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HUMAN RIGHTS COUNCIL  
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**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,  
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,  
INCLUDING THE RIGHT TO DEVELOPMENT**

**Written statement\* submitted by Korean Progressive Network "Jinbonet",  
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 May 2009]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

### **Violation of Freedom of Expression in South Korea since 2008**

- Korean Progressive Network “JINBONET” requests attentions from the Human Rights Council on violation of freedom of speech on the Internet since 2008.
- The number of Korean Internet users reached 34.82 millions in 2007. Internet users make up of 76.3 percent of the whole population. The Internet is a indispensable mean for expression.
- Deliberation by an administrative body on messages posted by citizens on Internet bulletin boards and deletion of them as results of such deliberation has happened routinely. The administrative deliberation<sup>1</sup> has been conducted by the Korea Communications Standards Commission (KCSC) which was established in 2008. The subject on-line service providers and the maintainers of bulletin boards are notified about the KCSC deliberation decisions are formally recommendations, but , if on-line service providers or maintainers reject to follow them, the Korea Communications Commission (KCC) can issue administrative orders to shut down the Web sites. Therefore, they almost never reject the recommendations. The followings are cases of such decisions and their results:
  - o In May 2008, KCSC recommended to “purify languages and refrain from exaggerated expressions” on the grounds that the message called the president “2MB” or a “sly person.”
  - o In July 2008, KCSC recommended to delete lists of advertiser on three major newspapers which had been friendly to the government. The lists were made by citizens who wanted to promote a boycott on the newspapers.
  - o In January 2009, KCSC recommended to delete a message that criticized remarks by the governor of Gyeonggi province colonial and requested him to step down from his office, on the ground that they defamed him.
  - o In April 2009, KSCS recommended to delete messages of an environmental activists criticizing “waste cement” on the ground that they defamed cement companies.
- In April and May 2008, public opposition to the government decision to lift ban on import of the U.S. Beef which had been believed to be exposed to “mad cow disease” risk kept growing and is expressed in mass candle light vigils. Related with the public protests, many citizens have faced criminal charges:
  - o In May 2008, the prosecution held an emergency meeting and announced it would prosecute anyone who spreads “ghost stories” about mad cow disease. The Ministry of Justice published a list of “10 frequently asked questions and answers about mad cow disease ghost stories” and identified Internet messages that say things like “products

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<sup>1</sup> KCSC decides the legality of messages under Article 44-7 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc., and Subparagraph (3) of Article 21 of the Act on the Establishment and Operation of Broadcasting and Communications Commission, and it reviews messages in terms of its harmfulness to juveniles and on grounds of any other subjects necessary to promote sound communication ethics under Subparagraph (4) of Article 21 of the Act on the Establishment and Operation of Broadcasting and Communications Commission.

made of cow including some cosmetics, hygienic bands and diapers may cause mad cow disease”, as ghost stories in that list.

- A teenager was prosecuted because he proposed a strike of students (refusing to attend schools) by posting messages on the Internet and through mobile text messages. The court found him not guilty at his first and second trials. The case is now in the Supreme court.
  - Citizens who proposed the candle light vigils on the Internet has experienced search and seizure in their homes and work places, and has been arrested, detained and prosecuted.
  - Citizens who posted a list of shop owners who claimed compensation for damages which incurred by the demonstration and made phone calls to the shop owners to criticize their legal action were arrested and prosecuted.
  - A citizen who posted a message expressing her emotion to kill the president on the Internet was investigated by the police.
  - Citizens who posted rumors such as raping and killing of citizens by the policemen during the violent crackdowns and arrests, were criminally charged on the ground of circulating fabricated stories. At the first trials of them, some of them were found guilty.
  - Related with the boycott mentioned above in paragraph 3(b), the maintainers of the the subject on-line community which lead the boycott have been banned from leaving the country, subjected to search and seizure, faced detention, and criminally charged. In February 2009, 24 of them were convicted at the first trials.
  - In October 2008, the fact that the government and the police had been routinely monitoring Internet messages and collected real name information of 700 to 800 posters was known to public.
  - A citizen who posted articles criticizing the government's foreign currency policy on Internet was arrested and detained with the charge of spreading fabricated stories, but he was found not guilty by the court at the first trial in April 2009.
  - In May 2009, citizens who were suspected to post messages criticizing the government on the Internet and bloat up the count of read of these messages were booked in criminal case by the police.
- Internet messages criticizing the president, the government party and the government-friendly mass media has been deleted indiscriminately on the ground of defamation. Such measures has been taken under the law<sup>2</sup> which provides that on-line service providers temporarily delete messages that become subject of complaints from persons who claim their reputation damaged by the messages, up to 30 days as a temporary measure. Such temporary deletion was applied to:

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<sup>2</sup> Article 44-2 of the Act on Promotion of Information and Communications Network Utilization and Information Protection, etc.

- messages containing a captured video of a television report which criticized the brother of the police chief, posted on a Internet bulletin board, on the request of the police, in May and July 2008.
  - a message which described a government party lawmaker “dead drunken and causing a nuisance” and included a link to the lawmaker's personal homepage, in October 2008.
  - a message that criticized the government party lawmakers and contained scraps from news reports in regard to the accident that evictee by a redevelopment project were burnt to death during the police tried to break up the sit-it strike of evictee, in April 2009.
  - many Internet messages criticizing violent methods used by the police to suppress the May Day demonstrations on the ground that they defame the policemen, in May 2009, .
  - Internet messages posted by some lawmakers of opposition parties and citizens criticizing a owner of a government-friendly newspaper based on the allegation that he had been treated with sexual intercourse, in April 2009.
- New legal provisions which violate freedom of expression and make it for investigation agencies to trace citizens' activities on the Internet easier were introduced.
- The mandatory Internet real name system was introduced based on a resident identification number system which gives a unique number to any citizen at his/her birth. In 2008, the government proposed a legislation to expand the scope of target Internet sites and the bill is being discussed in the National Assembly. Another legislation which forces to use real names to register and maintain Internet domain names passed the National Assembly in last April.
  - Other provisions in the same legislation mentioned in paragraph 6(a) provide that if an on-line service provider fails to take temporary deletion on request of victims, it shall be subject to a fine and on-line service providers have the obligation to monitor the contents of user messages.
  - The government party proposed a legislation with provisions that punish the crime of insulting a person on the Internet more heavily than the crime of insulting a person which is already provided in the criminal law and make criminal investigation be able to begin without complaints of the victims.
  - The government and the government party also proposed an amendment bill that forces all telecommunication service providers including network operators and on-line service providers to install communication interception facilities and retain communication-related activity logs of users for a certain period of time.
- Since 2008 when the current president sworn in, administrative control on Internet messages is getting tighter and the number of criminal prosecution cases against them has been increasing. It does not only violate freedom of expression of the subject message posters, but also it has a serious chilling effect on the general public in terms of the freedom of expression. In this regard,

the Korean Progressive Network “JINBONET” requests that the Human Rights Council urges the South Korean government:

- to abolish the administrative deliberation on Internet messages, which violates freedom of expression,
  - to stop criminal prosecution of Internet messages which criticize the president, the government or the government party, and also application of temporary deletion to them, and
  - to stop the legislation which violates freedom of expression or chills free expression.
- The Korean Progressive Network “JINBONET” also requests the Special Rapporteur of the Commission on Human Rights on the promotion and protection of the right to freedom of opinion and expression to visit South Korea and also UN Human Rights Council's special attention.

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