

# South Korea | Freedom House

## POLITICAL RIGHTS: 33 / 40

### A. ELECTORAL PROCESS: 11 / 12

#### **A1. Was the current head of government or other chief national authority elected through free and fair elections? 4 / 4**

The 1988 constitution vests executive power in a directly elected president, who is limited to a single five-year term. Executive elections in South Korea are largely free and fair. Moon Jae-in of the liberal Minjoo Party won a May 2017 snap presidential election following the impeachment of former president Park. He took 41 percent of the vote, followed by Hong Jun-pyo of the conservative Liberty Korea Party with 24 percent and Ahn Cheol-soo of the centrist People's Party with 21 percent. About 77 percent of registered voters turned out for the election.

In the June 2018 local elections, the Minjoo Party won 14 of 17 metropolitan mayoral and gubernatorial offices, with two of the others going to the Liberty Korea Party and one to an independent. Turnout for the local elections was 60.2 percent, marking the first time the voting rate had surpassed 60 percent for local elections since 1995.

#### **A2. Were the current national legislative representatives elected through free and fair elections? 4 / 4**

The unicameral National Assembly is composed of 300 members serving four-year terms, with 253 elected in single-member constituencies and 47 through national party lists. The contests are typically free of major irregularities. In the 2016 elections, the Minjoo Party won 123 seats, while the Saenuri Party (which later became the Liberty Korea Party) won 122. The People's Party took 38 seats, and minor parties and independents secured the remaining 17 seats.

#### **A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 3 / 4**

Elections are managed by the National Election Commission, an independent nine-member body appointed for six-year terms. Three members are chosen by the president, three by the National Assembly, and three by the Supreme Court.

While elections are generally considered free and fair, National Assembly constituencies have historically been affected by malapportionment, giving outsized voting power to thinly populated rural areas. A revised map adopted for the 2016 elections mitigated the problem, in keeping with a 2014 Constitutional Court ruling, though the largest constituency population can still be twice the size of the smallest.

### B. POLITICAL PLURALISM AND PARTICIPATION: 13 / 16

**B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 3 / 4**

Political pluralism is robust, with multiple parties competing for power, though party structures and coalitions are rather fluid. In addition to the two main parties—the liberal Minjoo Party and conservative Liberty Korea Party—several smaller groups are represented in the National Assembly, as are a handful of unaffiliated members. Only once has the Constitutional Court legally dissolved a political party—the United Progressive Party in 2014—for violations of the National Security Law, which bans pro-North Korean activities.

**B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 4 / 4**

There have been multiple transfers of power between rival conservative and liberal parties since the early 1990s, and the orderly election and inauguration of President Moon in 2017 reinforced this democratic pattern.

**B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 3 / 4**

Family-controlled business empires known as *chaebol* dominate the country's economy and have amassed significant political influence, which generally enables them to protect their interests despite calls for reform. Corruption scandals involving bribery by the chaebol have affected almost all of South Korea's former presidents.

The National Intelligence Service (NIS) has been implicated in a series of scandals in recent years, including allegations that it sought to influence the 2012 presidential election and later conducted illegal surveillance targeting Park's opponents.

**B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 3 / 4**

Although the country's few ethnic minority citizens enjoy full political rights under the law, they rarely win political representation. There were no lawmakers of non-Korean ethnicity in the National Assembly as of 2018. Residents who are not ethnic Koreans face extreme difficulties obtaining citizenship, which is based on parentage. North Korean defectors are eligible for citizenship.

Women also enjoy legal equality but remain underrepresented, with just 17 percent of the seats in the National Assembly. Conservative Christian groups have used their political influence to prevent legislators from adopting stronger laws that would protect LGBT (lesbian, gay, bisexual, and transgender) people from discrimination.

**C. FUNCTIONING OF GOVERNMENT: 9 / 12**

**C1. Do the freely elected head of government and national legislative**

## **representatives determine the policies of the government? 4 / 4**

Elected officials generally determine and implement state policy without undue interference from unelected entities and interests.

### **C2. Are safeguards against official corruption strong and effective? 3 / 4**

Despite government anticorruption efforts, bribery, influence peddling, and extortion persist in politics, business, and everyday life. The Kim Young-ran Act, or Improper Solicitation and Graft Act, establishes stiff punishments for those convicted of accepting bribes. The law, which took effect in 2016, applies to government officials as well as their spouses, journalists, and educators.

Corruption scandals have affected the highest levels of government in recent years. Former president Park, who was impeached in late 2016 and removed from office in 2017, was convicted by a lower court in April 2018 on a number of charges, including bribery, revealing state secrets, and abuse of power; she was sentenced to 24 years in prison. In a parallel case in July, she received a sentence of eight years in prison for violation of election laws and illegal receipt of funds from a state agency. The next month, a Seoul appeals court upheld the first conviction but added another year to Park's sentence, for a total of 25 years in that case. A final appeal was pending in the Supreme Court at year's end. Separately in October, former president Lee Myung-bak was convicted of bribery and embezzlement, both while he was campaigning for the presidency and during his time in office (2008–13); he was sentenced to 15 years in prison.

Several people from Park's administration and its partners in the private sector have been convicted of related crimes. Lee Jae-young, heir to the Samsung conglomerate, was sentenced in 2017 to five years in prison for paying \$7.8 million in bribes to secure Park's support for a business deal that strengthened his control over Samsung Electronics. In February 2018, Lee's sentence was reduced and suspended, and he was released from prison, after an appeals court lowered the estimate of the bribes to \$3.3 million; he was awaiting a final ruling from the Supreme Court at year's end.

### **C3. Does the government operate with openness and transparency? 2 / 4**

The investigations surrounding Park's impeachment illuminated extensive collusion between Park and her friend and main coconspirator, Choi Soon-sil, that also involved business conglomerates and the national pension fund, among other entities, affecting government decision-making on a variety of topics. Despite Moon's pledge to increase transparency and reduce corruption, his administration has had several similar problems.

In March 2018, former National Assembly member Kim Ki-sik was appointed as the new head of the Financial Supervisory Service (FSS), but he resigned 17 days later, in mid-April, after the National Election Commission ruled that a large political donation he made before the end of his National Assembly term violated the Public Official Election Act. Also in April, funding for a Korea-focused research center at a US university was abruptly cut by the Korean government after the center refused the

government's demands to replace its leadership and adopt rules that would give the government direct influence over its operations. The funding was granted by the Korea Institute for International Economic Policy (KIEP), but the decision to withdraw funding was made at the board level of the National Research Council (NRC). The administration denied involvement, but evidence later showed that enormous pressure to make this decision had been placed on KIEP and NRC by presidential aides.

In August, President Moon dismissed Hwang Soo-kyeong, the commissioner of Statistics Korea, after the agency reported negative income and employment statistics and Hwang refused the president's request to change the statistical methodology. She was replaced by Kang Shin-wook, a former researcher at the Korea Institute for Health and Social Affairs who had proposed a redesign and reinterpretation of the controversial analysis to achieve more positive results.

## **CIVIL LIBERTIES: 50 / 60 (-1)**

### **D. FREEDOM OF EXPRESSION AND BELIEF: 14 / 16**

#### **D1. Are there free and independent media? 3 / 4**

The news media are generally free and competitive, reporting aggressively on government policies and allegations of official and corporate wrongdoing. However, a defamation law authorizes sentences of up to seven years in prison, encouraging a certain degree of self-censorship, and journalists at major news outlets often face political interference from managers or the government.

News coverage or commentary that is deemed to favor North Korea can be censored and lead to prosecution under the National Security Law, and access to North Korean media is banned. Nevertheless, under President Moon in 2018 there was pressure to keep media coverage of North Korea and the inter-Korean diplomatic process relatively positive. During the third summit between Moon and Kim Jong-un, held in Pyongyang in September, a Korean Voice of America (VOA) journalist was removed from an official messaging group, which was meant to update foreign media on summit events, after he reported stories about South Korean involvement in North Korea's evasion of sanctions on its coal exports.

In October, the Ministry of Unification (MOU) preemptively banned *Chosun Ilbo* newspaper reporter Kim Myeong-sung from covering high-level inter-Korean talks because of his status as a North Korean defector. MOU apparently decided that his presence could jeopardize the success of the talks and threatened to ban *Chosun Ilbo* from the press pool entirely if Kim was not replaced. South Korean and international press freedom and human rights groups condemned the decision.

#### **D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 4 / 4**

Freedom of religion is guaranteed by the constitution and generally respected in practice. However, the military conscription system makes no allowances for conscientious objection, and hundreds of men—nearly all of them Jehovah's

Witnesses—are imprisoned at any given time for refusing military service. In June 2018, the Constitutional Court upheld the punishment of conscientious objectors, but it also ruled that failure to provide alternative forms of service was unconstitutional and required the government to rewrite the Military Service Act so as to introduce such options by the end of 2019. In November, the Supreme Court acquitted a man who refused military service due to religious beliefs, overturning a ruling made in 2004 and potentially setting a precedent for 227 similar cases pending in the Supreme Court and for more than 900 conscientious objectors currently on trial.

### **D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 3 / 4**

Academic freedom is mostly unrestricted, though the National Security Law limits statements supporting the North Korean regime. The 2016 anticorruption law subjects teachers and administrators to the same tight restrictions as public officials. Certain portrayals of sensitive historical issues—such as imperial Japan’s wartime sexual enslavement of Korean women, known as “comfort women”—can be subject to government censorship or prosecution under the country’s defamation laws.

### **D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 4 / 4**

Private discussion is typically free and open, and the government generally respects citizens’ right to privacy. A 2016 antiterrorism law granted the NIS expanded authority to monitor private communications, and the measure’s vague definition of “terrorism” raised concerns that it would enable the agency to track government critics, particularly online. The National Security Law restricts speech that is considered pro-North Korean. However, the law was not strictly enforced amid the inter-Korean diplomatic process during 2018; concerns about potential constraints on free expression shifted to those who opposed or could complicate rapprochement with the North, including North Korean defectors and human rights activists.

## **E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 11 / 12**

### **E1. Is there freedom of assembly? 4 / 4**

The government generally respects freedom of assembly, which is protected under the constitution. However, several legal provisions conflict with this guarantee, sometimes creating tension between the police and protesters over the application of the law.

Beginning in May 2018, a series of mass protests were organized to demand a stronger government response to the phenomenon of illegal hidden cameras targeting women, especially in public restrooms, with the resulting images often posted online. In September, the first LGBT festival ever held in Incheon was met by a group of some 1,000 counterprotesters. Police arrested eight of the anti-LGBT demonstrators. In the second half of the year, large weekend protests took place in downtown Seoul, with tens of thousands of people gathering peacefully to air views on a range of issues, including support for Park Geun-hye’s release, opposition to Moon’s policy toward North Korea, and demands for stronger labor protections. In November, an estimated

160,000 workers led by the Korean Confederation of Trade Unions held a half-day strike across the country, accusing the government of taking steps to roll back policies that favored labor.

**E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 3 / 4**

Human rights groups and other nongovernmental organizations (NGOs) are active and generally operate freely, though they have occasionally faced political pressure when they criticize the government or other powerful interests. Many South Korean NGOs rely on government grants, despite their independent agendas. In June 2018, the Moon administration cut funding for the planned Seoul office of the North Korea Human Rights Foundation, an organization envisioned in the 2016 North Korean Human Rights Act that had yet to be fully established by the MOU. The foundation was tasked in part with issuing funding to NGOs working on North Korean human rights issues. A number of such groups experienced difficulty in obtaining both public and corporate funding during the year. There were also reports that the government discouraged activists from engaging in speech or events that could jeopardize the diplomatic process.

**E3. Is there freedom for trade unions and similar professional or labor organizations? 4 / 4**

Workers have the right to form independent unions and engage in strikes and collective bargaining. The country's independent labor unions advocate for workers' interests in practice, organizing high-profile strikes and demonstrations that sometimes lead to arrests. However, labor unions in general have diminished in strength and popularity, especially as the employment of temporary workers increases. Some major employers reportedly engage in antiunion activity, though in a sign of the state's willingness to enforce workers' rights, prosecutors in September 2018 charged 32 executives from Samsung and its associated firms with illegally preventing employees from creating and participating in labor unions since 2013.

In September 2017, journalism unions organized strikes to protest attacks on editorial independence as well as unfair labor practices at the two main public broadcasters, and to call for the resignations of their chief executives. Two months after the strikes began, the union members at one broadcaster, Munhwa Broadcasting Corporation (MBC), ended their strike following the MBC president's dismissal. In January 2018, union members at the second network, Korean Broadcasting System (KBS), ended their strike after the KBS president was also terminated by the board of directors.

**F. RULE OF LAW: 12 / 16 (–1)**

**F1. Is there an independent judiciary? 3 / 4 (–1)**

The judiciary is generally considered to be independent. The chief justice and justices of the Supreme Court are appointed by the president with the consent of the National Assembly. The appointments are made based on recommendations from the chief

justice, who is assisted by an expert advisory committee. The chief justice is also responsible for appointments to the lower courts, with the consent of the other Supreme Court justices. The president, the National Assembly, and the chief justice each nominate three members of the Constitutional Court.

In June 2018, investigations began into the Supreme Court's National Court Administration (NCA), which manages the judicial branch's daily operations and administrative tasks. The NCA and Yang Sung-tae, who served as chief justice from 2011 to 2017, were accused of influencing trials and suits in favor of the Park administration, paying off judges through a slush fund that drew resources from lower courts, and other related crimes. In September, prosecutors raided the office of a former presidential legal secretary, Kim Jong-il, who was suspected of serving as a liaison between the NCA and Park's office. The current Supreme Court chief justice, Kim Myeong-su, said in September that the NCA would be dissolved and a new council staffed by outside experts would be created.

*Score Change: The score declined from 4 to 3 due to revelations indicating corruption centered on the Supreme Court and improper collusion between the former chief justice and the Park administration.*

## **F2. Does due process prevail in civil and criminal matters? 3 / 4**

Judges render verdicts in all cases. While there is no trial by jury, an advisory jury system has been in place since 2008, and judges largely respect juries' decisions. Ordinary legal proceedings are generally considered fair, but the courts have sometimes been accused of denying due process and impartiality to defendants in National Security Law cases.

## **F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 3 / 4**

Reports of abuse by guards in South Korea's prisons are infrequent, and prison conditions generally meet international standards. Violent crime is relatively rare, but the country is still technically at war with North Korea, resulting in a heavy military presence in some areas and the constant threat of renewed combat. Minor incidents of violence near the de facto border are not uncommon, although in September 2018, the two Koreas signed a military confidence-building agreement calling for measures to reduce the military buildup along the Demilitarized Zone (DMZ).

## **F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 3 / 4**

South Korea lacks a comprehensive antidiscrimination law. Members of the country's small population of ethnic minorities encounter legal and societal discrimination. Children of foreign-born residents suffer from systemic exclusion from the education and medical systems. There are about 30,000 North Korean defectors in South Korea. They can face months of detention and interrogations upon arrival, and some have reported abuse in custody and societal discrimination.

Women generally enjoy legal equality but face social and employment discrimination in practice. South Korea has the highest gender pay gap among Organisation for

Economic Co-operation and Development (OECD) countries, at 37.2 percent in 2017, with women earning on average only 63 percent as much as their male counterparts. In November 2018, the Supreme Court upheld a lower court ruling that sentenced Park Gi-dong, former chief executive of Korea Gas Safety Corporation (KGS), to four years in prison for discriminatory recruiting practices, including falsifying interview scores to select men over women because he believed female employees would take maternity leave and thus impede work progress.

Sexual harassment of women in the workplace is common, and the #MeToo movement against such abuses has gained momentum. In January 2018, public prosecutor Seo Ji-hyeon accused former senior Justice Ministry official Ahn Tae-geun of sexual harassment and abuse of power; she claimed that news of her case caused her to be transferred to a less prominent branch. Since then, there have been many prominent cases of accusations and apologies for sexual harassment in the workplace as well as the illegal placement of hidden cameras in public women's restrooms. In August, former presidential hopeful Ahn Hee-jung was acquitted of sexual assault by the Seoul Western District Court. His secretary had accused him of assault in March, but the court found that there was not enough evidence to prove she had been coerced.

Same-sex sexual relations are generally legal, and the law bars discrimination based on sexual orientation. However, there are no specific penalties for such discrimination, and transgender people are not protected as such. A “disgraceful conduct” provision of the Military Criminal Act is used to punish sexual acts between male soldiers.

## **G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 13 / 16**

### **G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 4 / 4**

Travel both within South Korea and abroad is unrestricted, except for travel to North Korea, which requires government approval. School is free for children between the ages of 6 and 15, but senior high schools charge modest tuition fees, and many families spend heavily on private academies to supplement public education. Individuals can change jobs freely, though the leading business conglomerates tend to focus their recruitment on graduates of specific universities.

### **G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 3 / 4**

South Korea fully recognizes property rights and has a well-developed body of laws governing the establishment of commercial enterprises. However, the economy remains dominated by large family-owned conglomerates that have been accused of collusion with political figures.

The inter-Korean rapprochement process has led to pressure from President Moon on some of South Korea's chaebol, especially Samsung, to create investment plans for North Korea that can be offered as part of formal negotiations. Lee Jae-young, the

Samsung vice chairman whose corruption case was still being adjudicated in 2018, was considered a key delegate to the inter-Korean summit in Pyongyang in September.

**G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 3 / 4**

Women generally have equal rights in divorce and custody matters. Marriage and other forms of legal partnership are not available to same-sex partners. Abortion is considered a crime punishable with imprisonment except in cases of rape, incest, threats to the mother's health, or designated disorders or diseases; all abortions after 24 weeks of pregnancy are prohibited. Domestic violence is common, despite laws in place to prevent such crimes.

**G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 3 / 4**

Protections against exploitative working conditions are enforced by the authorities. Nevertheless, foreign migrant workers remain vulnerable to illegal debt bondage and forced labor, including forced prostitution. Korean women and foreign women recruited by international marriage brokers can also become sex-trafficking victims. Although the government actively prosecutes human trafficking cases, those convicted often receive light punishments.