

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders**

REFERENCE: AL  
KOR 4/2014:

31 July 2014

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 25/2, 24/5, and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **ban imposed on the Korean Teachers and Education Workers' Union (KTU), and possible disciplinary and criminal sanctions against some union members**. KTU was founded in 1989 and is today composed of more than 60,000 union members.

According to the information received:

On 24 October 2013, the Ministry of Employment and Labour declared that KTU was illegal because the union allowed nine dismissed teachers to maintain their union membership. The Ministry had allegedly previously ordered KTU to amend the union's by-laws which permit dismissed teachers to remain union members.

On 13 November 2013, KTU challenged the Ministry's decision on the grounds that its action infringed KTU's rights to freedom of assembly and association. In this connection, in 2012 the International Labour Office requested in a report that the Government repeal the provisions of the Trade Union and Labour Relations Adjustment Act which prohibit dismissed workers from maintaining their union memberships. In March 2014, the ILO reiterated its prior recommendation and urged the Government to end its interference with workers' organizations.

On 19 June 2014, the Seoul Administrative Court ruled in favour of the Government's decision. As a result, KTU lost its status as a lawful trade union, its office space and its government subsidized funding. The Ministry of Education

also ordered KTU officials who were on leave for union affairs to return to their schools.

On 10 July 2014, KTU appealed the decision of the Seoul Administrative Court before the Seoul High Court. The case is pending at the time of drafting this letter.

In addition, on 27 June 2014, some KTU teachers exercised their right of paid leave and joined nationwide rallies to peacefully protest the Ministry's decision. They also supported a newspaper advertisement denouncing Government mismanagement of the April 2014 ferry disaster called the "Declaration of the Teachers." The Ministry of Education then accused 391 teachers of violating the State Public Servants Act which prohibits the political and collective action of public servants, and is seeking discipline and criminal sanctions against them. KTU submitted a petition with the National Human Rights Commission on 16 July 2014 to challenge such accusations.

Concerns are expressed that the Ministry's decision to dissolve the KTU and the possible disciplinary and criminal sanctions against some union members may be linked to the exercise of their rights to freedom of opinion and expression, association and peaceful assembly. Further concerns are expressed over the prohibition of political and collective action by public servants for it hampers such rights.

In connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please indicate the legal basis of the ban imposed on KTU and the possible disciplinary and criminal sanctions against some union members. Please indicate how these measures are compatible with the below international human rights norms and standards.

We would appreciate a response within 60 days.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Frank La Rue

Special Rapporteur on the promotion and protection of the right to freedom of opinion  
and expression

Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst

Special Rapporteur on the situation of human rights defenders

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to refer to your Excellency's Government to articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), which guarantee respectively the right to freedom of opinion and expression, the right to peaceful assembly and the right to freedom of association.

We would like to further refer to Human Rights Council resolution 24/5 which highlights the States' obligation to respect and protect everyone's rights to assemble peacefully and associate freely.

We also wish to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders: article 5 (a), which provides for the right to meet or assemble peacefully, and article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms and article 6 points b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights.