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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 the People's Solidarity for Participatory Democracy (PSPD), 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.

[14 February 2011]

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

Violations of freedom of opinion and expression and human rights in the Republic of Korea (ROK)

The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, expressed his concern that freedom of opinion and expression in the Republic of Korea (ROK) was intimidated under the Lee Myung-bak administration at the press conference closing his official country visit from May 7 to 17, 2010. However, the Lee administration has not stopped abusing its power to violate the people's right to freedom of opinion and expression.

PSPD with a special consultation status with the UN Economic and Social Council (ECOSOC), urges the Korean government to faithfully implement the provisions of the International Convention on Civil and Political Rights as a party. We also submit the following statement regarding the actual situations of freedom of opinion and expression in Korea on the sixteenth session of the UNHRC.

The infringement cases on freedom of opinion and expression in 2010:

1. Suppression of critical opinions against government policies by abusing 'defamation lawsuits'

The National Intelligence Service (NIS) brought legal actions for defamation against one of the prominent social figures, Mr. Won-soon Park, for having raised questions at his press interview regarding the inspection of private enterprises by the NIS. In relation to this, on September 15, 2010, the Seoul Central District Court ruled against the plaintiff because the national agencies should always be watched and criticized by people and the government cannot be admitted as a victim of defamation. There are other similar cases: the accusation of a blogger, Minerva for spreading false information, who became famous by predicting the financial crisis and criticizing the government's financial policies; the accusation of the Moonwha Broadcasting Corporation(MBC) TV program 'PD Notebook' for defamation because it criticized the US beef import policy allowing cows that may have been infected with a Mad Cow disease for endangering public health; the accusation of Dr. Sun-won Park and a representative of the internet press called Surprise, Mr. Sang-chul Shin, for defamation because he questioned the results by the civil-military joint investigation group of the Cheonan Warship Incident.

PSPD sent a report titled "The PSPD's Stance on the Final Investigation Report on the Cheonan" to the members of the UN Security Council on June 11, 2010. The report raised questions, in need of clarifications regarding the government investigation results, and called upon the UN Security Council to put the peace on the Korean peninsula as a top priority. NGOs' consultation and communication with the UN is rightly stated in the UN Charter, and NGOs just like individuals are guaranteed to exert freedom of opinion and expression. However, the ROK government and the ruling party denounced that PSPD's letter to the UN Security Council was inappropriate and not something an NGO should address. On June 16, 2010, the Prosecutor's Office initiated an investigation as to whether PSPD violated the National Security Law, which the UN previously recommended its abolition.

On January 5, 2011, the Korea Communications Standards Commission decided to take a disciplinary action on a TV program titled "A Mysterious Cheonan Warship, Has the Debate Been Finished?" produced by 'In-Depth 60 Minutes', a famous documentary program of Korea Broadcasting System(KBS) on November 17, 2010. The episode contained doubts and faults raised from the final report of the civil-military joint

investigation group. However, the Commission took a severe disciplinary action stating that the program had exaggerated doubts about the final report as if an attack by a North Korean torpedo itself was false.

On October 31, 2010, the university lecturer Mr. Park and Mr. Choi were prosecuted for having drawn rat graffiti on large G20 public posters posted over 22 central spots in Seoul. In the ROK society where a satire or a joke comparing the President Lee Myung-bak to "a rat" is well known, it was an excessive political behavior to prosecute artistic expressions such as the satire of the president and the G20 Summit.

2. Unlawful and comprehensive acquisition of personal information

It was revealed during the trial that the prosecution confiscated emails of Prof. Kyeong-bok Ju over the past 7 years when it investigated whether he violated the election law. Prof. Ju was a candidate for the superintendent of education of Seoul in 2008. In addition, the police seized telecommunication data including e-mails while it investigated Lae-geon Park, a human rights activist who spearheaded the fact-finding movement over the Yongsan Tragedy. However, neither the prosecution nor the police gave a prior notice of seizure, clearly prescribed in the code of criminal procedure. They further violated the law by ignoring a protocol of seizure and not making a list of the items to be confiscated.

Currently, investigation agencies including the police and the prosecution can comprehensively obtain the Internet users' personal information for investigation purposes pursuant to Clause 3 of Article 8 of the Telecommunication Business Act. The amount of cases of the acquisition of personal information following the investigative agencies' request was as many as 119,280 in 2008 alone.

3. Censorship of political expression by civil organizations over key election issues and policies

On April 26, 2010, the National Election Commission (NEC) released the guidelines under which NGOs and religious groups are banned from displaying and distributing brochures, posters, photos and documents dealing with key election issues, carrying out suppression on activities to express opinions on the issues. Accordingly, the NEC prosecuted civil groups for violating the prohibition of premature election activities, such as conducting campaigns 'for the free school meals plan' and 'against the four-rivers revampment project' during the local election of June 2010, over which trials are currently in process under the Public Official Election Act.

4. Illegal surveillance on civilians

It has been verified that the Public Ethics Office of the Prime Minister's Office conducted surveillance on civilians, confiscated accounting data of private companies, and abused its power by enforcing civilians to resign and asking the police to investigate based on illegally obtained data. The Office illegally inspected Jong-ik Kim for uploading anti-government video clips to his blog. Furthermore, the Office put unreasonable pressure on Kook-min Bank, which Kim had a business relationship with, enforcing him to resign. However, the prosecution concluded that it was committed independently by a single official from the Office.

It has been verified that the Defense Security Command, which is forbidden in principle from collecting information or conducting investigations on civilians, continuously conducted surveillance on those involved in the Democratic Labor Party and some civic groups. To be specific, while a captain from the Defense Security Command, identified only by his family name of Shin, was videotaping the strike rallies of the trade union of Ssangyong Motor in 2009, the demonstrators took his video camera and notebook

containing proofs of illegal surveillance on civilians. The court made a ruling on January 5, 2011 over the illegal surveillance of civilians by the Defense Security Command, which recognized the illegality of the state for the surveillance on civilians.

To promote the right to freedom of opinion and expression in Korea;

The freedom of opinion and expression diminished and endangered in various fields in Korea. To remedy the situation, first of all, state agencies must be prevented from filing reckless litigations with intent to block criticism on government policies and high-ranking government officials. Secondly, a criminal charge for contempt must be abolished since it has been misused to punish those raising criticism over public issues. Thirdly, administrative agencies must not censor the Internet postings; the authority is only held by the judiciary branch. Fourth, Clause 3 of Article 83 of the Telecommunication Business Act which enables public agencies to conduct unlawful surveillance on civilians and acquire private information must be discarded. Fifth, Clause 2(Temporary Measures) and Clause 7(Deliberation on Illegal Information) of Article 44 of the Act on the Promotion of Information and Telecommunication Network Use and Information Protection, which provide the legal grounds of censoring by the Korea Communications Standards Commission, must be revoked. Sixth, the regulations on the prohibition of premature electioneering prescribed in Clause 1 of Article 93 of the Public Official Election Act, which significantly restricts election participation and political expression by constituents, must be revoked as well. Lastly, unequal distribution of state resources due to the reason of objection to government policies must be prohibited.

PSPD expects the UN Human Rights Council to show special interest in these situations of the ROK so that a range of laws and institutions restricting freedom of opinion and expression can be amended or be abolished and to urge the government to protect freedom of opinion and expression.
