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September 23, 2021

## Statement by Human Rights Watch on the Proposed Amendments to the Press Arbitration Act

Thank you for the opportunity to present comments at this event, and apologies for our inability to present the statement personally. Human Rights Watch has worked on human rights issues in South Korea for more than 35 years, and we are very concerned about the increasing use of punitive measures against peaceful speech.

The draft amendments to the Press Arbitration Law, which are the latest example of that trend, will seriously impair the rights to freedom of expression, freedom of information and media freedom, and will discourage critical reporting by the media if passed in their current form.

While we welcome the revisions to the bill proposed by the Democratic Party, the fact of the matter is those changes still do not bring it into compliance with international standards. Even as revised, the media can be severely penalized for even a minor factual error if a plaintiff claims to have been injured by the error, and face damages that are disproportionate to any harm caused.

Disproportionate sanctions such as heavy fines can have a significant chilling effect on freedom of expression in South Korea, which is already constrained by criminal defamation laws that should be abolished. This chilling effect is of particular concern when it impacts the press, since an independent and diverse media that disseminates a wide range of information and ideas plays a critical role in supporting the functioning of a democratic society.

While the deletion of the “presumption” of intent in certain circumstances is presented as a positive step, we note that it has been replaced by language that appears to put the burden on the defendant to show that they acted “without intent or gross negligence.” If the media is forced to bear the burden of proof, the bill will continue to force journalists to choose between revealing their sources or facing heavy damages.

It is particularly troubling that this bill seeks to impose punitive damages on the media alone. While South Korean law currently allows punitive damages in certain limited types of cases, there is presently no general punitive damages law. This bill could thus allow imposition of punitive damages on a press report, but not on those responsible for wrongful acts on which the press is reporting.

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Members of the National Assembly should reject the revised bill and ensure that any new proposal complies with international standards for freedom of speech.