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## U.S. Department of State

### Republic of Korea Report on Human Rights Practices for 1997

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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. Kim Dae Jung was elected president in a free and fair election in December. The judiciary operates independently of the executive branch.

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 restricts the NSP and DSC from interfering in domestic politics and grants the NSP investigative authority only in cases involving terrorism, espionage, and international crime organizations. The Government revised this law in 1996 to allow the NSP to investigate members of domestic organizations that are viewed as supporting the North Korean Government. There continued to be credible reports that some members of the security forces were responsible for occasional human rights abuses.

After a period of sustained growth averaging about 9 percent per year, the economy slowed somewhat, with 1997 growth in gross domestic product projected at around 6 percent. By the end of the year the country had entered into a severe financial crisis as foreign exchange reserves were inadequate to meet short term obligations, and a number of major private sector conglomerates went into bankruptcy. At year's end, an international assistance effort led by the International Monetary Fund was underway to shore up Korea's reserves and foster structural economic reform.

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 citizen's civil liberties, including the right to free expression. There was no progress toward reform of the NSL, but judges continued to demonstrate their independence. The standards for issuing detention warrants were made more stringent, substantially reducing the number of suspects detained before they were indicted. However, in November, following complaints from prosecutors that the new system was administratively cumbersome, the National Assembly voted to amend these rules to ease standards for issuing warrants. 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, credible sources reported instances in which police subjected detainees to verbal and physical abuse. 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. Although labor statutes were revised to expand freedom of association, they remained below international standards in some respects.

The Government continued to require released political prisoners to make regular reports to the police under the Social Surveillance Law, and it 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 received 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**

In February a North Korean defector living in Seoul was killed. The authorities suspect the killing was carried out by North Korean agents.

There were no other reports of political or extrajudicial killings.

#### **b. Disappearance**

There were no reports of politically motivated disappearances.

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

The Penal Code prohibits mistreatment of suspects; 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. The Supreme Court ruled that evidence obtained after a suspect had been deprived of sleep during an interrogation could not be used in court. In spite of the court ruling and government directives discouraging sleep deprivation as a technique for obtaining confessions, there continued to be reports of police questioning suspects through the night. Credible sources also reported that in some cases police verbally or physically abused suspects, including beatings, threats, and sexual intimidation in the course of arrest and police interrogation.

In November a district judge in Suwon convicted a policeman of excessive use of force during a February 1996 incident. The victim, a 38-year-old man, had entered a police station while intoxicated and became abusive when speaking with an officer on duty. He resisted when the policeman pushed him

out of the building, and in the resulting struggle he hit his head on the ground and died. The court imposed a jail sentence of 1½ years on the policeman.

Former detainees who claimed that they had been tortured by officials of past military governments continued to request compensation. However, the Government has not provided an effective mechanism for redress, such as an independent body to investigate complaints of past human rights violations. Officials accused of abuse or harassment of suspects have rarely been prosecuted.

Prison conditions are Spartan. Prison diets are adequate, but the facilities offer little protection against cold in winter and heat in the summer. Some prisoners claim that these conditions damaged their health and that medical care has been inadequate. Guards have occasionally been criticized by inmates for using excessive force or needlessly putting prisoners in manacles. Inmate 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

The 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 not only persons spying on behalf of North Korea but also those who praised North Korea, its former leader Kim Il Sung, or its "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 300 dissidents under the NSL during the year, accusing most of them of trying to undermine democracy by aiding North Korea.

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 that one might endanger the security of the State is vague. Consequently, a number of Koreans have been arrested for what appeared to be the peaceful expression of opposing views, which the authorities apparently considered proNorth Korean or antistate views. For example, Duksung University student Kim Eun Hee was arrested in January for posting a unification greeting from North Koreans on a college bulletin board. She was convicted under the NSL and given a suspended sentence. In March authorities arrested members of a labor group, Saminchong, for violating the NSL. Human rights groups say that Saminchong is a Socialist group, that does not endorse juche ideology and has been critical of 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 due to this special circumstance, some forms of expression must be limited 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. For example, the Government has prosecuted citizens for unauthorized travel to North Korea (see Section 2.d.). In February novelist Kim Ha Ki was convicted under the NSL after making a trip to North Korea in July 1996.

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 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 same county, within 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.

The standards for issuing warrants were tightened in 1997, resulting in a significant decline in the number of detention warrants approved. According to one study, the number of suspects detained upon arrest in the first 5 months of the year declined 75 percent compared with a similar period in 1996. The change in the standards made the legal system conform more closely to the principle that defendants are innocent until proven guilty. Several nongovernmental organizations (NGO's) consider the change in warrant procedures to be the most favorable human rights development of the year.

However, in November, following complaints from prosecutors that the new system was administratively cumbersome, the National Assembly voted to amend these rules to ease standards for issuing warrants. Authorities normally must release suspects after 30 days unless an indictment is 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 lawyers are not allowed to be present during police interrogation.

The Government began in 1993 to permit suspects to consult with "duty lawyers" during breaks in interrogation. These duty lawyers are hired and paid by the individual suspects, but often bill at reduced fees as a public service. The Justice Ministry also issued guidelines in 1995 requiring police to inform suspects at the time of arrest about their right to be represented by a lawyer, and there were no reports of access to legal counsel being denied. However, in at least one case, a lawyer alleged that attorney-client confidentiality was infringed by a prosecutor who refused to leave a consultation room. There is a bail system, but human rights lawyers say that bail generally is not granted when detainees are charged with committing serious offenses.

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, they cannot be fired or transferred for political reasons. In recent years the judiciary has shown increasing independence. Judges in some district courts have ruled, for example, that activists' exchange of faxes with North Korean students or meetings with North Korean representatives in third countries were not, in themselves, sufficient grounds to convict them of violating the NSL, contrary to prosecutors' assertions.

Local courts are 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, which was created in 1988.

The Constitution provides defendants with a number of rights in criminal trials, including the 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 matters 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 during the 1970's and 1980's were sentenced to long prison terms 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 1996 decision, 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, the military action in the Kwangju civilian uprising in 1980, and corruption while in office. 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 reduced on appeal to a life sentence for Chun and 17 years for Roh.

The two former presidents were released from prison on December 22, following a pardon by President Kim Young Sam. Twenty-three other former officials convicted in connection with these cases also received amnesty. President-elect Kim Dae Jung agreed to the pardons during a meeting with President Kim.

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 500. 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 broad 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 still is taking place, and they assert that the lack of an independent body to investigate whether police have employed illegal wiretaps hinders the effectiveness of the Antiwiretapping 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.

In July the Constitutional Court struck down regulations that previously prohibited members of the same "clan"--some of which contain more than a million members--from marrying.

## **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.

Although the Government has abandoned direct control over the news media, it continues to exercise indirect influence. Some officials reportedly lobby journalists aggressively to discourage them from writing stories critical of the Government, although this practice reportedly has significantly declined. Newspapers played an instrumental role during the year in bringing to light political influence peddling associated with Hanbo Steel, which resulted in jail sentences for many senior government officials and political figures, including a son of President Kim. Nevertheless, the latent threat of tax investigations against parent media companies and government pressure on advertisers is still 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 them. Nevertheless, press criticism of the Government is extensive in all fields, and authorities have not used repressive measures to stop media reporting. Many radio and television stations are state supported, but they 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. For example, staff of the Hangyoreh Sinmun daily newspaper and Mal monthly magazine were sued in August by the Government after publishing articles alleging that the Defense Security Command had posted agents on campuses to gather information on the student movement. Some human rights lawyers have argued that the publications had confidential documents that gave them, at a minimum, reason for believing the story might be true. The libel case has not yet been adjudicated.

A foreign radio journalist was detained on December 19, based on a complaint by a Seoul newspaper, and charged with malicious slander for overseas reporting from Seoul that the Seoul newspaper corporation was in serious financial difficulty. At year's end the case was unresolved, but the journalist's release on bail appeared imminent.

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

The Government continued to allow, within its guidelines, substantial media coverage of North Korea. Television networks continued to broadcast edited versions of North Korean television programs, and

reported extensively on United States and South Korean talks with North Korean officials.

The Government Censorship Board, which screens movies for sexual or violent content, has followed more liberal guidelines in recent years and allowed a broader range of films to be released.

In November Suh Jun Shik, the publisher of a daily human rights newsletter in Seoul, was arrested along with several other activists under the NSL for attempting to screen an allegedly pro-North Korean movie. The film "Red Hunt," depicted the Cheju Island insurgency of the late 1940's. Suh and his human rights group Sarangbang had struggled with authorities over showing "Red Hunt" and other films for several months. They organized a festival in the fall to present human rights-related movies from a number of different countries and refused, on principle, to submit the films to government authorities for approval. The law on censorship is unclear. Although the Constitutional Court ruled last year that prescreening by a censorship board no longer is required, the Government apparently still has the authority to prevent a film from being shown due to its pornographic or political content.

Suh's organization had planned to screen "Red Hunt" and other films at Hongik University in Seoul, but the University canceled the festival, reportedly as a result of government pressure. This led to demonstrations at the University and attempts by student groups to show the films despite the lack of university approval. Ultimately, authorities arrested Suh and several other activists, searched the offices of Sarangbang, and confiscated material on the festival.

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 of academic freedom. However, prosecutors who sought to arrest several of the professors under the NSL were denied warrants by a judge who concluded 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 during the year. 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 Constitution provides for freedom of association, and there are no registration requirements. 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, but 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 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, novelist Kim Ha Ki, who traveled to the North in 1996, was sentenced in February to 3½ years in prison. The court said that the novelist revealed state secrets to North Korean authorities during his visit.

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 many 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. He died abroad in 1995.

The Government cooperates with the office of 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. However, the issue of provision of first asylum did not arise in 1997. 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. The National Assembly's term is 4 years. All citizens 20 years of age or above have the right to vote, and elections are held by secret ballot.

Because of cultural traditions and discrimination, women occupy few important positions in government. The only woman in the Cabinet is the Second Minister for Political Affairs, whose portfolio is Women's Affairs. Nine female legislators were elected to the 299-seat National Assembly, one of whom chairs a special committee on women's affairs.

### **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 about 5,500 cases reported in 1996 (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 light 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 offspring 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, forces some women to stay in abusive situations. The Government has created some shelters for battered women and increased the number of child care facilities, giving women in abusive situations more options, but women's rights groups say that they fall far short of effectively dealing with the problem.

A conservative Confucian tradition has left women subordinate to men socially and economically. Despite the passage of equal employment opportunity legislation in 1988, few women work as company executives. Women have full access to education, and social mores and attitudes gradually have begun to change. The major political parties, for example, are making more efforts to recruit women; the Ministry of Women's Affairs continued its efforts to expand employment opportunities; and the military, for the first time, placed a woman in command of a training regiment.

## Children

The Government provides high-quality elementary education to all children free of charge, and most obtain a good secondary education. High-quality health care facilities are widely available to children.

Child abuse does not appear to be a significant problem, but it has not been studied extensively, and statistics on such abuse are limited. About 80 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 testing except for those cases when a woman's life is in danger, a hereditary disease would be passed along, or in case of rape or incest--such testing and the subsequent termination of pregnancies with female fetuses frequently occur. The Government has expressed concern about the widening disparity in male and female birth rates.

## People With Disabilities

Although 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. Surveys indicate that most companies either paid the fee or evaded the law. After human rights groups had publicized one such survey in 1996, the Labor Ministry increased the subsidies provided to companies that hire the disabled. Nonetheless, hiring of the disabled remains below target levels. New public buildings are required to include facilities for the disabled, such as a ramp access to entrances, a wheelchair lift, and special parking spaces. The Health and Welfare Ministry has announced that existing government buildings must be retrofitted with these facilities over the next 7 years.

### National/Racial/Ethnic Minorities

The Republic of Korea is a racially homogeneous country with no ethnic minorities of significant size. Citizenship is based on blood, not location of birth, and Koreans must show as proof their family genealogy. Thus, 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. The law permits only fathers to transmit citizenship. Therefore, children born with Korean mothers but foreign fathers have difficulty obtaining citizenship. Amerasian children usually are able to obtain citizenship when their biological fathers are not identified. Amerasians face no legal discrimination, but informal discrimination is prevalent, making it more difficult for them 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. In the government sector, unions are restricted to organizing blue-collar workers in such agencies as the postal service, railways, telecommunications, and the national medical center. As few as two employees may form a union. Until 1997 the Trade Union Law specified that only one union was permitted at each workplace. However, labor law changes in March authorize the formation of competing unions from the year 2002. 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 was not required to be registered as a legal labor federation. In March the National Assembly passed a labor reform bill that cleared the way to authorize dissident federations, such as the Korean Confederation of Trade Unions (KCTU). However, the KCTU allowed the outlawed teachers union to affiliate with it, and consequently in May the Government refused to grant it official authorization. In practice, labor federations not formally recognized by the Labor Ministry have operated without government interference.

The Government arrested and tried unionists who allegedly instigated violent strikes or illegally disrupted normal business operations. The Government also indicted unionists who participated in a general strike in January conducted to protest the passage in December of a labor law bill that labor groups believed was unfavorable to labor, and was passed in an undemocratic manner. However, unionists ultimately were not punished for their participation in the general strike.

The Government retained the ban on teachers unions, arguing that organizations such as the Korean Teachers Union (Chonkyojo) are essentially political organizations with radical aims. Several teachers were suspended temporarily from their jobs because they were union leaders.

Labor laws prohibiting political activities by unions were rescinded in March. Currently unions are regulated by election laws that apply to other social organizations. These regulations prohibit donations by unions (and other social organizations) to political parties. Some trade unionists have temporarily resigned from their union posts to run for office.

Strikes are prohibited in government agencies, state-run enterprises, and defense industries. By law, unions in enterprises determined to be of "essential public interest," including public transportation, utilities, public health, banking, and telecommunications, 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, about 90 strikes occurred in 1996, 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, 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.

The FKTU and KCTU are affiliated with the International Confederation of Free Trade Unions (ICFTU). Most of the FKTU's 20 constituent federations maintain affiliations with international trade secretariats, as does the KCTU Metalworkers Council. In February the International Labor Organization (ILO) Committee on Freedom of Association criticized some aspects of the labor laws, such as the prohibition on organizing unions for teachers and government employees.

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 1997.

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 teachers, defense industry workers, or government employees, including workers at state- or publicly-run enterprises.

There is no independent system of labor courts. The central and local labor commissions form a semiautonomous agency of the Labor Ministry that adjudicates disputes in accordance with the Labor Dispute Adjustment Law. Each labor commission is composed of equal numbers of representatives of labor and management, plus neutral experts who represent 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.

In the past, regulations forbade intervention in disputes by so-called third-parties, such as labor federations not recognized by the Government. Labor laws were revised in March to lift the ban on third-party intervention and allow dissident federations to assist member unions involved in a strike.

Enterprises in the 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 formally restricted, have gradually been given all 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, including forced labor by children, is not practiced.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Government prohibits forced and bonded child labor and enforces this prohibition (see Section 6.c.). The Labor Standards Law prohibits the employment of persons under the age of 15 without a special employment certificate from the Labor Ministry. Because education is compulsory through middle school (about age 14), few special employment certificates are issued for full-time employment. Some children are allowed to hold part-time jobs such as selling newspapers. To obtain employment, children under age 18 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 in 1988, and the minimum wage level is reviewed annually. As of September, the minimum wage was raised to approximately \$1.63 (1,485 won) per hour. Companies with fewer than 10 employees are exempt from this law. Due to the tight labor market, however, most firms pay wages well above the minimum to attract and retain workers. The FKTU and other labor organizations assert that the current minimum wage does not meet the basic 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 companies normally supplement salaries. (However, the money an average blue-collar worker takes home in overtime and bonuses significantly raises the total compensation package.) According to the Ministry of Health and Welfare, 3.1 percent of the population lived below the poverty

level in 1996.

Foreign workers, most of whom come from China, the Philippines, Bangladesh, Nepal, and Pakistan, often face difficult working conditions. The Government sought to ameliorate the problems of illegal workers by creating a program that allowed about 60,000 foreign workers to enter Korea legally to work at established wages with legal safeguards. Illegal foreign workers, who 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 they face the threat of being deported. The Government has, however, established counseling centers that hear complaints from illegal foreign workers about such issues as overdue wages and industrial accidents. Foreigners working as language teachers have complained that language institutes that hired them frequently violated employment contracts, for which the legal system provided insufficient redress.

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. Labor laws were revised in March to establish a flexible hours system, according to which employers could require laborers to work up to 48 hours during certain weeks without paying overtime, as long as average weekly hours for 2-weeks did not exceed 44. If a union agreed to a further loosening of the rules, management could ask employees to work up to 56 hours in a given week. The legislation established a daily cap on the working day of 12 hours. Labor groups claim that the Government does not adequately enforce maximum workweek provisions at small companies.

The Government sets health and safety standards, but the accident rate is unusually high by international standards. However, this rate continues to decline gradually due to improved occupational safety programs and union pressure for better working conditions. The Labor Ministry still lacks enough inspectors to enforce the laws fully. The Industrial Safety and Health Law does not guarantee security for workers who remove themselves from dangerous work environments.

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