



September 12, 2021

President Moon, Jae-In  
Blue House  
1 Cheong Wa Dae Road, Jongno District  
Seoul, Republic of Korea

**RE: Arrest of KCTU President Yang Kyeong-soo**

Dear President Moon:

On behalf of the International Lawyers Assisting Workers Network (ILAW Network), which represents over 670 workers' rights lawyers in over 75 countries, I write to protest the raid of the headquarters of the Korean Confederation of Trade Unions (KCTU) and the arrest of KCTU President Yang, Kyeong-soo on 2 September 2021. This constitutes a very serious violation of the rights to freedom of assembly and association, which are fundamental human rights protected by, among other instruments, the International Covenant on Civil and Political Rights and Convention 87 of the International Labor Organization (ILO), both of which the Republic of Korea has ratified. *We therefore urge the government to immediately drop the charges against President Yang and release him from custody.*

The raid and arrest arise from the KCTU having conducted a peaceful rally in July 2021 without a permit.<sup>1</sup> The union organized the rally to call on the government to address income inequality, which had been further exacerbated by the pandemic. The union demanded that the government in response issue a moratorium on job dismissals and provide income support to workers in the form of direct cash payments. Recognizing the potential for such a rally to spread COVID-19, the union leadership committed to carefully follow the government's social distancing guidelines.<sup>2</sup> The lack of any COVID-19 infections tied to the rally is evidence that the union membership did in fact adhere to those guidelines. Nevertheless, the government deemed the rally illegal for allegedly violating the Act on Demonstration and Assembly and the Act on Infectious Disease Prevention and Control.

Unfortunately, the arrest of President Yang is not an aberration; indeed, the banning of strikes and peaceful assemblies, the raiding of union offices and the arrest of trade union leaders is commonplace in the Republic of Korea. The International Labor Organization's Committee on Freedom of Association has in fact routinely criticized the government of the Republic of Korea over previous arrests,<sup>3</sup> noting that the "arrest, detention and bringing of charges against trade unionists for trade union activities is

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<sup>1</sup> The KCTU had applied for a permit, but the government denied it citing among other things COVID-19 restrictions.

<sup>2</sup> The one aspect of the Guidelines that was not followed was the 10-person limit on assemblies. The Seoul municipal government put a blanket ban on any public assembly exceeding 10 persons, despite the more flexible approach of the central government's social distancing measures which take into consideration the number of new COVID cases. More importantly, the 10-person limit is being applied in a discriminatory fashion – only to public demonstrations. The government has not applied the 10-person limit to *indoor* press conferences, political party conventions and cultural performances, where the chance of transmitting the virus is in fact significantly higher. The KCTU's lawyers have filed a constitutional claim concerning the application of the 10-person limit on 29 June 2021 when their application for a permit was denied.

<sup>3</sup> See, e.g., CFA Case 1865 (first filed in 1995), in which the CFA has reviewed and denounced previous arrests of trade union leaders in Korea: <https://www.ilo.org/dyn/normlex/en/f?p=1000:20060::FIND:NO::>

contrary to the principles of freedom of association.” In 2016, the UN Special Rapporteur on Freedom of Peaceful Assembly and Association (UNSR) also denounced the limitations on strikes and peaceful assemblies and the arrest of trade union leaders.<sup>4</sup> The UNSR also specifically called on the Act on Assemblies and Demonstrations to be amended to ensure that all can freely assemble without prior authorization.

It is abundantly clear that trade unions may engage in collective action to put pressure on governments to introduce policies to address the impact of the pandemic on workers. The ILO Committee on Freedom of Association has previously found that, “organizations responsible for defending workers’ socio-economic and occupational interests should be able to use strike action to support their position in the search for solutions to problems posed by major social and economic policy trends which have a direct impact on their members and all workers in general, in particular as regards employment, social protection and standards of living.”<sup>5</sup>

While we recognize that governments may impose restrictions on the exercise of certain rights, including assembly, during a public emergency “threatening the life of a nation,” they can do so only to the extent strictly required by the exigencies of the situation.<sup>6</sup> Indeed, with regard to the pandemic the ILO has held that “Restrictions on those essential civil liberties should be confined to circumstances of extreme gravity and on the condition that any measures affecting the application of fundamental rights be limited, in scope and duration, to what is strictly necessary to deal with the situation in question.”<sup>7</sup> The UNSR has also underscored that, “[A]ny limitations on rights imposed must be in accordance with the principles of legality, necessity and proportionality. It is inadmissible to declare blanket restrictions on human rights and fundamental freedoms.”<sup>8</sup>

Here, the KCTU complied with the government’s guidelines on social distancing during the rally and indeed no one fell ill as a result. Given that the government permits large indoor gatherings without any apparent concern, it can be surmised therefore that the pandemic is being used a mere pretext to retaliate against the KCTU for having criticized the government for its inadequate response to the COVID-19 pandemic. As such, the refusal to issue a permit despite commitments to respect social distancing and other public health protocols, and the subsequent criminalization of that rally, are of dubious legality.<sup>9</sup> Again, we join trade unions around the world in calling for your government to drop the charges against President Yang and to immediately release him from custody.

Sincerely,

Jeffrey Vogt,  
Chair, ILAW Network

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<sup>4</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/257/86/PDF/G1625786.pdf?OpenElement>

<sup>5</sup> See, CFA Case 26012 (Korea) para 668, online at [https://www.ilo.org/dyn/normlex/en/f?p=1000:70006:0::NO:70006:P70006\\_COMPLAINT\\_TEXT\\_ID,P70006\\_PARAGRAPH\\_NO:2911083,668](https://www.ilo.org/dyn/normlex/en/f?p=1000:70006:0::NO:70006:P70006_COMPLAINT_TEXT_ID,P70006_PARAGRAPH_NO:2911083,668)

<sup>6</sup> See, UN, Derogation in times of public emergency, online at <https://www.unodc.org/e4j/en/terrorism/module-7/key-issues/derogation-during-public-emergency.html>

<sup>7</sup> See, ILO, Issue paper on COVID-19 and fundamental principles and rights at work (2020), online at [https://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@ipecc/documents/publication/wcms\\_757247.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@ipecc/documents/publication/wcms_757247.pdf)

<sup>8</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25788&LangID=E>

<sup>9</sup> In any case, even if the rally were to be deemed illegal, civil fines, rather than criminal sanctions, would be most appropriate.

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