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**HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S
ATTENTION**

**Joint written statement* submitted by the Asian Legal Resource Centre (ALRC),
a non-governmental organization in general consultative status, and Asian Forum For
Human Rights And Development (FORUM-ASIA), a non-governmental organisation
with special consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[25 August 2008]

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

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=EZ3Peq7lbyY&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.”¹ 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, 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.² 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

¹ 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.

² Ibid.

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 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."³ 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

³ Paragraph 18, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

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.

Curtailed 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.
