

Preliminary Findings of the Joint Fact Finding Committee of the International Association of Democratic Lawyers and the Confederation of Lawyers for Asia-Pacific on the `Waitresses Case`:

1. The fact finding committee interacted with the National Human Rights Commission at Seoul and raised the issue of the unjustified delay in the publication of the report of the National Human Rights Commission. The Secretary General of National Human Rights Commission of Republic of Korea did not deny that there had been delay in the publication of the report on the 'Waitresses Case.' The Secretary General informed our committee that the report is finalized but not yet published and will be published in the near future.
2. The fact finding committee does not find any justification for the delay in finalizing and publishing the report by the National Human Rights Commission as the delay in publishing the report itself constitutes a violation of the human rights of the waitresses who are "victims" as referred to by Special Rapporteur of the UN Human Rights Council who met and interviewed the Manager and two waitresses at the UN Human Rights Office in Seoul.
3. The fact finding committee is of the view that the delay in the investigation,

prosecution of those agencies and individuals involved, may lead to the inference that the state agencies and officials have been extended impunity from any accountability under the facts and circumstance of this case, and that this unconscionable delay is influenced by state policy.

4. The fact finding committee inquired and sought information from institutions, organizations and individuals in Seoul whether the twelve young women who are in their twenties and thirties have been assisted by state or any other agency or authority in contacting the families in any way or by any means; we were informed that no assistance has been given to them to contact their families. Our committee is of opinion that this is a serious violation of human rights of the “victims” as under the Universal Declaration of Human Rights(1948) and International Covenant of Civil and Political rights (1966) “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”
5. The fact finding committee regrets that the despite the Panmunjom Declaration for Peace, Prosperity and Unification of the Korean Peninsula which has referred specifically to the necessity to reconnect families and to encourage visits and contacts at all levels no assistance whatever has been given by the authorities in the Republic of Korea to “swiftly resolve the humanitarian issues that resulted from the

division of the nation” and “to discuss and solve various issues including the reunion of separated families” no assistance has been given to these young victims to meet their families in violation of article 16.3 of the Universal Declaration of Human Rights (1948) and article 23.1 of the International Covenant on Civil and Political Rights (1966).

6. Our committee calls upon the government of the Republic of Korea, its institutions, agencies and officials to initiate urgent measures to reconnect the victims with their families in the Democratic Peoples Republic of Korea as it is the fundamental human right and to implement in letter and spirit of the Panmunjom declaration (April 27, 2018) and the Pyongyang joint Declaration (September 19, 2018) signed at the highest level by both governments.
7. The fact that all the waitresses who worked under the supervision and control of their restaurant Manager in China and were brought via Malaysia to the Republic of Korea and were placed in Malaysia in the custody of the South Korean embassy in Malaysia before being brought to Seoul.
8. The fact finding committee interviewed the journalist who conducted the investigation who disclosed that he had access to the Manager and the waitresses and that the disclosed to him that they were deceived and brought to the South

Korean embassy in Malaysia and thereafter to South Korea by the Manager who had their North Korean passports and the journalist informed the committee that some of the waitresses and the Manager desired to disclose the illegal manner in which they had been brought to South Korea.

9. The fact finding committee was informed that the North Korean young ladies were feeling helpless and hopeless as despite their interviews on television, meeting the Special Rapporteur, Mr Thomas Ojea Quintana and informing him that they had been brought to South Korea by deception and some of them interacting with the National Human Rights Commission of Republic of Korea those who wanted to return home to North Korea were not assisted and none of them could contact their families and therefore presently they were depressed because of their isolation. The journalist disclosed that they had to delay initial broadcast of the interview of the manager who said that the entire operation was carried out and instance of some officials of the National Intelligence Service as there was intervention at the highest level of the government to delay the broadcast. The four waitresses participated in the program confirmed that they did not come to South Korea voluntarily.
10. Our committee questioned the journalist in detail and on learning from him of the involvement of the National Intelligence Service a few days before the parliamentary

elections in South Korea as disclosed by the Manager who claimed that this plan was executed under directions of the National Intelligence Service; in view of the gravity of the disclosure on public broadcast system, we are concerned as to the reasons why the involvement of the National Intelligence Service in this case was not investigated at the highest levels, and by the investigative and prosecuting agencies of South Korea. The Special Rapporteur has in his press statement declared that the facts if they are true disclose commission of a crime as the victims disclosed that they were brought by deception.

11. The joint fact finding committee observes that from 2016 to 2019 there has been no investigation in this case despite repeated attempts by the Minbyun lawyers for a democratic society. The committee recommends that it is not only in the interest of justice for the north Korean waitresses that urgent investigation and prosecution should be initiated; it is overall in the interest of the people of the Republic of Korea and the Democratic Peoples Republic of Korea that there must be accountability as no official or institution should be above the law.

12. The fact finding committee had a meeting at the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Seoul to inquire whether the human rights office of the United Nations had conducted any investigation into the

circumstances in which the waitresses that is they had been brought to Seoul and the isolation they are facing because they have been denied all contact with their families in North Korea. The fact finding committee was informed by OHCHR in Seoul that their mandate as per the resolution of UN Human Rights Council on March 21 2013 is only to investigate and report on the human rights violations by the Democratic Peoples Republic of Korea (North Korea). The fact finding committee informed the OHCHR that since there are human rights violations in many countries it is discriminatory to have only a country specific mandate as that leads to politicization of human rights instead of the focus on the victims of all human right violations wherever they take place.

13. The office of OHCHR in Seoul confirmed that they were aware that Mr. Quintana Special Rapporteur of the United Nations Human Rights Council met the manager and two waitresses and that the Special Rapporteur had issued a press statement.

14. We are concerned about the situation in which the twelve young women find themselves without any family or institutional support structure and call upon the concerned authorities including at the highest level in the Republic of Korea (South Korea) to urgently arrange a family reunion for these young women at Seoul.

15. The report will be finalized at the end of September after the committee visits

Pyongyang.

August 29, 2019

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