

President

John Hendy QC
Lawyer, UK

Vice Presidents

Jamshid Ahmadi
*Union of Metalworkers and Mechanics,
Iran*

Kurshid Ahmed

*General Secretary, All Pakistan Workers
Confederation*

Professor Jan Buelens

*Advocaat, Progress Lawyers' Network,
Belgium*

Dr. Anita Chan

Academic, Australia

Dr. Ericson Crivelli

*Advogado, Crivelli Advogados
Associados, Brazil*

Professor Keith Ewing

Academic lawyer, UK

Fathi El-Fadl

*Director, Trade Union Rights
Centre (independent NGO), Sudan*

Avalon Kent

*Policy Analyst / Legal Officer, New
Zealand Council of Trade Unions*

Esther Lynch

*Confederal Secretary, European Trade
Union Confederation*

Lornts Nagelhus

Advokat, LO Norway

Yoshikazu Odagawa

Secretary General, Zenroren, Japan

Jeffrey Sack QC

Lawyer, Canada

Jitendra Sharma

*Senior Advocate, Supreme Court of
India*

Surya Tjandra

*Lawyer and Director of the Trade
Union Rights Centre, Indonesia*

Ozlem Yildirim

*Policy Officer, International
Department,
CGT France*

Director

Daniel Blackburn, MA, barrister

Researcher

Ciaran Cross, LL.M.



International Centre for Trade Union Rights

*Centro Internacional para los Derechos Sindicales
Centre International pour les Droits Syndicaux*

Address: 177 Abbeville Road, London SW4 9RL, UK

Tel: +44 (0) 20 7498 4700

Fax: +44 (0) 20 7498 0611

E-mail: ictur@ictur.org

Web: www.ictur.org

ICTUR was founded to
defend and extend trade union rights and
to raise awareness of these rights and their violations
around the world

By email:

president@president.go.kr

webmaster@president.go.kr

geneva.korea@mofa.go.kr

Attn:

President Moon Jae-in
President of the Republic of Korea,
Cheongwadae
Sejong-ro No. 1, Jongno-gu
Seoul 110-820, Republic of Korea

CC:

Office of the United Nations Special Rapporteur on the rights to freedom
of peaceful assembly and of association
Korean Confederation of Trade Unions (KCTU)
International Trade Union Confederation (ITUC)

February 2018

Dear President Moon Jae-in,

The International Centre for Trade Union Rights is gravely concerned about the recent arrest of former general secretary of the Korean Confederation of Trade Unions (KCTU), Lee Young-joo.

ICTUR understands that Lee was arrested in December 2017, after leaving the headquarters of the ruling Democratic Party, where she had been on a ten-day hunger strike to protest working time regulations. For the two years up until December, Lee had been staying in the refuge of the KCTU office in order to continue her activity as general secretary, after police issued an unlimited arrest warrant for her role in organising a mass demonstration on 14 November 2015. It is reported that Lee was arrested on 27 December 2017 after ending her hunger strike, and taken to hospital, where she was questioned by police. On 30 December, at the request of the prosecutor, a detention order was issued, and she was moved to a detention centre. It is understood that she will be soon sent for trial.

Han Sang-gyun, the president of the KCTU, has been held in detention since December 2015, serving a three-year sentence for leading "illegal demonstrations" in 2015.

In October 2017, the ILO Committee on Freedom of Association explicitly requested that that the Government "take any measures in its power for the release of Mr Han and all other trade unionists, if

any, still in detention for the organization of the 14 November 2015 demonstration or peaceful participation therein... [and] to provide detailed information on the charges for which the arrest warrant against Ms Young-joo Lee has been issued." (Report No 383, October 2017, para. 301(d) - Case No 3238 / Complaint date: 30 Aug 16)

In April 2017, the UN Working Group on Arbitrary detention also considered the cases of Han and Lee. The Working Group concluded that the “deprivation of liberty of Sang-gyun Han” was “in contravention of articles 9, 19 and 20 of the Universal Declaration of Human Rights and articles 9, 19 and 21 of the International Covenant on Civil and Political Rights”. The Working Group called for the government to provide for appropriate remedy – namely Han's immediate release, an enforceable right to compensation and other reparations, appropriate measures against those responsible for the violation of his rights, and amendments to bring South Korea's legal framework and practices concerning the right of peaceful assembly, including the Assembly and Demonstration Act, into line with the recommendations made in the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on his mission to the Republic of Korea. (Human Rights Council Working Group on Arbitrary Detention, Opinion No. 22/2017 concerning Sang-gyun Han and Young-joo Lee (Republic of Korea), paras. 77-81).

The Working Group noted at that time “the factual similarities between the cases of Mr. Han and Ms. Lee”, and reminded the Korean government that it has “the responsibility, including in the context of peaceful protests, to prevent arbitrary arrest and detention, and called upon States to avoid the abuse of criminal proceedings at all times.” (para. 76)

The government's failure to date to follow the recommendations of the ILO Committee on Freedom of Association and the UN Working Group on Arbitrary Detention are of serious concern. Many in the international trade union movement welcomed your election last year and hoped that – as a former human rights lawyer who has personal experience of detention for leading anti-government protests – you would address these violations of international human rights law with appropriate haste.

ICTUR calls on the South Korean government to immediately secure the release of Han Sang-gyun and the withdrawal of the charges against Lee Young-joo. ICTUR further calls on the government to ensure that they – and any other trade unionists likewise detained – have access to appropriate remedies for the violation of their rights.

The ILO Committee on Freedom of Association has also requested that the government take necessary measures to amend or repeal the provisions in the Trade Union and Labour Relations Adjustment Act (TULRAA), the Act on Establishment and Operation of Trade Unions for Teachers (AEOTUT) and the Act on Establishment and Operation of Public Officials Labour Unions (AEOPOLU), prohibiting dismissed workers from being union members. The Committee has taken this position since the laws' first enactment in 1997, and

declared that such a provision is “incompatible with the principles of freedom of association since it deprives the persons concerned of joining the organization of their choice” (382nd Report of the Committee on Freedom of Association, Governing Body 330th Session, Geneva, 17 June 2017 - GB.330/INS/4, paras. 33 & 42). As a result of conditions imposed on the Korean Teachers and Education Workers’ Union (KTU) and the Korean Government Employees’ Union (KGEU) to amend their by-laws and exclude the membership of dismissed workers conditions, both unions have been denied legal status for many years.

ICTUR welcomes reports of South Korea's intention to ratify ILO Conventions 87 (Freedom of Association and Protection of the Right to Organize) and 98 (Right to Organize and Collective Bargaining), but notes that the cases related above need to be addressed by positive actions on behalf of the government in order to ensure South Korea’s compliance with the commitments contained in those Conventions.

ICTUR further urges the government to respond to and comply with all recommendations made by the ILO Committee on Freedom of Association, and to take all measures necessary in order to protect the fundamental freedoms of workers to join and form unions and to take action in defence of their interests. ICTUR will report these incidents in the journal *International Union Rights*, which was established in 1993, and which enjoys a readership in more than 100 countries.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'D. Blackburn', followed by a long horizontal line extending to the right.

Daniel Blackburn, Director