

**AMNESTY
INTERNATIONAL**



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Dear President Park

On the occasion of the first anniversary of your inauguration, Amnesty International would like to urge you to focus your attention on a number of pressing human rights concerns. Amnesty International, as a worldwide movement of people who campaign for internationally recognized human rights to be respected everywhere, urges your administration to address these concerns to ensure respect for human rights for all in South Korea.

The death penalty: Amnesty International opposes the use of the death penalty in all circumstances and has welcomed the suspension of executions in South Korea, now in its 17th year. However death sentences still continue to be imposed. Comments made during your election campaign further raise concern that the death penalty is being seen as an effective measure to fight crime. The death penalty has not been shown to have any particular deterrent effect and only perpetuates the cycle of violence. South Korea should therefore take the final step of abolishing the death penalty and join the growing international consensus against the death penalty that was further demonstrated in 2012, when the plenary session of the United Nations General Assembly (UNGA) adopted the fourth resolution calling for the establishment of a moratorium on executions as a first step towards abolition of the death penalty.

Freedom of Association: The organization is concerned about the recent police raid on the headquarters of Korean Confederation of Trade Unions in response to a strike by railway workers on 22 December 2013. Four leaders of Korean Railway Workers' Union (KRWU) including the chair of the union were detained on 16 January 2014 for 'interference with business' which is a charge previously used in South Korea to deny workers' the right to freedom of association and the right to strike and were released on bail on 20 February 2014.

Amnesty International has previously noted that the South Korean authorities use vaguely worded clauses such as Article 314 of the Criminal Act (interference with business clause) and other laws – such as the Law on Assembly and Demonstration – to arrest trade union leaders exercising their rights. This is despite the repeated recommendation by the International Labour Organization (ILO) to the

South Korean government to refrain from using the interference with business clause to impose criminal punishment on trade union activists¹.

The right of freedom of association, including the right to form and join trade unions, was further undermined in a number of instances with the Ministry of Employment and Labour (MoEL) arbitrarily rejecting the registration of the Korean Government Employees Union on 2 August 2013. (This is the fourth rejection of registration - three times under the previous administration and this first time under your current administration). In addition the MoEL revoked the registration of the Korean Teachers Union on 24 October 2013 on the pretext that the union allowed dismissed workers to remain leaders or members of the union.

The right of association is recognized in Article 22 of the International Covenant on Civil and Political Rights (ICCPR) and Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), both treaties to which South Korea is a state party. Amnesty International has previously raised the concern that South Korea has not yet withdrawn its reservation to Article 22 as recommended by the UN Human Rights Committee and noted the Committee's view as expressed in General Comment No 24 that reservations must be specific and transparent, which does not appear to be the case for South Korea's reservations to the ICCPR.

Migrant workers: The 2012 "Measure for Improvement in Foreign Workers' Change of Workplaces and Prevention of Broker Intervention" and an amendment of the Employment Permit System (EPS) Act that allows only migrant workers under the EPS with no previous job change to renew their visas continue to put extreme pressure on migrant workers to stay with their original employers, even in the face of exploitative working conditions. Amnesty International's research has found that restrictions on changing jobs severely hinder migrant workers from raising abuses at work, such as late or non-payment of wages or benefits, inadequate safety measures, and physical or sexual violenceⁱⁱ.

National Security Law: Amnesty International has documented that detentions and prosecutions under the National Security Law (NSL) are being increasingly used as a form of censorship to intimidate and imprison people exercising their rights and publishing and distributing material deemed to "benefit" North Korea. The vaguely worded clauses of the National Security Law, in particular Section 7, continue to be used to suppress dissent and arbitrarily detain and prosecute individuals for peacefully exercising their rights to freedom of expression and association.

According to the Supreme Prosecution Office, the number of new NSL cases has continued to increase: 129 in 2013 from 112 in 2012. Even the number of detentions has increased: 38 in 2013 from 26 in 2012. The vast majority of the cases - more than 87 per cent - relate to alleged violations of Article 7. According to the National Police Agency, 90 of the 103 new cases from January to September 2013 dealt with Section 7 violations. In 2012, the corresponding number was 95 cases out of 109.

Amnesty International is also concerned about charges under Section 7 for praising/ propagating North Korean ideology that have been brought against members of the Unified Progressive Party and their effect on the on-going government request before the Constitutional Court to disband the party. In November 2006, following consideration of South Korea's third periodic report under the ICCPR, the Human Rights Committee (HRC) stated: "the Covenant does not permit restrictions on the expression of ideas, merely because they coincide with those held by an enemy entity or may be considered to

create sympathy for that entity.” The HRC expressed concern that prosecutions continue to be pursued, in particular under Article 7 of the NSL and reiterated that the restrictions placed on the freedom of expression did not meet the requirements of Article 19, Paragraph 3. In this light, the government must ensure that the right to freedom of expression is stringently upheld in any procedure to disband a political party and in any legal actions against a party’s individual members (CCPR/C/KOR/CO/3, Para18).

Conscientious Objectors: Every person has the right to refuse to perform military service on the grounds of conscience or profound personal conviction, without suffering any legal, physical, or administrative penalty. The UN Human Rights Committee believes that such a right can be derived from Article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief (CCPR/C/21/Rev.1/Add.4, Para11). Yet in South Korea there are approximately 700 conscientious objectors in prison. The UN Human Rights Committee, in four cases covering approximately 500 conscientious objectors in Korea, has stated that the criminal prosecution of conscientious objectors, in the absence of any provision for them to carry out alternative non-military service, violates those individuals’ rights under Article 18 of the ICCPR.

Arms Trade Treaty: In June 2013, Amnesty International welcomed the South Korean government’s signing of the Arms Trade Treaty, regulating the international trade in conventional arms, from small arms to battle tanks, combat aircraft and warships. However until the necessary changes to national legislation are made, there remains the risk that conventional arms or other equipment can be exported to other countries where this equipment can be used to commit or facilitate serious violations of international humanitarian or human rights law. While the organization welcomed the government’s announcement in January 2014 that it would halt shipments of tear gas to Bahrain, only ratification of the Arms Trade Treaty and its incorporation in national law can assure that arms do not fall into the wrong hands.

Amnesty International is concerned about reports that a South Korean company may imminently be supplying Turkey with a substantial quantity of tear gas canisters and other less lethal weapons used for riot control, particularly given the grave human rights situation in Turkey where the police have used abusive and arbitrary force against peaceful protestors across the country.

Absence of genuine consultation: Amnesty International has also been closely following the KEPCO project to transmit electricity from Busan power station to Seoul through 69 765kV power transmission towers and 39.15 km long power lines passing through or in close proximity to five villages in Miryang in the south east. The villagers claim that consultation in 2005 prior to government approval of the project in November 2007 did not involve those most directly affected and did not provide sufficient information for them to participate effectively.

The villagers have a right to full and timely disclosure of information on how the proposed transmission towers will affect their human rights. In addition, risks to the population should be identified through an inclusive process with villagers and take their views and their knowledge into account. An independent and impartial human rights and environmental impact assessment of the proposed KEPCO project should be conducted and the findings made public.

In light of these concerns, the state's obligations to respect and protect human rights and your government's commitment to do the same, Amnesty International urges you to pursue the following recommendations:

- Immediately commute the sentences of all those under penalty of death to terms of imprisonment;
- Abolish the death penalty and sign and ratify the Second Optional Protocol to the ICCPR;
- Recognize the right of trade unionists and workers to organize and take part in legitimate and non-violent strike action without harassment or arrest, in accordance with their rights under international human rights law and labour standards;
- Take steps to ensure that trade unionists are able to exercise their rights to freedom of association, in accordance with international labour standards and withdraw reservations to Article 22 of the ICCPR;
- Withdraw the “Measure for Improvement in Foreign Workers’ Change of Workplaces and Prevention of Broker Intervention” and amend the Employment Permit System Act to allow greater flexibility for migrant workers to leave their jobs and find new employment, including removing restrictions and deterrents which are designed to stop migrant workers changing jobs; the requirement for employer’s permission to change jobs; and the time limit for finding a new job;
- Repeal or amend the NSL so that it conforms to international human rights law and standards and ensure it is not used arbitrarily or to harass and restrict the rights to freedom of expression, opinion and association;
- Ensuring that the law contain provisions for the recognition of conscientious objection and for a person to register his or her objection;
- If conscientious objectors are not entirely exempted from military service, ensure the availability of alternative non-punitive civilian service;
- To ratify and strictly implement the Arms Trade Treaty without delay, and pending the Treaty's entry into force, declare that the Republic of Korea will apply provisionally Article 6 and Article 7 (as provided for in Article 23 on Provisional Application), prohibiting the transfer of arms that could be used to commit or facilitate serious violations of International Human Rights Law and International Humanitarian Law.

- Halt the KEPCO project until a genuine consultation is undertaken and the risk assessment is completed, and ensure that those negatively affected receive adequate compensation or alternatives for their lost housing or livelihood.

Thank you for your consideration of this letter and I look forward to your reply.

Yours sincerely



Salil Shetty
Secretary General

ⁱ See for instance, International Labour Office, 365th Report of the Committee on Freedom of Association, Case 2828 (Republic of Korea): Report in which the Committee requests to be kept informed of developments, Complaint against the Government of the Republic of Korea presented by the Korean Confederation of Trade Unions (KCTU) and the Korean Public Services and Transportation Workers Union (KPTU); GB.316/INS/9/1, para570(i), available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_193260.pdf, accessed 18 February 2014.

ⁱⁱ See Amnesty International South Korea: Disposable Labour: Rights of migrant workers in South Korea, ASA 25/001/2009, October 2009 available at <http://www.amnesty.org/en/library/info/ASA25/001/2009/en>; 2010 Amicus Brief on the constitutionality of EPS Act Article 25(4)... ASA 25/002/2010, and (3) 2012 Public Statement ASA 25/004/2012