



Republic of Korea

**Submission to the UN Universal Periodic Review
14th Session of the UPR Working Group**

Submitted 23 April 2012

Joint Submission by CIVICUS: World Alliance for Citizen Participation, and People's Solidarity for Participatory Democracy (PSPD). NGOs in General Consultative Status and Special Consultative Status with ECOSOC

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1. (A) Introduction

1.1 CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizen's freedom of association are threatened.

1.2 People's Solidarity for Participatory Democracy (PSPD) was founded in 1994 by activists, scholars and lawyers who had engaged in various democratic movements. PSPD is a civil organisation dedicated to promoting justice and human rights in Korean society through the participation of the people. It has been serving as a watchdog against the abuse of state power, working on socio-economic reform, protecting and promoting human rights and peace and disarmament issues. It has developed various activities to bring justice and democracy in Korean society including evoke public awareness through campaigns, filing administrative and public litigation and petitioning legislation.

1.3 In this document, CIVICUS and PSPD outline urgent concerns related to restrictions on civil society activities and the freedoms of expression, association and assembly in the Republic of Korea.

- Under Section B, CIVICUS and PSPD highlight concerns regarding the freedom of assembly
- Under Section C, CIVICUS and PSPD highlight concerns regarding the freedom of expression
- Under Section D, CIVICUS and PSPD highlight concerns regarding freedom of association
- Under Section E, CIVICUS and PSPD highlight concerns regarding deportation of foreign civil society members
- Under Section F, CIVICUS and PSPD make recommendations to the Government of the Republic of Korea

2. (B) Concerns regarding the freedom of assembly

2.1 Article 21 of the 1987 Constitution of the Republic of Korea guarantees the freedom of assembly and explicitly states that the "licensing of assembly and association shall not be recognised." Article 21 of the International Covenant on Civil and Political Rights to which the Republic of Korea is a party also guarantees the freedom of peaceful assembly. Between 2008 and 2012, several restrictions have been placed on the freedom of peaceful assembly through application of the Assembly and Demonstration Act as well as the Criminal Act.

2.2 Article 6(1) of the Assembly and Demonstration Act (Act) requires that any person who wishes to hold an outdoor assembly or demonstration shall submit a report to the competent police station with details regarding the planned event. According to the Article 8 of the Act, the police may ban an assembly or demonstration if it deems that it poses a direct threat to public peace and order. Violation of the ban can invite punishment of imprisonment of up to two years or a fine. Existence of this provision acts as a major impediment to the freedom of assembly and makes reporting assemblies and

demonstration as de facto permit system. Under this circumstance, the police can make arbitrary decisions on granting assemblies and demonstrations.

2.3 There are serious concerns regarding the restrictions on the freedom of peaceful protest with regard to the construction of a naval base in Gangjeong village in Jeju Island. The Ministry of Defence and the Navy of the Republic of Korea are enforcing the construction of a naval base at Gangjeong village without proper consultation with villagers which is creating a situation of conflict. The naval base construction at Gangjeong is being pushed under the name of a national project with violence being frequently employed. People in Gangjeong village have been protesting for years against the Government's violence and attempts to construct the naval base. As of 14 April 2012, 442 people were arrested and/or detained due to their actions against the construction of naval base.

2.4 In March 2012, two activists, Mr. Song Kyung-Dong, a poet and Mr. Jeong Jin-Woo, a member of the New Progressive Party were charged under the Act for holding an unlawful assembly despite the fact that they organized a peaceful assembly for solidarity in support of labour activist. In January 2011, Mr. Park Rae-gun and Mr. Lee Jong-hoe, two human rights activists, were handed out suspended sentences for their role in a 2009 peaceful protest in support of victims of a forced eviction in Seoul that resulted in fatalities. The two activists were charged with "organising an illegal assembly" and "blocking traffic" despite a March 2010 noting by the Constitutional Court that peaceful assemblies may result in traffic disruptions and activists should not be charged only because "blocking traffic" under the Criminal Code.

2.5 The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in his June 2011 report has highlighted the issue of lack of accountability of law enforcement officials for alleged use of excessive force against peaceful demonstrators.

3. (C) Concerns regarding the freedom of expression

3.1 Article 21 of the 1987 Constitution of the Republic of Korea guarantees the freedoms of speech and the press with an explicit prohibition on censorship. Article 19 of the International Covenant on Civil and Political Rights to which the Republic of Korea is a party also guarantees the freedom of expression and the right to hold opinions without interference.

3.2 In contrast to the Constitution and international law provisions, the National Security Act criminalises praising or encouraging "anti-state" groups. This blanket provision remains an impediment to freedom of opinion and expression. Additionally, the internet remains a highly restricted space and a number of internet users critical to the Government's actions have been harassed.

3.3 In February 2012, in an apparent case of restriction of the freedom of expression, Mr. Jeong-gun Park was arrested under the National Security Act for re-tweeting the message, "long live Kim Jong-il" from the North Korean government's official twitter account even though he claimed that his tweets were meant to ridicule North Korea's authoritarian leaders rather than to support them.

3.4 The internet remains restricted in the Republic of Korea on the grounds of national security and through the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc. (Network Act).. Technically, the Korea

Communications Standards Commission (KCSC) can request internet service provider to delete certain content that they find illegal. The KCSC's vaguely defined standards and wide discretionary power to determine what information should be deleted on the internet remain a matter of concern. The number of blocked websites under the National Security Act has increased from 2 in 2008 to 139 in July 2011 is another matter of serious concern.

4. (D) Concerns regarding freedom of association

4.1 Article 21 of the 1987 Constitution of the Republic of Korea guarantees the freedom of association. Article 22 of the International Covenant on Civil and Political Rights to which the Republic of Korea is a party also guarantees the freedom of association with others, including the right to form and join trade unions for the protection of his interests.

4.2 Unfortunately, in the Republic of Korea, serious concerns persist with regard to the denial of freedom of association to foreign migrant workers and discrimination with regard to their right to form trade unions. In relation to the Ministry of Labour's rejection of legal registration of the Migrants Trade Union (MTU), the Seoul High Court has ruled that the Republic of Korean Constitution and the Trade Union Law protect the right to freedom of association of all those who enter into an employment relationship as workers, including undocumented migrants. Despite the ruling, the Ministry of Labour continues to deny the MTU's legal status and on several occasions members of MTU have been arrested and deported.

5. (E) Deportation of Foreign Civil Society Members

5.1 Article 1 of the UN Declaration on Human Rights Defenders mandates that "Everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms." Nonetheless, in a number of instances, foreign civil society members have been prevented from carrying out advocacy activities in the Republic of Korea and made to leave the country.

5.2 Since 2010, the Government has extended its repressive arm to international human rights defenders and deported them based on vague grounds using the Immigration Control Act. International human rights defenders have been impeded from attending civil society conferences including the International People's Conference organised by Put People First!, the Korean People's G20 Response Action and have been prevented from undertaking solidarity actions on environmental protection in the country.

5.3 On March 18, 2012, Mr. Sato Daisuke from Japan who was supposed to attend the Asian conference on Nukes prior to the 2nd Nuclear Security Summit was also denied entry into the country at the airport. In the same month, Ms. Angie Zelter from United Kingdom and Mr. Benjamin Monnet from France were also deported due to their involvement and protest regarding construction of the controversial naval base in Gangjeong village in Jeju Island.

5.4 In April 2012, three environmental activists from Greenpeace – Mr. Mario Damato, Mr. Fung Ka Keung and Mr. Rashid Kang - were denied entry into the country and it is assumed that the Government wanted to prevent them from carrying out anti-nuclear energy campaigning activities. In November 2010, seven prominent Filipino civil society representatives were denied to enter the country at the airport as they planned to participate in the G20 Seoul People's Conference, the civil society counterpart to the

G20 Summit of the world's biggest economies. The apparent motivation for the deportation was to preempt mass protests during the G 20 Summit in Seoul.

6 (E) Recommendations to the Republic of Korea

6.1 CIVICUS and PSPD call on the Government of the Republic of Korea to create an enabling environment for civil society to operate in accordance with the rights enshrined in the ICCPR and the UN Declaration on Human Rights Defenders.

6.2 Regarding restrictions on the freedom of peaceful assembly

- The Assembly and Demonstration Act should be repealed / abolished or suitably amended to ensure that *de facto* restrictions on the freedom of assembly are removed
- Arrests carried out during public demonstrations should be properly investigated and law enforcement officials carrying out wrongful arrests should be brought to justice
- Law enforcement officers should be trained on the UN Basic Principles on the Use of Force and Firearms

6.3 Regarding civil society members and individuals detained for exercising their legitimate rights to freedom of opinion and expression

- All prisoners of conscience detained for exercising their freedom of opinion and expression should be unconditionally and immediately released and their sentences should be reviewed to prevent further harassment
- The National Security Act should be repealed / abolished to guarantee freedom of opinion and expression in line with the UN recommendations
- Restrictions on internet content should be removed to enable the freedom of information and expression

6.4 Regarding restrictions on the freedom of association

- Freedom of association for civil society groups including migrant workers association should be guaranteed. Instructions should be issued to ensure non-discrimination of foreign migrant workers' associations.

6.5 Regarding Deportation of Foreign Civil Society members

- The practice of deportation of foreign civil society members on vague grounds , impediments to their entry and legitimate activities in the Republic of Korea should be discontinued forthwith
- Cases regarding denial of entrance or deportation of foreign human rights defenders on unsubstantiated grounds should be properly investigated and a mechanism to prevent further arbitrary interpretation on the Immigration Control Act should be established

6.6 Regarding open invitation to the UN Special Procedures

- Extend standing invitation to the UN Special Procedures , particularly to the Special Rapporteur on Human Rights Defenders, Special Rapporteur on Freedom of Expression and Special Rapporteur on Freedom of Assembly and Association