

Complement of the documents by National NGO Coalition for Establishment of NHRC

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REPORT 1

Not for the People!
Controversy over the Human Rights Bill
in South Korea

May 1999



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National NGO Coalition for Establishment of NHRC

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1. A Human Rights Bill for the People or the President?

Kwak Nohyun, professor of law at Korea National Open Univ. & Co-chair of the National NGO Coalition for Establishment of the NHRC

The government's Human Rights Bill, passed by the State Council on March 30th, 1999 has been provoking militant opposition from civil society and severe criticism from international society. On both the domestic and international stage, this bill has clearly disgraced both the government and the nation. A large number of civil human rights groups have expressed their collective opposition to the bill and are demanding its withdrawal. Thirty well-known and respected human rights leaders including Lee Donmyung, a senior lawyer have been also unable to conceal their dissatisfaction with the content and process of the bill; requesting that the government "refrain from presenting the bill to the National Assembly until it has been re-drafted after consultation with human rights groups." About 30 young human rights activists representing such groups have entered a week-long hunger strike and sit-in demonstration to protest the bill at Myongdong Cathedral in Seoul. In addition, many prominent international human rights organizations including Amnesty International have expressed the same sentiments as Korean human rights groups; namely that the maintenance of democratic and transparent procedures during the formulative process of the bill is just as important as the actual content of the bill itself. At a public hearing held by the Korean Bar Association on March 12th, many participants also expressed similar views, assessing the National Human Rights Commission (NHRC) as, at best an organization designed to provide the government with a "human rights alibi".

What are the reasons for these phenomena? The most obvious is the formulative and legislative process employed by the Ministry of Justice. When considering the historical background of human rights

in Korea, the very fact that this Ministry has taken and will take the leading role in drafting the bill and establishing the NHRC demonstrates a completely shameless interpretation of the past. It also lacks all political credibility. As it is well known, the Ministry of Justice (representing the prosecution forces responsible for former oppressions of human rights) has yet to recognize any of its former mistakes or repent for human rights violations in the past. Yet after the change in government, this same ministry is suddenly pretentious enough to become the standard bearer of human rights and the "rule of law" through drafting the above bill! This act can only invite cynicism from the Korean people. It is more appropriate for the Ministry of Justice to adopt an attitude of self-restraint for a considerable amount of time as long as the process of democratization remains unfinished; despite the designation of the Ministry as the leading department in administering human rights. If the Ministry of Justice had the slightest amount of respect for history and the Korean people, it should never have even considered taking the initiative in formulating the above human rights bill.

In fact, their course of action has been the exact opposite of what it should be. Firstly, on 25th September last year the Ministry of Justice abruptly announced a human rights bill without ever consulting the ruling party, other government ministries and human rights groups. The Ministry's aim in this was to further their own ambitions whilst protecting the status quo. The objective of completely controlling the commission was clearly expressed in the Ministry's first draft of the bill. The bill contained components that were originally drafted by the Ministry under the notorious dictatorship of Chon Doo-whan. As a result, the opposition of Korean human rights groups to the plan is entirely natural.

In fact the bill did not even receive the blessing of the ruling party and the Ministry had to revise it three times until it passed the State Council, though there have been a number of ups and downs in the process. The Ministry of Justice is now demanding recognition of its efforts in revising the original drafts, claiming that there has been a great improvement. However, an examination of the facts reveals a very different situation. Firstly, the lifeblood of any human rights institution is its independence, yet the

Ministry's brazen intention is to place the NHRC under its authority. In addition, the commission has been designated in the bill as a weak legal entity by the inclusion of numerous highly damaging articles. Opposition to these articles resulted in their revision, but in no way can these changes justify the Ministry's arrogant self-satisfaction. Praise of the Ministry under these circumstances would be like praising a criminal for not finishing crimes.

From the start, Korean human rights groups have consistently pushed for democratic participation and public consultation. They have also proposed that the government prepare together for the beginning of a new era in human rights, including the undertaking of a human rights campaign across the whole of Korea based upon the completion of a human rights bill that respected democratic procedures and participation. In this way, these groups had hoped that the bill would give hope to those who have been repressed or marginalized and lay the groundwork for Korea to clear its shameful name as a violator of human rights. These organizations have also appealed for Korea to become a model to those states making the transition to democracy. Only by realizing this can the minimum respect be paid to those who have suffered from human rights violations and to those who have struggled for human rights. Unfortunately, the human rights bill formulated by the government embodies none of these principles. It remains no more than a document created for the president by the bureaucracy from the viewpoint of the powers that be. Only the resolve of president Kim Dae-jung can ensure that it will ultimately become a document created for and by the Korean people.

(April 14, 1999 in Hankyureh daily Newspaper)

2. The Controversy over the National Human Rights Commission in South Korea

2-1. Problems of the Human Rights Bill as passed by the State Council

- National NGO Coalition for NHRC

2-1-1. Lack of democratic procedures in the formulation of the bill

In the process of formulating the bill, the Ministry of Justice only consulted very briefly with the new chief of the Policy Planning Committee (from the ruling party). On the other hand, the former head of the Policy Planning Committee (Kim Won-gil) and the chief of the Human Rights Committee (Lee Kee-moon), who were the driving force behind the bill, were reshuffled. As is evident from the falsification of the UN interviews by Park Joo-sun (Legal Advisor to the President), the Ministry of Justice tried to formulate the bill only through consultation with the ruling party. The final bill is therefore a product of closed-door negotiations between the ruling party and the Justice Ministry. Mary Robinson (UNHCR) has already emphasized that in order to establish the National Human Rights Commission (NHRC) a democratic and fair process is as important as the status of the Commission itself.

On March 10, Kim Won-gil (ex-head of the Policy Planning Department) and Lee Kee-moon (the chief of the Human Rights Commission) met with the NGO coalition and promised that the NHRC would be established openly through cooperation with civil organizations. However despite this undertaking, Chang Young-chul (the new head of the Policy Planning Committee) passed the bill a week after he was appointed without considering NGO opinions at

all. In fact, President Kim Dae-jung had instructed the Minister of Justice to meet the representatives of civil organizations to discuss the disputed articles of the bill. However, the Minister did not attempt to contact these organizations before presenting the bill to the State Council. In other words, the Minister ignored even the presidential order.

2-1-2. The NHRC will be an ineffective institution

A. Subordination to the Ministry of Justice

The NHRC is necessarily subordinated to the Ministry of Justice, despite assertions of independence contained within the final draft. However, upon examining the draft in detail it is obvious that the commission will simply be relegated to a supporting role for the Ministry of Justice. For example, according to Article 2.2 of the bill, the NHRC is to support state institutions in dealing with human rights. Also, Article 6 defines the Ministry of Justice as an organ undertaking human rights work; this places the NHRC in an assisting role via the Ministry. Furthermore, the Ministry of Justice has the power to monitor the NHRC's activities. According to Article 65 the NHRC must report its opinions, processes and decisions to the Minister of Justice, and the Ministry is entitled to make separate, comprehensive reports on the human rights situation. This clearly places the Ministry in a position to monitor the activities of the NHRC.

B. The Minister of Justice is entrusted with full power in establishing the NHRC

The problem of who has authority in the establishment of the commission is vital. According to the final bill, the Minister of Justice has the power to appoint the committee responsible for the establishment of the commission, thus placing the independence of the NHRC in danger. In order to ensure its independence, the formulative process should not be entrusted to the government. This committee should be appointed by the president cooperating with civil organizations and human rights experts.

C. Enactment of Presidential Decree is in the hands of the Minister of Justice.

On paper, it appears that the final bill protects the independence

of the NHRC through eliminating control of the budget by the Minister of Justice. However, at least 13 items dealing with the organization, process and methods of investigation of the NHRC are regulated by presidential decree rather than the bill itself. For example, the request, distribution and use of the budget is governed by presidential decree. These decrees are to be enacted and amended by the Ministry of Justice, and therefore there is a risk that they will be revised in order to further subordinate the NHRC to the government. Koreans know well the danger of abuse of presidential decrees, having experienced arbitrary government many times in the past. Therefore, the management and budget of the NHRC must be governed by statute in order to prevent possible abuses in the future.

D. Limited jurisdiction to investigate violations of human rights

According to the final bill, the NHRC can only investigate 8 kinds of violations of human rights. However, these are already considered as offences under the existing penal law; for example the infringement of one's life and personal liberty. The limited jurisdiction of the NHRC means that violations of freedom of expression, environmental, residential, educational and prisoner's rights can not be investigated by the Commission.

E. Veto Power

The government originally declared that one of the aims of the NHRC was to solve past human rights violations. However, according to the Article 48 of the final bill, the head of any organ under investigation can exercise a veto power over the commission if there is a perceived danger of the leaking of official secrets or the encroachment of privacy. The reasons for this veto power are not clearly indicated, which leaves open the possibility of its abuse. As a result, the NHRC will not be able to investigate politically sensitive cases; for example those involving suspicious deaths while in custody.

F. Lack of Effective Decisions

The NHRC only has the power to recommend in the case of a human rights violation. This is in contrast to the Fair Trade Commission, Labor Commission, and the Commission for Eliminating Gender Discrimination which all have the legal power to over those who violate the law. The Ministry of Justice has stated that the NHRC's power is sufficient for effective implementation of its functions, but this attitude is clearly illogical. The commission will remain powerless unless given the authority to punish those responsible for human rights infringements.

2-2. Chronology of the establishment of the NHRC

July 1993 : Establishment of the NHRC and Human Rights Law are suggested by South-Korean NGO coalition which participated in the UN World Human Rights Conference in Vienna

November 1997 : An announcement of election pledges by President Kim Dae-jung.

May 1998 : Amnesty International announces "the recommendations for establishing NHRC in Korea." (Amnesty International urges the Korean government to build an effective and independent NHRC).

17 September, 1998 : Establishment of NGO coalition consisting of 30 civil organizations, for purpose of establishing NHRC.

18 September, 1998 : Representatives of the NGO coalition meet with Park Sang-chun, the Minister of Justice (request for transparency and democratic process)

25 September, 1998 : Announcement of the draft law for human rights by the Ministry of Justice. NGO coalition and Korean Lawyers' Association criticize the draft law.

14 October, 1998 : The first meeting between the Ministry of Justice and the ruling party concerning Human Rights Law- due to difference of opinions, the consultation was broken off.

16 October, 1998 : The Ministry of Justice holds a public hearing.

19 October, 1998 : Meeting with Brian Burdekin, Special Advisor of UNHCR, who states that the draft law by the Ministry of Justice could not protect the independence of the NHRC.

23 October, 1998 : Amnesty International sends a public letter to President Kim Dae-jung and the Minister of Justice(which points out that the NHRC in the draft law by the Ministry of Justice lacks independence and effectiveness)

29 October, 1998 : President Kim Dae-jung holds a public meeting with representatives of civil organizations (President promised to formulate Human Rights Law which can protect people's rights).

5 November, 1998 : President indicates that the Human Right Law must be based on UN recommendations.

6 November, 1998 : An NGO coalition holds a public hearing for formulating the law of the Human Rights Commission.

27 November, 1998 : Ministry of Justice announces a revised draft law. NGO coalition and Amnesty International again criticize the lack of independence of the NHRC.

28 November, 1998 : Second consultation between the Ministry of Justice and the ruling party. It is again broken off because of the divergence of opinion.

8 December, 1998 : Twelve influential senior activists for democracy announce a proposal to establish an independent NHRC.

9 December, 1998 : President Kim Dae-jung holds a meeting with the ruling party, the opposition party and the Ministry of Justice. The meeting breaks down because of the difference of opinions. President indicates that the ruling party and the opposition party should make one draft law after consultation with civil organizations.

31 December 1998 : Kim Won-gil, the chief of the Policy Planning Committee holds a meeting with representatives of civil organizations : he promises to complete the establishment of the Human Rights Law by February. The ruling party agrees that the NHRC will be state institution.

- 26 January, 1999 : Park Joo-sun, the president's legal advisor goes to New York to hear the opinions of UN human rights experts. It is revealed later that he falsified a report which distorted the opinions of these experts. An NGO coalition urges the Minister of Justice to resign.
- 9 February, 1999 : Third consultation between the ruling party and the Ministry of Justice. Announcement of the second revised draft law. The consultation is broken off. An NGO coalition and Amnesty International again criticize the second draft law.
- 19 February, 1999 : Demonstration by an NGO coalition in front of the building of the ruling party (an NGO coalition urges the government to establish independent NHRC).
- 22 February, 1999 : Amnesty International makes an evaluation report of Kim Dae-jung's first year - demands the establishment of an independent NHRC.
- 24 February, 1999 : President Kim Dae-jung holds a press conference - He declares that the government will not adopt the draft law by the Ministry of Justice and that the Human Rights Committee will be an independent civil institution.
- 2 March, 1999 : A meeting with Lee Kee-moon, the chief of the Human Rights Committee- the NGO coalition request transparency in establishing the NHRC.
- 10 March, 1999 : Kim Won-gil, the chief of the Policy Planning Committee promises that the process for establishing NHRC will be transparent and that the ruling party will consult the civil organizations.
- 15 March, 1999 : Kim Won-gil, the chief of the Policy Planning Committee reshuffled; Chang Young-chul takes office as the new chief of the Policy Planning Committee.
- 22 March, 1999 : Consultation between the ruling party and the Ministry of Justice is held. The Ministry of Justice submits the

- third revised draft law. They agree on it after very brief consultation.
- 23 March, 1999 : The NGO coalition states the draft law by the Ministry of Justice ignores the opinions of civil organizations. The consultation makes a protest visit to the office of the chief of the Policy Planning Committee but it is unable to meet him.
- 25 March, 1999 : The president orders the Ministry of Justice to revise the draft law and take account of NGOs' opinions.
- 26 March, 1999 : The NGO coalition protests against the draft law passed by the consultation between the ruling party and the Ministry of Justice.
- 26 March, 1999 : The Ministry of Justice passes the bill in a State Council of vice-minister without revision.
- 29 March, 1999 : Members of Association for Families who lost their family members by Suspicious Deaths urge the government to establish a special law for investigating the suspicious deaths or to establish an independent and effective NHRC.
- 30 March, 1999 : An NGO coalition holds a gathering to push for greater independence and power for the NHRC.
- 30 March, 1999 : The Human Rights Law is passed by the State Council.
- 31 March, 1999 : Thirty influential senior human rights activists hold a press conference urging the withdrawal of the Human Rights Law.
- 7 April, 1999 : 34 human rights activists enter a hunger strike urging the withdrawal of the Human Rights Law and re-consultation NGO.

3. Activists Reject Undemocratic Human Rights Bill

3-1. The Human Rights Bill Must be Withdrawn! - Statement by 30 Human Rights senior activists -

March 31, 1999

We, the old friends and colleagues of President Kim Dae-jung, had great expectations after his inauguration; an event which represented the first peaceful change of government in fifty years. It appeared that Korea would finally emerge from its repressive past and become recognised as a world leader in protecting human rights and democracy. Therefore, we could not fail to take note of the government's proposal to establish a new human rights institution.

Even though we were concerned at the progress of the debate regarding these new institution, we deliberately refrained from excessive comment due to our trust in President Kim Dae-jung; he himself no stranger to state repression. However, after hearing that the draft Human Rights Bill was passed by the State Council our patience has turned into outrage. Now we believe it is time to speak out.

In particular, we take issue with the assumptions underlying the human rights bill. That is, we object to the designating of the Ministry of Justice as the institution with ultimate responsibility and authority for the protection of human rights. This situation is incomprehensible in light of modern Korean history. The Commission is designated as a "Special Juristic Person", which will inevitably result in the NHRC being subordinate to the Ministry of Justice. Such a commission will ultimately be a extremely weak one, and will prove incapable of protecting the weak and marginalised, let alone investigating previous violations such as suspicious deaths in custody.

We are also very concerned at the fact that the Korean people have absolutely no interest in, or hope for the establishment of the Commission. This attitude merely represents the way in which the law was drafted, revised, and compromised by the government and ruling party behind closed doors. It is incredible that only one public hearing was held to discuss this bill, and this fact has simply alienated the majority of the population from the government's initiative.

Despite the official position of the government, it is our firm belief that the Commission is nothing more than an empty political gesture. It is natural that such an institution has evoked cynicism amongst the Korean people even after several amendments to the bill. We had great hopes that President Kim Dae-jung would become recognised as a great leader in Asia for his work in promoting human rights. However, despite his "government of the people", the recently passed human rights bill merely gives us many reasons to doubt the sincerity of the government.

In conclusion, the faults of this state-engineered bill overwhelming outweigh the benefits. The speed and secrecy surrounding the formulation of the bill, and the way in which it was passed by the State Council cannot but fail to arouse the suspicion of the people. We strongly demand that the ruling party and government revise the bill in accordance with accepted democratic procedures and human rights standards.

Ko Young-goo, lawyer

Kwun Young-gil, representative of the Commission
for Establishment of Progressive Party

Kang Man-gil, honorary professor of history
at Korea Univ.

Kim Kwan-suk, clergyman

Kim Kum-soo, chief of Labour Society Institute

Kim Dong-wan, clergyman in KNCC

Kim Sang-kyun, clergyman

Kim Seong-hoon, catholic priest

Kim Sung-soo, bishop

Kim Joong-bae, co-representative of PSPD

Kim Jin-gyun, professor of sociology at National Seoul Univ.

Lee Young-hee, honorary professor of Hanyang Univ.
Park Soon-kyung, Doctor of theology
Park Jung-kee, representative of Youngnam Section
of Yugahyup & Park Jong-chul's father
Pakr Hung-kyu, clergyman in KNCC
Suh Young-hoon, co-representative of New Society Common
Good United.
Yu Hyun-suk, lawyer
Lee Don-myung, lawyer
Lee So-sun, co-chief of National Alliance for Democracy and
the Reunification of Korea, Chun Tae-il's mother
Lee Jae-jung, professor of Sungkonghoi Univ.
Lee Chang-bok, representative of National Alliance
for Democratic Reform
Lee Hae-dong, clergyman
Cho June-hee, lawyer
Choi Young-do, lawyer & representative of Lawyers
for a Democratic Society
Han Sang-bum, professor of laws in Dongkuk Univ.
Han Wan-sang, former professor & representative
of Korean Arirang United.
Ham Se-woong, catholic priest
Hong Kyun-soo, clergyman

3-2. We Oppose the Draft Human Rights Bill Proposed by the Government!

- Statement by 34 Human Rights Activists Entering Hunger
Strike in Protest

April 7, 1999

On March 30th, the State Council passed the draft human rights bill despite the opposing opinions of many human rights organizations. This bill is a political document made behind closed doors, and in reality is far removed from its stated aim of protecting human rights. Therefore, as activists who are very familiar with the actual infringements of human rights in Korea, we are beginning a hunger strike to protest against this bill.

In his inauguration speech, President Kim Dae-jung promised us a "society where human rights are respected". Such a society has always been the aim of generations of Koreans who have suffered, and as a result we were greatly moved by the President's words. However in order to achieve this kind of society, institutions dedicated to the effective protection of human rights are essential. Any such institution must be given the necessary authority and power to achieve its objectives, as well as being assured of independence from politics. Only when these conditions are guaranteed shall we see the end of the old repressive era of human rights violations.

Our expectation that the government would establish an effective institution has gradually turned into disappointment and anger. It is now clear that the public prosecutors responsible for the drafting of the bill were from the beginning not interested in protecting the human rights of the people. Rather, they sought to place the National Human Rights Commission under the authority of the Ministry of Justice, and when this was opposed by civil organizations they maneuvered to weaken its power in other ways. As a result, the commission established in the bill is ineffective in redressing infringements of human rights, and serves only as a political decoration for the current government.

As activists who are constantly dealing with the victims of human rights violations, we must evaluate institutions by their actual effectiveness. In the end, the most important issue is whether an organization is efficient in helping victims based on human rights law. This is why we cannot understand how the public prosecutors could be entrusted with the drafting of the national human rights commission. No Korean believes that the public prosecutors could possibly empathize with the poor and weak, and the victims of human rights violations.

Therefore, we believe that the government's draft human rights bill should be withdrawn. A process of consultation for the purpose of creating a new and effective human rights organization must be begun immediately. Only when these demands are met will a "society where human rights are respected" be realized, and we will continue our campaign until this has been achieved.

- 18 Human Rights NGO : Minkahyup Human Rights Group/ Buddhist Committee for Human Rights/ The Joint Committee for Migrant Workers in Korea/ The Research Institute of the Differently Aabled People's Rights in Korea/ People's Solidarity for Social Progress/ Chunbuk Solidarity for Peace and Human Rights/ Sarangbang Group for Human Rights/ PSPD (People's Solidarity for Participatory Democracy)/ KYPT (Korea Youth Progress Party)/ Catholic Human Rights Committee/ Lesbian & Gay Human Rights Federation. South Korea/ Korea Sexual Violence Relief Center/ Korean Women's Association United/ Korean Women's Association for Democracy and Sisterhood/ Korean Women's Hot Line/ International Politics & Economy Center of Korea/ KCDM (Korean Council for Democratic Martyrs)/ International Politics & Economy Center of Korea

- 34 Human Rights Activists including Suh Joon-sik (Representative of Sarangbang)/ Nam Kyu-sun(Chief Secretary of Minkahyup)/ Oh Chang-ik(Chief Secretary of Catholic Human Rights Committee)/ Cha Mi-kyung(Chief Secretary of International Human Rights Center in PSPD)

3-3. We demand that the government immediately withdraw its human rights bill

- Joint Statement of 130 Korean Lawyers -

Last March 30th, the State Council passed the human rights bill initiated by the Ministry of Justice. In protest, 34 activists belonging to 18 human rights organizations began a week-long hunger strike and sit-in demonstration at Myongdong Cathedral in Seoul. Unfortunately, one of these activists has already been taken to hospital after collapsing in the fifth day of the strike, adding even more urgency to the situation.

Regrettably, this state of affairs has been unilaterally brought about by the Ministry of Justice, as a result of its contempt for public opinion and its rejection of transparent procedures in the establishment of the National Human Rights Commission (NHRC). In reality, the actual content of the government's bill is completely removed from what we lawyers had expected; namely the establishment of a systematic, independent and effective framework for the solution of human rights problems.

3-3-1. The NHRC must be independent from the Ministry of Justice at all costs

According to the government's bill, the NHRC is to supplement the activities of state organs when dealing with human rights (Article 2.2), and the Ministry of Justice is designated as a state organ responsible for human rights work (Article 6). Therefore, the bill quite clearly defines the position and character of the NHRC as a subsidiary institution to the Ministry of Justice. In addition, the bill establishes an obligation for the NHRC to report to the Minister of Justice regarding all activities and operations of the commission (Article 65). In Article 6.2 the Ministry is given responsibility for coordinating the commission's work, and assigned the obligation of presenting a completely separate report to the President. Clearly, all of these statutes place the Ministry of Justice in a position to monitor and evaluate the operation of the commission.

This supervisory authority of the Ministry is inevitable as a result of the decision to establish the commission as a special body corporate. Accordingly, it is necessary to re-establish the NHRC in the form of a completely independent state organ in order to ensure its independence.

3-3-2. The process by which the NHRC will be established does not guarantee its independence

According to the government bill, the Justice Minister is responsible for recommending all members of the committee in charge of establishing the NHRC. The Minister's approval is also necessary for the initial articles of association of the commission (Supplementary article 7). In addition, 13 articles dealing with the operation and activities of the commission (extending over such areas as the method of investigation employed by the commission and the budget) are basically left to be regulated by presidential decree, which will be drafted by the Ministry of Justice. Leaving so much of the establishment process of the NHRC to the Ministry of Justice will deal a fatal blow to the independence of the commission.

3-3-3. The NHRC is not to be confused with investigative agencies.

Violations of human rights occur in various forms consistent with a changing society, yet at present, the judicial system acting alone is unable to provide effective legal relief for these violations. We therefore believe that the NHRC must be able to respond adequately to the changing reality of human rights.

However, an examination of the government's bill shows that the power of the commission to investigate reaches only those eight criminal acts already punishable under the penal code (Article 40.1) in addition to discrimination in the private sphere. This not only doesn't adequately reflect the concept of human rights in international law, but also indicates a mistaken interpretation of the

role of the NHRC as an investigative organ.

3-3-4. Abuse of the power to reject an investigation into human rights violations

According to the government's bill, the head of any organ under investigation by the NHRC can reject that investigation if there is a danger of; "obstructing a trial or investigation", "invading privacy or damaging reputation", "leaking secret material", and "threatening the national interest". (Article 48). These grounds for rejecting an investigation are extremely vague and abstract, moreover, the fact that the right of refusal is given to the very organs under scrutiny means that the actual investigative process of the NHRC is in danger of losing all meaning.

3-3-5. Limitations of the Commission's power to recommend

When an infringement has been proven, the NHRC is only given the authority to recommend relief measures and express opinions to the perpetrators of violations (for example the head of the organ under investigation). (Article 57) The government bill also specifies that before recommending such measures, the commission is to recommend agreement between the parties (Article 52) and to make other efforts to deal with the violation (Article 54). The NHRC is allowed to make recommendations in case agreement is not reached, or in case the problem is not solved. However, the effectiveness of this approach is extremely doubtful when considering that the commission must respect the parties' right of discretion in heeding the recommendations.

Fundamentally, the distortion of the commission's functions and procedures is attributable to the fact that its inception has been guided by the Ministry of Justice from the very beginning. In fact, the Ministry is one of the state organs most likely to violate human rights, and in the case of the NHRC being established should be the very first organ to be placed under investigation. The fact that the Ministry has held the leading role in creating the

commission means that the debate over its functions has been unable to develop satisfactorily. Rather, the attempt of the Ministry of Justice to weaken the NHRC's legal status and effectiveness is entirely understandable.

Since his inauguration, President Kim Dae-jung has made it clear many times that guarantee of human rights will become a central policy of the government. However, the Ministry of Justice (whose role should be to support such a policy) has merely attempted to block progress. Within the past year, the Ministry introduced "Oath to abide the law" as a prerequisite for release of political prisoners. Such a policy is a representative example of its attitude toward human rights. Also the Ministry has refused to legislate a special prosecutor system. In addition, the Ministry's disregard of the United Nations Human Rights Committee recommendation to revise the National Security Law is also indicative of their hard-line stance. Finally, the Ministry's rejection of the right of unemployed to join unions is notable; this is despite the agreement reached by the Tripartite Commission of Workers, Employers and Government. The Ministry's true attitude toward human rights can therefore be easily discerned from these and other cases.

We cannot help but be concerned about the Ministry's regressive policy. The human rights bill prepared by the Ministry of Justice was drafted in the same vein as their other policy initiatives; that with the aim of retarding progress in human rights protection. We lawyers therefore demand that the government immediately withdraw the bill, and establish a new framework for discussing the NHRC which ensures broad and representative participation.

4. An Interview with Amnesty International Asia Program Director, Rory Mungoven

1) Why should the National Human Rights Commission (NHRC) be independent of the Ministry of Justice?

A national human rights commission needs to be independent so that its investigations and other activities are not influenced by the government or other political parties. In South Korea the Ministry of Justice is supposed to oversee human rights protection, but in many cases it has been linked with human rights abuses. Under the model proposed by the South Korean government, we are particularly concerned that the Ministry of Justice will be in a position to influence the investigations and recommendations of the NHRC. A fully independent national human rights commission should have the power and authority to take action on human rights issues and to do so independently of the Ministry of Justice.

The Ministry of Justice has told Amnesty International that the NHRC will be independent. But assurances are not enough. The independence of the NHRC needs to be clearly defined in its founding legislation. To safeguard the NHRC's independence, it is important to look very carefully at its relations to government and other officials bodies, its sources of funding and its composition.

2) Even in countries which have established an NHRC, these institutions have not played a strong role in improving human rights. What are the most important principles in establishing an NHRC?

In recent years numerous countries have set up NHRCs. While some of them are ineffective institutions, others have made an important contribution to the protection and promotion of human rights.

In some countries the achievements and credibility of NHRCs have been undermined when they lacked sufficient resources or independence to conduct full and impartial investigations, when the conduct of security forces and government agencies have been excluded from their mandate and when governments have failed to take adequate action on their reports.

South Korea could avoid some of the problems experienced by other countries by ensuring that the new NHRC has adequate resources, that it is fully independent and that it has the widest possible mandate. The NHRC should also have the practical means to conduct full and independent investigations and a means of challenging government authorities who fail to act upon its recommendations.

Unlike many other Asian countries, human rights are slowly improving in South Korea and the government claims to be committed to human rights protection. This means that the international community expects a good human rights commission which will serve as an example to the rest of Asia. We will be extremely disappointed to see the current model adopted.

- 3) Considering the human rights situation in South Korea, why is it important to set up an independent NHRC? What can an NHRC do in a country which has gone through a recent transition to democracy?

There are many reasons why a strong NHRC would be good for South Korea. The country has a long history of human rights abuses, but provides little institutional protection for victims. There is also a low level of public awareness about human rights. A strong and empowered NHRC would be able to challenge laws and practices which violate international human rights standards; it would be able to offer a remedy for victims of human rights violations and to help raising public awareness about the full range of human rights, including economic, social, political and civil rights.

Like other countries which have recently made the transition to

democracy, South Korea does not have a history of independent institutions which can challenge state authority. Government authorities have strong powers, while the legislature is relatively weak. Laws and practices which originated at the time of military rule continue to be used. In this situation, special care needs to be taken to ensure that the NHRC's independence is fully secured.

The government has compared South Korea's proposed NHRC with that of other countries such as Australia. But such comparisons are misleading - Australia has a powerful legislature, strong institutions and a media which plays a key role in uncovering human rights abuses. South Korea is in a different situation and needs a NHRC which can operate independently and effectively in your own country's situation.

- 4) What is a positive working relationship between NGOs and the government in establishing a NHRC?

NGO should be included in the consultation process for the establishment of an NHRC and their involvement must be taken seriously. Experience in many other countries shows that NHRCs cannot function effectively without the cooperation, support and trust of civil society. International organizations like Amnesty International can make suggestions for improvement from the point of view of international standards, but human rights experts in South Korea are best placed to know what will work in the Korean context. This is why their involvement is so critical.

In South Korea the Ministry of Justice has clearly mismanaged the consultation process in its attempts to dominate the proposed NHRC. Amnesty International believes the government still has time to enact a good law, but must take into account the views of human rights NGOs who have made many good and reasonable suggestions. The NHRC will only be effective if it commands the respect of NGOs and the rest of civil society.

5) In your opinion what is the main problem in establishing the NHRC in South Korea?

We believe lack of effective consultation is the overall problem which has marred this process and led to the current situation. As an outside observer, we have felt throughout the past year that the Ministry of Justice has been very reluctant to give up its overall authority over human rights matters. This is a fundamental problem because the NHRC will never be able to function effectively without the support of the human rights community. The other main problem is the lack of independence of the proposed NHRC and its relatively weak powers.

6) Why is AI staging a campaign on South Korea at the moment?

Our campaign on South Korea is mainly focused on three areas: amendment or abolition of the National Security Law, the establishment of an independent NHRC and the improvement of workers' rights. We are campaigning now because we have long-standing concerns about this issues, but also because we see real opportunities for reform.

South Korea has a President who is committed to human rights protection and a government which claims to uphold universal human rights principles. As human rights improve in South Korea, we hope to see South Korea emerge as a country which takes a lead on human rights initiatives at the UN and in the Asia region.

We believe the country can and should take this leading role, but at the same time South Korea must remember that human rights protection starts at home.

5. Open Letters and Statements of Support Received from the International Community

5-1. AMNESTY INTERNATIONAL: OPEN LETTER TO PRESIDENT KIM Dae-jung

23 October 1998

In late September South Korea's Ministry of Justice published its draft "human rights act", including provisions for the establishment of a national human rights commission in South Korea.

Amnesty International believes the new commission could be an important institution for the protection and promotion of human rights in South Korea but is concerned that the legislation as currently drafted will not give the commission sufficient independence or powers to function effectively. The organization is also concerned that the legislation will be passed without adequate public consultation, particularly with non-governmental organizations (NGO). It is vitally important that the new institution complies with international standards and that it enjoy the trust and confidence of the human rights community in South Korea.

The following open letter from Amnesty International's Secretary General Pierre San to President Kim Dae-jung outlines these concerns, which he discussed with the South Korean Government during a visit to the country in September. The organization is also writing in more detail on this subject to the Minister of Justice.

International Secretariat, 1 Easton Street, London WC1X 8DJ,
United Kingdom

President Kim Dae-jung
Office of the President
Seoul
Republic of Korea

23 October 1998 Ref.: TG ASA 25/98.34

Dear President Kim Dae-jung, When you took office in February this year, Amnesty International welcomed the commitments you made to strengthen human rights protection and to establish a national human rights commission. National human rights institutions play a key role in the protection and promotion of human rights in many countries but it is vital that such institutions are independent, fully empowered and enjoy the trust and confidence of civil society, particularly the local human rights community. We are therefore extremely concerned that the government has produced a draft law which is seriously flawed and intends to secure its adoption of this law without adequate public consultation.

As a former victim of human rights violations, you know the importance of human rights protection to South Korea's development as an open and democratic society. The new national human rights commission could be a hallmark of your presidency.

But it is essential that the commission is a good and effective institution which commands the respect of organizations and governments, both in South Korea and throughout the world.

The draft legislation prepared by your Ministry of Justice does not in its present form conform to international human rights standards. It would result in a commission which lacks independence and investigative powers and does not have the authority to enforce its recommendations. It will also have a very limited mandate. If the legislation is adopted in this form, there is a serious risk not only of establishing a poor human rights commission but also of undermining the credibility of your human rights reform program.

Under the draft legislation, appointments of commissioners and

governors will effectively be controlled by the government and may include government officials. The law should ensure that the commission consists of men and women known for their integrity, impartiality and human rights expertise, and it should reflect the overall balance of society.

The draft envisages that the commission will only have the authority to investigate a narrow set "human rights abuses", limited to violations committed by law-enforcement personnel. A vast range of economic, social, political and civil rights do not appear to be covered by the act. Even the rights contained in the South Korean Constitution are not all covered.

The draft does not give the commission clear powers to review legislation to ensure its conformity with international human rights standards. It also fails to give the commission the powers it will need to ensure that state agencies cooperate with its work, to enforce its recommendations and to publish its findings without government approval.

The law offers human rights organizations who register with the Ministry of Justice, the benefit of state funds and the authority to raise public funds, but does not spell out the consequences for those organizations who do not wish to register. Amnesty International is opposed to several provisions of the law which appear to have the potential to curb the activities of independent human rights organizations.

My final point concerns the consultation process for the establishment of this commission, which has been neither open nor public. The draft law was drawn up by the Ministry of Justice in secret, without any consultation with human rights experts in South Korea. The draft law was made public in late September and there has been just one public forum to date.

In spite of criticism of the draft law from human rights organizations in South Korea, your government seems determined to have the act adopted by 10 December 1998. We understand the symbolic importance of this date and your desire to show the South Korean people and world that South Korea has developed into a country which respects human rights. But the content of the

law is the most important consideration and the international community will not be impressed by the establishment of a weak and ineffective human rights institution. We urge you therefore to allow more time for public debate about the proposed commission and to redraft the legislation, establishing a commission which is fully independent, empowered and has a broad mandate. In this way, you will leave an important human rights legacy for all South Korean.

Yours sincerely, Pierre San

Secretary General

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON
WC1X 8DJ, UNITED KINGDOM

5-2. AMNESTY INTERNATIONAL: PUBLIC STATEMENT SOUTH KOREA

AI INDEX: ASA 25/17/99
9 April 1999

Government proposal will set up a weak national human rights commission without proper consultation with civil society. As dozens of South Korean human rights activists stage a hunger strike in central Seoul, Amnesty International has written to President Kim Dae-jung urging him to consult civil society before agreeing on controversial new legislation to set up a national human rights commission.

Members of 18 human rights groups are currently on hunger strike at Myongdong Cathedral in protest at their exclusion from discussions on the establishment of the commission and the content of the proposed legislation to set it up. A draft law, agreed in mid-March by the Ministry of Justice and the ruling party, is likely to be submitted to the National Assembly this month, without proper consultation with South Korean human rights organizations and experts.

Amnesty International has repeatedly expressed its concern that discussions on the establishment of the new commission have been dominated by the Ministry of Justice which has sought to minimize its powers. The government's new draft legislation seems designed to set up a commission which lacks independence and has weak investigative powers over a limited range of violations.

Amnesty International has warned the government that a commission established without proper consultation is likely to be ineffective because it does not have the support of civil society. The organization also believes that the process for establishing the new commission has demonstrated a lack of transparency on the government's part.

In her letter, Amnesty International's Deputy Secretary General called for an assurance that the new commission will be established in full conformity with international human rights standards and that it will be fully independent of the Ministry of Justice. The current proposal seems destined to create a weak and ineffective institution which does little to enhance human rights protection in South Korea and will not win the support of the international community.

ENDS.../

AMNESTY INTERNATIONAL, INTERNATIONAL SECRETARIAT
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E-Mail: amnestyis@amnesty.org Web: <http://www.amnesty.org>

For further information, please contact the East Asia team, Amnesty International, on +44 171 413 5665

5-3. AMNESTY INTERNATIONAL:

OPEN LETTER TO PRESIDENT KIM DAE-JUNG

To : President Kim Dae-jung

From : Amnesty International

Date : April 9, 1999

9 April 1999

Dear President,

I am writing to express concern about your government's draft legislation to establish a national human rights commission. This draft, the main points of which were made public on 22 March, has been drawn up without consultation with human rights organizations and experts in South Korea. It may now be adopted by the National Assembly without allowing adequate time for public consultation. We are also concerned at reports that the new draft does not conform with international standards on the establishment of national human rights commissions.

On 22 March the Ministry of justice and the National Congress for New Politics are reported to have come to an agreement regarding the draft law and government officials stated that the new draft would be sent to the National Assembly in early April. Amnesty International is concerned that there is insufficient time or opportunity for human rights organizations in South Korea to comment on the new proposal. Your government appears to have withdrawn an earlier agreement to include non-governmental organizations in the drafting process for the new legislation.

Amnesty International urges you to ensure that civil society, including human rights groups and independent experts, are given adequate time and opportunity to comment on this new draft law.

Eighteen human rights organizations are currently opposing the new draft, and the fact that they have not been consulted about its

contents, by staging a hunger strike at Myongdong Cathedral in Seoul. We believe that South Korea's national human rights commission will not be able to function effectively without the support and cooperation of civil society.

The new draft law is reported to be very similar to the first draft, drawn up in September 1998. We are concerned that provisions of this draft, and the commission's legal status as a "corporate body", will not give it sufficient independence from the Ministry of Justice.

Amnesty International believes it is of critical importance that South Korea's human rights commission and to ensure that it has confidence of human rights organizations in South Korea.

We are also concerned to learn that according to the new draft, the commission will only investigate a narrow range of violations, that it will have weak investigative powers and that it will lack the authority to enforce its recommendations.

In February of this year, on the first anniversary of your administration, you emphasized the importance of a human rights commission which is fully independent and free from government influence. We are confident that you remain committed to upholding these principles. Amnesty International believes that South Korea could establish a human rights commission which is a powerful institution for the protection and promotion of human rights and a lasting testimony of your government's commitment to human rights reform. A weak commission which lacks independence and does not have the confidence of the human rights community will be ineffective and will not command the respect of the international community.

I look forward to receiving your response on the above concerns.

Yours sincerely,

Patti Whaley

Deputy Secretary General

5-4. Brief report from a meeting between Amnesty International and officials of the Ministry of Justice,

13 April 1999.

Three officials of the Ministry of Justice visited our office on 13 April 1999 to discuss South Korea's proposed NHRC. The three officials were Mr. Kwak Moo-keun (Director of the Human Rights Division), Mr. Lee Young-man (Prosecutor) and Mr Suh Chang-hee (prosecutor). Mr. Kwak spoke for the delegation throughout the meeting.

Mr. Kwak explained that the main purpose of his visit was to correct our misunderstanding about the draft law, which has now been submitted to the National Assembly. He referred to our letter of 9 April addressed to President Kim Dae-jung in which we had expressed concern about the lack of consultation on the new draft, about the lack independence of the proposed NHRC and about its limited mandate and powers.

Regarding the process of drawing up the draft law, Mr. Kwak said that there had been extensive consultation. He listed four public forums, six meetings between the MOJ and the ruling party, numerous TV and radio slots and extensive media coverage of the issue. He said the draft law had been revised three times and that the latest draft included many of the NGO comments. He gave us an English translation of the draft law. He said that we should listen to both sides of the argument, not just NGO.

Mr. Mungoven (Director of AI's Asia Program) reiterated AI's concern that the entire consultation process had lacked transparency. For example, until now neither the UN nor AI has received a copy of the draft legislation from the government. Although the Ministry of Justice may have felt the consultation was adequate, this was not the perspective of international and domestic NGO. We feel the government have mishandled the consultation process but could resolve this situation by talking with and listening to the NGO. He reiterated AI's concern that the NHRC will not be effective if it does not have the confidence and support

of South Korean human rights groups and civil society in general.

Mr. Kwak outlined the provisions of the draft law. He said the new draft was very different from the original. For example, the manner of appointing commissioners had been altered. He said the corporate status of the NHRC would give it effective independence from government influence while the status of state agency would leave it vulnerable to political influence. However, he said that the MOJ is responsible for human rights protection in South Korea so there will be links between the NHRC and the MOJ. The intention, however, is that the MOJ will not control the NHRC.

Mr. Kwak claimed that the commission would be able to publish its findings in an independent manner, without any influence from the MOJ. Its recommendations would be submitted to the MOJ as the agency responsible for human rights, but not necessarily before publication or submission to the President and others. He said main provisions covering the workings of the NHRC were included in the draft and would not now be promulgated by Presidential decree. He also claimed that the NHRC's mandate is very broad. Regarding investigative powers and powers to enforce its recommendations, he said those who refuse to cooperate can be fined. The NHRC can make recommendations, though they will not be legally binding. On some points, he said the draft law was modelled on laws from other countries, such as Australia.

Mr. Mungoven stressed that all legal systems are different and it is important to find a model for South Korea which guarantees the independence of the NHRC in practice. This independence must be written into the legislation. The NHRC should not be subject to other laws, such as corporate law or presidential decrees which can easily be changed. Mr. Mungoven expressed concern that the mandate and powers of the NHRC seem to be framed in terms of what is permissible under South Korean law, rather than international human rights standards.

Regarding comparisons with NHRCs in other countries, he stressed that the political and legislative systems in each country were different. For example, in Australia, the Ministry of Justice, the legislature and the media all play a different role to the same institutions in South Korea. South Korea needs a commission which

is appropriate for its particular situation.

In conclusion, Mr Mungoven said we would study the draft law presented to us with regard to international standards and AI's own standards for human rights commissions. He said AI could not endorse an NHRC which falls short of international standards, is not fully independent and does not have the support of civil society in South Korea. We would be staying in close contact with South Korean NGO and would continue to support their efforts to create a strong and independent NHRC. He again stressed that the NGO have presented reasonable proposals and are working to get the best possible NHRC. It is of critical importance that the government gains their confidence and trust in this process.

He also said that AI's views are presented in a spirit of cooperation and our wish to see a good NHRC in South Korea.

We also asked for information about proposed amendment of the National Security Law and in particular about a press report (in Far Eastern Economic Review) which said that the MOJ has set up a committee to look into a possible revision.

Mr. Kwak said no such committee had been formed but the government is now gathering public opinion on the basis of a survey / questionnaire which will be sent to all sectors of society. However, he said this is a controversial issue in South Korea, given the special circumstances and will take time. Meanwhile, he said that the rate of NSL arrests has fallen and special instructions have been sent to law enforcement authorities instructing them not to abuse the law.

Mr. Mungoven expressed concern about the continued use of the NSL and high expectations from the international community that the law will be reformed. He mentioned our concern about the continued pattern of arrests under Article 7 of the NSL and raised particular concern about the cases of 15 people held in the Youngnam Committee case, and about the cases of Ahn Jae-ku and Yu Rak-jin.

5-5. Statement on the Establishment of the National Human Rights Commission in the Republic of Korea

The draft Human Rights Law setting up a National Human Rights Commission is currently scheduled to be submitted to the National Assembly. On 30 March 1999, it was approved by the Council of Ministers in the midst of the strong opposition by human rights NGO in Korea. The draft law retains the earlier proposals of the government and the ruling party without substantial changes despite heavy criticism from the international human rights community, including Amnesty International.

The draft human rights law suffers from serious flaws in many respects. First, the proposed human rights commission lacks independence and effectiveness essential for its proper functioning. Its establishment as a corporate body will place it under the control of the Ministry of Justice and other state authorities.

Second, it has a very narrow mandate with limited powers and no authority to enforce its recommendations. And the manner of its composition is such that its impartiality will be seriously undermined.

Third, the participation of civil society in the making of the draft law has been completely excluded. The alternative proposal by the Korean NGO has been disregarded altogether. In this respect, we bring the attention of the Korean government to the following comment of the UN High Commissioner, Mary Robinson for Human Rights:

For those of you about to establish national institutions, let me underline the importance not only of the mandate and the legislative mechanism for creating a human rights commission but also the process of public consultation and transparency which should precede its creation. A national institution established hastily, without public understanding of its role and responsibilities, will be unlikely to succeed in its mission. - during her visit to South Africa in June 1998 -

The process of establishing a national human rights institution is a test case for the sincerity and will of the Kim Dae-jung government towards further progress for democracy and human rights in Korea. It also has wider implications for Asian countries and others as it may serve as a model for states in transition from authoritarian regimes to democracies after decades of gross human rights violations.

We, the undersigned, reaffirm the importance of public consultation and transparency as emphasized by the UN High Commissioner for Human Rights; urge strongly that the government withdraw the draft human rights law and make full consultation with human rights NGO concerned; and request the UN High Commissioner for Human Rights, inter alia, to provide the necessary expertise and technical assistance in order to ensure the establishment of a human rights commission in full compliance with the relevant international standards on the national human rights institutions such as the Paris Principles.

6 April 1999, Geneva

Asian Human Rights Commission
Association for the Prevention of Torture(APT)
Franciscan International - Geneva
Pax Romana - ICMICA
Robert F. Kennedy Memorial Center for Human Rights(RFK)
World Organization Against Torture(OMCT - SOS Torture)
International League for the Rights and Liberation of Peoples
African Association for Defense of Human Rights
The Voice of the Voiceless for Human Rights
Federation Internationale des Ligues des Droits de l'Homme
South Asia Human Rights Documentation Centre(SAHRDC)

6. Summary: Draft of Human Rights Act

Chapter I. General Provision

Section 2. Basic Policies

① For the achievement of the purpose this Act prescribed in section 1, it shall be the basic policy of this Act to make the following matters into effect and the government shall be principally responsible for implementation of such policies.

1. education and advertising campaign for improving community awareness and acceptance of human rights,
2. improvement of the laws, regulations, systems, policies, practices related to human rights,
3. immediate investigation of the human rights infringement cases and remedies thereof.
4. other adequate measures to protect and promote human rights

② Human Rights Commission shall oversee and complement activities of government pursuant to subsection ①

Chapter II. Duties and Roles of State departments and agencies in Human Rights Protection

Section 6. Duties of Ministry of Justice

- ① The Minister of Justice shall do as follows :
1. establishment of general and comprehensive plan for human rights protection an implementation thereof,
 2. coordination between state departments concerning human

rights protection.

2. support for the operation of Human Rights Commission.

4. cooperation of human rights organization and any individual who works for the human rights protection and promotion.

② The Minister of Justice shall report to the President annual human rights analysis report which analyzes each year's situation of human rights by gathering the recommendation, accusation or commission of criminal investigation, result of redress result etc. and designs the improvement until 31 May, next year.

Chapter III. Prohibition of Discriminatory Act

Section 8. Prohibition of Discriminatory Act

Without reasonable cause, anyone shall not do something which falls within following...any act which is more preference...adversity to any person...by reason of sex, religious belief, age, disability, social status, educated school, regional or national or ethnic origin, physical condition including appearance, marital status, family status, political opinion, race of color of discrimination.

Chapter IV. Human Rights Commission

Section 14 Articles of Incorporation

① the Articles of Incorporation shall contain as follows:

1. objectives,
2. name,
3. provisions concerning principal office and regional office,
4. provisions concerning functions and its implementation
5. provisions concerning budget and audit,

6. provisions concerning Sub-Committee,
7. provisions concerning Secretariat,
8. provisions concerning the Commissioners and officers and staffs,
9. provisions concerning amendment of the Articles of Incorporation,
10. provisions concerning the enactment and amendment of by-laws,
11. And otherwise, things prescribed by the ordinance of President,

② When two-thirds numbers of present member of The Commission decides. The Commission may change the Articles of Incorporation.

Section 20. Submission of Annual Report

① The Commission shall, within end of March, transmit to the President of Republic of Korea (hereafter it will be referred to "the President") and the Congress a report about the exercise of its function under this Act during last year and present it to the Minister of Justice.

② The Commission shall publicize the report pursuant to subsection ① to public

③ The Commission may produce special reports to the President and the Congress if it is the opinion that the special reports to the President and the Congress if it is the opinion that the special report is needed. In such case, subsection ①, ② are applied.

Section 21. Membership of Commissioner

① The commission shall be composed of 9 Human Rights Commissioners (hereafter it will be referred as "Commissioner"), including the Chief Commissioner, and 4 Commissioner shall be standing Commissioner.

② The Commissioner shall be appointed by the President among the persons who are recognized socially as having the sufficient experience and insight for the human rights.

③ Three commissioners shall respectively be appointed with the recommendation of the House Speaker and the Chief Justice of Supreme Court

④ The Chief Commissioner shall be appointed by the President among the Commissioners

⑤ No less than three Commissioners shall be females

⑥ In recommendation of the Commissioners by the House Speaker and the Chief Justice of Supreme Court pursuant to subsection③, a female Commissioner should be included and a standing Commissioner should be designated respectively

⑦ Every Commissioner shall continue in office until his or her successor comes into office, notwithstanding that the term may be expired.

Section 38. Grant of Fund and Financial Subsidy

① Government shall grant the fund to the Commission for the expense needed in the establishment, facility, operation, performance of the Commission within its budget.

② The Commission shall give in the written requirement of granting fund from budget to the Minister of Justice each year.

③ The Minister of Justice shall not adjust the Written Requirement pursuant subsection ②.

④ Affairs concerning the requirement, grant, usage of the fund and the financial subsidy by subsection ① shall be provided by the Ordinance of the President.

Chapter V. Procedures of Investigation and Remedy

section 40. the Subject of Investigation by the Commission

The Commission may investigate when the case falls within as followings(hereafter it will be referred as "human rights infringement subjected to the investigation");

1. any illegal following act in the course of his or her duties by members of investigative authorities etc. or detention authorities;

① to arrest or imprison a person

② to search and seize

③ to censor a person's letter, to wiretap a person's electronic communication or to infringe upon other person's communicational secrecy

④ to infringe upon a person's privacy by disclosing his or her private life or taking pictures and publicizing them

⑤ to punish or discipline detainees or inmates in the police detention center, correctional institution, protection facilities, etc. without a new ground provided for in the laws and regulations

⑥ to commit a harsh act to a person such as assault, threat or torture or an act causing physical injury or death to a person

⑦ to insult a person openly or cause him or her to feel sexual embarrassment

⑧ to force a person to do something that he or she is not obligated to do, or obstructing other person's exercise of his or her rights

2. any act which is fallen under paragraph 1 in the course of his or her duties by accomplice with members of investigative institutions

3. any act which is fallen under paragraph 1① by any other civil servant, or by his or her accomplice in relation to the civil servant's duties. These investigations can be performed only by approval of two-thirds of present member of the Commission

4. discriminatory act pursuant section 8 to section 10

section 48. The Limit of Investigation and Inquiry of Fact

① The Commission shall not require the producing the relevant

document or matters, or perform the on-site investigation by section 47 ① paragraph 4, or ②, ④, when the Commission requires or performs thereof, and the relevant chief of central state department and agency sends the certification letter to the Commission which includes as follows;

1. it is deemed to hurt the important national interest like national security and defense, unification, foreign affairs when the documents or matters go to public;

2. the documents or matters are related with the criminal investigation, and judiciary proceeding, and enforcement of conviction, and when it goes to public it falls among one of follows;

(1) there are sufficient causes to lead the substantial obstruction of criminal investigation or judiciary proceeding which is pending;

(2) there are sufficient causes to lead suffering case-related person's reputation, or privacy or security of the life or health;

(3) there are sufficient causes to lead leaking the secret in course of criminal investigation;

② The Commission may, to the extent it needs, inquire the necessary fact to the relevant agencies to affirm the fact if it isn't capable of requiring of producing the documents or matters, or carrying the on-site investigation by section ①

section 57. Recommendation on Remedies and Expression of Advisory Statement

① The Commission may recommend or give advisory statement to the Complained, or chief of the agencies, facilities, organizations where the Complained is working, or chief of the supervising agency on the remedies including matters pursuant to the section 54 shall not require the producing the ③ each paragraph, if it is the opinion that the complaint has the sufficient substance falling in the human rights infringement subjected to the investigation and the recommendation or expression of statement is necessary,

considering the result of investigation.

② The Commission may recommend or give the advisory statement for the reasonable improvement of laws or regulations, systems, policies, practices concerning the human rights to the chief of relevant state agency, if it is of the opinion that improvement in laws or regulations, systems, policies is needed.

③ The Complained, or chief of the agencies, facilities, organizations who gets recommendation by subsection ①, ② shall the due respect to and follow the recommendations from the Commission unless there exists reasonable cause to the opposite.

section 65. Notice and Making through the Minister of Justice

The Commission shall report to the Minister of Justice when it conducts amendment of Articles of Incorporation pursuant to section 14 ②, recommendation or advisory statement pursuant to section 16 paragraph 2, 6, 8, 10, recommendation or advisory statement pursuant to section 51 ①, section 57 ①, ②, accusation and commission of criminal investigation pursuant to section 59, and receives the redress result pursuant to section 64 ①.

section 67. Complaint Treatment Procedure etc.

Anything which is needed for the complaint treatment procedure and as such shall be described by the Ordinance of the President if provided otherwise in the Act.

section 75. Civil Fine

① Whoever shall be liable on the civil fine not more than 10 million won;

1. if he or she doesn't comply with or obstructs, or without reasonable cause evades the inspection pursuant to section 17 ①;

2. if he or she doesn't comply with the summons from the Commission pursuant to section 47 ① paragraph 2;

3. if he or she doesn't comply with the requirement by the Commission for production of relevant document or matters pursuant to section 47 ① paragraph 4, or section 47 ④ or produces false or misleading document or matters intentionally;

4. if he or she doesn't comply with or obstructs, or without reasonable cause evades the on-site investigation pursuant to section 47 ②.

② Whoever violates the section 34 shall be liable on non-penalty fine not more than 2 million won.

Appendix

section 2. Preparation for Establishment

① The President shall appoint promoters of establishment who are not exceeds 7 and responsible for the business of the Commission's establishment, with the recommendation of the Minister of Justice, within six months from the day of proclamation.

② The promoters of establishment shall draw up the Articles of Incorporation and thereafter it shall be put through the approval of the Minister of Justice.

7. National NGO Coalition for Establishment of NHRC

7-1. National NGO Coalition for Establishment of NHRC: toward an independent National Human Rights Commission

National NGO Coalition for Establishment of NHRC was established to propose Human Rights Law through democratic process and to survey the public opinions on the Human Rights Law.

It was established with 31 non-government organizations from human rights, women, labor, and the disabled to promote human rights. It has tried to assemble opinions of the public about the National Human Rights Commission to construct a more desirable Human Rights Law. After analyzing the problems of the draft of the Human Rights Law introduced by the Ministry of Justice, the group has worked to develop alternatives.

Through holding public hearings and providing materials about human rights it has been promoting greater public awareness and interest in human rights and the commission in order to make it possible for the public to participate and share their ideas of how to improve the Human Rights Law through a democratic process. It continues its efforts to establish independent National Human Rights Committee.

7-2. Members

- Kwangjoo Human Rights Watch
- Citizens for Good Law and Government
- Amnesty International South Korean Section
- Lawyers for a Democratic Society (Minbyun)

- National Alliance for Democracy & the Reunification of Korea
- Minkahyup Human Rights Group
- Buddhist Committee for Human Rights
- Institute of Human Rights & Peace in Sungkonghoe Univ.
- The Joint Committee for Migrant Workers in Korea
- The Research Institute of the Differently Abled People's Rights in Korea
- KCTU (Korean Confederation of Trade Unions)
- Korean Association of Bereaved Families for Democracy
- Korean Teachers & Educational Workers' Union (Chunkyojo)
- Chunbuk Solidarity for Peace and Human Rights
- National Campaign for Eradication of Crime by U.S. Troops in Korea
- Democratic Legal Studies Association
- Korean Professors' Association for Democratic Society
- Sarangbang Group for Human Rights
- PSPD (People's Solidarity for Participatory Democracy)
- Catholic Human Rights Committee
- Catholic Priests' Association for Justice
- Korea Church Women United.
- Human Rights Committee of National Council of Churched in Korea
- Korean Christian Action Organization
- Korean Gay & Lesbian Association United.
- Korea Sexual Violence Relief Center
- Korean Women's Association United.
- Korean Women's Association for Democracy and Sisterhood
- Korean Women's Hot Line
- Disabled People's International Korea
- Association of Physicians for Humanism

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발신: 이루영 수신: 허국소석

파스르마나, 국제교육개발재단, 한국 정부 발언 모두 22일에 있습니다. 미리 파스르마나 발언문과, 배경 설명을 해서 보내나 참고해서 기사화하시길 바랍니다. 재구성해서 스트레이트 기사로 만들 수도 있을 것 같고, 아니면 파스르마나 발언 내용 중 한국 관련 부분만 요약 소개할 수도 있을 듯. 국제교육개발재단(이진범 의원)과 한국 정부의 발언 내용은 나중에 전화로 알려 드릴게요. 정형근 관련 내용은 대일 정리해서 보내드리죠. 혹시 이진범 의원의 발언이나, 정형근 의원에 대한 내용이 기사화되면 여기로 알려 주세요. 사실과 다르게 있으면 알려 드리게요. 이성훈 전대 사무장이나 집으로 전화하면 좋겠죠. (office: 823 0707/home 301 4004) 함 정형근 관련 기사 해소로 보내주신 것은 정말 잘 받았습니다.

유엔인권위는 4월 21과 22일, 외제항목 18 인권기구의 효과적 운영에 관한 주제에서 국가인권위원회와 유엔의 인권기구들 강화하는 문제에 대해 집중적인 논의단 하였다. 10여개 정부 대표연설은 주로 자국의 업적을 홍보하기에 급급한 반면, 현재 운영되고 있는 23개 국가의 국가인권위원회 대표들은 그동안 운영과정속에서의 어려움과 장애물 등에 대한 진지한 논의를 하였다. 특히 가장 모범적인 국가인권위원회도 평가되고 있는 호주의 국가인권위원회의 경우는 호주정부의 간섭과 통제에 대한 비판을 가하여 특별한 주목을 받았다. 한편 민간단체의 경우 18개 단체가 발언에 나섰다. 그 가운데 홍콩의 아시아법률자료센터(Asian Legal Resource Center), 파스르마나, 그리고 국제교육개발재단(International Educational Development Inc.) 세 단체가 현재 실행 논의 중에 있는 한국의 국가인권위원회의 문제점에 대해 지적을 하였다.

Urgent Appeal from Korea

Mr. Hyung-keun CHUNG, "Torture Expert" should not be allowed to attend the Commission on Human Rights.

Mr. Hyung-keun CHUNG, notoriously well-known perpetrator of torture under the military dictatorship in South Korea is attending the 55th Session of the UN^h Commission on Human Rights as a NGO delegate. He has been accredited by the International Educational Development Inc. which is a USA-based NGO with consultative status with UN.

Mr CHUNG is currently a member of the National Assembly and belongs to the opposition party called the Grand National Party. He was involved in several torture cases when he was chief of the Anti-Communist Operation Bureau of the Agency for National Security and Planning (ANSP) which was the principal state apparatus to suppress the movement for democracy and human rights. Mr CHUNG whose nickname is "Torture Expert" is the symbol of anti-human rights figures who became politicians. He has neither denied his involvement in any torture case nor expressed apology until now. He has not been brought to justice yet because of the lack of an independent judicial system and political will of civilian governments including the present government of Kim Dae-jung.

A Task-force of 15 human rights NGOs issued a statement expressing its outrage about his attendance at the Commission due to his anti-human rights record in the country. Furthermore, the Task-force urgently sent its representative, Mr. Yang-kyun PANG to attend the Commission to let the Commission and human rights NGOs know about this scandalous event. Mr. PANG himself was tortured by Mr CHUNG in 1989 during his detention at the ANSP.

Torture is a crime against humanity, and any perpetrator of torture should not be allowed to attend the Commission on Human Rights as it is an insult and humiliation to all human rights defenders who have struggled against all human rights violations particularly torture.

In view of the above facts, we would like to

1. Urge the International Educational Development Inc. to cancel the accreditation given to Mr. Hyung-keun CHUNG, immediately.
2. Urge all human rights defenders to take all necessary measures to stop him from attending the Commission as a human rights defender.

Joon-shik SUH

On behalf of 15 human rights NGOs

- ◆ *Citizen's Group for Punishment of Mr. Hyung-Geun CHUNG*
- ◆ *People's Solidarity for Participatory Democracy (PSPD)*
- ◆ *Korean National Congress for Reunification (KNC)*
- ◆ *Korea People's Alliances for Social Reformation*
- ◆ *Catholic Priests' Association for Justice*
- ◆ *KOHRNET member organizations*
 - *Buddhist Committee for Human Rights*
 - *Catholic Human Rights Commission*
 - *Democratic Legal Studies Association*
 - *Fellowship for the Sufferers*
 - *Human Rights Committee of National Alliance for Democracy and Reunification of Korea*
 - *Korea Association of Bereaved Families for Democracy*
 - *Korea Church Human Rights Center*
 - *Lawyers for a Democratic Society*
 - *MINKAHYUP Human Rights Group*
 - *SARANGBANG Group for Human Rights*

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**United Nations Commission on Human Rights
55th session (22 March to 30 April 1999)****ITEM 18 : Effective functioning of human rights mechanisms****Sub-item (b) : National Institutions and Regional Arrangements in the Asia-Pacific Region***Delivered by Joo-Young LEE*

Madam Chairperson,

Pax Romana wishes to address the question of the Regional Arrangement and the National Human Rights Institutions in the Asia-Pacific region.

Pax Romana has studied with much interest and appreciation the three reports presented to this Commission (E/CN.4/1999/93, 94 and 95), in particular the report of the seventh Workshop on Regional Arrangements held in New Delhi, India in February 1999 and the report of the Third Annual Meeting of the Asia-Pacific Forum of National Human Rights Institutions held in Jakarta, Indonesia in September 1998. We have found these documents very useful in our debate and efforts to make these mechanisms more relevant and responsive to the urgent need to protect and promote human rights.

Economic growth and prosperity are no guarantees for the promotion and protection of human rights as indicated by the recent economic turmoil and the social tensions in most Asian countries. In fact, the economic crisis has only confirmed the necessity of Asian governments to establish effective human rights mechanisms both at the national and regional levels. While there is a proliferation of political and economic regional and sub-regional bodies such as ASEAN, SAARC, APEC, etc, the Asian States are still far behind and reluctant in realising the 1993 Bangkok and Vienna Declarations on human rights.

Regional Arrangements

Recent developments in the field of regional arrangements and national institutions show positive signs of - slow but steady - progress for the realisation of both civil and political rights as well as economic, social and cultural rights. We particularly welcome the framework for regional technical cooperation in the Asian-Pacific region designed to develop, amongst other things, "national plans of action for the promotion and protection of human rights and the strengthening of national capacities, human rights education and strategies for the realisation of the right to development and economic social and cultural rights" (para. 6, E/CN.4/1999/94).

With regard to the economic and social rights, we would like to take note of one important conclusion made at the Jakarta Workshop on national human rights institutions in 1998, which emphasised *"the need for international financial institutions to consider how they could best conduct their activities in a manner that furthered the international standards embodied in the International Bill of Rights, including preparing human rights impact statements on their policies and actions"* (para. 23, E/CN.4/1999/95).

At the same time, we would like to remind the Asian governments that technical cooperation should not be used as an excuse to avoid taking immediate and systematic measures to combat the gross human rights violations.

Despite the different socio-political and cultural realities, it should be possible for Asian governments to develop an adequate and relevant regional arrangement that accommodates the universal aspirations of peoples in the region. The regional process should be accompanied by genuine efforts to address the serious human rights violations at local and national levels by implementing all recommendations made by the various existing UN human rights bodies.

National Human Rights Institutions

While supporting the efforts of several Asian governments¹ to promote the better operation of national human rights institutions, we also welcome the decisions and plans of several governments such as Malaysia, Mongolia, South Korea and Thailand to establish national human rights institutions this year. However, we would like to stress once again the importance of the participation of civil society in the establishment process as well as operation. In this regard, it is worthwhile to listen to the comment of Mrs Mary Robinson, the UN High Commissioner for Human Rights made during her visit to South Africa in June 1998.

"For those of you about to establish national institutions, let me underline the importance not only of the mandate and the legislative mechanism for creating a human rights commission -- but also the process of public consultation and transparency which should precede its creation. A national institution established hastily, without public understanding of its role and responsibilities, will be unlikely to succeed in its mission."

To our regret, what she said turns out to be true in most countries in Asia. According to the human rights NGO community and UN experts, the performance of national human rights institutions has been, with a few exceptions, far from satisfactory. It is because most governments failed to provide a proper mechanism to ensure full participation of independent human rights NGOs both in the process and ongoing operation.

Countries in the Process of Establishing National Institutions: Case of South Korea

To our disappointment, South Korea is such a case. The draft Human Rights Law to set up a National Human Rights Commission is scheduled to be submitted to the National Assembly without proper consultation with human rights NGOs and independent experts. The draft human rights law itself suffers serious flaws in many aspects such as a lack of

¹) Australia, India, Indonesia, Philippines, Sri Lanka and New Zealand

independence and effectiveness essential for its proper functioning and a very narrow mandate with limited powers and no authority to enforce its recommendations.

Dozens of human rights defenders staged a weeklong hunger strike in Seoul in protest at their exclusion from participating in the establishment of the commission. We believe that the process of establishing a National Human Rights Commission is a test case for the genuine will of Kim Dae-Jung's government for the further progress of democracy and human rights in Korea. It also has wider implications for other Asian countries as it may serve as a model for other governments.

Reaffirming the importance of the process of public consultation and transparency, we urge the South Korean government to withdraw the draft human rights law and to consult with human rights NGOs concerned.

Countries Without Specific Plans: the Case of Japan

We would also like to raise our concern about those governments such as Japan, China and Burma, which remain indifferent or incapable of taking an initiative in establishing national human rights institutions. In the case of Japan, the Human Rights Committee in its concluding observation (CCPR/C/79/Add.102)² after the review of the Japanese government's fourth periodic report in November, 1998 expressed "its concern about the lack of institutional mechanisms available for investigating violations of human rights and for providing redress to the complainants" (para. 9) and "strongly recommended (the Japanese Government) to set up an independent body or authority to be set up without delay" (para. 10).

Therefore, we also urge the Japanese government to take the necessary measures to establish an independent national human rights institution according to the Paris Principles.

Thank you.

² Human rights violations mentioned, among many others, are existence of death penalty (para. 20) discrimination against Buraku, Ainu indigenous and Korean minority groups (para. 13, 14, 15) dehumanising substitute prison system (Daiyo Kangoku) (para. 23), ill-treatment of migrant workers and refugees (para.18), etc.

**What's the Problem in the Controversy of
National Human Rights Commission in Korea?**

**--A Brief Contrast between Korean Ministry of Justice's Draft
and NGOs' Network's Counter-Proposal**

1. Perspective from Independence

A. Core Controversy with regard to Independence of National Human Rights Commission (NHRC) in Korea

a. An effective national human rights institution shall be one which is capable of acting independently of party politics, of all other entities, and, in particular, of government institutions which may be in a position to affect its work as well as to be checked human rights violations. Because of long history of human rights violations committed by investigative agencies and penitentiary institutions, independence from those institutions must be most importantly considered in the process of drafting NHRC in Korea.

b. Unlike common law states, Korean Minister of Justice is in a position to supervise and instruct investigative agencies and penitentiary institutions according to Article 30 of Government Structure Law and Article 8 of Public Prosecutor's Office Law.

c. Accordingly, NHRC shall be independent of Ministry of Justice in order to properly conduct its functions. Without the independence from the Ministry, the coming national human rights institution must be an ineffective institution for protection of people's human rights from investigative agencies and penitentiary institutions.

B. Korean Ministry of Justice's position with regard to relationship between NHRC and the Ministry

a. The relationship is addressed on Article 2 and Article 5 of the Ministry's Draft which describe fundamental orientation of the Law and the Ministry's role in the Law. The above articles define NHRC as a secondary status for human rights protection while the Ministry is in principal charge of human rights matters. That means NHRC shall be a supplementary institution to the Ministry in human rights protection matters.

b. The intention of the Ministry appears on Article 16, which prescribes NHRC's legal entity as a body corporate. The Ministry maintains that NHRC shall not be a government body because the principal responsibility for human rights is the business of the Ministry.

c. The Ministry has a strong position that a body corporate entity of NHRC will guarantee the

independent status, better than any other form of legal entity. It stresses that NHRCs of Australia and New Zealand, which are considered as a role model for the states which are trying to establish NHRCs, have been activating their Human Rights Commissions in the form of a body corporate. Unfortunately, Korea, however, does not have state agency as a body corporate entity, which can commonly be seen in common law countries and is independent of Departments of Cabinet. Apart from structural difference, the argument that a body corporate entity shall be desirable to any other country for the structure of NHRC is not reasonable in the lights of different history and different experience. In general, a public corporation in Korea shall be supervised and instructed by government, particularly by Ministries relating to mandate of the corporation. As a result, the Ministry's Draft naturally contains a number of contents which can negatively affect NHRC's functions.

d. The followings are lists which result from the Ministry's body corporate plan:

- Members for Founding Charter, which will prescribe structure of NHRC and its operation, shall be appointed by the Minister of Justice and the Charter shall be approved by him(Article 18 and Added Article 2 of the Ministry's Draft).
- Members of the Human Rights Commission, which will be established by the Draft, shall be recommended by the Minister of Justice(Article 27).
- Details of structure of the Commission and its activities are to be assigned to presidential decrees(Article 20) and its decrees, in fact, may be enacted in the hand of the Minister of Justice in Korean legal context.
- The Commission shall have obligation to report to the Minister before issuing recommendations and after receiving results of measures taken by other institutions(Article 53).
- Annual Human Rights Reports issued by the Commission, which are to be reported to both President and Parliament, shall be submitted through the Minister(Article 21).
- The Minister may review the Commission's mandate and coordinate its budget plan(Article 66).
- Administrative fine, which is imposed in case of rejection of the Commission's official request to investigate human rights violation, will be decided by the Minister(Article 71).

C. Counter Proposal by NGOs' Network

a. Considering Korean human rights history and its reality, we must say the coming NHRC's most important role shall be in supervision and check against investigative agencies and penitentiary institutions, which are considered difficult to clear offenders' name of human rights violation in near future. Under this situation, the Commission's investigation against those institutions will be, logically and practically, impossible where the Commission's legal status becomes a body corporate, which will be in supplementary position to the Ministry and under the control of the Ministry in personnel decision, activities and budget plan as the Ministry argues.

b. Recalling law and legal culture, relation between corporation and government, and possibility to affect corporation's work, the NGOs' Network believes that NHRC shall be established in the form of a government institution and be independent of other government institutions in conducting its functions.

c. The following is lists as a counter proposal to the Ministry's Draft to guarantee the above beliefs of the NGOs' Network.

- The Ministry of Justice shall not engage in the Commission's work and its personnel management.
- Members of the Commission shall be appointed by President through a hearing procedure of Parliament.
- The Commission shall be allowed to make its budget plan without any intervention of the Ministry.
- The Commission shall be autonomous enough to enact regulations for itself on its activities and working structures without any intervention of the Ministry.

2. Perspective of Jurisdiction

A. The Ministry's Draft addresses subject matter jurisdiction on Article 3 that the Commission will deal with rights and freedom prescribed on Constitution, Parliament statutes and human rights treaties which are ratified by Korean government. However, this subject matter jurisdiction is, in fact, considerably undermined by Article 19, which prescribes the range of human rights violations to be investigated by the Commission, according to which the violations are confined to acts addressed on Article 9, which states:

- a. Persons investigated are to be confined to government officials of investigative agencies and penitentiary institutions.
- b. Violation investigated are to be confined to eight acts such as illegal arrest and detention, torture and inhumane treatments, violation to privacy and sexual harassment.

B. The issue of NHRC's jurisdiction has critically important meaning with regard to functions of investigation and review of the institution, because conflicts of jurisdiction are difficult to be seen in other functions such as tasks of advising government and education of human rights , or, not serious.

C. Practically the Commission's subject matter jurisdiction, according to the Ministry's Draft, can be said that it will be confined to the above Article 9's eight violations.

D. NGOs' Network wonders how many countries have such NHRCs, which just deal with the above confined violations like the Ministry's view, in the world. We read the intention of the Draft between lines that the Ministry wants to avoid conflicts of jurisdiction between the Commission and other investigative agencies under control of the Ministry by making the Commission's jurisdiction confined to the minimum level. We believe that this view intends to reflect the interest of investigative agencies and the Ministry itself.

E. The NGOs' Network maintains that NHRC shall have jurisdiction over all human rights, ranging from civil and political rights to economic, social and cultural rights. We admit that proper restraint might be imposed within reasonable range in such a case of statute of limitation. We believe, however, that the range of human rights dealt with in NHRC shall not be confined to only the above eight acts, all criminally considered, which might result in distortion of definition of human rights.

Draft of Human Rights Act

- translated by MOJ

Chapter I. General Provision

section 1. Purposes

The purpose of this Act is to prevent and redress the human rights infringement based on any reason in every field of life such as political, economic, social, cultural ones, and raise awareness of human rights in Korean society in order to protect the dignity and value of people as human beings.

section 2. Basic Policies

① For the achievement of the purpose this Act prescribed in section 1, it shall be the basic policy of this Act to make the following matters into effect and the government shall be principally responsible for implementation of such policies.

1. education and advertising campaign for improving community awareness and acceptance of human rights,
- 2, improvement of the laws, regulations, systems, policies, practices related to human rights,
3. immediate investigation of the human rights infringement cases and remedies thereof.
4. other adequate measures to protect and promote human rights

② Human Rights Commission shall oversee and complement activities of government pursuant to subsection ①.

section 3. Definitions