay down in the street to prevent further injuries. Mr. Lee Hak-young, secretary-general of the YMCA and a leader of the group, was stomped on by police and severely injured with his arm broken. Likewise, the riot police, spurred on by their commanders, simply ignored the specific rules and regulations on forcible dispersal and chose rather to attempt to arrest as many protestors as possible.

In addition to this unnecessary use of force, several people were also injured by metal objects, fire extinguishers and the like allegedly thrown by the police. During this protest on June 28, staff from the NHRCK were dispatched to the demonstration to monitor human rights violations. Four staff members were beaten by the police with their batons even though they were plainly identified as NHRCK members, and one was injured by what looked like the metal window frame of an automobile (see photo on page 21) allegedly hurled at him by the police.

The protectors of the people thus became the assaulters of those who gathered and protested peacefully. The rationale for the violence, according to the police, was that the demonstration was “illegal” because no official permission was given by them to assemble.

VI. GOVERNMENT VIEWS

In the introduction to this report, it was noted that the mission sought to meet with government officials from several relevant ministries and agencies—the Ministry of Justice, Ministry of Foreign Affairs and Trade and the National Police Agency. It also contacted the Seoul Detention Center to meet with Mr. Ahn Jin-geol, Mr. Hwang Soon-won, Ms. Yoon Hee-sook and Mr. Moon Yong-sik. Mr. Ahn, Mr. Hwang and Ms. Yoon have been arrested and detained as organizers of the candlelight vigils, and Mr. Moon has been charged with a copyright infringement, although it is widely believed that his arrest and detention are due to his ownership of a web site that provided live broadcasts of the vigils.

An appointment could not be arranged with the Ministry of Justice because of the ministry's busy schedule when the mission was in South Korea. However, a series of questions were prepared and sent to the ministry, which are included in the annex, but the ministry had not replied at the time of publication of this report approximately a month later. Meanwhile, the National Police Agency did not reply to the mission's request for a meeting, and the Seoul Detention Center denied the request of the mission to meet with the four people in detention.

The mission though did meet with three staff members of the Human Rights and Social Affairs Division of the Ministry of Foreign Affairs and Trade, or MOFAT—Mr. Jang Hyun-cheol, Mr. Jo Joo-sung and Mr. Jung Jin-ho. It was explained that the Ministry of Justice is the ministry responsible for ensuring that freedom of expression and assembly guaranteed under the South Korean Constitution and the country's obligations through its ratification of the ICCPR were respected domestically.

In response to concerns expressed by the mission about the violent response of the riot police to the daily candlelight vigils since May, Mr. Jo replied that some incidents are not accurately reported.

Mr. Jung added that the police will initially investigate any case involving police brutality as the use of excessive force by the police is a crime and that the case would then be sent to the prosecutor. The same process, he said, would be used for protesters attacking the police. There is a need to look at specific cases, he noted, and possible violations of the law. He explained that the police have to balance the needs of maintaining public order and freedom of expression. Anyone who has a complaint, he concluded, can file it with the NHRCK, an independent body.

The mission summarized an interview it had with a young woman who volunteered as a medical worker at the vigils who was attacked at about 10:00 p.m. on June 28. After being hit and knocked over by a riot policeman with his shield, she spent the next six or seven hours into the early hours of June 29 treating others who were injured, most of whom were riot policeman.

Mr. Jo agreed that this case should be investigated. He noted though that there were 164 injured people on June 29, and 50 police buses had been damaged. Ordinarily, he said, the police try to protect the protesters, but they also have a responsibility to protect the Blue House, the presidential compound. At times, he admitted that the police lose their temper with the demonstrators.

The mission also shared its concerns about restrictions placed on night-time assemblies by the Act on Assembly and Demonstration. Mr. Jo replied that this law places boundaries on people's freedom of expression and assembly and that some people try to violate this boundary. When this occurs, he said, the police take action.

If this law is amended to remove these restrictions, said Mr. Jang, the National Assembly is the appropriate branch of the government to do so. He added that although 33 recommendations were made to the South Korean government at the conclusion of the U.N. Human Rights Council's universal periodic review earlier this year none of the recommendations referred to amendments to the Act on Assembly and Demonstration.

Regarding the issue that sparked the candlelight vigils—the agreement between the U.S. and South Korean governments to import U.S. beef—Mr. Jang said that the National Assembly will investigate the negotiations.

At the conclusion of the meeting, Mr. Jung said that all of the mission's concerns and comments will be passed to the relevant ministries of the government.

VII.

CONCLUSIONS AND RECOMMENDATIONS

The joint fact-finding mission conducted by FORUM-ASIA and AHRC was undertaken by the two regional human rights organizations due to their concern about reports indicating a deterioration of people's ability to freely express their opinions without fear of being beaten and arrested by the police for exercising their constitutional rights. The mission was also concerned by information it received prior to visiting South Korea that human rights defenders at the rallies—lawyers, medical workers and journalists assisting those arrested or injured or reporting on the rallies—were themselves being beaten as well by the police. Unfortunately, the mission discovered during its visit in July that these concerns, as documented in this report, were well founded.

The mission, for instance, was dismayed to learn about the violent dispersal of the rallies by the riot police, the attacks on human rights defenders at the rallies, the legal prohibition to hold rallies after dark, the arrest with detention of protest organizers for minor offenses, the use of criminal defamation by a government ministry against the producers of a TV program about U.S. beef and mad cow disease, discussion by the Ministry of Justice to extend criminal defamation to the internet, efforts to require internet users to register their real names and national identification numbers before posting comments on the internet and an immigration order preventing people involved in an online campaign against newspaper advertisers from leaving the country. All of these developments have occurred in a matter of five months since Lee Myung-bak became president in February. As individual incidents, they are quite worrisome; but taken together, they indicate a trend toward constricting the space of the South Korean people to exercise their constitutional right to freely express themselves.

The mission concurs with some of the views it recorded during its visit that the violent reaction of the riot police beginning in late May was meant to intimidate people from joining the candlelight vigils with the ultimate aim to put an end to these daily protests against the South Korean government's agreement with the United States to import U.S. beef without adequate procedures to safeguard people's right to health. When police brutality at the rallies failed to achieve this objective, arrest warrants were issued about a month later for those believed to be the primary organizers of the candlelight vigils, and search warrants were obtained to seize materials from NGOs deemed to be responsible for the rallies.



Police brutality, which is taking place with impunity, discourages participation in the candlelight vigils. (Photo by *Sisain*)

The police's violent reaction to the candlelight vigils moreover is taking place with impunity. Videos posted on the internet have shown that commanders at the rallies have ordered the riot police under them to violently disperse protesters. However, in spite of thousands of injured protesters, only one policeman caught on film kicking the head of a young woman has been arrested with two police commanders in the same incident dismissed and four other police officers who received various administrative forms of punishment. This poor arrest record and supervision of subordinates indicates the government's tolerance of police brutality and thus encourages even more violence by the police. Furthermore, when dispatched to the rallies, the riot police wear uniforms without any name tag or indication of their police number or police unit, which contributes to unaccountability and nurtures impunity for police brutality as the perpetrators cannot easily be identified by the victims.

Some human rights defenders that the mission interviewed who have attended the rallies believe that the police themselves are, in some cases, instigating the protesters to attack them. This assertion is made by observing some of the tactics of the police in which, for instance, a small number of riot police attack a larger number of protesters with their batons and shields. This action then provokes a violent reaction from the protesters who are then assaulted by a larger number of police who have been held in reserve. It is further believed by some human rights defenders that police officers masquerading as protesters at times create a violent confrontation with the police that then provides a reason for the police to assault all protesters.

In addition to its duty to uphold the rights enshrined in the nation's Constitution, the South Korean government has a responsibility to promote and protect the freedom of expression of its citizens under its international obligations to which it agreed through its ratification of the International Covenant on Civil and Political Rights (ICCPR). Protesters who violently attack the police at the rallies should be arrested, charged and tried under the relevant laws of the country against assaulting police officers; police officers viciously beating protesters should be arrested, charged and tried under the

relevant laws of the country against police brutality. Based on its visit, the mission concludes that what is presently occurring in South Korea, however, is illegal and irresponsible police behavior that targets all protesters for the violent actions of some demonstrators or, indeed, without any belligerent provocation by protesters.

The mission confirmed that it is not just demonstrators who are being beaten at the rallies though but human rights defenders as well. Volunteer lawyers offering immediate legal advice to those who are arrested, volunteer medical workers caring for injured riot police officers as well as protesters, NHRCK staff members monitoring the situation on site and mainstream and online journalists informing the Korean people and international community about what is transpiring at the rallies have all been attacked by the riot police. In some cases, the attacks have perhaps been unintentional; in others, human rights defenders appear to have been specifically targeted. In either case, the South Korean government, as a state party to the ICCPR, failed to uphold people's freedom of expression and assembly and failed to protect freedom of the press. Moreover, the police attacks on human rights defenders at public rallies demonstrate a failure of the South Korean government to observe this year's 10th anniversary of the U.N. Declaration on Human Rights Defenders, especially as a member of the U.N. Human Rights Council.

The mission agrees with the views of one lawyer it interviewed that South Korea does not presently have a protest culture in which clearly identified third parties at rallies, such as lawyers, medical workers and journalists, are recognized by the police as people independent from the protesters. The mission believes, like the lawyer it interviewed, that the police regard anyone beyond their police line as a demonstrator and thus are justified in assaulting them if ordered to use force to disperse a rally. This perception and attitude must, of course, be altered through improved training of the police in the same manner in which the police must also learn more non-violent methods to maintain public order.

What is clear to the mission members is that the current practice of conscripting young men into the riot police to fulfill their 24-month military duty contributes to the police violence described in this report. The mission believes that it is not wise to put young and inexperienced men between the ages of 19 and 23 with limited training into such tense and confrontational situations as they have experienced nearly every night since May. Rather, the mission thinks it is more prudent to have only professional and experienced police officers with better training that includes human rights courses be deployed at these rallies and all future public assemblies. As noted above, this training should instruct police officers how to control a chaotic and aggressive crowd without violence and should ingrain in them the independent roles played by lawyers, medical workers and journalists at rallies and other public assemblies.

In addition to police assaults on protesters, the mission was alarmed to learn that organizers and protesters have been arrested under a law that prohibits assemblies after dark—the Act on Assembly and Demonstration. This law was enacted in 1962 under the military government of President Park Chung-hee when a nighttime curfew was in effect. There is an urgent need to amend this law to meet the needs of a democratic society in the 21st century.

The mission is also troubled by the arrest in June of three rally organizers—Ahn Jin-geol, Yoon Hee-sook and Hwang Soon-won—under the criminal procedure of investigation with detention (Ahn was later released on bail on August 11). Investigation with detention is normally reserved for people who are not permanent residents of South Korea or in cases where there is fear that the arrested person will flee or taint evidence. It is the opinion of the mission that investigation with detention is not pertinent in the case of these three rally organizers who were arrested under the Act on Assembly and Detention and has thus resulted in their undue incarceration.

The mission appreciates the role that the NHRCK has played in monitoring the rallies. Indeed, some of its members have themselves become victims of the police's violent reaction to the rallies as outlined earlier in this report. The mission also welcomes the NHRCK's investigation of the police's performance at the candlelight vigils and looks forward to receiving its findings. Moreover, the mission values the role that the NHRCK plays in investigating individual complaints brought to it by people who believe their rights have been violated by the police at the rallies. However, the mission hopes that these individual complaints could be investigated at a faster pace than appears to be the current practice. In conducting speedier investigations, complainants would not only receive quicker results, but this improvement would encourage more people to file complaints as they would have greater confidence in the process and that their complaint will lead to action and the defense of their rights.

Threats to South Koreans' freedom of expression, however, is not confined only to police assaults and arrests at the series of candlelight vigils that have occurred since May. The mission also heard during its interviews that the media and users of the internet face threats to their freedom of expression as well, such as the *PD Notebook* criminal and civil defamation cases and actions taken against the organizers of the online campaign encouraging advertisers to withdraw their advertising from several newspapers.

In the latter internet campaign targeting a number of newspapers, the mission seriously doubts that this kind of consumer campaign should be criminalized unless the campaigners used violence that reaches to a level as stipulated in the criminal code. It also found that freedom of opinion and expression over the internet is becoming restricted due to this government action. Many of those interviewed during the mission expressed their reluctance—some even had fear—of writing any article on the internet. The mission urges the Ministry of Justice to drop this case against the organizers of the internet campaign directed at the newspaper advertisers so that people can enjoy their freedom of opinion and expression on the internet, which is a prerequisite element in a democratic society, without fear of becoming a criminal.

Moreover, the mission finds that the system of self-verification of one's identity when posting comments or articles on the internet restricts the freedom of opinion and expression of the authors, for it makes it easier for the government to track the identity of authors on the internet without intervention from the courts. In addition, the mission expresses deep concerns about the plan to increase the number of internet portals requiring the self-verification system, which extends this freedom-restricting system and thus retards freedom of opinion and expression further in South Korea. The extension of the number of internet portals will create greater self-censorship among individuals writing articles and making comment on the internet, and there is a

high probability that the information acquired may be misused by the authorities without oversight by the courts. Therefore, the mission urges the government to halt any actions which restrict freedom of opinion and expression through the enactment of “relevant laws” to extend government monitoring of the internet.

Based on these developments in South Korea over the past few months, the mission can only conclude that the current government led by President Lee has a low tolerance for criticism. Criticism of public policies, however, is an indication of the health of any democracy. Where criticism of the government is permitted and widely accepted by the government, democracy flourishes. When the opposite is true, one has to question the health of that democracy.

The developments described in this report also 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 and, as just noted, its democratic evolution. As two regional human rights organizations, this reversal is quite worrisome and has implications not only for human rights in South Korea but also for other parts of Asia. If people exercising their fundamental right to freely express themselves are beaten by the police in South Korea and there are apparent attempts to muzzle the media—a nation that has made significant strides in upholding human rights in the past 20 years—what signal does this send to other Asian countries that do not have such a stellar human rights record? Both FORUM-ASIA and AHRC 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, South Korea is a member of the U.N. Human Rights Council, and a South Korean citizen sits as the secretary-general of the United Nations. The South Korean government thus has a responsibility to set a high standard for promoting and protecting human rights for its own people, other countries in Asia and the international community. Presently, the South Korean government is failing to fulfill this responsibility.

It is in this context that the mission offers the recommendations below that it believes will help arrest the human rights violations now taking place in the country and will instead permit the people of South Korea to freely express themselves peacefully without fear of being beaten or detained by the police.

Recommendations

a. To the government:

- Set an example in the region in the compliance of international human rights standards, considering the fact that it is a member of the U.N. Human Rights Council;
- Take steps to implement the U.N. Declaration on Human Rights Defenders;
- Conduct investigations into allegations on attacks against human rights defenders and bring the perpetrators to justice;
- Abolish the current system of conscription of young men into the riot police;

b. To the Ministry of Justice:

- Amend laws unduly restricting freedom of opinion, expression and assembly, in particular those provisions under the Act on Assembly and Demonstration which prohibit public assemblies after dark;
 - Comply with international human rights standards and decriminalize defamation in order to promote democratic discourse and thus do not extend criminal defamation laws to the internet;
 - Drop the cases against the producers of MBC TV's *PD Notebook* program and the organizers of the online campaign against newspaper advertisers;
- c. To the Korea Communications Commission:**
- Rescind the decision to require people to register their real name and national identification number when making comments or uploading material to the internet;
- d. To the National Police Agency:**
- Provide comprehensive and mandatory training to police officers that are deployed to rallies and assemblies so that these police officers understand that as guarantors of people's dignity and rights they also need to respect the right to the free flow of information and ensure the right to freedom of assembly;
 - Make human rights training mandatory to all police officers in accordance with international standards;
 - Provide all police officers with name tags with their name and police number and insignia indicating their police unit and require all police officers to wear them, including those dispatched to public assemblies;
- e. To the National Human Rights Commission of Korea:**
- Strive to keep the independence that has made it highly regarded in the region as its independence is essential to its effectiveness to protect human rights defenders on the ground;
 - Play a more active role in monitoring the rallies and expedite the investigation of individual complaints caused by police violence at the demonstrations;
 - Promote the concept of human rights defenders among government agencies, especially the National Police Agency and Ministry of Justice.

ANNEX I.

**Press Statement
of the
Joint Fact-Finding Mission of
FORUM-ASIA
and
AHRC**

(This press statement was released at a press conference in Seoul on July 25, 2008.)

I. Background of the Mission

The Asian Forum for Human Rights and Development (FORUM-ASIA) and the Asian Human Rights Commission (AHRC) decided to conduct a fact-finding mission, consisting of four members, to South Korea from 21-24 July 2008 in the light of numerous reports of human rights violations since May. The two regional human rights organizations consider the events recently occurring in South Korea of regional importance because South Korea is viewed as a benchmark for democracy and human rights in Asia. We believe that the decline of democracy and increase of human rights violations in South Korea would have an impact on the rest of the region.

The main focus of our mission has been to examine the situation of human rights defenders and the state of freedom of opinion and expression in the light of the rallies against the agreement between the United States and South Korea to lift US beef import restrictions. It is especially significant for us to look into the situation of human rights defenders since this year is the celebration of the 10th Anniversary of the UN Declaration on Human Rights Defenders. The adoption of this declaration is important as it is viewed as a step towards the promotion and protection of the rights of human rights defenders because it outlines the responsibilities of states and non-state actors in protecting these persons' rights.

During our mission this week, we met with eight non-governmental organizations (NGOs), 12 human rights defenders (e.g. lawyers, NGO workers, journalists, and medical workers), the Ministry of Foreign Affairs and Trade (MOFAT), and the National Human Rights Commission of Korea (NHRCK). We also attended the trial of a human rights defender, Ms. Yoon Hee-Sook. We requested appointments with the Ministry of Justice and the National Police Agency. Because of the Ministry of Justice's busy schedule, we were not able to meet them this week. There was no response to our request from the National Police Agency. We also sent a request to the Seoul Detention Center to meet with four detainees, Mr. Ahn Jin-Geol, Mr. Hwang Soon-Won, Ms. Yoon Hee-Sook, and Mr. Moon Yong-Sik. The Seoul Detention Center refused our request.

II. Initial Findings

It is important for us to note that this press conference may be the conclusion of our visit, but not the conclusion of our mission. Even after our departure, we will continue communicating with government and human rights defenders in South Korea. In fact, we have transmitted a list of questions and concerns to the Ministry of Justice and we await their response.

Our initial findings show that there have been incidents of attacks against human rights defenders during the series of rallies over the past two months. Also, we have found that there is a trend towards unduly limiting freedom of opinion and expression in the media and the internet.

The information we have gathered indicate that most of the attacks against human rights defenders were committed by riot police. We note that the riot police deployed to these rallies consist of young men, between the ages of 19 and 23, who have been conscripted. For instance, we have gathered information that about a journalist who

was attacked by riot police on 29 June, at 7 o'clock in the evening, in front of the Samsung Tower. This journalist was taking pictures with his camcorder of the protest when a group of riot police rushed towards him, surrounded him, and started beating him up. His camcorder was damaged because of the attack. Another case we have documented is about a volunteer medical worker who was attacked in front of the Press Center on 28 June, at 10 o'clock in the evening. She was wearing a helmet and a vest which clearly identified her as part of the volunteer medical team. Despite her being clearly identified as a volunteer medical worker, riot police rushed towards her and hit her with a shield. She fell down and got back up, but despite her injuries she continued to assist the injured people, which included several riot policemen. We have also gathered information about a lawyer who was wearing a vest which was clearly marked "A Group of Lawyers Monitoring Human Rights Violations." He was beaten unconscious by riot police on 26 June, at around 1:30 in the morning.

Some of the information we have gathered on the trend towards increasing restrictions on freedom of opinion and expression include proposed expansion of criminal defamation into cyberspace. We view this as going against the global trend of decriminalizing defamation. Criminal defamation statutes have been viewed as undue infringement of freedom of opinion and expression since it has often been used by governments to suppress political dissent and democratic discourse. We also emphasize that under international law, governments and public officials should expect less protection under defamation statutes because of their status as servants of the people.

We have also gathered information of apparent attempts to censor media, such as the case of MBC's *PD Notebook* program.

III. Recommendations

Based on our initial findings, we therefore recommend the following:

a. To the government:

- Set an example in the region in the compliance of international human rights standards, considering the fact that it is a member of the UN Human Rights Council;
- Take steps to implement the UN Declaration on Human Rights Defenders;
- Conduct investigations into allegations on attacks against human rights defenders and bring perpetrators to justice;
- Abolish the current system of conscription of young men into the riot police;

b. To the Ministry of Justice:

- Amend laws unduly restricting freedom of opinion, expression and assembly, in particular those provisions under the Act on Assembly and Demonstration which prohibit public assemblies after dark;
- Comply with international human rights standards and decriminalize defamation in order to promote democratic discourse;

c. To the National Police Agency:

- Provide comprehensive and mandatory training to police officers that are deployed to rallies and assemblies, so that these police officers would understand

- that as guarantors of people's dignity and rights, they also need to respect the right to free flow of information and ensure the right to freedom of assembly;
- Make human rights training mandatory to all police officers in accordance with international standards;
- d. To the National Human Rights Commission of Korea:**
- Strive to keep the independence that has made it highly regarded in the region, as its independence is essential to its effectiveness to protect human rights defenders on the ground.

IV. Future Steps

As we have mentioned earlier, we will continue to communicate with government and human rights defenders in Korea. Moreover, FORUM-ASIA and AHRC aim to use our findings to launch a campaign at the UN Human Rights Council regarding the human rights situation in South Korea. We hope to encourage the relevant special procedures (e.g. Special Rapporteurs on Human Rights Defenders, Freedom of Opinion and Expression, and the Right to Health) to accept the standing invitation of the government and conduct country visits to investigate the human rights situation in South Korea.

ANNEX II.

Questions to the
Ministry of Justice of the
Republic of Korea

FORUM-ASIA and AHRC
Joint Fact-Finding Mission

I. Questions Concerning Freedom of Opinion and Expression, Freedom of Assembly

1. What is the relevance of keeping and continuing to implement the provision in the Act on Assembly and Demonstration prohibiting rallies after dark?
2. Please elaborate more on the plan of the MOJ to extend defamation in cyberspace.
3. According to the information gathered, there is a pending investigation in the prosecutor's office against the *PD Notebook* program of MBC TV. The complaint was filed by the Ministry for Food, Agriculture, Forestry and Fisheries. Has there been any precedent where a juridical entity, especially a government body, was allowed to be a private complainant in a criminal defamation suit? If so, can you cite specific cases, and what are the grounds for doing so?
4. What does the government see as its obligations under the International Covenant on Civil and Political Rights (ICCPR) in terms of freedom of opinion and expression and freedom of assembly?
5. How does the Korean government promote and protect freedom of expression? Does the Korean government encourage criticism of the government? How does the government view criticism of itself?

II. Questions Concerning Human Rights Defenders

1. What are the grounds for the raids on the offices of the People's Conference Against Mad Cow Disease and Korea Solidarity of Progressive Movement (KSPM)?
2. According to the information received, there are about 1,700 organizations that make up the People's Conference Against Mad Cow Disease. Why did you seek search and seizure warrants against the People's Conference Against Mad Cow Disease and KSPM?
3. According to documented testimonies, there have been numerous cases of medical staff, journalists, lawyers and staff of the National Human Rights Commission of Korea attacked at the series of rallies that began in May. These cases indicate clear violations of international human rights law and the Korean Constitution. How do you plan to respond to these violations?
4. What are the grounds to arrest people for investigation with detention or investigation without detention? For the cases of Mr. Ahn Jin-geol, Ms. Yoon Hee-sook, Mr. Hwang Soon-won and Mr. Moon Yong-sik, what are the grounds for investigating them with detention?

III. Questions Concerning Police Conduct

1. What is the code of conduct for the police, including the riot police?

2. If the code of conduct or relevant laws relating to the response of the police to demonstrations is violated, what happens to the offending police officers and their commanders?
3. How are the riot police and their commanders or chief trained? Is there a human rights education component? If so, please explain or elaborate.
4. How long is the training?
5. What is police policy on the use of police equipment, including police shields, water cannons, fire extinguishers, tear gas and pepper spray at rallies?
6. According to the press release from MOJ on July 21, it stated the use of police equipment was within international standards. Kindly explain what specific standards were referred to by the aforementioned press release.

ANNEX III.

Joint Written Submission
to the
United Nations Human Rights Council
by the
Asian Legal Resource Center
and
FORUM-ASIA

(The Asian Legal Resource Center, or ALRC, is a sister organization of AHRC.)

United Nations Human Rights Council
Ninth Session

Joint written statement submitted by the ALRC, a non-governmental organisation with general consultative status, and FORUM-ASIA, a non-governmental organisation with special consultative status

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=EZ3Peq7lbjY&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.”⁴⁰ 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,

⁴⁰ 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.

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.⁴¹ 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 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

⁴¹ Ibid.

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.”⁴² 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 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.

⁴² Paragraph 18, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Curtailment of 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.

ANNEX IV.

**AHRC Response
to
Human Rights Violations
in
South Korea**

AHRC-STM-146-2008

May 26, 2008

A Statement by the Asian Human Rights Commission

SOUTH KOREA: Massive Arrest of Protesters Is Imminent

Since the government of South Korea agreed with the United States of America to import beef on April 17, the people of the South Korea have expressed their deep concerns about the agreement due to the reports of bovine spongiform encephalitis (mad cow disease) having been found in the U.S. The failure of both governments to give reassurances on the condition of the beef has done nothing to assuage the people's fears. Mad cow disease is a deadly disease for which there is no known cure. It may lay dormant in the infected person for years before symptoms are revealed or felt.

In the hope that the government will accept the people's demands, tens of thousands of people, composing of family members including school students, have voluntarily come before the Cheonggyecheon (Cheonggye stream), Seoul, in a candlelight vigil, asking the government to renegotiate the agreement and stop importing beef from the U.S. until the people of South Korea are assured that it is free of the disease. The people have held candlelight vigils, not only in the capital Seoul, but also in major cities across the country for the last 17 days.

Students from middle schools and high schools have been reportedly prohibited from taking part in the vigils and several teachers were dispatched in order to identify their students wearing school uniform. It is also reported that school principals have publicly announced suspensions of students and announced the prohibition of other students from taking part. The students submitted a complaint to the National Human Rights Commission of Korea regarding the restriction of freedom of expression and assembly.

Due to pressure from the people, including students, the government has postponed the public announcement, which will be effective immediately once it is made. However, it is reported that it will be announced either tomorrow or the day after tomorrow, (May 27 or 28). Being frustrated, some of protesters started to march on the street, which is illegal under the domestic law called the Act on Assembly and Protest after the candle light vigil on May 24. In response the riot police used their police shields to attack the peaceful marchers at 4am, May 25. It is reported that at about 68 protesters have so far been arrested and several were injured at the time. It is also reported that in Cheonbuk province, Mr. Lee Byung-Ryeol set fire to himself, shouting against the agreement on May 25 and his condition is currently serious. In the meantime, the Minister of Justice Mr. Kim Kyung-han has already proclaimed that the police will arrest protesters at any future demonstration.

The Asian Human Rights Commission urges the government of the South Korea to release the arrestees without condition and guarantee the right of peaceful assembly of the people which is enshrined in the Korean Constitution as well as International Covenant on Civil and Political Rights (ICCPR), to which the South Korea is a state party. It also urges that the government must ensure the safety and freedom of the

people who take part in the candlelight vigil that is to be held tonight and in the future, and that it must guarantee the right of peaceful assembly in such a way as to protect protesters. Finally the AHRC calls upon the government to amend the Act on Assembly and Protest in compliance with the Constitution as well as international standards.

AHRC-STM-155-2008

June 3, 2008

A Statement by the Asian Human Rights Commission

SOUTH KOREA: Government Must Stop Excessive Use of Force on Peaceful Protesters

The Asian Human Rights Commission (AHRC) strongly condemns the excessive force used by the police on peaceful demonstrators holding a candle light protest against the Korean government's agreement to import American beef between the night of May 31st and the morning of June 2nd. We have received reports that dozens of protesters were severely injured due to the illegal use of water cannon by the police and the subsequent attack with shields and batons. ([Photo 1](#)) Several hundreds were arrested. We are also gravely concerned that on May 31, the Government even dispatched the Korean National Police 868, a special police team whose mandate is handling terrorists, in order to disperse the peaceful protesters. ([Photo 2](#)).

Some serious cases reported from Seoul by the local civic groups and media are as follows:

1. Mr. HOOG Gi-don, aged 32, suffered a ruptured eardrum after being hit by the spray from a water cannon that was used at close-range on June 1st. He is awaiting an operation.
2. Ms. Lee Na-rae, a 21-year-old student at the Seoul National University was kicked about her head and neck several times by the riot police on June 1st. She is suffering from concussion following the incident.
3. Mr. Kim Yong-kwon, aged 36, had his eyesight damaged after a jet from a water cannon blasted his eyes at a range of only 3 to 4 meters at around 5:30am on June 1st. He was taken to a hospital in Sinchon and underwent emergency treatment. ([Photo 3](#)).
4. Mr. Yoon, a 35-year-old researcher had his nose broken after being struck by a police shield at around 1am on June 2nd.
5. Mr. Park, aged 37, was kicked by the police on his chest, abdomen and head for about 2-3 minutes at around 4:30am on June 1st. A MRI test report shows that he has cerebral hemorrhage behind his ears.
6. Mr. Kim, a university student was kicked by the riot police on his face. He required six stitches on his head. He is scheduled to undergo plastic surgery due to severe bone fractures on his face.

There are other reports that the riot police forces abused many protesters at the time of arrest. There is also a report that two lawyers who wore "human rights monitor" vests during the protest, were also arrested and beaten, even though they revealed their identity.

The violent acts of the police forces clearly violate the freedom of assembly of Korean citizens guaranteed under Article 21 of the Constitution of Korea, which

guarantees the freedom of assembly of its citizens. The Korean government also failed to fulfill its international obligation as a state party to the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right of peaceful assembly.

The AHRC is gravely concerned by the irregularities committed by the police in these incidents. The police reportedly used water cannons at close range (less than five meters), sometimes although the Police Equipment Management Regulation strictly limits its use on protesters within 20 meters range and to maintain an angle of 15 degrees. The police also released fire extinguishers containing halon, which can cause dyspnea, on the faces of protesters at close range.

The AHRC is of opinion that the Government worsened the situation by using the Law on Assembly and Demonstration, which has been accused by rights groups to excessively limit the right of assembly. For example, the Government labeled the peaceful demonstrations as illegal and forcibly dispersed them because no demonstration is allowed after sunset under this Law.

The Korean government should realize that a violent crack-down on peaceful protesters can never be a solution for the current situation, but only outrage the protesters. The AHRC strongly urges the Korean government to stop using illegal and excessive force to repress peaceful protesters. We also demand that the Government should immediately conduct a full inquiry into the violent acts of the riot police forces and take necessary action against those responsible according to the law. The Korean government should also amend the Law on Assembly and Demonstration to meet international human rights standards and take considerable steps to fully protect and fulfill the right of peaceful assembly of its citizens.

The Korean government has a greater responsibility to protect human rights as an elected member of the U.N. Human Rights Council. If the Korean government continues to use violent acts to repress peaceful protesters, the AHRC together with other international actors and groups will have to seriously raise doubts on the Korean government's commitment to human rights.

AHRC-STM-180-2008
June 27, 2008

A Statement by the Asian Human Rights Commission

SOUTH KOREA: Government's Failure to Realize People's Health

A public announcement on the agreement on the import of beef between the Korean government and the United States of America was postponed after the government faced continuing protest from people. There were huge protests, one in particular had about 700,000 people who marched on the street demanding renegotiation of the agreement on June 10, which is the commemoration day of 'June 10 Uprising' took place in 1987. There has been increased concern by the people of South Korea on the problem of the quarantine system regarding bovine spongiform encephalitis (BSE or mad cow disease) that may contaminate the imported beef and deep frustration by the people regarding the failure of the Korean government to have the authority to suspend importation if items prohibited are found.

In response to the continued protests, the president Mr. Lee Myung-bak, held a special press conference on June 19 and made a public apology to the people, regretting his lack of attention to the demand from the people regarding the beef imports. Meanwhile, Kim Jong-hoon, Minister for trade from Ministry of Foreign Affairs and Trade has renegotiated the agreement with the States and put an additional agreement on June 20. Kim explained the result of the meeting without publicizing it. As soon as he publicized it on June 25, Chung Woon-chun, Minister for Food, Agriculture, Forestry and Fisheries asked Ministry of Public Administration and Security to place it in the official gazette. It was published on June 26.

In the whole processes of agreement, the government of South Korea has failed to take steps to fulfill the right to health enshrined on article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which it is a state party. The reason of the strong protests against beef imports from the States over the last 50 days is because people of South Korea feel that the government has failed to fulfill to adopt appropriate measures towards full realization of the right to health by the agreement.

According to the information received, the article 5 of the agreement says, "the Korean government will suspend the importation of beef and beef products if the additional case(s) results in the OIE (Office International des Epizooties) recognizing an adverse change in the classification of the U.S. SSE status." As interpreted the government is unable to stop importation unless the OIE changes the U.S. SSE status. However, even based on the status by the OIE, there is no lower status than the current status of the States. Article 6 and 7 of the agreement are also interpreted as even though serious violation on sanitation is found, which may cause danger of people of South Korea, Korean government can only inform the States. It could check the place concerned and ask to stop importation earlier but by this new agreement, it surrendered it to the States.

According to the same information received, compared to Japanese policy which

controls all Specified Risky Materials (SRM) regardless of the age of the cow, the Korean government allow importing of brain, skull and vertebral column of the cow which are classified as SRM in EU. The Korean government expanded the items which are classified under the SRM in different countries. The agreement also says that the Korean government will import beef from cows below 30 months-of-age but, concerns remain how to check the age under the Voluntary Export Restraints which is not likely that of Japan where ages of cow are checked under Export Verifications. Even though concerns above exist, the Korean government has no means to check the age of cow if exporters from the States violate their voluntary rule. Furthermore, it is reported that the government of the States checks cows with regard to BSE in only 0.1 percent out of all cows and the Korean government can only check 3 percent out of all imported beef. It is impossible to check whether or not beef or beef products may contain the disease. This is the reason why the preventive measures or appropriate mechanisms to check whether beef or beef products contain the SRM.

However, the government simply said in the announcement, ‘trust the president, or the beef from the States is safe’ without any mechanism to quarantine the beef that may have the disease. It also publicly says that it has put forward to make it effective in order to reach the Free Trade Agreement with the States.

The right to health contains the right to system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health. In particular, according to the article 12.1 of the ICESCR, the right is defined as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to health-related information and participation in all health-related decision-making at the community, national and international levels. The Korean government has immediate obligations in relation to the right to health and to take steps towards the full realization of the article but has so far failed to take into account its obligation regarding the right to health entering into bilateral agreement with the States.

In this regard, the Asian Human Rights Commission urges the Korean government to take all necessary steps to respect, protect and fulfill the enjoyment of any of the components of the right to health. It also urges the government to publicize all relevant documents of the agreement so that related authorities or people concerned can actively participate in the discourse so as to reinforce proper a quarantine system to prevent the disease that affects all people in the country. No one else can take effective steps to respect and protect the health of the people in the country except the Korean government.

ASIAN HUMAN RIGHTS COMMISSION - URGENT APPEALS PROGRAM

Urgent Appeal Case: AHRC-UAC-152-2008

10 July 2008

SOUTH KOREA: Three Human Rights Defenders Are Arrested as Instigators of Illegal Protest

ISSUES: Human rights defenders; freedom of opinion and expression; misuse of power

Dear friends,

The Asian Human Rights Commission (AHRC) has obtained information that two activists appealing the illegal arrest of others, and one activist monitoring police violence during recent protests, were arrested on 25 June and 30 June 2008 respectively and later charged with instigating an illegal protest in South Korea.

CASE DETAILS

On 25 June 2008, Mr. Ahn Jin-geol and Ms. Yoon Hee-sook attended as staff the People's Conference Against Mad Cow Disease and were in charge of the candle light rallies from 11 April to 3 May 2008. The conference provided the opportunity for anyone to express their political opinion regarding the agreement between the Korean government and United States of America. It was also arranged for professional singers and performers from colleges and associations to perform at the festival.

After the results of the second meeting were announced on June 25 about 1,000 people, including Ahn Jin-geol and Yoon Hee-sook, held a press conference in front of Kyong-bok Palace. At 3pm on the same day, police started arbitrarily arresting people on the spot, including Ms. Yoon and Ms. Lee Jeong-hee a Member of Parliament and a 12-year-old girl. Seeing the arrest of the minor, Mr. Ahn appealed this arrest. While appealing about seven riot police suddenly attacked him from behind and held him down on his neck (See [photo 1](#)) and limbs, causing a bruise needing two weeks medical treatment and recovery. His actions against the arrest of the minor caused him to be charged for the obstruction of execution of public duties. When the minor was released following several appeals from people nearby, around 30 people were arrested and taken to Jong-ro police Station.

At 5.50pm on 30 June 2008, about 40 police officers came to the office of Korea Solidarity of Progressive Movement with a seizure and search warrant and arrested Mr. Hwang Soon-won, the director of democracy and human rights at the organization. The reasons given for his arrest were: planning an illegal assembly and demonstrations and for ensuring its execution. After his arrest he was interrogated at the Jong-ro Police Station.

According to the information received, he worked as a volunteer at the Committee and was in charge of monitoring arrestees and recording injuries obtained in the

process of marching on the street, as well as victims of police crackdowns against protesters. He also played a role in contacting lawyers to assist the arrestees and reporting any injuries to medical staff on the spot so that the injured could receive appropriate medical treatment.

Arrest warrants have been issued to six persons: Mr. Han Yong-Jin and Mr. Park Won-Seok, co-heads of current affairs at the Committee; Mr. Kim Gwang-II, team leader of marching at the Committee; Mr. Kim Dong-gyu, team leader of organizing at the Committee; Mr. Paik Eun-Jong, vice president of the internet café 'Anti Lee Myung-Bak'; and Mr. Baik Seong-Gyun, president of the internet community 'michincow'. All of them are currently staying in Jogyesa (Jogye temple) in Seoul, the Korean Buddhist Jogye order, and police are waiting outside the temple to arrest them.

BACKGROUND INFORMATION

When the agreement by the Korean government to re-begin importing beef, or beef products, from the United States of America without public knowledge became known to the public on April 18, a committee called the 'People's Conference Against Mad Cow Disease' was formed, consisting of about 1,800 civic groups from the country. Some members from the group volunteered to work for the Committee and organized candle light vigils for participants, as people began holding candles in their hands. The main role of the arrestees mentioned above is to monitor human rights violations when riot police start forcibly dispersing of marchers and to communicate with lawyers' groups, medical groups and the press based on the situation.

School students first began holding candles after the agreement to show their fear at having beef that may contain mad cow disease due to the lack of a domestic quarantine system. These fears became widespread over the internet. Police announced that they would investigate those students who were spreading these 'rumors'. After it was found that the Korean government could not guarantee safety from the disease, people from all professional sectors have held candle light vigils. As the protest has continued, police are not allowing people to hold demonstrations and are making arbitrary arrests (See further [AHRC-STM-146-2008](#)).

In order to prevent people from gathering and marching towards the Presidential residence, police have blocked all routes to the place where candle light vigils were scheduled to be held and used police buses to completely block all ways to the residence. Whenever some individuals threw plastic water bottles, other participants made them calm down by shouting 'non-violence!'. On June 2, in the process of forcible dispersal of protesters, police beat protesters with batons and police shields, which caused several injuries. (See further [AHRC-STM-155-2008](#).)

From the beginning of the protest, the government has alleged that they were masterminded by people behind the students holding candle lights. However, due to the continuation of the people's protest, the government sent representatives to the United States for additional meetings but the results of these meetings have not satisfied the demands of the people. In addition, the outcomes of these meetings do not guarantee safety from the disease. (See further [AHRC-STM-180-2008](#).)

Although frustrated and disappointed, people did not turn off the lights and continued the march. After a public announcement by the Minister for Food, Agriculture, Forestry and Fisheries, without a public hearing on June 25, the police arbitrarily arrested people. This included those people standing or watching the protest from the pavement, stating that people gathered on the pavement violated the Act on Assembly and Demonstration. On June 28 and 29, at least 300 protesters were injured by the police's unnecessary force while forcibly dispersing the protesters.

Police have reported that 958 persons have been taken to the police station, that 9 persons were investigated with detention, 694 of them released within 48 hours, 56 of them sent to court for summary justice, 25 of them freed after writing a statement regretting their behavior and expressing that they would not take part in the candle light vigil again in the future, and 184 of them are continuing to be investigated by police. Apart from the police report, at least five persons who narrated what they had seen during the forcible dispersal of demonstrators, or expressed fear concerning mad cow disease on the internet were also arrested and detained.

ASIAN HUMAN RIGHTS COMMISSION - URGENT APPEALS PROGRAM

Urgent Appeal Case: AHRC-UAC-153-2008

11 July 2008

SOUTH KOREA: Police Assault a Lawyer Providing Legal Advice during Protests

ISSUES: Human rights defenders; police violence; assault

Dear friends,

The Asian Human Rights Commission (AHRC) has received information that a lawyer, who provided legal advice at the site of protests, was attacked and severely injured by a shield used by riot police whilst forcibly dispersing protesters on 26 June 2008.

CASE DETAILS (*based on the testimony from the victim*)

Mr. Lee Joon-Hyung is a lawyer from MINBYUN-Lawyers for a Democratic Society, a non governmental organization consisting of hundreds of legal professionals in Seoul, and has taken part in the protest for the last 20 days in order to provide legal advice to arrestees and monitor violence between the police and protesters.

According to the information received, at 1am on 26 June 2008, about 6 lawyers held a flag with the words 'a group of lawyers' and wore vests with the words 'monitoring group of human rights violation'. Out of them, Mr. Lee was positioned on a road near Saemoonan Church in Sejongro to monitor violence by protesters and riot police.

At 2am, a group of riot police forming seven and eight lines began walking towards protesters in order to forcibly disperse them. They also used water from water cannons to disperse those gathered. The riot police drove protesters towards the junction of Gwanghwamun. According to Mr. Lee, riot police ran after the protesters with their police shields erect. Upon seeing this, people started turning and running away. Mr. Lee was worried about people falling down so he shouted to both parties, "slowly!, slowly!". At that moment, an unidentified riot police officer attacked him on the forehead with his police shield causing him to fall unconscious. (See [photo 1](#) -- receiving emergency care on the spot after being beaten. He showed cerebral concussion at this moment and he later said he did not remember what had happened.)

According to witnesses, even after he was unconscious the riot police continued to assault and step on him. A short while later, Mr. Lee was found and immediately taken to Seoul National University Hospital where he regained consciousness an hour later. Due to this attack, his skull and eye socket were fractured and there were injuries to all parts of his face. Bruises were found all over his body. A clear scar caused by the police shield was also found on his forehead. He lodged a complaint to Seoul Central District Prosecutor's Office on July 2.

On the same day, he was transferred to the National Medical Centre located in Euljiro (See [photo 2](#) -- at the hospital) and discharged on July 4. The bone of his forehead and his left eye was fractured and there is a danger that he may lose his eyesight. His face bone is also out of joint. He is currently commuting to the Centre to receive medical treatment and there is pain in his head, neck, shoulder and arms.

ADDITIONAL INFORMATION

According to the article 2 (1), 6 and 13 of official regulations on standards of using police equipment, which is an executive order, a police shield is mentioned as police equipment. Police batons, clubs for self-defense, gas vehicles and water cannon vehicles are enumerated in the list of police equipment that may be used in a situation of illegal assembly. However, there is no article in the regulations on whether the police shield should be used in the process of dispersing an illegal assembly.

In addition, according to article 82 (5) ((1)) on the rule of maintenance of police equipment, which is a directive of National Police Agency, police shall pay attention not to use the edge of shields towards important parts of the body, including a persons head.

ADDITIONAL COMMENTS

Since the public announcement regarding the agreement on importation of beef was publicized on June 25, the number of participants at the candle light vigil have been increasing. Especially on the night of 28 it was reported that at least 300 people were injured as the riot police started forcibly dispersing them. Most of the injured were beaten and assaulted by the riot police with police batons and shields.

Several live internet broadcastings have shown an officer in charge shouting to the riot police to use the police shield to hit the protesters heads. Likewise, supervisors at the protests encouraged police to violently attack every protester although most of them did not use violence. It is broadcast that the supervisors shouted, "I will take responsibility. Cut their heads down with the shield! What are you doing? Cut their heads down!". Even though the role of officers in charge is to calm down participants and police officers at protests in order to prevent both parties from unnecessary injuries during forcible dispersal, the officers would rather instigate, encourage and give authority to use the police shield in dispersing the protest.

ASIAN HUMAN RIGHTS COMMISSION - URGENT APPEALS PROGRAM

Urgent Appeal Case: AHRC-UAC-161-2008

16 July 2008

**SOUTH KOREA: Police Allegedly Fabricate Charges
against a Man**

ISSUES: Arbitrary arrest; fabrication of charges; freedom of expression; misuse of power

Dear friends,

The Asian Human Rights Commission (AHRC) has received information that police arrested a man for posting handbills, relating to a candle light vigil, on a wall. They fabricated an investigative report, saying that he hit an officer at the time of his arrest on 5 July 2008, which he has denied.

CASE DETAILS

Mr. Choi Eun-Gwang took part in an assembly organized by Buddhist monks in front of Seoul City Hall on 4 July 2008. Here he obtained handbills informing the public that a national candle light rally would be held on the following day, July 5. After the assembly dispersed, he returned home and posted some of the handbills on a wall near his house.

According to information received, two police officers attached to Gwanak Police Station came and informed Mr. Choi that they would arrest him for illegally displaying the handbills. Being asked, Mr. Choi refuted the reason for his arrest saying, "The District Officer has the authority to control advertisements but how is it that the police can arrest a civilian as a criminal for only posting a bill on a wall?" A verbal dispute escalated between them. While arguing, the officers allegedly brought him down a few times warning him that he was obstructing a police investigation.

Next, Mr. Choi was asked by the officers to show them his identity card. It was in his house and he went with them to get it. The officers entered his house and checked his card. They asked that he present himself at the police station laying charges on him for obstruction of a police investigation. At 2:20am on July 5, the officers arrested him at Bongcheon - 9 dong as a flagrant offender and investigated him at the Bongcheon branch office. They then took him to the Gwanak Police Station and kept him overnight.

On the same day, a prosecutor asked for an arrest warrant from the court charging him with obstruction of a police investigation. On July 6 the court dismissed the request after hearing the particulars of the incident. Mr. Choi was released that afternoon. It is alleged that when the officers got a statement from him, they fabricated charges against him noting that Mr. Choi beat and assaulted an officer named Mr. Shin.

He lodged a complaint on July 10 with the Seoul Central Prosecutor's Office asking for compensation for damages from the Seoul Central District Court.

ADDITIONAL INFORMATION

In this case, posting a handbill on a wall is a minor offence. According to article 1 (13) of the Act on Punishment of a minor offence, an offender shall be liable to pay less than 100,000 Korean won (USD 100) as a fine, or detention.

According to article 214 of the Criminal Procedure Act, a flagrant offender shall be liable to a fine of less than 500,000 Korean won (USD 500), detention or a minor fine. An arrest against the offender can be made only if the offender's residence is unclear based on article 212 and 213 of the same Act.

ADDITIONAL COMMENTS

Candle light vigils were first started in Chengyecheon by students. Later, they were held in front of the Seoul City Hall. Over the last two months the number of participants has increased starting from May 25. Mr. Lee Myeong-Bak, President of South Korea, has made two public apologies with regards to the agreement between the Korean government and the American government on beef imports, offering his regrets that he did not understand the peoples' request.

The President and the Prime Minister have publicly stated that the rallies are illegal. The Commissioner of the National Police Agency and the Prosecutor General have stressed that they will forcibly disperse people who take part in the rallies and rigorously investigate them. They have imposed various restrictions on the activists (See further [AHRC-UAC-152-2008](#).) In forcibly dispersing the demonstrators, several, including a lawyer providing legal advice on the spot, were injured. (See further [AHRC-UAC-153-2008](#).)

Meanwhile, on July 14, MINBYUN-Lawyers for a Democratic Society, a non-governmental organization of lawyers, together with other organizations, jointly submitted [cases of human rights violations](#) occurring during recent protests. They were sent to the United Nations Special Rapporteurs calling for their intervention.

ASIAN HUMAN RIGHTS COMMISSION - URGENT APPEALS PROGRAM

Urgent Appeal Case: AHRC-UAC-175-2008

1 August 2008

SOUTH KOREA: Conscripted Policeman Ill-Treated after Expressing Opinion on the Internet

ISSUES: Ill-treatment; assault; freedom of opinion and expression

Dear friends,

The Asian Human Rights Commission (AHRC) has received information about a young conscripted man who has served as a battle policeman. He has been repeatedly ill-treated by way of disciplinary punishment. This started after he expressed his opinion on the internet, and after asking for a change in his position, on 12 June 2008, to serve in the army. He was hospitalized as the result of his hunger strike. However, he received another disciplinary punishment for not fulfilling his duty during his hunger strike.

CASE DETAILS

Mr. Lee Gye-Deok was conscripted on 5 February, 2007 and started serving in the army. On April 12, he was transferred to the battle police operating to arrest a spy.

He requested to be returned to his position in the regular army. The roles of the battle police he viewed with regret. For example, maintenance of clean police stations, drivers for senior police officers, in particular assignment to demonstrations regardless of one's political opinion or conscience. He made this request to the Commissioner of the National Police Agency and the Minister of Defense on June 12, 2008. He then expressed his opinion on the internet.

While on holiday for two days from June 16, he asked for a meeting with the Commissioner of the National Police Agency by publicly writing an article on the internet. When he returned on June 17, he noticed that all of his colleagues appeared to be writing down many things. Questioning what was going on, one of his colleagues told him that they were ordered to note down any of his behavior relating to neglect of duty or illegal activities.

On June 24, he was detained in a military cell for 15 days, the charge being neglect of duty and disobeying an order. After detention, on July 8 and 12, he was assaulted by senior colleagues. Subsequently, he received verbal threats from the Commander of 606 battle police of the Yong San Police Station, that he would receive disciplinary punishment as he was responsible for inducing the assault.

He finally received formal disciplinary punishment. He was denied meeting anyone except his relatives and legal counsel, using the internet or leaving the place for 2 months beginning July 9. He went on a hunger strike, not taking even a drop of water, protesting this unjust disciplinary punishment. His health deteriorated drastically, he became utterly exhausted spitting up blood. He finally became unconscious and was

hospitalized on July 16. After recovering, he returned to the battle police on July 20. However, when he was hospitalized he was unable to perform his regular duties and for this, he received a second disciplinary detention punishment for 15 days on August 1.

BACKGROUND INFORMATION

The system of battle police has its roots in the Korean War. The Act on Establishment of Battle Police was enacted on 31 December 1970 to suppress partisans left behind in South Korea during the War. The Act was amended on 31 December 1975 and the mission of the battle police was expanded to operations against spies and assistance to professional police in public security. However, the members of the battle police had been dispatched to places where anti-government demonstrations or labor strikes were taking place. In order to respond to the increasing numbers of assemblies and demonstrations, in 1983, when the people suffered under a military dictatorship government, the Act was once again amended and a system of Auxiliary Police was added.

According to the Korean Constitution, it is the duty of every man to serve in the army. Some young men, conscripted, are randomly recruited as members of the battle police. If men are on the waiting list to start their service and thus complete their compulsory duty of national defense and do not want the army but the police, they can apply to become a member of the Auxiliary Police. Finishing a term is considered to be the completion of one's duty of national defense. However, these young men, from two systems, have been dispatched to suppress demonstrators protesting against the government or government policy.

Four out of nine members from the Korean Constitutional Court expressed, as a minority opinion in 1995 that dispatching the battle police to suppress demonstrators did breach a duty of national defense according to article 39 (1) and (2) of the Korean Constitution.

Several reports found that these young men suffered because of sleep deprivation, poor quality rations and long, heavy-duty labor, which breaches the article on forcible labor of the International Labor Organization. Furthermore, their freedom of conscience has been seriously violated. They are obliged to follow orders from their commanders (professional police officers) to assault unarmed, civilian demonstrators, with police shields and batons and forcibly disperse them.

AHRC-STM-206-2008

August 5, 2008

A Statement by the Asian Human Rights Commission

SOUTH KOREA: Police Should Be Identifiable in Order to Stop Impunity

A specially trained Special Weapons and Tactics (SWAT) team consisting of 1,700 professional police officers was formed on July 30, 2008, just days before the visit of President Bush, of the United States to South Korea on August 5. Furthermore, a newly appointed commissioner of the Seoul Metropolitan Police Agency announced on August 1, "Since now on, the police will actively use water cannon containing tear liquid when necessary." This is alarming as no equipment containing tear gas had been used since 1999.

The Korean Civil Society has criticized it as a new type of 'white skull group', which caused numerous human rights violations during the regime of the military government. Students were allegedly beaten to death by members of that group at the time of arrest.

Several violations have been reported during candlelit rallies, in particular arbitrary arrest and detention, unnecessary use of force in the process of dispersal and total ignorance of the Miranda principle since the rallies started on May 24. Even though these violations, which have resulted in protestors being injured in the process of dispersal have been repeated, to date, only one police officer has received disciplinary action after video-graphic evidence revealed that he kicked the head of a female student.

The commanders of these incidents and the auxiliary police consisting of young men conscripted to do their duty in national defense have never been properly prosecuted according to law. No investigation has been conducted to ascertain as to whether those commanders ordered the young men to use violence against the protestors when engaged in the process of dispersal. Thus, under the circumstances, those responsible have enjoyed impunity due to the lack of will by the government to prevent it. On the other hand, some of them have awarded on the grounds that they have effectively suppressed illegal protestors. However, no member of the government or the disciplinary forces has responded to the allegations of human rights violations caused during the process of dispersals.

The Asian Human Rights Commission urges that the mobilization of young men conscripted to suppress the demonstrators must cease. Since the unit has been formed and dispatched to the place where illegal assemblies are held, all members of the unit including commanders should wear uniforms clearly showing their identification to the public so that the arrestees can take further action if their rights are violated at that time of arrest.

The AHRC would like to remind the government of South Korea of the fact that the police force should be clearly controlled by the law and even when the protests are held without permission from police station, they have no authority to disperse

protestors by beating them with their shields and batons. In this regard, the AHRC points out that it is the duty of the court to decide the illegality and punishment of holding an assembly, not the police.

AHRC-STM-208-2008

August 7, 2008

A Statement by the Asian Human Rights Commission

SOUTH KOREA: Arbitrary Arrest for Money vs. Assembly without Fear of Arrest

Demonstrations have continued since May 2, when the government failed to put an end to the people's concerns about their right to health. The agreement on beef importation between the Korean government and the United States government is the cause. It is reported that, up to July 31, the police had arrested 1,042 persons on the spot, investigated 9 who were detained, investigated 946 with no detention, transported 56 to court for trial on a minor offence and released 31 with a caution. In addition, at least 167 people were arrested on the night of 5th August. They were holding an assembly, asking for renegotiation of the beef import agreement and posing opposition to the visit of Mr. Bush, the President of the United States.

According to information obtained, when about 7,000 people were conducting a candlelight vigil in front of a stream in Cheonggye, police blocked all areas leading to the stream, even the pavement. As people appealed against the police occupation of the pavement they were arrested. As others were forced to move on to the street they were also arrested. As protests were made against this action, police stirred up the people by using foul language and hitting the cones on the street. They then witnessed an arrested person, inside the police vehicle, being assaulted. Lawyers requested an interview with the arrestee but were denied and then pushed aside with police shields.

As some people began holding a protest in the Jonggak area, police started forcibly dispersing them. In the process, the police indiscriminately assaulted, with their shields, any protestors on the pavement. At the same time, a group of human rights protectors, consisting of staff from the National Human Rights Commission, asked for the release of those arrested. It was claimed, that the police in arresting the protesters violated the Act on Assembly and Demonstrations. They, likewise, were pushed aside by the police.

Several journalists and media personnel, wearing helmets and armbands indicating that they were from the 'PRESS', were also allegedly assaulted with police shields. One of the journalists appealed against this assault and for this was again hit on the head many times with a shield. Photographers were prevented from trying to take pictures of the police arbitrarily assaulting and arresting protestors in the process of dispersal. Subsequently, a police officer took photos of protestors without a proper warrant from the court. When a journalist questioned the reason for taking a photo of him, the officer responded, "We are taking your photos because your action in warding off police shields is illegal".

On August 4, prior to these arbitrary arrests, thirty -six university students holding a press conference were arrested. It was alleged that they did not inform the police about their intention to hold a press conference. However, it is general knowledge, that holding a press conference does not require that the police be informed, according to the Act on Assembly and Demonstration. When being asked about these arrests,

police attached to Suwon Jung-bu Police Station stated that, “they consider the participants in a press conference as assembling illegally, especially if there are slogans and political opinions are expressed.”

The reasons behind these repeated, arbitrary police arrests, has to do with the volume or sheer numbers of people arrested. On August 6, the Seoul Metropolitan Police Agency announced that money will be paid to officers depending on the number of people they arrest and calculated retroactively into their pay packets starting from May 2. According to the plan, an officer will be paid 20,000 KRW (USD 20) for a person arrested and investigated without detention and 50,000 KRW (USD 50) for a person arrested and investigated with detention. The plan was criticized and changed to a quota system which accumulates the number of arrests and later provides rewards for the officers.

The Asian Human Rights Commission is appalled at this plan and strongly urges the police to rescind it. It further urges the police not to implement a policy of award similar to the plan that they have already rejected. This policy can never stop arbitrary arrests and detention because they are systematic; instead, it will cause a deterioration in the current situation. It will encourage the police to indiscriminately arrest a person, even simple participants, including minors. These arrests should be done according to the law and not according to their own discretion, on the spot. The police need to differentiate between assemblies that are illegal but peaceful from assemblies that are violent.

The AHRC urges the government to promote and allow freedom of assembly, by not forcibly blocking avenues to an area and respect assemblies by not suppressing them. It further calls upon the police to stop obstructing the work of journalists, media personnel and the civil press and to protect the activities of human rights defenders. This includes lawyers and staff from the National Human Rights Commission. Human rights violations by the police would then be properly monitored and prevented.

Let us consider the remarks made by Mr. Kim Seok-gi, newly appointed commissioner of the Seoul Metropolitan Police Agency, in his inauguration speech. He made the strong statement that the police will arrest every last protestor when activities arise which destroy law and order. The AHRC points out that it is up to the police to show how to abide by law and order in the process of arrest and dispersal of protestors.

ASIAN HUMAN RIGHTS COMMISSION - URGENT APPEALS PROGRAM

Urgent Appeal Case: AHRC-UAC-180-2008

8 August 2008

SOUTH KOREA: Arbitrary Detention of a Conscientious Objector for Disobedience

ISSUES: Arbitrary detention; deprivation of liberty; ill treatment; conscientious objection; freedom of conscience; forced conscription

Dear friends,

The Asian Human Rights Commission (AHRC) has received information that a conscripted young man who objected to military service based on his conscience on 27 July 2008, received an order four times to join in order to disperse protestors, which he has refused. Based on this fact, the prosecutor who pleaded for an arrest warrant with detention, which was earlier dismissed, has again pleaded for it and the detention of the young man has been decided.

CASE DETAILS



Mr. Lee Gil-jun, 24 years old, held a press conference at 7pm on 27 July 2008 and declared that he objected serving as an auxiliary police - a type of duty of national defense. He received a special holiday for three days due to his duty to suppress people taking part in the candlelit rallies.

He claims in his statement that he received orders from his commander to hit protestors with the shield and batons, in order to disperse them during recent ongoing protest. He had to return to Jung Lang Police Station, Seoul at 8pm on July 25 but instead he held a sit-in protest. On July 31, he voluntarily returned to the police station with thoughts that even though he violated the current law he had made this decision from his conscience.

When the prosecutor's office pleaded for an arrest warrant with detention, charging him with not returning to the police on time and for defamation, a court decided not to issue an arrest warrant without detention based on the fact that there is no worry of him running away or destruction of evidence. After the court decision, he was forced to return to the police station on August 2.

Then at the police station, knowing Mr. Lee objected military service based on his conscious, his commander ordered him to join with his colleagues to disperse people holding assemblies. The commander asked him to follow the order in a serious tone four times but Mr. Lee repeatedly refused the order. Based on this fact the prosecutor

once again pleaded for an arrest warrant with detention from a court on August 5, after adding one more charge of his disobeying order.

On August 8, the court issued an arrest warrant with detention saying that Mr. Lee has refused to follow the order from his commander and there is a concern of repetition of the offence. It also added that there is also concern on his running away in the light of his repetition of disobeying an order.

Unofficial translated version

[Declaration of Conscience] I Resist!

July 27th 2008 / Lee Gil-jun

I, a conscripted policeman on active service, declare a conscientious objection to the military, and refuse to rejoin my unit. It was definitely not an easy decision. It was difficult for me to imagine all the pain and suffering it would bring, especially what my parents would have to go through. But here I am, still screaming resistance. It all sounds quite serious. But I'm not doing this to serve a greater cause. I'm just going through a process of finding myself, and trying to have a voice in my own life.

Yes. Resistance, to me, is a way to lead my life with my own subjectivity. Listening to your inner voice, having the values you believe to be right, adding colors to enrich your life and co-existing with others in harmony are all things that would be meaningful to just about anyone. And in the process, if something should suppress your life, you face it and resist it. That, I believe, is the way to live your life with passion. So now, I shed my old self, the one who has adapted to the ways of suppression, and move on to find myself through resistance.

This past February, I enrolled in the army as a conscripted policeman. I understand the many criticisms about this decision, especially regarding the actions I'm taking now. Although I oppose the idea of compulsory military service, if I had to serve my own society, I wanted to do something that is truly meaningful to society and myself. After giving it much thought, the path I chose was to join the conscripted police. But it turned out to be far different from what I had expected. Some people might criticize me and say I'm not being responsible for my own decision, but I don't think that takes away my right to object to unjust orders.

During my service as a riot police officer, I realized that we can be put into unwanted situations by the authorities at any time. Over the last few months, I saw the candlelight protests in the eyes of a policeman, and these thoughts ran through my head. The things people were saying with candles in their hands—"Renegotiate the terms of US beef import's", "No privatization of state-owned corporations and public health insurance", "No more education system that drives fierce competition in schools." -- all sounded to me like one voice. As if they were saying that the authorities can threaten our lives at any given moment, and they want to stand up to it.

At the candlelight protests, various voices came together for a common goal. There were many different sights, but the overall atmosphere was not one of grave strife but

more like a festival of people. It was a festival for themselves and for the good of society. But the life-threatening authorities showed no efforts to communicate. Instead they forced young men in police uniforms into a situation where they would have to fight against fellow citizens. Should we have quelled the citizens as if they were our enemy because we're such evil people? All of us just wanted to serve our society and our families for 2 years. None of us came into this to attack ordinary people demonstrating in the streets. The authorities would tell us to keep in mind that the protesters are not our enemies, but it was in complete hypocrisy. In reality, they wanted us to treat them as our enemies and always be ready for a violent crackdown at any moment.

When faced with an unseen force, such as orders given by the system, an individual becomes completely powerless. As I confronted the citizens with my shield, as I committed acts of violence or helped continue the violence, I couldn't dare think to go against the orders. All I could do was to take in all the pain I was faced with. This goes for all the riot policemen out there. We take out our anger on the protesters, our so-called "enemies", and we justify our actions and hide our hurt while those in power that got us here in the first place is nowhere to be seen.

As days went by, I felt my sense of humanity burning to ashes. As I was brought into repression operations, as I guarded the streets indefinitely, and even when I heard people's complaints and ridicules, it was awful accepting the fact that I had to follow orders without being able to say anything. I could bear the straining working hours and the physical pain, but it got worse when I thought about what I was doing, questioning what exactly it was that I was trying to protect. No one actually speaks of such matters, but is it okay for barely 20 year old young men to act as tools of violent repression if it's for the sake of social "order" and "safety"? Who is to guarantee its legitimacy?

During this difficult time, I tried to escape from reality in any possible way, but at some point it hit me that running away was no longer the answer. As long as I stayed on that side of the protests, I would always be contributing to suppression, and that would just be an act of abandoning all the things I had seen. It was especially important for me to listen to my inner voice and to express a definite resistance to what was oppressing me in order to live out what's left of my life with my own subjectivity. I was also apprehensive that I would become a shallow hypocrite if I continue to conform to orders that I felt were unjust and neglect all my hurt feelings.

The only way to heal my wounds, as an offender and a victim, and to get my life back on track, was resistance. Looking back, I feel that I have lived a life of compromise, never resisting the things that suppressed my life. I saw this opportunity as a turning point in my life. This path might be painful and difficult, but it's also somewhat fun discovering the person I want to be.

I don't consider myself to be a scapegoat or a martyr in this troubled political situation, as many around me have feared. Nor do I want to be the hero of my time. I don't want any part in political games or take advantage of this situation in any way. I'm just staying true to my desires to lead an ordinary life of peace and harmony with others, and I want to be able to live with myself.

I don't want to declare my struggle to be one of so much seriousness. I believe the process of resistance should be fun. With suppression come many harsh conditions, but confronting them and finding your own voice in the process shouldn't necessarily be taken so seriously. I will continue with my efforts, but I have a small wish that more people will begin to resist any form of suppression that may be in their lives.

Through my actions, I feel that I am beginning to take control of my life and I hope that the current system of forced, repeated violence can come to an end. Isn't it time to put an end to thousands of young men having to stay up another tormenting night, who could be getting hurt just as I've been?

Finally, I want to thank all those who have listened to my story, who supported me and are still with me now. I especially want to thank my parents who made a difficult choice in supporting me and withstanding pain for this unworthy son, who understand me and are always on my side. I just want to say that I love you.

ADDITIONAL INFORMATION

In South Korea, every man has a duty to fulfill national defense according to the Constitution and they are conscripted to finish the duty for about 26 months. It is estimated that about 3,761 young men from 2002 to 2006 have objected to military service and all are criminalized due to the lack of recognition of conscientious objection to military service and alternative military system. Due to their criminal record, they have had difficulties in getting a job and been discriminated against in society.

The Korean government has been recommended to adopt alternative military service from different UN human rights monitoring mechanisms and the UN Human Rights Committee expressed in its jurisprudence saying that the Republic of Korea has violated articles of the International Covenant on Civil and Political Rights (ICCPR), to which the Republic of Korea is a state party.

After being criticized, the Ministry of National Defense established a Research Committee on Alternative Service under the Ministry and finished its research in 2006. In addition, the government made [its voluntary pledges and commitment](#) to be re-elected as a member of UN Human Rights Council regarding this issue.

However, it is reported on July 4 that the Ministry is reviewing from the beginning the plan of adoption of alternative military service starting early 2009.

AHRC-STM-219-2008

August 20, 2008

A Statement by the Asian Human Rights Commission

SOUTH KOREA: Forcing Female Protesters in Custody to Remove Their Bras Is a Form of Cruel and Inhuman Treatment

For anyone who wonders which nation has the best police in the world, the following may give you an answer: the Korean police definitively protected at least six female protesters from committing suicide in custody by forcing them to remove their bras.

According to information received by the Asian Human Rights Commission (AHRC), one 26-year-old female protester was arrested by the police. She was charged with violating the Act on Assembly and Demonstration, while attending the 100th candlelight protest held in Seoul on August 15. While putting her in the lock-up at the Mapo Police Station in Seoul, the police forced her to remove her bra, despite her repeated refusals. The police returned it to her only after a lawyer made a complaint about the incident on the morning of August 16. On the same night, other five female protesters were also forced to remove their bras in the Gangnam police station in Seoul despite their refusal. These women stayed in the lock-up for about 40 hours without wearing a bra until they were released on August 17.

The police justified their behavior saying that they did so according to the regulation to prevent them from committing suicide. Ironically, the police did not consider the facts that they are not serious criminals; have no previous record of attempting to commit suicide; no history of mental disease. Furthermore they would be released within 48 hours after their arrest. The regulation the police referred to says that the police may collect items such as a belt or a necktie “when there is a serious concern that an inmate may commit suicide or inflict injuries upon oneself”.

The police also claimed that they ask a woman to remove her bra in concern for her security in a situation where she would be detained over 48 hours or she would be detained in the lock-up alone. However, the AHRC confirmed that five women detained at the Gangnam police station were detained together with two others and were all released within 48 hours. The AHRC was also informed that the women were not violent nor did they show any psychological instability, whereupon the police would have to implement this regulation. It is reported that this inhuman practice is being implemented at considerable numbers of police stations in Seoul.

The AHRC is of the opinion that forcing the women inmates to remove their bras is cruel and inhuman treatment. It is prohibited by the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) to which Korea is a state party. This is a good example that the Korean police arbitrarily implemented the regulation on the women arrestees beyond their mandate. It is also a clear form of sexual harassment violating the rights of women.

After facing huge public criticism about the incidents, the police announced that they would review the relevant regulation to prevent similar incidents in the future.

However, the police have made no official apology to the women concerned, nor have they taken disciplinary action against the responsible police officers. Instead, one senior investigating officer at the Gangnam police station reportedly told a local newspaper that the women concerned “voluntarily” removed their bras. He also said that if the women felt serious humiliation and claimed they would rather die than remove their bras, the police will not force them to do so. He further said that “a person’s life is the most important, rather than any of human rights”.

The AHRC is delighted by the Korean police’s firm commitment to protect the lives of women. We may soon hear the news that the Korean government introduced a law prohibiting women from wearing a bra to protect their lives in near future.

The Korean police have shown a perverted enthusiasm in protecting public order and security as it continues action against the ongoing candlelight protests for over three months. On August 15, the police used colored water from movable water cannons to identify “illegal bad” candlelight protesters from “good” citizens and harass those whom they considered were disturbing public interest and order. Eventually, the police indiscriminately arrested 157 persons within one night. The Korean government has forgotten that those protesting and those arrested are also citizens of Korea and they have the freedom of assembly guaranteed under Article 21 of the Constitution of Korea and Article 21 of the ICCPR.

The AHRC is also gravely concerned by reports from Korean civic groups that the police did not follow the Miranda rule and used excessive force in several cases at the times of arrest. The groups further said that the police indiscriminately arrested anyone whose clothes were colored by water cannons, without confirming whether they participated in the protest or not.

The National Human Rights Commission of Korea decided, on July 11, to have a suo motu inquiry into the allegations of excessive use of force by the police and the violation of the rights of candlelight protesters. The NHRC has the power, in defending the human rights of citizens, to take notice on its own, of serious human rights violations, even though no complaints are received. Before the NHRC made this decision, all 14 members of the Human Rights Advisory Committee of the Korean National Police Agency resigned this June, as a symbolic action, to demonstrate their strong protest and concern over the excessive use of force by police in handling the candlelight protesters. Regardless, the use of excessive force on protestors by the Korean police has not decreased at all and in fact is escalating. This raises serious concerns about the Korean government’s commitment to human rights as an elected member of the U.N. Human Rights Council.

Until very recently, Korea was not only a successful economic model but also a successful model of democracy and human rights in the Asian region. Democracy in the country today has been achieved at the expense of the lives of many Korean citizens. Unfortunately, events such as those mentioned above are holding Korea back from moving towards greater democracy and human rights.

The AHRC strongly urges the Korean government to make an official apology to the women concerned and take necessary and immediate action to prevent ill-treatment of protesters at the time of their arrest and while in police custody. We also demand that

the Korean government stop using arbitrary and excessive force to repress peaceful protesters. The Act on Assembly and Demonstration, which has been seen as excessively limiting the right of assembly, should be amended. The Act should meet international human rights standards and its arbitrary implementation for protesters should be restricted. We also demand that the Government immediately conduct a full inquiry into the violent acts of the police force and hold these responsible to account according to the law.

September 16 , 2008
ALRC-COS-09-02-2008
HRC Section: Item 3, General Debate

An oral statement to the ninth session of the U.N. Human Rights Council by the
Asian Legal Resource Center (ALRC),
a non-governmental organization with general consultative status

SOUTH KOREA: Assaults on Freedoms of Expression, Assembly and Conscience

Thank you, Mr. President.

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

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

The organizers 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 extremely 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 fulfill 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* program 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 by 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 South Korean government is stalling on much-needed reforms suggested by a research committee to correct this problem.

Online Webcast

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/ninth/hrc080916am-eng.rm?start=01:06:43&end=01:09:34>

ANNEX V.

FORUM-ASIA
Interventions
to
Human Rights Violations
in
South Korea

**Asian NGOs Condemn Police Brutality and the
Raid on NGOs' Offices in South Korea
(An Open Letter)**

July 3, 2008

Mr. Lee Myung-bak
President of the Republic of Korea
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110-882 Republic of Korea
Fax: +822 700 0347, 770 0091
Email: foreign@president.go.kr.

CC:

Mr. Kim Kyung-han, Minister, Ministry of Justice
Mr. Ahn Kyong-whan, Chairperson, the National Human Rights Commission of Korea
Mdm. Louise Arbour, High Commissioner, the Office of the High Commissioner for Human Rights
Mdm. Kang Kyung-hwa, Deputy High Commissioner, the Office of the High Commissioner for Human Rights
Ms. Margaret Sekaggya, the U.N. Special Rapporteur on the Situation of Human Rights Defenders
Mr. Ambeyi Ligabo, the U.N. Special Rapporteur on the Promotion and Protection of the Rights to Freedom of Opinion and Expression

Dear Mr. President:

We represent Asian non-governmental organizations and wish to express our strong condemnation of a series of crackdowns and physical violence on human rights defenders (HRDs) and organizations in Seoul.

The recent crackdown had resulted in the injuries of 400 demonstrators who have been calling for an end to the South Korea-U.S. beef deal which will undermine food safety and public health.

We are very disappointed by the fact that the Seoul Metropolitan Police had raided several offices of civil society organizations, including the office of the People's Solidarity for Participatory Democracy (PSPD), which hosts the secretariat of the People's Conference Against Mad Cow Disease.

On the same day, about 50 police investigators from the Seoul Metropolitan Police had also raided the office of the Korea Alliance of Progressive Movements (KAPM) and confiscated three computers, sandbags, flags, two fire extinguishers and other protest equipments.

Another NGO office—the People's Solidarity for Korean Progress (PSKP) in Yeongdeungpo-gu—had become a victim too. At almost the same time, 23 computers,

documents and rally placards were confiscated. In the process, police arrested the PSKP director, Mr. Hwang Soon-won, Mr. Ahn Jin-geol and Ms. Yoon Hee-sook.

We would like to remind your government that South Korea is a state party of the U.N. International Covenant on Civil and Political Rights (ICCPR), and therefore, police brutality and repression of civil society organizations in reaction to the protest rallies that your government had performed are a direct violation of the rights to freedom of expression, association and assembly.

Furthermore, South Korea had made a pledge to the U.N. Human Rights Council (UNHRC) that “the promotion and protection of human rights is a priority in [South Korea] national as well as foreign policy goals.”

We, therefore, strongly call on your government to ensure the fulfillment of your own promises. Failure to do so would be the failure of South Korea as a member of the UNHRC in upholding human rights and a commitment to refrain from violating the basic human rights of your citizens.

We urge your government to immediately release the detained activists, stop the raids against civil society organizations and return all equipment and property confiscated from civil society organizations without conditions.

Sincerely yours,

Yap Swee Seng
Acting Executive Director
Asian Forum for Human Rights and Development (FORUM-ASIA)

On behalf of:

1. Alternative ASEAN Network for Burma (Altsean)
2. Amnesty International Taiwan
3. Asian Forum for Human Rights and Development (FORUM-ASIA)
4. Asia-Pacific Solidarity Coalition (APSOC)
5. Center for Human Rights and Development (CHRD)
6. Center for Indonesian Migrant Workers
7. Committee for Asian Women (CAW)
8. Community Trust Fund (CTF)
9. Foundation for Media Alternative (FMA)
10. HAK Association
11. Information Monitor (INFORM)
12. Judicial System Monitoring Program (JSMP)
13. Lawyers' for Liberty (Libertas-Philippines)
14. Monitoring Sustainability of Globalization
15. Odhikar
16. People's Solidarity for Participatory Democracy
17. PILIPINA Legal Resources Center (PLRC)
18. Philippines Alliance of Human Rights Advocates (PAHRA)
19. Suara Rakyat Malaysia (SUARAM)
20. Taiwan Alliance to End the Death Penalty (TAEDP)
21. Taiwan Association for Human Rights (TAHR)

22. Taiwan Labor Front (TLF)
23. Task Force Detainees of the Philippines (TFDP)
24. Urban Community Mission, Jakarta
25. People's Empowerment, Thailand

Background

FORUM-ASIA has confirmed that yesterday, at about 6 a.m., 50 officers from the Seoul Metropolitan Police raided the offices of the two main organizers of the rallies against the import of U.S. beef—the People's Conference Against Mad Cow Disease (People's Conference) and the Korea Alliance of Progressive Movements (KAPM).

FORUM-ASIA's member in Seoul—the People's Solidarity for Participatory Democracy (PSPD), a leading Korean civic group—is the secretariat for the People's Conference—an umbrella organization of some 1,700 civic groups nationwide.

However, the Lee Myung-bak administration has singled out KAPM, another civic group, as the mastermind behind protests related to the Korea-U.S. beef agreement.

Police took away 22 computers from the KAPM office and arrested Hwang Soon-won, who is also the director of People's Solidarity for Korean Progress (PSKP), who was there on night duty.

In addition to Hwang, police issued search warrants for eight other activists and arrested Ahn Jin-geol from PSPD and Yoon Hee-sook. Police also issued search warrants for Park Won-seok.

In a statement, the PSKP protested, saying “This is a plot and a political offensive by the Lee Myung-bak administration to put out candles by instigating an ideological debate.”

The PSPD expressed “regret” that police raided its offices, saying it is “a civic group that has made efforts to develop the civic movement since its founding in 1994.”

However, the government has vowed to deal harshly with protestors, threatened advertisers and tried to stall a general strike led by the Korean Confederation of Trade Unions (KCTU) slated for early July.

According to the authorities, the rallies were illegal and violent, and “Some protesters have made it a rule to trample government authority underfoot and assaulted reporters and blackmailed advertisers because they didn't like some newspapers' articles.”

They have also decided to begin an investigation of cyber terror, including threats against advertisers and circulation of false rumors, even if there is no criminal complaint from victims.

They vowed to deal harshly with the general strike to be staged by the KCTU on Wednesday, branding it politically motivated and illegal.

**Oral Statement Delivered at the Ninth Session of the
United Nations Human Rights Council
under Item 3**

(Geneva, September 12, 2008)

Thank you, Mr. President.

This statement is delivered by the Asian Forum for Human Rights and Development (FORUM-ASIA).

Ten years ago human rights defenders all over the world welcomed the adoption of the U.N. Declaration on Human Rights Defenders and hoped that this declaration will bring significant changes to their lives and work in promoting and protecting human rights on the ground. However, it is with regret that we report that 10 years after the adoption of the declaration not much has changed for human rights defenders in Asia. It is with deep concern that we note the increasing trend of restrictions on the right to freedom of opinion and expression of human rights defenders. Governments in Asia have increasingly used legislation to unduly restrict freedom of opinion and expression of human rights defenders in the region.

In Singapore, for instance, although the government has announced to relax its rules to allow outdoor demonstrations at the Speaker's Corner, there have been events this year that nevertheless underline a restrictive environment in which human rights defenders are not able to enjoy the freedom of expression and opinion and the freedom to be informed. In May 2008, a private film screening of *One Nation under Lee* was interrupted by representatives from the Media Development Authority who demanded that organizers of the screening hand over the film. They cited the Films Act which states that it is an offence to have in your possession or to exhibit or distribute any film without a valid certificate. This provision therefore makes almost all Singaporeans hosting private screenings of private events violators of the said act.

Meanwhile, in the Republic of Korea, we have gathered information that there are efforts currently being undertaken by the government to unduly tighten restrictions on freedom of opinion and expression of human rights defenders by including a proposed expansion of the law on criminal defamation to include information posted on the internet. We view this move by the government of the Republic of Korea as going against the growing body of jurisprudence being developed around the world which clearly shows a movement towards decriminalizing defamation to minimize its infringement of the freedom of opinion and expression.

Finally, in Sri Lanka, we bring to your attention the plight of a human rights defender, Mr. Jayaprakash Tissainayagam, who has been imprisoned since March 7, 2008, under the Emergency Regulations Act. There were no reasons given for his arrest, but Mr. Tissainayagam is known to be a columnist who recently wrote about child recruitment in the government-controlled eastern part of the country.

The right to freedom of opinion and expression is especially important for human rights defenders because it is this right that allows them to speak the truth, to promote

the principles of human rights and to access information so that they may be able to protect victims of human rights violations. Violations of this right lead toward further violations of other rights, such as the right to be free from arbitrary arrest and detention, the right to a fair and speedy trial and the right to life.

We therefore urge all Asian governments to make this year significant for human rights defenders in Asia by taking steps to implement the U.N. Declaration on Human Rights Defenders and to ensure that the right to freedom of opinion and expression of all human rights defenders are promoted, respected and protected.

ANNEX VI.

**List of
Online Videos of
Candlelight Vigils in
South Korea**

May 26

<http://www.youtube.com/watch?v=ed1ZeM2lptk>

May 27

http://www.youtube.com/watch?v=_vKhXVnSngA

June 1

<http://www.youtube.com/watch?v=f7W1WNg032o>

June 29

<http://www.youtube.com/watch?v=RQadruZ4UT4>

June 29: Assault of a Journalist with a Video Camera

<http://www.youtube.com/watch?v=KtBXrA8whJQ>

June 29: Woman Assaulted with Police Batons;
Secretary-General of YMCA Beaten

<http://www.youtube.com/watch?v=jhZ0GuHwH0c>

June 29: How South Korean Police Use Their Batons and Shields

<http://www.youtube.com/watch?v=SXDerKoxZQU>

June 29: Medical Staff Attacked with Police Shield

<http://www.youtube.com/watch?v=nEE15HHNees>

August 15: 100th candlelight vigil;

Journalist and Cameraman Prevented from Filming

<http://www.youtube.com/watch?v=aebFegiCnio>

Disabled Woman Protester

<http://www.youtube.com/watch?v=YNb1wteSsmU>

Unidentified Dates

<http://www.youtube.com/watch?v=X-FNYXkQzoQ>

<http://www.youtube.com/watch?v=gbyk2rBlkGk>

<http://www.youtube.com/watch?v=GPwqIJ6Ld38>

<http://www.youtube.com/watch?v=EZ3Peq7lbyY>