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U.S. Department of State

Republic of Korea Report on Human Rights Practices for 1996

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REPUBLIC OF KOREA

The Republic of Korea is governed by a directly elected president and a unicameral legislature selected by both direct and proportional voting. The judiciary operates independently of the executive branch. The Government held legislative elections in April and continued to reform the political system, creating a special legislative committee composed of assembly members from ruling and opposition parties to revise election laws and investigate campaign irregularities.

Responsibility for maintaining internal security lies with the National Security Planning Agency (NSP), the Korean National Police (KNP), and the Defense Security Command (DSC). Legislation passed in 1993 restricted the NSP from interfering in domestic politics; and gave it investigative authority only in cases involving terrorism, espionage, and international crime organizations. In December the Government revised this law to allow the NSP to investigate domestic organizations that are viewed as supporting the North Korean Government. There continued to be credible reports of some infringements of suspects' rights by NSP officials during the interrogation process.

After a period of sustained economic growth averaging about 9 percent per year, the economy has slowed somewhat, with 1996 economic growth projected at 7 percent. This slowdown in the rate of growth is attributable to dampened demand for key exports, declining terms of trade, and lower investment growth. While economic growth is still robust, Korea continues to face issues of declining competitiveness, a labor shortage, an inefficient agricultural sector, and inadequate infrastructure.

The Government generally respects the human rights of its citizens; however, there were problems in some areas. The use or threatened use of the National Security Law (NSL) continued to infringe upon citizens civil liberties, including the right to free expression. There was no progress toward reform of the NSL, although judges appointed since the onset of democratic government demonstrated their independence in several cases in which they refused to authorize prosecution of dissidents under the NSL or acquitted defendants charged under its provisions. The Ministry of Justice continued to implement guidelines requiring that suspects be told at the time of arrest of their right to remain silent and their right to a lawyer. Nevertheless, there continued to be credible reports that, in some instances, police deprived suspects of timely access to counsel or subjected detainees to verbal threats, physical abuse, and sleep deprivation. Some human rights groups alleged that police used excessive violence in confrontations with student demonstrators. Women continued to face legal and societal discrimination. Violence against women and physical abuse remain serious problems. There is still insufficient

legal redress for these problems. Ethnic minorities face legal and societal discrimination. In December labor statutes were amended in an effort to meet international standards for worker rights and to increase labor flexibility. However, key worker rights provisions were either delayed or deleted from the final legislation, while promanagement labor market changes are to become effective March 1997. The labor bill encountered strong opposition from Korean labor organizations, which launched demonstrations and strikes to protest its passage. After opposition legislators physically prevented a vote on this bill, it, as well as the revised NSP statute, was passed in a secretive, predawn National Assembly session with no opposition legislators present.

The Government continued its surveillance of some released political prisoners and continued to require released political prisoners to make regular reports to the police under the Social Surveillance Law. However, the Government still has not authorized independent investigations of the cases of some prisoners who received sentences on charges believed to have been fabricated by previous governments. Some of these prisoners reportedly were subjected to torture to extract confessions and to trials that did not meet international standards of fairness.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reports of political or extrajudicial killings by the police or military. One student and a policeman died during demonstrations. No Su Sok, a student at Seoul's Yonsei University who participated in a demonstration during the spring near the campus, was stricken by heart failure while fleeing from police. Activists maintained that bruises on No's body suggested that the heart attack may have been induced by police violence. However, medical authorities who examined the body attributed No's death to a heart attack. A policeman trying to control a demonstration at Yonsei University in August died after rocks thrown by students struck him in the head (see Section 2.b.).

On September 18, a North Korean submarine attempting to infiltrate an armed reconnaissance team into South Korean territory ran aground off the South Korean coast. The 26 North Korean personnel onboard abandoned the vessel. Eleven crew members were apparently killed by the submarine's complement of highly trained infiltrators in order to prevent their capture. Of the surviving infiltrators, 13 were killed in encounters with South Korean security forces, 1 was captured alive, and

1 remains unaccounted for. Nine members of the South Korean military and a police officer were killed

in the search for the infiltrators. Three civilian bystanders were murdered by the infiltrators. One civilian was killed accidentally by South Korean military personnel.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Government has ordered investigating authorities to protect the human rights of suspects, and allegations of abuse by authorities of those in custody for questioning continued to decline. Nonetheless, prosecutors continued to place much emphasis on securing convictions through confessions. In spite of government directives discouraging sleep deprivation as a technique for obtaining confessions, there continued to be reports of police questioning suspects through the night and, reportedly in some cases, verbally or physically abusing suspects, including beatings, threats, and sexual intimidation in the course of arrest and police interrogation.

Some human rights groups alleged that police used excessive violence in quelling disturbances that resulted from student demonstrations in August (see Section 2.b.).

The Government continued to consider cases in which former detainees argued that they deserved redress for torture suffered in the past. However, the Government has failed to provide an effective mechanism for redress, such as an independent body to investigate complaints of past human rights violations. It remained relatively rare for officials accused of abuse or harassment of suspects to be prosecuted.

Prison conditions are Spartan. Prison diets are adequate, but the prisons offer little protection against cold in winter and heat in the summer. Consequently, some prisoners claim that the conditions have damaged their health. There have been a few claims that prison guards have used excessive force or have needlessly put prisoners in manacles and that medical care for prisoners has been inadequate. Prisoner access to reading materials and television broadcasts has improved significantly in recent years. There is little independent monitoring of prison conditions, although representatives of human rights groups may visit certain prisoners at the discretion of the prison warden.

d. Arbitrary Arrest, Detention, or Exile

Korean law is often vague, and prosecutors have wide latitude to interpret the law. The NSL defines espionage in broad terms, and permits the authorities to detain and arrest persons who commit acts viewed as supportive of North Korea and therefore dangerous to the Republic of Korea. Authorities arrested persons not only spying on behalf of North Korea but also those who praised North Korea, its former leader Kim Il Sung, or the DPRK's self-reliance ("juche") political philosophy. The United Nations Human Rights Committee has termed the NSL "a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights." The Government arrested over 200 dissidents under the NSL during the year, accusing most of them of trying to undermine democracy by aiding North Korea.

Article 7 of the NSL permits the imprisonment for up to 7 years of anyone who "with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised, encouraged, propagandized for, or sided with the activities of an antistate organization." The legal standard for knowing what might endanger the existence of the State is vague. Consequently, a

number of Koreans have been arrested for what appeared to be peaceful expression of opposing views. For example, in February singer Lee Run Jin and publisher Won Yong Ho were arrested for publishing a songbook that allegedly praised North Korea.

The Government's rationale for retaining the NSL is that North Korea is actively trying to subvert the Government and society and that special circumstances call for limiting some forms of expression to block the greater danger to freedom and democracy posed by totalitarianism. The effect sometimes is to relieve the Government of the burden of proof in a court of law that any particular speech or action does, in fact, threaten the nation's security. Citizens continued to be prosecuted for unauthorized travel to North Korea (see Section 2.d.).

The Criminal Code requires warrants to be issued by judges in cases of arrest, detention, seizure, or search, except if the person is apprehended while committing a criminal act, or if a judge is not available and the authorities believe that the suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after apprehension, or, if a court is not located in the county, in 72 hours. Police may detain suspects who voluntarily come in for questioning for up to 6 hours but must notify the suspects' families. The police generally respected these legal requirements.

Upon issuance of an arrest warrant, the security services normally must release suspects after 30 days unless an indictment is issued. Hence, detainees are a relatively small percentage of the total prison population.

The Constitution specifically provides for the right to representation by an attorney, but attorneys are not allowed to be present during a police interrogation. The Government began in 1993 to permit suspects to consult with "duty lawyers" during breaks in the interrogation. The Justice Ministry also issued guidelines last year requiring police to inform suspects at the time of arrest about their right to be represented by a lawyer. However, there continued to be complaints that access to a lawyer was restricted during this phase. There is a functioning system of bail, but human rights lawyers say that bail is generally not granted in cases involving serious offenses, and, even when the offense is relatively minor, bail often will not be granted unless the victim of the alleged crime agrees to the bail request.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary. The President appoints the Chief Justice and most justices of the Constitutional Court. Although judges do not receive life appointments, in recent years the judiciary has shown increasing independence. Judges cannot be fired or transferred for political reasons. In a notable instance of judicial independence, a district court judge in Pusan ruled in January that a student activist's exchange of faxes with North Korean students and chanting of slogans at demonstrations that echoed North Korean propaganda were not sufficient grounds to convict him of violating the NSL. In July a Seoul District Criminal Court rejected an arrest warrant request for Catholic Priest Moon Chong Hyon, who met with North Korean figures in Poland. The Court ruled that authorities had not presented evidence that Moon's actions undermined freedom or democracy in the South Korea.

The judicial system has local courts presided over by judges who render verdicts in all cases. There is no trial by jury. Defendants can appeal a verdict to a district appeals court and to the Supreme Court. Constitutional challenges can be taken to the Constitutional Court. The Constitutional Court, which

began operation in 1988, continued to grow in its role of interpreting the Constitution.

The Constitution provides defendants a number of rights in criminal trials, including presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. When a person is physically detained, the initial trial must be completed within 6 months of arrest. These rights are generally observed. Trials are open to the public, but the judge may restrict attendance if he believes spectators may seek to disrupt the proceedings.

Judges generally allow considerable scope for examination of witnesses by both the prosecution and defense. Cases involving national security and criminal cases are tried by the same courts. Although convictions are rarely overturned, appeals often result in reduced sentences. Death sentences are automatically appealed.

Human rights groups believe that many dissidents tried under past military governments were sentenced to long prison terms during the 1970's and 1980's on trumped up charges of spying for North Korea. Furthermore, these persons, dozens of whom are still in jail, reportedly had been held incommunicado for up to 60 days after their arrest, subjected to extreme forms of torture, forced to make "confessions," and convicted after trials that did not conform to international standards for a fair trial. Political prisoners have been denied early parole because they refused to renounce real or alleged communist beliefs. Some released political prisoners were required to report their activities regularly to the police.

In a landmark decision this year, former presidents Chun Doo Hwan and Roh Tae Woo and several of their close associates were convicted for their roles in the military takeover of the Government in 1979 and 1980. Chun, who argued that the court proceedings were unconstitutional because the statute of limitations had expired for these offenses, was sentenced to death. Roh was sentenced to a prison term of more than 20 years. These sentences were subsequently reduced to life in prison and 17 years respectively.

It is difficult to estimate the number of political prisoners, because it is not clear whether particular persons were arrested for merely exercising the rights of free speech or association or were detained for committing acts of violence or espionage. Some human rights monitors estimate the number of political prisoners at over 400. However, these monitors' definition of political prisoner often includes all persons imprisoned for acts that were politically motivated, without distinction as to whether the acts themselves included violence or other criminal behavior. The number of political prisoners and detainees as defined by international standards appears to number under 200.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

In general the Government honors the integrity of the home and family. In the past, the security services conducted varying degrees of surveillance, including wiretaps, of political dissidents. The Antiwiretap Law and the law to reform the NSP were designed to curb government surveillance of civilians and appear largely to have succeeded. The Antiwiretap Law lays out the conditions under which the monitoring of telephone calls, mail, and other forms of communication are legal. It requires government officials to secure a judge's permission before placing wiretaps, or, in the event of an emergency, soon after placing them, and it provides for jail terms for those who violate this law. Some human rights groups argue that a considerable amount of illegal wiretapping is still taking place and assert that the lack of an independent body to investigate whether police have employed illegal wiretaps hinders the effectiveness of the Antiwiretap Law.

Citizens are not allowed to listen to North Korean radio in their homes or read books published in North Korea if the Government determines that they are doing so for the purpose of helping North Korea. Student groups make plausible claims that government informants are posted around university campuses. Persons with backgrounds as political or labor activists may find it difficult to obtain some forms of employment or advance in such fields as government, broadcast media, and education.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

While most political discourse is unrestricted, under the NSL the Government limits the expression of ideas that authorities consider Communist or pro-North Korean. Broad interpretations of the NSL allow for restrictions on the peaceful expression of dissenting views.

While the Government has abandoned direct control over the news media, it continues to exercise considerable indirect influence. Some officials reportedly lobby journalists aggressively to discourage them from writing stories critical of the Government. In addition, the latent threat of tax investigations against parent media companies is widely believed to encourage newspapers and broadcasters to soften criticism. Moreover, while the Government's anticorruption campaign curtailed politicians' payments of money to reporters, it did not eliminate these payments. Nevertheless, press criticism of the Government is extensive in all fields, and authorities have not used repressive measures to stop media reporting. Although most radio and television stations are state-supported, the stations maintain a considerable degree of editorial independence in their news coverage.

Journalists allege that the libel laws are used to harass publications for articles that are unflattering but not necessarily untrue. In January a Seoul district court ordered the Hangyoreh Sinmun newspaper to pay a libel award of approximately \$500,000 to President Kim's son, Kim Hyun Chul. The court maintained that the paper had not adequately checked its facts before reporting that the President's son had accepted bribes. Many reporters criticized the award, saying that the court had been influenced by government pressure. However, other credible observers noted that Korean journalism suffers from sensationalism and insufficient fact checking, and they argued that the judge in this case appropriately penalized the reporter for basing serious defamatory charges on a single source whose allegations could have been refuted by checking with other principals involved.

Prosecutors continued to indict dissidents under the NSL for producing, selling, or distributing pro-North Korean or pro-Communist materials. Court precedents allow Koreans to possess these kinds of publications for purely academic use, profit, or curiosity, but not with the intent of subverting the State. Prosecutors are given wide discretion in determining motives for possessing or publishing such material.

The Government continued to allow, within its guidelines, an increase in media coverage of North Korea. Television networks continued to broadcast edited versions of North Korean television programs. The media extensively reported on United States and South Korean talks with North Korean officials.

The Government Censorship Board, which screens movies for sexual or violent content before release, has followed more liberal guidelines in recent years. Consequently, a broader range of films has been released to the public.

In 1994 authorities began investigating eight Kyongsang University professors on the grounds that their textbook on Korean society endorsed North Korean ideology. This investigation was regarded by much of the scholarly community as a serious infringement on academic freedom. However, prosecutors who

sought to arrest several of the professors under the NSL were denied warrants by a judge who decided that authorities had not provided evidence of the scholars' pro-Communist activities. This investigation has been closed, and no instances of prosecution for scholarly writing were reported in 1996. However, student groups plausibly report the presence of government informants on university campuses (see Section 1.f.).

b. Freedom of Peaceful Assembly and Association

The Law on Assembly and Demonstrations prohibits assemblies considered likely to undermine public order. The law forbids outside interference in peaceful assemblies approved by the authorities and requires that the police be notified in advance of demonstrations of all types, including political rallies. Police must notify organizers if they consider the event impermissible under this law. The Government forbade some demonstrations, such as a rally of students at the border of North and South Korea, that authorities believed were orchestrated by North Korea to undermine the State.

In August thousands of student demonstrators, led by the National Federation of Student Councils, occupied buildings on the Yonsei University campus after being denied permission to hold a rally at the border of North and South Korea. Departing from its usual practice of not intervening in protests contained within university campuses, the Government sent a massive police force onto the campus to remove demonstrators. The students resisted using steel pipes, rocks, and firebombs. In the confrontations at the university, which lasted for more than a week, one policeman was killed and scores of students and police were injured. Some human rights groups alleged that police used excessive violence in quelling the disturbance. However, most observers also acknowledged that the tactics of protesting students were violent and provocative. Associations, except those whose aim is deemed by the Government to be the overthrow of the State, operate freely.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this provision in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Most citizens are allowed to move freely throughout the country. However, police may restrict the movements of some former prisoners. Foreign travel is generally unrestricted, but travel to North Korea must be approved by the Government. To obtain approval, potential visitors must demonstrate to authorities that their trip does not have a political purpose--that is, to praise North Korea or criticize the South Korean Government. Travelers to North Korea who do not receive government permission are likely to be arrested upon their return to South Korea. For example, Chong Win Ju, a student at Incheon University, and Lee Hye Jong, a student at Catholic University, were sentenced in the spring to 3 years in jail for visiting North Korea in August 1995 to attend a "unification rally."

In the past, the Government forbade some Koreans convicted of politically related crimes from returning to Korea, and some citizens still face sanctions if they return. In 1994 the NSP lifted the entry ban on composer Yun I Sang, a dissident who had been living in Berlin for a number of years. However, the Government required that he refrain from any political activity while in Korea and that he give an accounting of his political activities overseas before authorities would allow him into the country. Yun refused these conditions and decided against returning to South Korea.

The Government cooperates with the U.N. High Commissioner for Refugees and other humanitarian

organizations in assisting refugees. Government guidelines provide for offering temporary refuge in the case of a mass influx of asylum seekers (sometimes referred to as "first asylum"). However, the issue of provision of first asylum did not arise in 1996, and there were no reports of forced return of persons to a country where they had a fear of persecution.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right to elect their own government. The Constitution, as amended in 1987, provides for the direct election of the President and for a mixed system of direct and proportional election of legislators to the unicameral National Assembly. The President serves a single 5-year term and may not be reelected. National Assembly members serve 4-year terms. All citizens 20 years of age or above have the right to vote, and elections are held by secret ballot. Kim Young Sam, who took office in February 1992, is Korea's first chief executive in nearly 30 years not to have a career military background.

Because of cultural traditions and discrimination, women occupy few important positions in government. In the current and past governments, the only woman in the Cabinet has been the Second Minister for Political Affairs, whose portfolio is Women's Affairs. In addition, in 1995 a woman was elected mayor of Kwangmyong City, and a female legislator chairs one of the special committees of the National Assembly.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several nongovernmental private organizations are active in promoting human rights, and they operate without government restriction. Chief among these groups are the Lawyers for a Democratic Society, Sarangbang, the Human Rights Committee of the National Council of Churches in Korea, the Korean Bar Association, and "Mingahyup," an association of the families of political prisoners. These groups publish reports on the human rights situation in Korea and make their views known both inside and outside the country. Government and ruling party officials generally have been willing to meet with international human rights groups.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution and equal opportunity statutes forbid discrimination on the basis of race, sex, religion, disability, or social status, and the Government respects these provisions. However, traditional attitudes limit opportunities for women and the disabled. Ethnic minorities face both legal and societal discrimination.

Women

Violence against women remains a problem, and some women's rights groups maintain that such violence, including spousal abuse, has worsened in the past few years. The law does not provide adequate protection to victims of abuse.

Rape remained a serious problem, with 6,173 cases reported in 1994 (the last year for which statistics are available). Many incidents of rape go unreported because of the stigma associated with being a rape victim. The activities of a number of women's groups have increased awareness of the importance of reporting and prosecuting rapes as well as offenses such as sexual harassment in the workplace. According to women's rights groups, cases involving sexual harassment or rape generally go unprosecuted, and perpetrators, if convicted, often receive very lenient sentences.

The amended Family Law, which went into effect in 1991, permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her children after a divorce. Although the revisions helped abused women, divorce remains a social taboo, and there is little government or private assistance for divorced women. These factors, plus the fact that divorced women have limited employment opportunities and have difficulty remarrying, lead some women to stay in abusive situations. The Government has created some shelters for battered women and increased the number of child care facilities, providing women in abusive situations with more options, but women's rights groups say that they fall far short of dealing effectively with the problem.

A conservative Confucian tradition has left women subordinate to men socially and economically. There has been some limited and gradual change in social mores and attitudes affecting women; for example, women have full access to education, and a few have become government officials and hold elected office. Despite the passage of equal employment opportunity legislation in 1988, however, few women work as company executives or leading officials in government. The Women's Affairs Ministry continued its efforts to expand employment opportunities for women, and during the year the air force implemented a program to encourage women to become pilots and seek other senior positions.

Children

The Government continued to devote an increasing share of the overall budget to social expenditures, which includes those related to the welfare of children. High quality elementary education is available to all Korean children free of charge, and most obtain a good quality secondary education. High quality health care facilities are widely available to children.

Child abuse does not appear to be a significant problem or policy issue. Child abuse has not been studied extensively, and statistics on such abuse are limited. About 150 cases were reported during the year. Although experts believe that a number of cases go unreported, instances of child abuse still appear to be relatively rare. The Seoul metropolitan government runs a children's counseling center, which investigates reports of abuse, counsels families, and cares for runaway children. In the absence of a specific law against child abuse, however, it is not possible to prosecute and punish child abusers unless they commit a crime punishable under a separate law.

The traditional preference for male children continues, although it is less evident among people in their twenties and thirties. Although the law bans fetal sex testing, such testing and the subsequent termination of pregnancies with female fetuses frequently occur. The Government has expressed concern at the widening disparity between male and female birth rates.

People with Disabilities

Although new measures aimed at creating opportunities for the disabled have been taken, public facilities for their everyday care and use remained inadequate. However, there is no legal discrimination against disabled persons in employment, education, or in the provision of other state services.

In 1995 the Government expanded job training programs, medical benefits, and welfare facilities for disabled citizens. Since 1991 firms with over 300 employees have been required by law either to hire disabled workers or pay a fee. After human rights groups publicized a survey indicating that most companies either paid the fee or evaded the law, the Labor Ministry announced it would increase the subsidies provided to companies that hire the disabled. New public buildings are required to include facilities for the disabled, such as ramp access to entrances, a wheelchair lift, and special parking spaces.

National/Racial/Ethnic Minorities

The Republic of Korea is a racially homogeneous country with no ethnic minorities of significant number. Citizenship is based on blood, not location of birth, and Koreans must show as proof their family genealogy. Ethnic Chinese born and resident in Korea cannot obtain citizenship or become public servants and may have difficulty being hired by some major corporations. Due to legal as well as societal discrimination, many formerly resident ethnic Chinese have emigrated to other countries since the 1970's. Amerasian children are usually able to obtain Korean citizenship, and no legal discrimination against them exists. Informal discrimination, however, is prevalent, making it more difficult for Amerasians to succeed in academia, business, or government.

Section 6. Worker Rights

a. The Right of Association

The Constitution gives workers, with the exception of public sector employees and teachers, the right to free association. There are some blue-collar public sector unions in railroads, telecommunications, the postal service, and the national medical center. The Trade Union Law specifies that only one union is permitted at each place of work and that all unions are required to notify the authorities when formed or dissolved. About 10 percent of workers belong to a union.

In the past, the Government did not formally recognize labor federations that were not affiliated with the country's two legally recognized labor groupings--the Federation of Korean Trade Unions (FKTU) and the Independent Korean Federation of Clerical and Financial Workers. In the past several years, however, the Labor Ministry officially recognized some independent white-collar federations representing hospital workers, journalists, and office workers at construction firms and government research institutes. The courts ruled in 1992 that affiliation with the FKTU is not required to be registered as a legal labor federation. In practice, labor federations not formally recognized by the Labor Ministry exist and work without government interference, unless authorities considered their involvement in labor disputes disruptive. In May the President created a presidential commission to consider additional changes in the labor laws, including granting legal recognition to the dissident Korean Confederation of Trade Unions (KCTU). In October, however, in connection with a pending decision on its application for membership in the Organization for Economic Cooperation and Development (OECD) and in anticipation of specific recommendations from the Commission, the Government pledged to reform its labor legislation so as to achieve greater conformity with internationally recognized labor standards.

In December the National Assembly passed labor reform legislation with provisions designed both to enhance worker rights and increase labor market flexibility. However, last-minute changes to the legislation by the National Assembly delayed the legalization of multiple trades unions by at least 3 years and deleted provisions that would have allowed teachers to form associations, thus limiting the worker rights enhancements. The new law also maintained certain restrictions preventing unauthorized "third-parties" from becoming involved in labor disputes and did not address organizing rights for white-collar government employees. In contrast, the promanagement changes concerning Korea's labor market flexibility changes (including provisions making layoffs easier, increasing employer flexibility in establishing employee work schedules, and permitting the replacement of strikers) are to become effective March 1, 1997. The bill encountered strong opposition from labor which launched demonstrations and strikes to protest its passage.

The Government arrested and tried unionists it viewed as acting as "third parties" in instigating labor

disputes. Cho Myung Lae and Kim Seung Hyun, officers of the Korean Federation of Metalworkers Unions, were arrested in June for their alleged role in fomenting a dispute at the Korea Textile Company. Kwon Yong Kil and Yang Kyu Hun, respectively Chairman and Vice President of the both were tried for their role as "third parties" in the 1994 subway and railroad strikes. Authorities charged that they had incited illegal and violent strikes in the public sector. Human rights groups argued that Kwon was arrested for attempting to exercise the legitimate functions of a trade union federation leader. Several dozen workers were arrested for "interference with business" and for committing criminal violence during strikes. The International Confederation of Free Trade Unions (ICFTU) alleges that over 40 trade unionists were imprisoned for prolonged periods for various trade union activities during the year.

The Government continued the ban on labor union activities by public and private schoolteachers, arguing that the teachers' union (Chonkyojo) is essentially a political organization with radical aims. The Government continued its program of reinstating those among the 1,500 fired teachers who agreed to resign from Chonkyojo.

Only two members are required to form a union. Election and labor laws forbid unions from donating money to political parties or participating in election campaigns. However, trade unionists have circumvented the ban by temporarily resigning from their union posts and running for office on the ticket of a political party or as independents.

Strikes are prohibited in government agencies, state-run enterprises, and defense industries. By law, unions in enterprises determined to be of "public interest," including public transportation, utilities, public health, banking, broadcasting, and communications, can be ordered to submit to government-ordered arbitration in lieu of striking. In practice, however, the Government rarely imposes arbitration. The number of labor disputes has declined in recent years. According to Labor Ministry statistics, 88 strikes occurred in 1995, the last year for which complete data are available. The Labor Dispute Adjustment Act requires unions to notify the Labor Ministry of their intention to strike, and it mandates a 10-day "cooling-off period" before a work stoppage may legally begin. (The cooling-off period is 15 days in public interest sectors.) Labor laws prohibit retribution against workers who have conducted a legal strike and allow workers to file complaints of unfair labor practices against employers.

Both the FKTU and the KCTU are affiliated with the ICFTU. Most of the FKTU's 20 constituent federations maintain affiliations with international trade secretariats, as does the KCTU Metalworkers Council. In response to freedom of association complaints lodged by dissident and independent unions, the International Labor Organization (ILO) Committee on Freedom of Association issued a report at midyear recommending that the Government bring Korean labor law and policy up to international worker rights standards in accordance with the principle of free association.

In recent years, the Government has cultivated a more neutral stance in labor disputes. Authorities rarely sent police to quell labor disturbances, and there were no reports of employer-hired squads assaulting workers in 1996.

Since July 1991, South Korea has been suspended from the U.S. Overseas Private Investment Corporation (OPIC) insurance programs because of the Government's infringements on freedom of association and other worker rights.

b. The Right to Organize and Bargain Collectively

The Constitution and the Trade Union Law provide for the right of workers to collective bargaining and

collective action. This law also empowers workers to file complaints of unfair labor practices against employers who interfere with union organizing or practice discrimination against union members. Employers found guilty of unfair practices can be required to reinstate workers who were fired for union activities.

Extensive collective bargaining is practiced, even with unions whose federations are not legally recognized by the Government. The labor laws do not extend the right to organize and bargain collectively to government employees, including employees of state or public-run enterprises, defense industries, and public and private schoolteachers.

Korea has no independent system of labor courts. The central and local labor commissions form a semiautonomous agency of the Labor Ministry that adjudicate disputes in accordance with the Labor Dispute Adjustment Law. Each labor commission is composed of equal representation from labor (represented by the FKTU), management, and "the public interest." Local labor commissions are empowered to decide on remedial measures in cases involving unfair labor practices and to mediate and, in some situations, arbitrate labor disputes. Arbitration can be made compulsory in sectors of the economy (e.g., utilities and transportation) that are deemed essential to public welfare.

The Trade Union Law and Labor Dispute Adjustment Law forbid third-party intervention in union and labor disputes by federations not recognized by the Government (such as the dissident federation, the KCTU), but they allow recognized labor federations, principally the FKTU, its affiliates, and some independent white-collar federations, to assist member unions. The ban on third-party intervention also applies to mediation efforts by lawyers, experts, and others who have the consent of both labor and management.

Enterprises in Korea's two export processing zones (EPZ's), had been designated by the Government as public interest enterprises. Workers in these enterprises, whose rights to organize were formerly restricted, have gradually been given the rights enjoyed by workers in other sectors of the economy.

c. Prohibition of Forced or Compulsory Labor

The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures. Forced or compulsory labor is not condoned by the Government and is not practiced.

d. Minimum Age for Employment of Children

The Labor Standards Law prohibits the employment of persons under the age of 13 without a special employment certificate from the Labor Ministry. Because there is compulsory education until the age of 13, few special employment certificates are issued for full-time employment. Some children are allowed to hold part-time jobs such as selling newspapers. To gain employment, children under 18 years of age must have written approval from their parents or guardians. Employers may require minors to work only a limited number of overtime hours and are prohibited from employing them at night without special permission from the Labor Ministry. Child labor laws and regulations are clear and usually enforced when violations are found, but the Government employs too few inspectors to carry out regular inspections.

e. Acceptable Conditions of Work

The Government implemented a minimum wage law in 1988. The minimum wage level is reviewed

annually. In September the minimum wage was raised to approximately \$1.70 (1,400 won) per hour. Companies with fewer than 10 employees are exempt from this law. Due to Korea's tight labor market, however, most firms pay wages well above the minimum to attract and retain workers. The FKTU and other unions continue to claim that the current minimum wage does not meet the minimum requirements of urban workers. In fact, a worker earning the minimum wage would have difficulty in providing a decent standard of living for himself and his family, despite the fringe benefits such as transportation expenses with which Korean companies normally supplement salaries. (The Government notes that the money an average blue-collar worker takes home in overtime and bonuses significantly raises the total compensation package.) According to the Ministry of Labor, 3.3 percent of the population lived below the poverty level in 1995.

Foreign workers, most of whom come from China, the Philippines, Bangladesh, Nepal, and Pakistan, often face difficult working conditions. The Government has sought to ameliorate the problems of illegal workers by creating a program whereby about 60,000 foreign workers were allowed to enter Korea legally to work at established wages and with legal safeguards. Illegal foreign workers, who probably number more than 100,000, still suffer significant hardships in the workplace. It is difficult for illegal workers to seek relief for loss of pay or unsatisfactory living and working conditions because always face the threat of being deported. The Government has, however, established counseling centers that hear complaints from illegal foreign workers facing deportation proceedings about such issues as overdue wages and industrial accidents. Other foreigners working as language teachers have complained that language institutes that hired them frequently violated employment contracts and that the legal system provided insufficient redress for such abuses.

Amendments to the Labor Standards Law passed in 1989 brought the maximum regular workweek to 44 hours, with provision for overtime to be compensated at a higher wage. The law also provides for a 24-hour rest period each week. However, labor groups claim that the Government does not adequately enforce these laws, especially with regard to small companies.

The Government sets health and safety standards, but South Korea suffers from unusually high accident rates. The accident rate continues to decline gradually, due to public and union pressure for better working conditions. However, the number of deaths resulting from work-related accidents remains very high by international standards. The Labor Ministry has improved enforcement of safety standards but still lacks enough inspectors to enforce the laws fully. The Industrial Safety and Health Law does not guarantee job security for workers who remove themselves from dangerous work environments.

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