

Model 1 (A)
One language (English)

SECTION I:

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SECTION II:

Language(s): ENGLISH ONLY

SECTION III:

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SECTION IV:

Written statement submitted by the KOREAN PROGRESSIVE NETWORK, "JINBONET", a non-governmental organization in special consultative status

SECTION V:

Title:
Need for attention on the situation of human rights and information communication technologies (ICT) in the Republic of Korea

SECTION VI:

Text:

1. As a NGO of Republic of Korea established in 1998, the Korean Progressive Network 'JINBONET' requests that the 17th UN Human Rights Council take notice of the situation of human rights and Information Communication Technologies (ICT) in Republic of Korea.

Freedom of expression on the Internet

2. The number of Internet users in Republic of Korea as of 2010 reached 77.8% of the population(<http://www.index.go.kr>). The Internet is an indispensable medium of expression for the citizen at large in Republic of Korea.

3. In Republic of Korea, the Internet is subject to administrative deliberation. The Korea Communications Commission(KCC) and Korea Communications Standards Commission(KCSC) began as internet administration bodies with the arrival of a new presidential administration in 2008, and KCSC demanded rectification of a total of 41,103 online postings (average of 113 per day) in 2010 alone. The 99% of this petitions were completely removed from internet networks through deletion, account termination, or access suspension. In regard to violations of the National Security Law, there has been an increasing number of cases in which the KCSC deliberated in accordance with the requests of the police and the National Intelligence Service before a decision was reached by the court. For instance, this body carried out such procedures in 2010 to suspend access to the webpage of Twitter account @uriminzok (<http://twitter.com/uriminzok>) of Democratic People's Republic of Korea (DPRK) within Republic of Korea. KCSC refers to the rectification orders as recommendations, but since online service providers that continuously reject the order receive an order from the KCC to reject, suspend, or restrict handling of information and since there are concerns that they may receive a criminal penalty, the compliance rate in 2010 alone amounts to 98%.

4. In May 2008, the KCSC issued a warning for 'language purification and restraint of exaggerated expression' in regard to an online postings for the reason that it criticized the president as '2MB' and a 'sly person'. In July of 2008, KCSC ordered a deletion of postings by consumers who were boycotting three major presses and their advertising companies, calling the action 'an illegal secondary boycott.' In January 2009, in regard to a posting that called for the resignation of the governor of Gyeonggi province and criticized his remarks for being derogatory, and in response to a posting in 2009 July that criticized the mayor of Seoul for giving money to the Korea Veterans' Association, KCSC ordered the deletion of both, calling each a defamation offense. In April 2009, KCSC ordered the deletion of a posting by an environmentalist that criticized 'carcinogenic waste cement' for defamation of the cement company. In June 2009, KCSC ordered the deletion of a posting that ran a coverage including the picture and name of a police officer who threw

a club at citizens rallying on Labor Day, calling the posting to be in 'violation of portrait rights.' In September 2009, KCSC also ordered the deletion of a posting that claimed that the Minister of department of Justice swore at citizens he met on the way, calling it 'defamation based on falsity.' As such, the KCSC is also deleting the majority of postings that insult the president.

5. Following the advent of the current administration in 2008, there were an increasing number of cases in which online visitors were brought against criminal charges due to internet postings. The number of people who were charged with defamation offense after being investigated by the police increased greatly from 601 in 2005 to 1,033 in 2009. Although on December 28 2010, the constitutional court ruled the penalty clause on 'false communication' that was used to punish the blogger 'Minerva' to be unconstitutional, the ruling party by majority soon moved to maintain the punishment with the same objective. The administrators of an online community which led the boycott of three major presses' advertisers were forbidden from leaving the country, subjected to search and seizure, arrested, and prosecuted on the grounds that they disrupted the business of the press and advertising company. After being found guilty in the first and second trials, they are now in the process of a Supreme Court and are at risk of receiving criminal penalties. In 2011, with the occurrence of the nuclear accident in Japan in March, the police also announced that it would crack down on those who spread 'false information' that radioactive matter is landing in territory of Republic of Korea.

6. Since 2004, writing on online press boards during election campaign periods is only allowed when posted by the real name of the writer, verifiable by resident registration. After the enforcement of this law, members of the online press that rejected the real-name system were fined and in February 2010, the constitutional court ruled that the real-name system during election periods was not unconstitutional. Beginning in 2007, internet sites of public agencies and major internet service providers with at least 100,000 visitors are regularly allowing only users with verifiable by resident registration to post. As of September 2009, the domain name will be canceled in the case that a user who intends to use an internet domain does not use his real name. The Internet real-name identification system or identification verification system severely restricts the freedom of expression of online users who consider public criticism. In December 2007, when controversy surrounding the 'Anti-discrimination Law' expanded socially, many minorities could not write on internet sites out of fear that their identities would be revealed.

The Secret of Communication

7. As a result of the compulsory Internet real-name system, online service providers regularly store personal information of their users and have been complying with the demands of the investigating agencies. The 'Petition for Communications Resource Provision' used by police and prosecutors to demand users' personal information from OSPs for the purpose of crime investigation amounts to 143,179 documents in the year 2009 alone, while the 'Petition for Communications Verification Resource Provision' that demands for the user's IP address amounts to 57,549 documents in 2010 alone, and both numbers are still increasing. There is a tendency for the investigating agency to overuse the petitions without the need to meet the investigation requirements. There are many issues of concern as what has been known as 'base station investigations' in which mobile phone numbers whose signal is captured from a certain base have been collected are being widely used. There are 36,750,000 mobile phone numbers that have been exposed to the police in this manner during one year starting from the latter half of 2009. Also, the National Intelligence Service shocked the society when it was revealed that they had been carrying out Internet Deep Packet Inspections for entire internet lines. The government and the ruling party have raised a motion for a law to make it compulsory for internet businesses to install surveillance systems and retain data, and it is currently being examined in the National Assembly.

National Identification Registration System

8. In a society that experienced a military dictatorship, every citizen must be issued an identification that is mandatorily sealed with a fingerprint and distinguishable by a distinct resident registration number given from birth. Due to the advancement of ICT, the cases of human rights violations resulting from the national identification registration system are becoming more severe. The government made the Internet real-name system mandatory based on the resident registration number, and as a result, there has been a continuance of cases in which Online Service Providers collect these number and are often leaked accidentally. In 2008, there was an accidental leakage of 18 million users' registration numbers by an online business transaction site called 'Auction.' Also, the government of Republic of Korea announced plans to introduce the usage of an electronic ID card, starting in 2013. This plan carries the risk that the record of usage of identification by private and public agencies will be collected and handled online by the central government.

Crime Investigation and Privacy

9. The police have built the Crime Information Management System (CIMS) and without clear evidence are storing and using information of not only suspects but even juvenile offenders, witnesses, and victims. Also, since July 2010, police and prosecutors according to law, are building a database from DNA collected from suspects, juvenile offenders and convicts that are related to 11 different crimes. In April 2011, prosecutors tried to collect DNA from workers on strike

and incidents on struggle to great opposition.

Recommendation

10. JINBONET requests UN Human Rights Council's attention on the situation of human rights and ICT in Republic of Korea. In regard to freedom of expression on the internet, we recommend that Human Rights Council demands the government of Republic of Korea to implement the recommendations from Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.