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Ms. Catherine Fox Principi,
Secretary
United Nations Human Rights Committee
UNOG-OHCHR
CH-1211 Geneva 10
Switzerland

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**AMNESTY
INTERNATIONAL**



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RE: REPUBLIC OF KOREA- LIST OF ISSUES

Dear Ms Fox Principi,

I am writing to provide information to the United Nations (UN) Human Rights Committee (the Committee) in advance of the Committee's preparations to draw up its List of Issues for the fourth periodic report of the Republic of Korea, at the 113th session of the Committee, to be held from 16 March to 2 April 2015. I would be grateful if you would circulate this letter to the members of the Country Task Force.

This letter, together with the enclosed documentation, outline a number of issues of concern in relation to the Republic of Korea's implementation of the International Covenant on Civil and Political Rights (ICCPR), in particular in relation to Articles 6, 17, 18, 19, 21, 22 of the ICCPR.

Amnesty International intends to submit additional information to the Committee in advance of its consideration of the report submitted by South Korea at the 115th session.

1. ARTICLE 6 – THE DEATH PENALTY

Amnesty International acknowledges the suspension of executions in the Republic of Korea, now in its 17th year. The organization is however concerned, that as of December 2014, at least 61 people were still under death sentences. Amnesty International believes that the Republic of Korea should take the final step of abolishing the death penalty and join the growing international consensus against the death penalty that was further demonstrated in 2014, when the plenary session of the United Nations General Assembly (UNGA) adopted the fifth resolution calling for the establishment of a moratorium on executions as a first step towards full abolition of the death penalty, so as to meet the requirements of Article 6 of the ICCPR.

2. ARTICLE 17– ONLINE PRIVACY AND SURVEILLANCE

Freedom of expression and online privacy is increasingly a concern in the Republic of Korea. While media reports cite authorities insisting that they have no intention or ability to conduct large-scale surveillance of the public, KakaoTalk, one of the most popular mobile messaging applications in the Republic of Korea, said it had to stop complying with monitoring warrants since 7 October 2014 to

protect user privacy.¹ Amnesty International believes that it is important that the government of the Republic of Korea provides the Committee with information regarding current legislation and practices in monitoring communications through mobile messaging applications, including steps taken by the government to ensure that the right to privacy is protected, as stated in Article 17 of the ICCPR, as well as the resolution on *The right to privacy in the digital age*, passed in the 69th UN General Assembly in December 2014.

3. ARTICLE 18 – CONSCIENTIOUS OBJECTORS

At least 680 conscientious objectors to military service remained in prison as of December 2015. Amnesty International believes that the government of the Republic of Korea should ensure the availability of alternative non-punitive civilian service if conscientious objectors are not entirely exempted from military service. Moreover, a system of compulsory military service without special accommodation for those who are conscientious objectors because of their religious or other convictions or beliefs amounts to an unjustified interference with the right to freedom of thought, conscience, and religion or belief and is not compatible with international human rights law. See further *Amicus Curiae opinion submitted to the Constitutional Court of Korea* jointly by Amnesty International, Friends World Committee for Consultation (Quakers), the International Commission of Jurists, the International Fellowship of Reconciliation, and War Resisters' International, available at: <http://www.amnesty.org/en/library/info/POL31/001/2014/en>.

This Committee has also, as you are aware, in four cases, covering approximately 500 conscientious objectors in the Republic of Korea, 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.²

4. ARTICLE 19 – 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 to freedom of expression and association and publishing and distributing material deemed to "benefit" the Democratic People's Republic of Korea (DPRK). The restrictions placed on the freedom of expression do not meet the requirements of Article 19, Paragraph 3 of the ICCPR. See further *Amnesty International Report "The National Security Law: Curtailing freedom of expression and association in the name of security in the Republic of Korea"*, available at <http://www.amnesty.org/en/library/info/ASA25/006/2012/en>

Amnesty International is particularly concerned about charges under Article 7 of the NSL for praising / propagating North Korean ideology that have been brought against members of the Unified Progressive Party (UPP), as well as the recent ruling on the part of the Constitutional Court to order disbandment of the party. The Venice Commission of the Council of Europe, where South Korea is a member, states: "The prohibition or dissolution of political parties as a particularly far-reaching measure should be used with utmost restraint."³ The government of the Republic of Korea should be asked to provide information that shows any clear link between the UPP and attempts to overthrow the state or that shows the UPP to be a serious and real danger to the democratic order in the Republic of Korea or to the rights of individuals.

¹ See Yonhap news report, "Daum Kakao chief defies authorities", <http://koreajoongangdaily.joins.com/news/article/article.aspx?aid=2996169>; (accessed 24 December 2014)

² See *Yeo-Bum Yoon and Myung-Jin Choi v. Republic of Korea*, CCPR/C/88/1321-1322/2004, UN Human Rights Committee (HRC), adopted 3 November 2006; *Min-Kyu Jeong et al. v. The Republic of Korea*, CCPR/C/101/D/1642-1741/2007, HRC adopted 24 March 2011; *Cenk Atasoy and Arda Sarkut v. Turkey*, CCPR/C/104/D/1853-1854/2008 HRC adopted 29 March 2012; and *Jong-nam Kim et al. v. Republic of Korea*, CCPR/C/106/D/1786/2008, HRC adopted 25 October 2012

³ See *Guidelines on Prohibition and Dissolution of Political Parties and Analogous Measures*, adopted by the European Commission for Democracy Through Law (1999), Guideline 5.

5. ARTICLE 21 – FREEDOM OF PEACEFUL ASSEMBLY

Since the Sewol ferry accident in April 2014, more than 200 people have been arrested in police attempts to break up peaceful demonstrations expressing discontent about the government's response to the disaster.⁴ Police blockades of street rallies continued for months following the accident. Amnesty International is also concerned that some protesters have been injured due to massive blockage by the police as seen in demonstrations, while others may have been subject to practices such as photo-taking on the part for the police for profiling purposes. The practices of policing protests, in particular those that have to do with the profiling of protesters, violate international standards with regards to the right of peaceful assembly, as stated in Article 21 of the ICCPR.

6. ARTICLE 22 – TRADE UNIONS AND FREEDOM OF ASSOCIATION

Amnesty International has previously noted that the 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. Several trade union leaders, including Kim Jung-woo, former leader of the Ssangyong Motor branch of the Korean Metal Workers' Union, were criminally charged or even imprisoned for engaging in collective action and other legitimate union activities. See further, *Amnesty International, Demand release of trade union leader, urgent action*, available at <http://www.amnesty.org/en/library/info/ASA25/002/2014/en>

The Ministry of Labour and Employment also sought to deregister the Korean Teachers and Education Workers Union in 2013. The government claimed that it made such a move as the union had infringed a labour law that banned dismissed teachers from joining trade unions. The union however maintained that the action of applying for deregistration was politically motivated. The legal status of the union was later restored following an appeal of the decision, but the case is still under review at the Constitutional Court.⁵ Amnesty International is concerned that these practises limit trade unionists' exercise of their rights to freedom of association, in accordance with international labour standards. The Republic of Korea should also withdraw the reservation to Article 22 of the ICCPR.

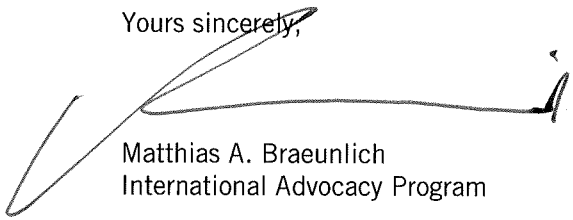
The Ministry also failed to take action recognizing the Seoul-Gyeonggi-Incheon Migrants' Trade Union (MTU), which has been in existence since 2005, even after a ruling from the Seoul High court in favour of the MTU in 2007 as well as the recommendation of the International Labour Organization Committee on Freedom of Association in 2014. This deprives undocumented migrant workers of their right to the freedom of association. Further, immigration authorities have arrested executive members of the union, some of whom were forcibly and arbitrarily deported. Details can be found in the Amnesty International report, *Bitter harvest: Exploitation and forced labour of migrant agricultural workers in South Korea*, available at <http://www.amnesty.org/en/library/info/ASA25/004/2014/en>

⁴ See news report, "Citizens arrested at Sewol candlelight protests.", http://www.hani.co.kr/arti/english_edition/e_national/637752.html (accessed 24 December 2014)

⁵ See news report, "Teachers' union regains official status, temporarily at least", http://www.hani.co.kr/arti/english_edition/e_national/656032.html (accessed 24 December 2014)

We hope that this information will be useful for the Country Task Force on the Republic of Korea in preparing the List of Issues, and do not hesitate to contact me should you need any further information.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, sweeping loop on the left that extends horizontally to the right, ending in a small vertical stroke.

Matthias A. Braeunlich
International Advocacy Program