

Response to the Questionnaire on National Human Rights Institutions and Human Rights Defenders

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Submitted by

The NGO's Collaborative Action to Put the NHRCK in its Place (NHRCK-Watch)

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Catholic Human Rights Committee, Daegu Citizen Forum for Halmuni, Daegu Citizens Coalition for Economic Justice, Daegu Women's Hotline, Daegu Womens Association, Dasan Human Rights Center, Democratic Legal Studies Association, Democratic workers Solidarity, Disabled Peoples' International in Daegu, Gwangju Citizens Coalition for Economic Justice, Gwangju Differently Abled Women Solidarity, Gwang-ju Federation of Organizations for Differently Abled, Gwangju Womenlink, Gwangjub Center for Independent Living, Hanmaum Center for Independent Living or Persons with Disabilities, Human Rights Education Center, 'DEUL', Human Rights Korea, Korea Human Rights Research institute 'Chang', Korea Sexual Violence Relief Center, Korea Women's Hotline in Gwangju, Korea Womenlink, Korea Youth Corps in Daegu, Korean Council for Democratic Martyre in Daegu, Korean Federation for Environmental Movement in Daegu, Korean Gay Men's Human Rights Group Chingusai, Korean Progressive Network 'JINBONET', Korean Transgender Activist Group, Korean Womens Association United, KwangJu Human Rights Activities Center, Law professor's association for the independence of the NHRCK, MINKAHYUP Human Rights Group, Migrant Labor Center in Gyeongsan, MINBYUN-Lawyers for a Democratic Society in Daegu, MINBYUN-Lawyers for a Democratic Society in Gwangju, Obang Center for Independent Living, Open Care Center for Independent Living, SARANGBANG Group for Human Rights , Solidarity Against Disability Discrimination, Solidarity Against Disability Discrimination in Gwangju, Taegu People's Solidarity for Participatory Democracy, The National Council of Churches in Korea Daegu Human rights Committee, The Research Institute for the Differently Abled People Rights in Gwangju, Ulsan Solidarity For Human Rights, Korean House for International Solidarity(KHIS), Korea Sexual Violence Relief Center (KSVRC). Youth Human Rights Action ASUNARO, Korean Women's Association United

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Background Note

The NGO's Collaborative Action to Put the NHRCK in its Place (NHRCK-Watch) was established in 2009 to campaign on upholding independence and competency of the National Human Rights Commission of Korea (NHRCK). It is a joint coalition of 92 South Korean civil society organisations. Korean Progressive Network 'JINBONET', SARANGBANG Groups for Human Rights, and Law professor's association for the independence of the NHRCK are convenors of the coalition.

1. a. Mechanisms in the NHRCK to ensure that human rights defenders at risk are protected

When one's human rights are violated, we can ask for further investigation or submit a petition to the NHRCK. However, there is no specific mechanism to ensure protection of human rights defenders at risk.

Rather, the NHRCK has been silent to some of major human rights violation cases in the society. For example the NHRCK has not expressed any opinions on on-going human rights violations on human rights defenders who have been peacefully protesting against the construction of Jeju naval base.

1. b. Complaint submitted to the NHRCK

Korean human rights organisations have submitted a lot of complaints to the NHRCK in the past. The submitted complaints include a complaint on amendment of Act by the Ministry of Health that threatened right to health of poor people (2007), crackdown on homeless people by the Seoul City Council (2008), patent institution that violated right to health of a person with HIV/AIDS (2008). In addition to this, we submitted a complaint related to discrimination against persons with disabilities and laws that discriminate sexual minorities. In response to this, the NHRCK made recommendations to the Government, the National Assembly or other related bodies in accordance with international human rights standards.

Unfortunately, recent appointment of unqualified and not independent commissioners including the chairperson, it is hard to get appropriate responses from the NHRCK, in particular for politically sensitive issues

In 2011, a complaint submitted by a labour rights defender who was fighting against layoff was dismissed by the NHRCK. She submitted the complaint since the company cut electricity during her protest. The NHRCK dismissed immediate relief by saying that 'since the person was protesting illegally, there is no reason for us to protect her human rights'.

1. c. Being consulted by the NHRCK about protection measures

N/A

2.a. Independent of the NHRCK from the Government

The current administration does not recognise independence of the NHRCK. The Government considers the NHRCK as one of Administrative branches as the independence of the NHRCK is only mentioned in the NHRCK Act but not in the Constitution.

In March 2009, the Government cut down the size of the NHRCK to 21%, dismissed some staffs of the NHRCK, made blacklist of some NHRCK staffs and asked high officials of the NHRCK to keep their eyes on those staffs. Since this incident, the NHRCK has not investigated properly or give just recommendations on human rights violations.

As a result, the UN mechanisms including The International Coordinating Committee of NHRIs (ICC), Committee on Economic, Social and Cultural Rights, and Committee on the elimination of discrimination against women as well as international organisations such as Amnesty International, The Asian NGO Network on National Human Rights Institutions (ANNI), Asian Human Rights Commission (AHRK) recommended to the Government to guarantee independence of the NHRCK based on the Paris Principle.

2.b. Recommendation to the Government to ensure effective protection and promotion of human rights by the NHRCK

To make the NHRCK as an effective body to protect and promote human rights, independence of the NHRCK should be fully guaranteed. The Government should not be able to cut down the size of the Institution arbitrary.

Appointment process to guarantee independent and qualified commissioner should be established. Also, the appointment process should be made in a transparent manner, in consultation with civil society. Currently, there is no proper appoint process of the NHRCK commissioners, but certain appointers (the president, national assembly and Chief Justice of the Supreme Court) can appoint commissioners without consultation.

Reinforcing human rights investigators in the NHRCK is crucial to investigate human rights violations properly. Most importantly, recruited human rights investigators should have human rights background. Also, human rights training should be conducted in cooperation with civil society organisations.

3.a. Working Relationship with the NHRCK

After cutting down the size of the Institution in 2009 which damaged independence of the NHRCK, the chairperson resigned. As a new chairperson, the President appointed Mr. Byung-chul Hyun who does not have any human rights backgrounds. Since then, we have witnessed that the Chairperson kept silent on human rights violations by the Government.

Since then, many South Korean human rights organisations refused to cooperate with the NHRCK. In November 2010, around 70 advisory commissioners resigned and in July 2012, around 20 human rights education commissioners resigned as a protest against reappointment of the Chairperson Hyun.

3.b. Measures for better cooperation between the NHRCK and civil society

In the past, we have been working together with the NHRCK on field research and investigating human rights violations. As we mentioned earlier, this close relationship has recently broken with damage of the independence of the NHRCK. Guaranteeing independence of the NHRCK and appointing independent and compatible commissioners will be the first step to rebuild close relationship between civil society and the NHRCK.

4.a. The NHRCK Staff as Human Rights Defender

We believe that the NHRCK staff should be considered as a human rights defender. However, the Government and even some staffs see the NHRCK staff simply as a public officer.

4.b. Challenges or Obstacles that prevent the NHRCK from protecting and promoting Human Rights Defenders

Even though recommendations made by the NHRCK have social values, they are not legally binding. Therefore, the Government or other recipient bodies, in some cases, did not accept recommendations made by the NHRCK. We recommend the Government to establish some mechanisms to fully consider recommendations by the NHRCK that lead to implementation.