

# **Additional Information to the UN Special Rapporteur on the Independence of Judges and Lawyers Regarding the ROK Judicial Power Abuse Scandal**

October 1, 2018

Submitted by:

**People's Solidarity for Participatory Democracy  
MINBYUN-Lawyers for a Democratic Society**

## **Contact**

- Name: Ms. Boram JANG, MINBYUN-Lawyers for a Democratic Society
- Address: 23 Boebwon-ro 4gil Daedeok Building 2f, Seocho-gu Seoul, Republic of Korea
- Email: bjang@minbyun.or.kr
  
- Name: Ms. Huisun KIM, People's Solidarity for Participatory Democracy
- Address: 16, Jahamunro 9-gil, Jongno-Gu Seoul, Republic of Korea
- Email: jw@pspd.org



## **PART 1. ANSWER FOR THE SPECIAL RAPORTEURS' QUESTIONS**

### **1. Does the NCA have responsibilities in relation to the appointment and discipline of judges?**

The National Court Administration (hereinafter “NCA”) administers overall judicial administration encompassing human resources, budget, accounting, facilities and statistics (Article 19 of the 「COURT ORGANIZATION ACT」). Legislation and amendment of laws that regulate the procedures and contents of the appointment, changes in personnel and discipline of judges also fall into the range of the NCA’s tasks and responsibilities.

According to the ‘Document on Present Condition of the NCA’s Division of Labor (2018),’ the NCA’s Director General for Personnel Affairs is in charge of planning and implementation of detailed management plan of personnel policies of the judiciary and manages work performance evaluation which is directly reflected on the personnel transfers of judges.

Though the NCA does not take disciplinary action against each judge (disciplinary action on individual judges is taken by the Commission of Discipline established by the ‘disciplinary action of judges act’), the Inspector General for Judicial Ethics of the NCA is in charge of petition against judges, investigation and discipline of unlawful cases.

### **2. How were the judges who were under surveillance chosen? Judges who had expressed critical views on the court system or the NCA? Judges who had expressed critical views on the draft legislation on the revision of the court system?**

The target judges of surveillance by the NCA can be classified into three categories:

- 1) Judges who opposed or expressed critical views on the policies of the Supreme Court
- 2) Academic research groups (including the International Human Rights Law Society and

'Insamo') that are composed of judges who are thought to have raised critical views on related policies

3) An anonymous internet bulletin board where judges freely share their opinions (“*Ee-pan-sa-pan-ya-dan-beop-seok*”)

Firstly in regards to 1), the NCA’s Planning and Coordination Office, under the direction by Mr. Im Jong-heon, former Vice Minister of the NCA, prepared documents identifying dispositions of judges who expressed opposing views on the policies that were to be carried out by the Supreme Court in 2014-2016, according to the documents revealed by the Special Investigation Team, In case of Mr. Cha Sung-an, one of the judges targeted for surveillance, the Planning and Coordination Office reviewed potential violations of political impartiality obligation and dignity maintenance duty for contributing to a press company(Sisa-in) for five times with opposing tone regarding introduction of an appellate court(‘Trend and response options regarding Judge ChaOO’s contribution to Sisa-in columns section’, Refer to [88]) Furthermore, a document analysed Judge Cha’s personal tendency or opinion on the appellate court based on his personal e-mails sent to other judges(‘Trend and response options regarding Judge ChaOO’s posting on the bulletin board’, refer to [87]).

Additionally, it was confirmed that the NCA analysed personal tendency based on information collected through investigations (for example, “no facts were found that he actively participated in the university student council, and he can be categorized as non-mainstream activist type”). The NCA also reviewed judge Cha’s particularities regarding property relations, analyzing his report of property from 2009 to 2015 as well as his personal private liabilities in a separate section (Refer to ‘Review on judge ChaOO’s property relations [89]’). It can be inferred that the NCA reviewed those topics in advance to constraint judge Cha’s freedom of expression or as a means to put pressure on him with personal matters for his critical view on the NCA’s policies. Similar documents as above include “Regarding Judge Song Seung-yong’s post on the bulletin board [342]” and “Data on Judge Park No-su’s tendency.”

The Special Investigation Team’s report concluded that “the NCA seems to have analysed dispositions or collected personal data of judges through unofficial means who criticized or opposed judicial policies of the NCA or publicly shared their critical views on

the recommendation process of Supreme Court justices. While categorizing member judges of certain study associations as a core group, the NCA seems to have analysed those judges' tendencies or responding options against them based on the NCA's negative impression that those judges criticize the judicial policies based on their politically biased views" (page 90).

As regards to 2), the NCA concluded that the IHRLS is similar to '*Woori Law Society*', an association of 'progressive' judges (on progressive stance on judicial policies and reform), and that there may be a setback in carrying out the policies of the Supreme Court under the leadership of Chief Justice Yang once the IHRLS voice out their opposing views on the Supreme Court's policies including the establishment of Appellate Court. Mr. Park Byung-dae, then-Minister of the NCA, ordered Mr. Lee Kyu-jin, then-Standing member of the Sentencing Committee, to "watch the activities of 'Insamo'", and "have inspection through Judicial Ethics Office." Mr. Lee Kyu-jin executed the order by himself and with officers of the NCA. Mr. Lee prepared documents with detailed information of Insamo's meetings, including contents and intentions of participants' speeches, the atmosphere and progress of discussions, responses of the participants and the list of judges who joined the gathering afterwards. Furthermore, he reported contents of discussions posted on Insamo's online bulletin board [refer to [1] 'Report on the formation of a new group and its progress', 'Direction of the International Human Rights Law Society-1 (sub-group of human rights and judicial system)']].

On the point of 3), the NCA reviewed a plan to induce shutdown an anonymous online website of judges, 'Ee-pan-sa-pan-ya-dan-beop-seok,' because many postings contained negative or critical views on current judicial policies of the NCA including the issue of establishing the Appellate Court. The NCA examined present conditions of the website, analysed statistics on sensitive issues including 'Recommendation process of Supreme Court justices,' 'Parole of entrepreneurs,' 'Privilege given to the former judges,' 'The establishment of Appellate Court,' and even reviewed possibility of posting online disguising as a member of the website (refer to [344] 'Report on the present condition of Ee-pan-Sa-pan-ya-dan-beop-seok'). One of the documents of the NCA analysed that, after posting a message stating that sensitive contents should be voluntarily erased after

certain period of time, many responded positively on such intention, checking the number of hits of the post (refer to [27] 'Report on the trend of Ee-pan-Sa-pan-ya-dan-beop-seok').

### **3. Is a Revision Court established actually? If so, what is its function or status within the judiciary?**

Not established.

In the current legal system, the Supreme Court is in charge of the final judgment, and if the Revision Court(appellate court) was introduced, the Revision court would have been responsible for most of the appeals cases.

In other words, the judge of the Revision court is responsible for the de facto final judgment of almost all cases. The judge of the Revision court is appointed by the Chief Justice without consent of the parliament, unlike the current judges of the Supreme Court.

As the Chief Justice of the Supreme Court of Justice, you will have the right to appoint all judges of Revision courts, and you may think that there are many "cards" that can handle general judges with the right to personnel. In other words, a high-ranking judge who is higher than a high court judge will have an opportunity to be appointed as a Revision court judge even if they cannot become judges of the Supreme Court, and as a Chief Justice, he will be able to control them by using the aspirations of higher judges.

### **4. Who created and managed the "blacklist"? Who owns or has access to this list?**

Of the 410 documents that have been published through the media to date, there is no list of names of specific judges. However, it is confirmed that the Supreme Court has made a judgment on judges who are likely to express criticism or object to the judicial policies they intend to pursue.

It is acknowledged that the measures to be taken by the special investigation team of 'Judicial Blacklist' include, for example, "disadvantages imposed on key members of 'Insamo (a small group of human rights and judicial system) of selective personnel and overseas training." (See "Measures to Respond to the International Human Rights Law Study Group" [281, 282, 287, 291] Reference). It seems to be until now, it is hard to grasp whether this has been executed practice in real.

## **5. Explanation of 'International Human Rights Law Study Group' in the Court**

The International Human Rights Law Study Group is an academic gathering within the judiciary that was established on the basis of the Supreme Court's administrative guideline, 'Article on Composition and Support of Professional Studies'. A 'small group of human rights and judicial (Insamo)' is small group was made by judges who have felt consciousness after the interviews which judges have to be taken before being appointed as judges and it was taken by National Intelligence Service (NIS). In the process of interviewing applicants for judges, NIS asked for personal opinion on political matters (that could burden and politically sensitive matters to the government, for example Sewol Ferry disaster). So that members of the International Human Rights Law Study Group consisting of this small group for consciousness of this.

The official meeting was established after two preliminary meetings between July and August 2015. Since the preliminary meeting, they have been discussing and exchanging opinions among the members on major issues of the judicial system in the judiciary including the revision court issue, organization and operation of the consensus of judges during the trials, enactment of the judiciary, participation of judges in judicial administration.

Chief of staff Park Byung-dae instructed Lee Gyu-jin, a standing member, to take good care of personnel management, as it appears to be a meeting similar to 'Our Law Research Society'. Lee pointed out that they were opposed to the Supreme Court, including "improvement of judges' burden and opposition to the establishment of a revision court"

**6. Is the authority of Yang Seung-tae given as the chief justice or the authority given as the head of the court administration?**

The Chief Justice of the Supreme Court oversees the administration of the judicial administration and directs and supervises the relevant public officials in relation to the administration of judicial administration (Article 9. (1) of the 「Court Organization Act」 ).

The Supreme Court chief justice abused his authority as the ultimate ruler of the judicial administration. After the case of the Justice Farmers' Party, Chief Justice Kim Myung-soo emphasized that the Supreme Court and the Administrative Office will completely separate the organization of the Supreme Court and the Administrative Office from each other personally and materially and abolish the promotion to change the vertical and bureaucratic decision-making structure.

**7. Intervention of the International Conference on Human Rights Law - What does it mean specifically?**

In December 2016, Insamo, which is a sub-committee within the International Human Rights Law Study Group, was discussing the holding of a joint academic conference with Yonsei University Law Firm and Judicial Personnel. On November 24, 2013, a member of the NCA, Lee Gyu-jin, who learned about the plan on December 24, made a first report on the progress of the Joint Conference and the measures to be taken by the NCA. After that, Lee Kyu-jin drafted the 'Joint Conference on Human Resources' (1), (2)' and reported it as a countermeasure at the 1st 13th Director General meeting on June 1, 2017. When the final decision was made to hold a joint academic conference on March 25, 2017, Lee asked judge Lee Tan-hee and another judge to hold the joint academic conferences to be held within the courts and not to be particularly reported in the media.

They demanded that the conference to be reduced as an internal event because of the concern that the voices that criticize the policies promoted by the Supreme Court.

## **8. Was the article on the prohibition of dual membership posted publicly?**

2017. 2. 13 It is announced in the "Courtnet" (internal communication network) that in accordance with the principle of prohibiting the dual membership in the "Rules for the Study of the Specialization in the Field of Expertise", the judges are requested to withdraw their membership from the associations. They also announced that the membership will be automatically revoked which they had joined later. All judges were able to see the posts posted on the court net.

## **9. Does the prohibition of dual membership mean that it can no longer be a member of any academic society?**

Article 3 (2) of the 「Rules for the Expert Group on the Field of Specialization of the Court」 stipulates that a judge cannot join two or more research meetings in duplicate, but the NCA may designate a research meeting to be an exception. However, this is a regulation that has not been practiced so far as it has been sourced.

The NCA, which learned that many of the judges belonging to the Insamo group were also affiliated with other research groups, reviewed the measures to eliminate redundant membership as a measure to check the personal information. It was a plan considering the fact that if the judges of the Insamo do not voluntarily resolve the situation of overlapping with several research groups, they would be withdrawn from the group that joined them (usually the International Human Rights Law Research Society).

## **10. When did the investigation team proceed? Was the investigation report publicly available?**

Supreme Court's investigative Committee: 2017. March - 2017. 4. 18. Investigation report announced.

Additional investigation committee: November 13, 2017 investigation progress / 2018. 1.



## 22. Announcement of investigation result

Special Investigative Group on the Suspected Abuse of Judicial Administration power (3rd): As a follow-up to the results of the investigation by the Additional Investigation Committee, the organization is established to supplement the findings and to take measures with a fair view point. 2018. 2. ~ 2018. 5. / 5. 25. Announcement of research report

In addition, some of the 410 documents identified in the investigation process were disclosed to some media. No public information has been disclosed to the general public (MINBYUN and PSPD filed for the information disclosure).

## **11. What steps have been taken by the investigating team to abuse judicial administrative authorities?**

General Review of the Special Investigative Committee: "We have confirmed the fact that the judges have been investigated, but we have not found any material evidence which could support that they have systematically imposed a personnel disadvantage on the judges included in the list"

In addition to the recommendation to establish a preventive measure for the bureaucracy of the judiciary, and to set the standards to be followed by judicial administration officials, the degree of involvement of each actor involved in the suspicion is summarized and sent to the disciplinary claimant

Judges with a high degree of involvement are referred to the Disciplinary Committee (exclusion from the duties).

Since then, the prosecution has begun its investigation (June 15, 2018).

## **12. What is the 'propensity' in the analysis of judicial propensity? Political position?**

A person who has a tendency to oppose the policy of the Supreme Court

Insamo within the International Human Rights Law Study Group: Seen as a group of

judges with progressive views.

**13. Analysis of the personal circumstances of the judges - what is the specific content?**

Judges Cha Sun-ahn's personal debt relations

**14. Who has concluded that there have been no criminal charges against judicial executive directors for abuse of judicial executive power or for judicial transactions?**

The investigation results of special investigation committee (contents of investigation report) concluded it.

Composition of the special investigation team: Ahn Chul-Sang(Minister of NCA), Noh tae-ak (North District Chief Judge), Kim Heung-joon (Inspector General for Judicial Ethics), Chairman Lee Seong-bok (then Chairperson of National Judges Conference), Chung Jae-heon(Chief of Judicial IT Bureau), Koo Tae-heo(Professor at Judicial Research & Training Institute)

The Composition of the committee was to supplement the investigation results and to discuss the measures with a fair viewpoint, but its independence was questionable since members of NCA were members of the committee. There was also limit of investigation.

Currently, the investigation is ongoing, but the court has been criticized for interfering with the investigation by dismissing the search warrant for the related former and current judges.

## PSPSD AND MINBYUN REQUESTS FOR THE ROK GOVERNMENT

With respect to the alleged NCA's undue influence in politically sensitive cases, surveillance of judges and citizens, we demand truth about the abuse of judicial administrative powers, holding the responsible accountable, reparation of the victims' damage, and prevention of recurrence.

- The NCA shall submit to the prosecution any documents such as documents necessary for the investigation of the prosecution.
- The National Assembly shall promptly pass the "Special Criminal Procedure Act for Adjudication of the Judicial Administrative Power Abuse under Chief Justice Yang Seong-Tae' and 'the Special Act on the Reparation of Victims of Judicial Administrative Power Abuse", and move to impeach the judges who are responsible.
- The National Assembly shall actively conduct fact-finding investigation, such as parliamentary investigation.
- The National Assembly shall form a special committee for judicial reform without due delay.
- The government shall refer to the precedent of judicial reform in the past to form a Judicial Reform Organization that can reflect opinions from various sectors such as the judiciary, the administration, and the legislature as well as the civil society.

### **Suggested Recommendations to the Special Rapporteur**

We specifically ask the Special Rapporteur to make recommendations to the government of Republic of Korea as follows:

- Recommend the Judiciary to cooperate with the ongoing investigation and make efforts for judicial reform.
- Recommend the National Assembly to make efforts for fact-finding investigation and related legislative actions.

## PART 2. ADDITIONAL INFORMATION

### 1. Background

Compared to the general cases of the attack on the independence of judges, in which the attack was usually done by the administration or the heads of the administration, the attack on the independence of Judges in Korea was mainly done by the Supreme Court chief justice and NCA judges. The case began with an incident that one judge, who was moved to NCA, heard the words, “there are files of judge blacklist” during the process of taking over the work. Kim Myung-su, who became the Supreme Court chief justice after Yang Sung-tae, the former Supreme court justice, began the internal investigations on the incident, and found out the massive abuses of judicial administrative power by Yang Sung-tae and NCA judges.

Although the former supreme court chief Justice Yang Sung-tae decided to establish of the *de facto* the Second Supreme Court, the cooperation from the administration and the national assembly was necessary, since the Judiciary of Korea did not have any administrative power, such as legislating laws and setting the budget. Park Geun-hye administration, the administration at the time, however, took a lukewarm attitude toward the establishment of the *de facto* the Second Supreme Court, considering that the increasing power of the chief justice’s power on personnel affairs due to the establishment of the *de facto* the Second Supreme Court would reflectively decrease presidential influence. It is suspected that Yang Sung-tae and NCA judges spoiled the independence of the judiciary by interfering judicial review and delaying numerous trials depending on Park Geun-hye administration’s policies and interests to change the attitude of Park Geun-hye administration. It is also suspected that Yang Sung-tae and NCA judges abused judicial administrative power and meddled in trials when they attempted to propose the law to establish the *de facto* the Second Supreme Court through members of the National Assembly since the proposing the law through the administration became difficult.

## **2. Alleged violations: The cases of the attack on the independence of judges by using trials as bargaining chips**

It is suspected that Yang Sung-tae and NCA judges used politically sensitive/ labor-issue trials as bargaining chips to curry favor with Park Geun-hye administration by ruling the trials based on Park Geun-hye administration's political tendency. One of NCA documents, produced at the end of July 2015, said, "The judiciary has been trying to support the administration in the meantime" and presented specific supreme court cases corresponding to the tendency of the Park Geun-hye administration's affairs.

### 1) The cases of the attack on the Independence of Judges

#### 1-1) A secret meeting between the Blue House and the Supreme Court

- **First Meeting:** In December 2013, Kim Ki-chun, the former president's secretary general, called the former minister of NCA, Justice Cha Han-sung, to his office and requested him to delay the Supreme Court's ruling on the case of forced-labor during Japan's colonial rule as far as possible or to open en-banc session for the case to change the Supreme court's previous judgment, saying that the victims had a right to seek compensation for their suffering from Japanese Companies.
- **Second Meeting:** Kim Ki-chun, the former president's secretary general, called the former minister of NCA, Park Byung-dae, the former president's secretary for Political Affairs, Cho Yoon-sun, the former minister of Foreign Affairs, Yoon Byung-sae, the former minister of Justice, Hwang Kyo-ahn, the former minister of Public Administration, Chong Jong-sup to check the proceeding of the case of forced-labor during Japan's colonial rule and discussed the follow-up measures on the case.

#### 1-2) Review the disciplinary measures to a Judge

- NCA searched for ways to punish a judge at Seoul Central District Court, who made a ruling that the victims of emergency administrative measures under the former dictatorial President Park Chung-hee administration had a right to seek state compensation. The Supreme Court previously made the judgement saying the victims did not have a right to seek state compensation, even though the emergency administrative measures were unconstitutional. NCA reviewed the ways to impose the disciplinary measures to the judge for the opposite ruling against the supreme court. When there was no case to discipline the judge for his or her judgement, NCA even ordered researchers to collect overseas cases.

1-3) Pressuring the district court's judge to revoke the decision for constitutional review ex officio.

- It was found that Yang sung-tae, when he was the supreme court chief justice, forced a district court judge to revoke the decision for constitutional review. In 2015, a senior Judge made a decision for constitutional review on whether the work experience of public health doctors could be included in a period of service that PENSION FOR PRIVATE SCHOOL TEACHERS AND STAFF ACT regulated or not, asking the act was unconstitutional in certain context. It was revealed that a senior NCA judge, who had received the order from Yang Sung-tae, pressured the senior judge to revoke the decision ex officio. It was also revealed that NCA ordered Judicial IT Bureau to cover up the decision during the process, so that the decision could not be accessed through the internal computer network.
- The prosecution believes that Yang Sung-tae, who had been in conflict with the Constitutional Court at the time, was displeased with the decision and put pressure on the senior judge through NCA. If the Constitutional Court accepted the decision and declared the case unconstitutional in certain context, it might mean that the interpretation of a specific law that the Supreme Court had made was unconstitutional. The prosecution said, "The Supreme Court illegally meddled in the decision which was already made by the judge."

## 2) The cases suspected of being used as bargaining chips

### 2-1) The case of emergency administrative measures

- Summary of the Case: In 2015, The Supreme court under Yang Sung-tae, ruled that “The emergency administrative measures (in the days of former dictatorial President Park Chung-hee administration, Yushin administration) are the political questions” and concluded that “Even though the emergency administrative measures are unconstitutional, the state has no liability to compensate.”

Raised Suspicion: The document, produced in late July 2015 presented the rulings which strictly applied the statute of limitation and were related to past history as the rulings that “restricted unfair or excessive state compensation.” It presented the ruling of emergency administrative measures as the ruling that “fully considered the situation and the political implications.”

### 2-2) The case of forced-labor during Japan’s colonial rule

- Summary of the Case: Kim Ki-chun, the former president's secretary general, tried to delay the Grand Declaration of 2012 by recognizing the liability of the war criminal corporation through the meeting of two secret meetings. Apart from this, it has been reported that he had contacted NCA, Blue House, the Ministry of Foreign Affairs, and the attorneys of the Japanese war criminal corporation several times and meddled in the trial. It has been found that the Supreme Court asked the Ministry of Foreign Affairs to submit a government statement on the trial, and involved in the process of Ministry of Foreign Affairs’ submission of the government statement in November of 2016. The plan to delay the trial, including the submission of the governmental statement, was also reported to the former president Park Geun-hye.
- Raised suspicion: The prosecution suspects that NCA had planned to delay the trial and opening en-banc session in advance. The Supreme Court is suspected of

requesting cooperation for the establishment of the *de facto* and the dispatch of overseas mission for Judges at the same time by using the trials as bargaining chips.

2-3) Cases on Labor disputes: ① Case on KTX crew layoff, ② Case on Ssangyong motors laborer dismissal, ③ Suspension of government notification that changed the status of Korean Teachers and Education Workers Union (hereinafter referred to as the “KTU”) as an illegal union<sup>1</sup>, ④ Decision on ordinary wages

- Case Summary ①: The KTX crews had filed a lawsuit requesting ‘validation of status as workers etc.’, claiming direct and permanent employment, and received favorable decisions from primary and appellate court, acknowledging KORAIL as the actual employer. However, on February 2015, the Supreme Court overturned the original decision and denied the existence of direct employment between the crews and KORAIL, dismissing the lawsuit.
- Case Summary ② : On 2010, 153 dismissed workers from Ssangyong motors filed a lawsuit requesting the ‘confirmation of nullity of managerial dismissal’, a form of wrongful termination suit. The High Court denied the validity of managerial dismissal explaining that “there is no urgent managerial necessity, and the management failed to make every effort to avoid dismissal.” This decision, however was disregarded by the Supreme Court when it ruled in favor of the management stating that “urgent managerial need is recognized” and sent the case back to the High Court for reconsideration. The case was then concluded, denying reinstatement of the workers.
- Case Summary ③ : In response to the government notification by the Ministry of Employment and Labor on 2013, which recanted the KTU of its legal status, the

---

<sup>1</sup> On July 16, 2014, The People’s Solidarity for Participatory Democracy (hereinafter referred to as the “PSPD”) submitted an urgent appeal regarding the government actions that violated freedom of assembly and association and freedom of expression, which include government notification by the Ministry of Employment and Labor cancelling union registration of the KTU, alleging that KTU’s bylaw that allowed dismissed workers as eligible members is illegal, and accusations made by the Ministry of Education against the teachers who participated in assemblies and teacher declaration, to the UN Special Rapporteur on Freedom of Expression and the UN Special Rapporteur on Freedom of Assembly and Association.



KTU filed a lawsuit requesting ‘revocation of the government notification (merits case)’ and filed for a ‘suspension of execution (an injunction requesting a temporary ruling on the effect of government order prior to the court’s decision on merits case).’ The Supreme Court accepted the appeal filed by the Ministry of Employment and Labor on September 2014 against the Seoul High Court’s ruling, which allowed the injunction to restore the KTU’s legal status, revoked the injunction and sent the ruling back to the High Court.

- Case Summary ④ : On December 18, 2013, the Supreme Court made an en banc decision on the definition of ordinary wages. While the decision did not alter the existing case law that included regular bonus payments as ordinary wages, the Supreme Court dismissed the plaintiff’s appeal stating that “retroactive application for certain payments may be denied given that an agreement between the management and labor to exclude such payments from ordinary wages exists” under the principle of good faith.
- Allegations Raised: According to the NCA document drafted on late July 2015, the above KTX crew layoff case, Ssangyong motors laborer dismissal case was selected as “cases coordinated to support state administration of Park Geun-hye and the BH.” Another NCA document, titled ‘Review of the injunction concerning the government notification of KTU’s illegal status’ and drafted on December 2014, states that ‘acceptance ruling on appeals → shall result in win-win outcome for both parties (the BH and the Supreme Court).’ Soon on June 2, 2015, the Supreme Court ruled to accept the appeal by the government, revoked the injunction and sent the case back for reconsideration. The document furthermore states that acceptance ruling by the Supreme Court shall affect reconsideration of the High Court. The Supreme Court ruling of June 2, 2015 did in fact influence the High Court, which overturned its original decision and decided against the KTU on January 21, 2016. Due to the High Court decision of 2016, the KTU lost its legal status and has remained as an illegal union. For the ordinary wage case, the Supreme Court decided to review the case as full bench and released a press report immediately after the decision was pronounced. The revealed documents state that the NCA additionally reported the implications of the decision to the BH and sought for its response.

2-4) ① Construction of the Jeju Civilian-Military Complex Port<sup>2</sup>, ② Construction of Miryang Power Transmission Tower<sup>3</sup>

- Case Summary ① : Residents of Gangjeong village filed a lawsuit against the Ministry of National Defense last April 2009, that approved the construction plan of naval base near Gangjeong village asserting the “invalidity of the construction plan approved without proper environmental impact assessment.” The primary and appellate court decided in favor of the villagers, yet the Supreme Court overturned the decision and sided with the Ministry of National Defense.
- Case Summary ② : On October 2013, KEPCO enforced construction of transmission towers, silencing the villagers’ opinion using state violence. However, the Court (Changwon District Court Miryang Branch) decided to dismiss the villagers’ claim for provisional disposition on construction suspension that highlighted unlawful acts of the government (violation of the Environmental Impact Assessment Act, violation of helicopter noise standard), 7 months after the villagers filed the claim. KEPCO’s claim for provisional disposition on prohibition of construction obstruction against the villagers, however, was expediently accepted only 40 days after the claims was brought, by the same Court.
- Allegations Raised: The Yang Sung-tae Court described “the decision that pronounced the disposition approving the construction plan of the naval base as legally valid,” as “an example where the judicial branch cooperated to support smooth state administration.” Furthermore, the Yang Sung-tae Court also wrote that the rulings on Miryang conflict, where the court ruled in favor of KEPCO’s claim while rejecting the villagers’ claim, contributed to “end and prevent further social conflicts” as “the continued collision between KEPCO and the Miryang residents was fueling a social strife.”

---

<sup>2</sup> On April 18, 2012, the PSPD submitted an individual complaint to the UN Special Rapporteur regarding the state violence and human rights violation made during construction of the naval base.

<sup>3</sup> On June 23, 2014, the PSPD submitted an urgent appeal regarding the human rights violation committed by the Miryang City Council during its administrative vicarious execution process to the UN Special Rapporteur on human rights, the UN Special Rapporteur on Freedom of Assembly and Association.

### **3. Useful information: Investigation by the Prosecutor's Office and Refusal of Search Warrants**

On June 15th, prosecution began their investigation as Chief Justice Kim Myeong-Su expressed his intention to cooperate. Despite Chief Justice Kim's pledge to cooperate with the investigation, district court have rejected requests from the prosecution for warrants to search the offices and homes of or arrest key former and current Supreme Court officials, effectively undermining the investigation. Of 208 search warrants requested since June, when the investigation began, only 23 have been issued until now (as of September 4th). The rejection rate is as high as 89%, which is unprecedented considering that only 1% of search warrants have been rejected for the past 5 years. For instance, Yoo Hae-yong, a former Supreme Court clerk destroyed hundreds of classified documents, such as hard discs and initial drafts of Supreme Court rulings, while the court was rejecting three search warrant requests. Meanwhile, the court issued search warrants for Ministry of Foreign Affairs and the Constitutional Court (August 2nd, August 20th) as allegations that Yang Sung-tae Court attempted to intervene in the damage suit filed by the victims of Japanese Military Sexual Slavery and that an incumbent judge collected and reported important information of the Constitutional Court to the Supreme Court arose, yet rejected search warrant requests for incumbent judges (August 20th) involved in the same allegation. ■