

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

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(Please use this reference in your reply)

26 June 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolutions 52/4, 52/9 and 50/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **a lawsuit and ongoing criminal investigation against human rights defenders and bereaved family members associated with the Center for Military Human Rights Korea, including its director Mr. Lim Tae-hoon, in relation to their peaceful and legitimate human rights advocacy.**

The **Center for Military Human Rights Korea (CMHRK)** is a non-governmental organisation which monitors the human rights situation in the armed forces and works to protect and promote the human rights of military personnel in the Republic of Korea, through programmes such as suicide prevention, anti-discrimination campaigns, counselling for victims of sexual violence in the military and support to bereaved family members of individuals who have died in military service. The CMHRK also works to ensure that the military's activities are carried out in compliance with international humanitarian law and international human rights law, offering training to military personnel on such topics. Mr. **Lim Tae-hoon** is a human rights defender and director of the CMHRK.

The National Human Rights Commission of Korea (NHRCK) is the Republic of Korea's accredited National Human Rights Institution (NHRI). The NHRCK is comprised of 11 commissioners, of which four are elected by the National Assembly, four are nominated by the President of the Republic of Korea, and four are nominated by the Chief Justice of the Supreme Court before being approved by the President. In its October 2021 session, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions recommended that the NHRCK be re-accredited as an A-status NHRI. However, the SCA also noted that there was no formalised selection process used by the three nominating institutions and encouraged the NHRCK to advocate for the establishment of a single independent selection committee to ensure the independence of and public confidence in the senior leadership of the NHRCK.¹ We note that your Excellency's Government has not yet amended the NHRCK's Act specifying such a consistent and independent selection process as per the Sub-Committee's recommendations.

¹ https://www.ohchr.org/sites/default/files/2021-12/SCA-Report-October-2021_E.pdf, pp. 9-10.

According to the information received:

On 14 August 2023, the CMHRK filed a petition to the NHRCK to take urgent action to request the suspension of an investigation for insubordination and disciplinary action against a senior official of the Marine Corps' Military Police. The official had been in charge of a high-profile investigation into the death of a young marine during a search and rescue operation in Yecheon city in July 2023. They were relieved of their duties and charged with insubordination after they transferred the investigation material to the civilian police, despite the fact that this was standard procedure given the possible criminal allegations of negligence in relation to the young marine's death.

A special standing committee of the NHRCK was scheduled to take place on 18 August 2023 to discuss this urgent action. One of the Standing Commissioners and Military Human Rights Protection Officer of the NHRCK, [REDACTED], allegedly did not attend this meeting due to illness. Following this, Mr. Lim Tae-hoon spoke to journalists and suggested that the Military Human Rights Protection Officer deliberately did not attend the meeting and was being subjected to pressure from the Ministry of Defence not to properly investigate this case.

On 29 August 2023, the NHRCK's Sub-Committee for Military Human Rights Protection rejected the CMHRK's petition on the basis that the matter was not of urgency, nor did it require the immediate protection of victims. On 31 August 2023, [REDACTED] allegedly attempted to organise a mediation meeting between the official under investigation and the Ministry of Defence, but this meeting did not take place.

On 4 September 2023, [REDACTED] filed a civil lawsuit against Mr. Lim and the CMHRK for alleged slander and spreading false information about him in relation to the statements made to the media following the special standing committee on 18 August 2023. The lawsuit demanded a payment of KRW 50,000,000 (approximately USD 36,400), as well as the payment of legal fees. This case is still ongoing, and the trial is scheduled to take place on 11 July 2024.

On 5 September 2023, following the rejection of the CMHRK's petition of 14 August 2023, eight bereaved family members of deceased soldiers held a press conference outside the NHRCK's building and subsequently entered the building and made their way to the NHRCK's office to demand the resignation of three commissioners, including [REDACTED]. Nobody came to meet them and, after waiting in the lobby for an hour and a half, they left the building.

On 11 September 2023, another group of family members of deceased soldiers attended the NHRCK's 13th Plenary Meeting. They brought hand-held pickets calling for the resignation of the same three commissioners. They were demanded to leave the room after five minutes.

Ms. An Mija was one of the bereaved family members who attended the press conference on 5 September 2023. Ms. An is the mother of the deceased soldier who died in 2014 after being beaten and mistreated by senior soldiers. With

the assistance of the CMHRK, Ms. An and her family submitted the case to the Military Human Rights Protection Office of the NHRCK, as none of the commanding officers responsible for her son's death were investigated or brought to trial. Furthermore, her family's petition to the Presidential Truth Commission on Death in the Military to establish State responsibility was rejected on 6 February 2023, following six years of delayed investigation.

On 10 October 2023, [REDACTED] dismissed Ms. An's submission. Following this dismissal, bereaved family members of deceased soldiers and human rights defenders of the CMHRK held another press conference outside the NHRCK building on 18 October 2023, in order to denounce the dismissal of this case. Those attending this press conference and demonstration included human rights defenders of the CMHRK: Mr. Lim, Mr. Kim Hyungnam, Mr. Cho Kyusuk and Ms. Yun Sunjoo; as well as Ms. An, and the parents of other deceased members of the armed forces: Ms. Park Soonjung, Mr. Lee Juwan, Ms. Park Misug, Mr. Kim Gichel, Mr. Hwang Ohik, Ms. Cho Eunkyong, Ms. Lee Siloam, Ms. Sim Inoak and two others.

Following the press conference, they entered the NHRCK building and waited outside the Chairperson's office, chanting slogans for the gates to be opened and for the Chairperson to meet with them. After waiting in the hallway for approximately an hour, alongside a small number of police officers from the Seoul Jungbu Police Station, the Chairperson and Secretary-General of the NHRCK met with the gathered family members and human rights defenders. The meeting last for approximately an hour, after which time the gathered family members and human rights defenders left.

On 3 November 2023, [REDACTED] submitted a request for investigation before the Seoul Metropolitan Police in relation to the peaceful demonstration which took place on 18 October.

On 3 January 2024, Mr. Lim and one member of a bereaved family were summoned to the Seoul Jungbu Police Station. Another summons was received on 25 January 2024 and on 20 February 2024, all but two of the family members and human rights defenders who attended the peaceful demonstration on 18 October 2023 received summons to the Jungbu Police Station. Mr. Lim's interrogation took place on 6 March 2024. On 18 April 2024, the Jungbu Police Station sent the case to the Seoul Central District Prosecutor's Office.

The charges referred to the Prosecutor's Office were in relation to intrusion as a violation of the Punishment of Violences, Etc. Act. The other charges which the police investigated included intimidation, obstruction of the performance of official duties and false arrest by Mr. Lim. None of these charges were referred to the Prosecutor's Office on the grounds of a lack of evidence.

Without wishing to prejudice the veracity of the above-mentioned allegations, we express our serious concern at the lawsuit and ongoing investigation against members of the Center for Military Human Rights Korea, as well as bereaved family members of deceased soldiers, for exercising their rights to freedom of expression and peaceful assembly, as guaranteed under articles 19 and 21 of the International Covenant on Civil and Political Rights. We are further concerned that the targeting of

the CMHRK, Mr. Lim and the relatives of deceased members of the armed forces appear to be related to their peaceful and legitimate activities advocating for transparency in matters related to human rights in the armed forces. We also recall the Principles Relating to the Status of National Human Rights Institutions, also known as the Paris Principles, adopted by General Assembly resolution 48/134, which underline the pillars of pluralism, independence and effectiveness necessary for NHRIs to be able to fulfil their mandates to protect and promote human rights domestically.

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.

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 detailed information as to the current status of the ongoing investigation into Mr. Lim, other members of the CMHRK and bereaved family members and how the charges that they are facing are compatible with the Republic of Korea's international legal obligations.
3. Please indicate any measures taken to amend the National Human Rights Commission of Korea's Act to ensure an independent selection committee for the appointment of commissioners, as per the recommendations of the GANHRI Sub-Committee on Accreditation. Please also outline what measures have been taken by your Excellency's Government to ensure the pluralism, independence and effectiveness of the NHRCK in line with the Paris Principles.

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.

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

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

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

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

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the international human rights standards and obligations applicable to the same. We would like to draw particular attention 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 freedom of peaceful assembly.

Article 19 (2) of the ICCPR guarantees the right to freedom of expression, including the right to seek, receive and impart information and ideas of all kinds, either orally, in writing or in print or through any other media. Article 19 (3) outlines that any restrictions imposed on this right must be provided for by law and necessary for respect of the right or reputations of others or for the protection of national security or of public order (*ordre public*) or of public health or morals. We reiterate the principle enunciated in Human Rights Council Resolution 12/16, calling on states to refrain from imposing restrictions which are not consistent with article 19(3) of the ICCPR, including on reporting on human rights, government activities and corruption in government, peaceful demonstrations and expression of opinion and dissent.

Article 21 of the ICCPR guarantees the right to freedom of peaceful assembly. 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.

We would also 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.

In this connection, we would like to draw particular attention to the following provisions of the Declaration.

- article 5 (a) which guarantees the right to meet and assemble peacefully;
- article 6 (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; and

- article 12 (1) and (3) which provide for the right to participate in peaceful activities against violations of human rights and fundamental freedoms and for the right to be protected effectively under national law in reacting against, or opposing, through peaceful means, activities and acts, attributable to States that result in violations of human rights and fundamental freedoms.