

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the rights of persons with disabilities; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders and the Independent Expert on the enjoyment of all human rights by older persons

Ref.: AL KOR 1/2023
(Please use this reference in your reply)

26 April 2023

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the rights of persons with disabilities; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders and Independent Expert on the enjoyment of all human rights by older persons, pursuant to Human Rights Council resolutions 50/17, 44/10, 43/4, 43/16 and 51/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary restriction of the right to freedom of peaceful assembly of human rights defenders, principally older persons and persons with disabilities, protesting against the lack of government funding and accessible public infrastructure for persons with disabilities in the Republic of Korea. We also wish to raise our concerns regarding the reported verbal intimidation and harassment of protesters by security forces or public officials ahead or during demonstrations. We also raise concerns about the arrest and detention of protester and human rights defender Mr. Park Kyeong-Seok.

According to the information received:

Background

Since March 2001, the "Ride the Subway with People with Disabilities" campaign has raised awareness of discrimination against persons with disabilities in the Republic of Korea, including in education, employment, mobility, as well as deficiencies in public infrastructure and funding to improve accessibility and realize the right of persons with disabilities to live independently and be included in the community. The campaign arose in response to a fatal incident at the Oido subway station in Seoul in 2001, where two older persons with disabilities who were wheelchair users died after falling from a wheelchair lift at the station.

On 9 March 2001, the first demonstration of this campaign took place, during which several wheelchair users, including older persons, simultaneously boarded a subway train with inadequate wheelchair accessibility at a Seoul subway station. Due to the inadequate infrastructure, the demonstration caused delays in the subway service, and drew the attention of wider South Korean society to the barriers faced by persons with disabilities and the need to make public transportation more accessible. Since this initial demonstration, the subway-taking campaign has continued periodically and sporadically to

criticise ableist social structures in the Republic of Korea, as a form of protest, and to highlight the day-to-day obstacles faced by persons with disabilities.

On 3 December 2021, members of the Solidarity Against Disability Discrimination (SADD), a disability rights advocacy group, along with their supporters started conducting subway-riding protests on a regular basis. From 3 December 2021 to 2 December 2022, SADD conducted 47 subway-taking actions. The protests called for the Government to guarantee the rights of persons with disabilities to live independently and be included in the community, including through the proper allocation of public funding to ensure their rights. SADD has noted that the budget allocation in the Republic of Korea for persons with disabilities is 0.6 per cent of the total GDP, less than one-third of the OECD average of 2.02 per cent. The group held peaceful protests at subway stations in Seoul, boarding and disembarking trains in groups of approximately 20 people, predominantly comprising of wheelchair users including older persons, who chanted slogans and voiced concerns regarding Korean society's treatment of persons with disabilities and its demands for improvements. The Government did not respond to the demands of the protesters for more than a year after the start of this renewed campaign.

Court proceedings

In November 2022, Seoul Metro, a corporation owned by the Seoul Metropolitan Government that operates the subway in Seoul Metropolitan City, filed a civil lawsuit against SADD, claiming that the protest actions by human rights defenders were an “illegal act” based on the Railway Safety Act, including speaking to other citizens with a microphone, chanting and getting on to the subway one-by-one in order to delay the subway. The corporation claimed 30 million KRW (approximately 25,000 USD) in damages for seven protests held between January and November 2021.

On 19 December 2022, the Seoul Central District Court suggested a mediated agreement providing that, Seoul Metro would install elevators at 19 out of the 275 subway stations that do not have elevators by 2024, and that SADD would be required to pay 5 million KRW (approximately 3,800 USD) each time their protests would result in over five-minute delays to the subway traffic.

On 1 January 2023, SADD announced that they accepted the court's mediation plan and said they would not delay the subway operations by more than five minutes. The mayor of Seoul rejected this agreement, calling it “absurd to even think of delaying the subway by five minutes” claiming that “just a minute delay is a serious issue.” The mayor declared there would be “zero tolerance” for the campaign, stating Seoul will “strictly respond with all civil and criminal actions.” Seoul Metro rejected the court's mediation plan through a press release on 2 January 2023 and therefore a civil trial will be opened. The first trial hearing is scheduled on 18 April 2023.

2023 Budget

On 20 December 2022, the mayor of Seoul proposed a “truce” that would see SADD suspend its subway-taking campaign until the National Assembly passed the 2023 budget bill. SADD agreed to this proposal and suspended its

campaign.

On 21 December 2022, Seoul Metro affirmed that it would file another lawsuit against SADD if the group of human rights defenders restarted their protests.

On 24 December 2022, the National Assembly passed the budget for the rights of persons with disabilities, including access to mobility, education, the labour market and decision-making processes, allocating 10.6 billion KRW (approximately 800,000 USD) representing only 0.8 per cent of the total budget increase that SADD had requested to address the concerns of persons with disabilities, which was 1.3 trillion KRW (approximately 900 million USD). On 25 December 2022, SADD announced that it would resume its subway-taking campaign on 2 and 3 January 2023, in response to the insufficiency of funding allocation to address disability right. On 1 January 2023, the mayor of Seoul stated that citizens had shown extreme patience to the “socially vulnerable” group, but as mayor he could no longer tolerate what he described as “damage and inconvenience inflicted on ordinary citizens.” The mayor promised to take all legal measures to stop the protests, including stern action at the protest sites.

Recent protests

On 2 January 2023 at 8:00 a.m., approximately 250 disability and human rights defenders, including members of SADD, attempted to ride the subway at the Samgakji subway station in Seoul, near the office of the President of the Republic of Korea. The protesters planned to use the demonstration to call for sufficient budget allocation to address disability rights. However, on this day approximately 600 police officers from 10 units had been deployed to the Samgakji station to prevent the defenders from boarding the subway and from peacefully protesting. The police formed a human barrier to prevent the protesters from boarding, and reportedly contained and isolated the protesters for 14 hours in Samgakji station. Police officers also refused to unfold the “mobile safety footplates,” portable wheelchair ramps intended to assist users, including wheelchair users, in boarding subways given the gap between trains and platforms, hence blocking the protesters from boarding the subway train.

Access to the elevators at the station was also reportedly blocked, with a sign stating the elevators were “out of order.” The wheelchair accessible entrance door to the subway platform was also closed with a sign stating “Out of order. Under maintenance.” It is reported however that there is no record of the elevators or door being out of order. Police also reportedly used disproportionate force towards the protesters, including by violently pushing and knocking over protesters, and damaging electronic components of protesters’ wheelchairs. The actions of the police reportedly caused injuries to protesters, including bruising, abrasions, a mild concussion and a fractured finger bone. Police also kept using a loudspeaker every 20 seconds to warn the protesters to “stop the illegal demonstration” each time they tried to voice their concerns during the demonstration, holding the megaphone close to the face of protesters.

The Seoul Metro also obstructed the protest by having 13 subway trains pass through the Samgakji station without stopping. The corporation also sent out

text messages under its “disaster safety” system to all citizens of Seoul, Gyeonggi and Incheon areas stating “Subway line number 4 heading to Danggogae station are passing the Samgakji station without stopping due to SADD’s illegal subway-taking protests.” The disaster safety text message system is usually reserved for emergency situations such as extreme weather events, public health emergencies or other urgent and life-threatening situations. Seoul Metro also broadcasted a similar message in most subway stations in Seoul every five minutes over their public announcement system.

On the same day, Seoul Namdaemun Police Station held a press briefing to announce it had been investigating 29 disability and human rights defenders who participated in protests since January 2021 and sent 24 investigations to the Prosecution Office upon completion of investigations. It is reported that the allegations concern traffic obstruction and interference with business. The cases were reportedly sent to the Public Investigation Department of the Seoul Central District Prosecutors’ Office, a department that usually is dedicated to national security matters, while there is another department for legal matters arising from transportation or railway related events.

On 3 January 2023, approximately 70 disability and human rights defenders again attempted to hold a peaceful protest by boarding and riding the subway at Dongdaemun History and Culture Park and Seoul subway stations. Once again, more than 200 police officers, from three male police units and two female police units, were deployed to the stations in order to stop the peaceful campaign. The police officers reportedly blocked the subway doors with shields to prevent the protesters from boarding the subway, violently pushed and knocked over the protesters and blocked wheelchair users from using the elevator in the stations. The police held the protesters in the subway stations for six hours.

The Seoul Metro had placed a sign stating the elevators were “under safety inspection,” although reportedly, there is no record of such an inspection. Police officers also tampered with and damaged protesters’ electric wheelchairs, including by tampering with the joysticks, forcing them against their will to move in different directions by using the joystick or pushing the wheelchairs, and destroying the controls of wheelchairs or turning off their power source to immobilise them. Protesters were also prevented from properly voicing their concerns during the demonstration as the police and Seoul Metro officials again sounded warnings every 20 seconds when campaigners were trying to voice their concerns. They also interrupted their speech consistently by shouting into loudspeakers to stop what they qualified as “illegal” protest, threatening them of forced eviction and demanding them to immediately leave the station. Several subway trains also went passed the stations without stopping where the protests were held. The Seoul Metro also claimed the protesters were violating the Railway Safety Act, although reportedly there are no legal restrictions on holding peaceful assemblies in subway stations.

During the protests on 2 and 3 January 2023, at least 15 protesters were injured due to the force used by police officers. Furthermore, the cost of repair for the wheelchairs damaged by the police on these days of protest were incurred by the individuals affected and SADD.

On 6 January 2023, Seoul Metro announced in a press release that it planned to file an additional civil lawsuit claiming damages of approximately 600 million KRW (490,000 USD) from SADD. The planned new lawsuit is in addition to the ongoing claim of 30 million KRW in damages; however, the new claim has not reportedly been delivered to SADD yet.

On 20 January 2023, to commemorate the death anniversary of the two older persons with disabilities who had died in 2001, SADD and over 300 disability rights defenders undertook their subway-taking campaign at Oido Station, Seoul Station and Samgakji Station on line four of the Seoul subway system. Hundreds of police officers and dozens of Seoul Metro employees were posted at each of these stations to prevent the disability rights defenders from boarding the subways and holding their peaceful protest. In the course of blocking the protesters from undertaking their protest, the police officers held them in the three stations for three hours. The Seoul Metro again obstructed the protest by having subway trains pass through these stations without stopping and made similar announcements in the subway stations concerning the protests as on 2 and 3 January 2023. After three hours, the protesters at other stations were allowed to board the subway to travel to Samgakji subway station where a press conference was planned to take place, but under the condition that protesters handed to the police their flyers and speaker equipment. After five hours, SADD informed the police that it had ended its actions for the day.

Response of political leaders

The reported responses of politicians in South Korea to the protests raises concerns as they appear to have denigrated and intimidated the protesters, as well as fostered resentment against them amongst the wider community. The intimidating rhetoric has also been matched by an alleged lack of progress to address the concerns raised by the protesters concerning the rights of persons with disabilities and governmental action for improved de-institutionalisation, accessibility, support and independent living.

In the spring of 2022, it is reported that Lee Joon-Seok, the then leader of the People Power Party, which at the time was the main opposition political party but is now in power, strongly criticized the protests, stating that the SADD is holding citizens “hostage.” The comments reportedly stimulated a social backlash against the protesters and their peaceful campaign, leaving the disability and human rights activists with serious physical and psychological trauma.

Arrest of Protest Leader Mr. Park Kyeong-Seok

On 15 March 2023, Namdaemun Police Station requested the Seoul Central District Court to issue an arrest warrant against Mr. Park Kyeong-Seok, a 63-year-old representative of the SADD and leader in the disability rights movement in the Republic of Korea. The police claimed that the arrest warrant was to be issued due to Mr. Park’s alleged “illegal activities” during the subway-taking campaign. The police claim that he had breached the Assembly and Demonstration Act, the Prevention and Control of Infectious Diseases

Act, the Road Traffic Act and the Railway Safety Act, and had caused disruption to business and traffic.

The police stated that the arrest warrant had been requested as Mr. Park had not responded to 18 requests to appear for questioning. Mr. Park had declined these requests due to the lack of accessibility at most police stations in Seoul. Mr. Park and SADD stated that he would comply with the requests for questioning if the Seoul Metropolitan Police Agency announced a plan for assessing and complying with the Act on the Guarantee of Convenience, Promotion of Persons with Disabilities, Senior Citizens, Pregnant Women and Nursing Mothers. The police refused on the grounds that they claim SADD is not legally registered to the Ministry of Welfare and is not registered as an organization that can carry out accessibility inspections on premises. On 16 March 2023, the Seoul Central District Court issued the requested arrest warrant.

On 17 March 2023, SADD held a press conference in front of the Civil Service Office of the Seoul Metropolitan Police Agency. At the press conference, Mr. Park said that the disability rights defenders who are participating in the subway taking campaign are not doing anything illegal. He continued by referring to the legal guarantees contained in the Constitution, the Universal Declaration of Human Rights, the Convention on the Rights of Persons with Disabilities and other national disability rights laws. After the press conference, the police arrested Mr. Park for the purposes of a 48-hour investigation and took him to Namdaemun Police Station.

On 18 March 2023, Mr. Park was urgently transferred to hospital due to worsening pressure sores while in investigative detention. After receiving brief treatment, he was returned to Namdaemun Police Station. The same day at around 8:15 p.m., Mr. Park was released. No charges have officially been filed against Mr. Park to date. He continues to be under police surveillance.

While we do not wish to prejudge the accuracy of the above-mentioned allegations, we are deeply concerned by the reported restrictions to the freedom of peaceful assembly and the excessive use of force against peaceful demonstrators, without seemingly a legitimate reason for such limitation. We are especially concerned by the use of apparent excessive physical force against these protesters, resulting in injuries, as well the physical damage and manipulation of wheelchairs.

Furthermore, we are concerned that either law enforcement, Seoul Metro or both entities reportedly made false claims that elevators at the subway stations were out of order or under maintenance in order to prevent protesters with disabilities, including older protesters, from accessing the protest site and from being able to leave the platform. This tactic would be considered discriminatory on the basis of disability, to prevent persons with disabilities from exercising their right to freedom of peaceful assembly and freedom of movement.

We are seriously concerned by the criminal and civil lawsuits being brought against disability rights defenders, including Mr. Park Kyeong-Seok, in response to their peaceful protests. On this point, we are also concerned that investigations into these cases, which relate to claimed transport-related infringements, have been sent by the police to a department of the Prosecutor's Office that is dedicated to national

security cases. Assigning such cases to this department may have a chilling effect on human rights defenders and the rights to freedom of association, peaceful assembly and expression.

We are also troubled by the anti-protester rhetoric voiced by leading political figures against these protesters, which appears to have provoked online and offline harassment of the protesters and against persons with disabilities more generally in the Republic of Korea. Such actions appear to be an attempt by the authorities and a publicly owned company to restrict the rights of these protesters to freedom of peaceful assembly, association and expression or in reprisal for having exercised these human rights.

Furthermore, we are deeply concerned by the reported lack of action and response by your Excellency's Government to effectively address the needs of people with disabilities in public transportation since the fatal accident in 2001 and the lack of implementation of its obligations under the Convention on the Rights of Persons with Disabilities. We are especially troubled by the lack of public infrastructure and accessibility measures to allow persons with disabilities, including older persons with disabilities, to live independently and participate fully in all aspects of life, on an equal basis with others, and the lack of public budget allocation to ensure these rights.

We are also concerned by the dismissive nature in which public officials have engaged with disability rights defenders on the human rights issues they have raised. There appears to be a lack of good will on the behalf of your Excellency's Government to properly engage and consult with disability rights defenders on these issues. We urge your Excellency's Government to properly engage with the protesters and more generally with persons with disabilities including older persons with disabilities, to ensure that their concerns are heard and that reasonable accommodations are made in line with the Republic of Korea's international human rights obligations, as well as the recommendations accepted or provided during the Universal Periodic Review (UPR) and the human rights treaty bodies review processes. During the last UPR in November 2022, the Committee on the Rights of Persons with Disabilities recommended the Republic of Korea to adopt a concept of disability that covered all persons with disabilities, ensuring that their characteristics and needs are recognized, and reorienting its disability assessment systems by replacing elements of the medical model of disability with principles of the human rights model of disability and establishing systems aimed at the assessment of legal and environmental barriers to persons with disabilities and the provision of the support and assistance necessary to promote the independent living of persons with disabilities and their full social inclusion. In this respect, we specifically wish to recall that your Excellency's Government is also required to raise awareness throughout society and foster respect for the rights and dignity of persons with disabilities.

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

We are issuing this communication in order to safeguard the rights of the above individuals from irreparable harm and without prejudicing any eventual legal determination.

As 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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the full list and details of all those being investigated on suspicion of criminal conduct or who have been charged with criminal offences as a result of their participation in the subway-taking campaign peaceful protests. Please provide information on the legal bases of the above-mentioned criminal investigations or charges and the legitimacy of these actions given international human rights standards.
3. Please provide the details, and where available, the results, of any investigation and judicial or other inquiry undertaken in relation to the above allegations of ill-treatment reported in the context of the protests, including the physical harm that disability and human rights defenders were reportedly subjected to during these protests. Please explain how you have ensured the investigations and inquiries were conducted in compliance with international standards.
4. Please indicate which measures have been or are being taken to ensure accountability for any possible unlawful acts by law enforcement officials committed while policing assemblies, including the alleged excessive use of force, notably at the commandant level.
5. Please clarify measures taken by the Government to implement the provisions of articles 9 and 20 of the CRPD, with a view to ensure access to transportation, on an equal basis with others, and that persons with disabilities can fully enjoy their right to mobility in the manner of their choice.
6. Please provide information on which measures have been taken to open avenues for dialogue with peaceful protestors and disability rights defenders to address their legitimate claims regarding the lack of accessible infrastructure and public budget allocation for the realization of the rights of persons with disabilities in the Republic of Korea.
7. Please describe the existing mechanisms and processes to ensure consultation with persons with disabilities in all decision-making processes and to address their concerns.
8. Please provide information on how the Republic of Korea is ensuring the country's population is informed and sensitized to the rights of persons with disabilities, including older persons with disabilities, and how it is ensuring that persons with disabilities are fully integrated into Korean society and able to live independently and be included in the community.

9. Please explain what measures have been taken to ensure that all human rights defenders in the Republic of Korea, in particular those working on disability rights such as Mr. Park Kyeong-Seok, can carry out their peaceful and legitimate activities without fear of [judicial harassment/violence], or other restrictions.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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

Gerard Quinn
Special Rapporteur on the rights of persons with disabilities

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Claudia Mahler
Independent Expert on the enjoyment of all human rights by older persons

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the international norms and standards applicable to the present case. We would first like to recall article 20(1) of the Universal Declaration of Human Rights which states that "[e]veryone has the right to freedom of peaceful assembly and association." We would further like to refer to articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by the Republic of Korea on 10 April 1990, which guarantee the rights to freedom of expression and opinion and freedom of peaceful assembly respectively. Article 21 states that "[t]he 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 Human Rights Committee further stated that "[a]rticle 21 of the Covenant protects peaceful assemblies wherever they take place: outdoors, indoors and online; in public and private spaces; or a combination thereof. Such assemblies may take many forms, including demonstrations, protests, meetings, processions, rallies, sit-ins, candlelit vigils and flash mobs. They are protected under article 21 whether they are stationary, such as pickets, or mobile, such as processions or marches" (CCPR/C/GC/37, para. 6).

We would like to remind your Excellency's Government the views expressed by the Human Rights Council noting that States must "refrain from imposing restrictions which are not consistent with paragraph 3 [of article 19 of ICCPR], including on discussion of government policies and political debate; reporting on human rights, engaging in peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups" (A/HRC/RES/12/16, para. 5(p)(i)). Moreover, the Human Rights Committee indicated that "restrictions on peaceful assemblies must not be used, explicitly or implicitly, to stifle expression of political opposition to a government (CCPR/C/MDG/CO/4, para. 51), challenges to authority, including calls for democratic changes of government, the constitution or the political system, or the pursuit of self-determination. They should not be used to prohibit insults to the honour and reputation of officials or State organs" (CCPR/C/GC/37, para. 49). The Committee also stated that if "the conduct of participants in an assembly is peaceful, the fact that certain domestic legal requirements pertaining to an assembly have not been met by its organizers or participants does not, on its own, place the participants outside the scope of the protection of article 21. Collective civil disobedience or direct-action campaigns can be covered by article 21, provided that they are non-violent" (CCPR/C/GC/37, para. 16).

The Human Rights Committee also made clear that the "recognition of the right of peaceful assembly imposes a corresponding obligation on States parties to respect and ensure its exercise without discrimination" and that specific "measures may sometimes be required on the part of the authorities. For example, they may need

to block off streets, redirect traffic or provide security. Where needed, States must also protect participants against possible abuse by non-State actors, such as interference or violence by other members of the public, counter-demonstrators and private security providers.” (CCPR/C/GC/37, para. 8 and 24). States must also “ensure that laws and their interpretation and application do not result in discrimination in the enjoyment of the right of peaceful assembly” including on the basis of disability (CCPR/C/GC/37, para. 25). In terms of restrictions imposed for the protection of the rights and freedoms of others, the Committee stated that “assemblies are a legitimate use of public and other spaces, and since they may entail by their very nature a certain level of disruption to ordinary life, such disruptions must be accommodated, unless they impose a disproportionate burden, in which case the authorities must be able to provide detailed justification for any restrictions” (CCPR/C/GC/37, para. 47).

We also wish to draw the attention of your Excellency’s Government to article 9 of the ICCPR, whereby everyone has the right to liberty and security of person, no one shall be subjected to arbitrary arrest or detention and no one shall be deprived of their liberty except on such grounds and in accordance with such procedure as are established by law. With reference to the jurisprudence of the Working Group on Arbitrary Detention, we wish to recall that the arrest or detention of individuals is considered arbitrary when it constitutes punishment for the legitimate exercise of human rights, such as freedom of opinion and expression, as well as peaceful assembly and association and participation in public affairs (see also CCPR/C/GC/35, para. 17). We also recall that a deprivation of liberty is considered arbitrary when it constitutes a violation of international law on the grounds of discrimination, including discrimination based on the status of an individual as a human rights defender.

In relation to the arrest of Mr. Park Kyeong-Seok, we would like to recall that the Independent Expert on the enjoyment of all human rights by older persons highlighted in her 2022 thematic report (A/HRC/51/27) that “although the right to personal liberty can be lawfully restricted, such limitation or denial should not be based on discriminatory grounds, including age or disability, or implemented through discriminatory procedures” (para. 9) and that “States must treat older persons with dignity during the entire duration of their detention and must take into consideration their specific needs with respect to their age, health and disability status. Those considerations are especially critical at every stage of the criminal justice process (especially pretrial, trial, sentencing, appeal and post-sentencing detention)” (para. 15).

We would further like to recall that the Special Rapporteur on the right to freedom of peaceful assembly and of association has stressed in a report (A/HRC/20/27), that States have a positive obligation under international human rights law not only to actively protect peaceful assemblies, but also to facilitate the exercise of the right to freedom of peaceful assembly. The Special Rapporteur also stated in a report that he “considers that “kettling” should never be a preplanned response used to avoid accountability from violations to the right to freedom of peaceful assembly. Such practices may also be particularly dangerous to persons in vulnerable situations, for example, children or persons with disabilities that affect their mobility” (A/HRC/47/24, para. 55). Moreover, in a joint report, the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper

management of assemblies stated that “failure to notify authorities of an assembly does not render an assembly unlawful, and consequently should not be used as a basis for dispersing the assembly. Where there has been a failure to properly notify, organizers, community or political leaders should not be subject to criminal or administrative sanctions resulting in fines or imprisonment (see A/HRC/20/27, para. 29). This applies equally in the case of spontaneous assemblies, where prior notice is otherwise impracticable or where no identifiable organizer exists” (A/HRC/31/66 para. 23).

Pursuant to the Convention on the Rights of Persons with Disabilities (CRPD), States are required under article 8 to raise awareness throughout society regarding persons with disabilities, to foster respect for their rights and dignity, and to combat stereotypes, prejudices and harmful practices relating to persons with disabilities. Further, under article 9, States must take appropriate measures to ensure that persons with disabilities have access, on an equal basis with others, to the physical environment and to transportation, so as to enable them to live independently and participate fully in all aspects of life. Additionally, article 20 of the CRPD, recognizes the right to personal mobility for persons with disabilities. Pursuant to the latter, States shall take effective measures to ensure personal mobility as independently as possible for persons with disabilities in the manner of their choice. Further, under article 21 of the CRPD, State parties shall ensure that persons with disabilities “...can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice...” Finally, under article 29 of the CRPD, States shall “Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs,” including by guaranteeing their participation in non-governmental organizations, and their right to form or join organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

Regarding persons with disabilities in detention, article 14 provides that “States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation.” Further, article 17 recognizes that persons with disabilities have the right to respect for their physical and mental integrity “on an equal basis with others.”

The CRPD Committee has recommended the Republic of Korea to “Reorient its disability assessment systems by replacing elements of the medical model of disability with principles of the human rights model of disability and by establishing systems aimed at the assessment of legal and environmental barriers to persons with disabilities and the provision of the necessary support and assistance to promote the independent living of persons with disabilities and their full social inclusion” (CRPD/C/KOR/CO/2-3, para. 6.b). In addition, the Committee recommended to your Excellency’s Government to “[...] strengthen and implement mechanisms for the effective involvement of persons with disabilities, through their representative organizations, in public decision-making processes, and ensure that meaningful consultations are held with the whole range of organizations of persons with

disabilities [...]” (CRPD/C/KOR/CO/2-3, para. 10). Further, the Committee recommended the Republic of Korea to amend national legislation to ensure mandatory accessibility of all buildings and structures (CRPD/C/KOR/CO/2-3, para. 20), and to review public transportation policies to ensure that persons with disabilities can use all types of public transport safely and conveniently (CRPD/C/KOR/CO/1, para. 18). Finally, the CRPD Committee recommended the State party to “Adopt a national strategy, in close consultation with and with the involvement of organizations of persons with disabilities, to raise awareness of and combat prejudices against persons with disabilities, and monitor its impact” (CRPD/C/KOR/CO/2-3, para. 18).

In its General Comment No. 5 (2017), the CRPD Committee also noted the link between accessibility and availability of transport to the right to independent living and being included in the community. In particular, it clarified that “all forms of transport must be designed in a way that accommodates the requirements of all persons with disabilities (para 59). Further, in General Comment No. 2 (2014), the CRPD Committee reminded that accessibility, including to transportation, is often a precondition for the effective enjoyment of various rights by persons with disabilities and that people with disabilities who have been denied access to transportation, among others, should have effective legal remedies at their disposal.

We would like 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;
- Article 6 (a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- Article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We would also like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human

rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.