

**Refugee Review Tribunal
AUSTRALIA**

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RRT RESEARCH RESPONSE

Research Response Number: KOR31090
Country: South Korea
Date: 21 December 2006

Refugee Review Tribunal

Keywords: South Korea – Protesters - Democracy Activists - Student Movement

This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

1. What is the situation for pro-democracy/student protesters in South Korea?

RESPONSE

1. What is the situation for pro-democracy/student protesters in South Korea?

While South Korea has been a democracy since 1987 and protests are both permitted and frequent, it is possible that individuals or groups who support North Korea could still be arrested under the National Security Law.

This response is divided into the following sections

- A. [Protests in South Korea](#)
- B. [Democracy and the Pro-democracy movement in South Korea today](#)

Protests in South South Korea

Sources indicate that street protests are very frequent and often violent in South Korea and demonstrators and police are sometimes injured in demonstrations. Whereas in demonstrations in the 1980s concentrated on calls for human rights and democracy, demonstrations since the mid-1990s have more often centred on the issues of workers' rights, globalisation and free trade and US forces in South Korea, as well as protests about particular government policies. Protests have been particularly common in recent years, with an average of 11,000 demonstrations a year.

A March 2006 report from the *International Herald Tribune* provides useful background on the frequency of public demonstrations in South Korea:

Decades after military rule ended, a noisy protest is still seen as the best way to make one's voice heard in South Korea. In downtown Seoul, hardly a week-end passes without demonstrators of all stripes rallying, creating gridlock and testing the patience of drivers.

The protests can have tragic consequences; two farmers were killed and more than 330 policemen and protesters hurt in a bloody clash in November.

Government policy makers pursuing foreign investment and trade liberalization see the culture of protest as a problem that brings bad headlines – as was the case when anti-globalization activists from South Korea led violent protests in Hong Kong during the World Trade Organization talks in December.

Even the protesters find themselves the target of protests. In January hundreds of mothers with sons serving in the riot police marched through Seoul, protesting the tendency of other protesters to attack their sons...

...Statistics show that an average riot policeman is mobilized to contain 85 demonstrations a year. One in every 53 riot policemen was hurt last year while fighting protesters. Witnesses say that many protesters get injured as do police officers.

Peaceful demonstrations are constitutionally protected. South Koreans today complain about large protests that disrupt traffic, but they abhor even more a brutal crackdown on demonstrators, even if they break laws by breaking police lines and wielding steel pipes and throwing fire bombs...

...President Roh Moo Hyun apologized for the police crackdown that killed the two farmers in November, although he blamed farmers for starting the violence...

...Today, workers and farmers wield steel pipes and burn police cars demanding job security and condemning globalization. Liberals burn U.S. flags and call for reconciliation with North Korea.

Conservatives burn North Korea flags and chant, "Down with Roh Moo Hyun".

Civic groups, unions and other activists help friends organize protests along their ideological lines. A typical demonstration features a neat array of colourful banners and streamers and a dance troupe romping on a temporary platform to songs blaring from batteries of loud speakers. It lasts hours and peddlers weave through protesters hawking ice cream in summer and plastic cushions in winter.

The number of public demonstrations rose from 6,857 in 1995 to an average 11,000 a year in the past five years. The number of police officers hurt by demonstrators increased from 331 in 2000 to 893 last year (Sang-Hun, Choe 2006, 'In South Korea, protesting is an occupation', *International Herald Tribune*, 2 March – Attachment 1).

Demonstrations are a legal and accepted part of Korean society and protesters and members of political groups are able to operate without government harassment, unless they threaten to overthrow the democratic system in South Korea or support the North Korean regime (see [Section C](#) below). Groups must obtain permission to hold a demonstration. The US Department of State *Country Reports on Human Rights Practices 2006 – South Korea* states:

The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The Law on Assembly and Demonstrations prohibits assemblies that are considered likely to undermine public order. The law requires that the police be notified in advance of demonstrations of all types, including political rallies. The police must notify organizers if they consider an event impermissible under this law; however, police routinely approved demonstrations.

During the year demonstrators on several occasions used steel bars, rocks, and other weapons to attack police. Violence erupted in demonstrations involving labor disputes, trade issues, US Forces Korea base consolidation, and the presence of a statue honoring US General Douglas MacArthur. The National Human Rights Commission found that two demonstrators probably died as a result of police violence, and the president apologized for the incident in a nationally publicized address. The protesters had participated in a November 15 farmers' rally during

which demonstrators armed with wooden sticks and fire bombs clashed with police armed with batons and plastic shields. One demonstrator died on November 21, and the other died on December 15. (sec.2b. 'Freedom of Peaceful Assembly and Association') (US Department of State 2006, *Country Reports on Human Rights Practices 2006* – Korea, Republic of, 8 March – Attachment 2).

The *Chosun Ilbo* recently observed that most demonstrations are peaceful with only a tiny minority being violent:

A total of 11,036 rallies were held between the beginning of this year and the end of October, some 30 a day on average. The total number of protestors stood at 2.92 million during the same period, or some 6,700 taking to the streets every day. Over the whole of last year, the figure was 8,023 a day. Violent illegal protests numbered 41, less than 0.1 percent of the total ('Counting the Cost of Korea's Protest Culture' 2006, *Chosun Ilbo*, 25 November – Attachment 3).

The government is currently acting to clamp down on violence in demonstrations and is arresting leaders and perpetrators at violent demonstrations:

- 13 December 2006 – 600 members of a “radical trade union group” hold a violent illegal protest against new labor regulations. Two leaders are arrested. (Shin, Hae-in 2006, 'Police arrest labor leaders for staging illegal protest', *The Korea Herald*, 14 December – Attachment 4).
- 6 December 2006 – 6,000 demonstrators protest against the FTA between South Korea and the United States. 12 are arrested and 20 injured ('12 are arrested, 20 injured in clash at anti-trade rally' 2006, Joins.com, 7 December – Attachment 5).

Here are some other examples of recent demonstrations in South Korea:

- 25 November 2006 – The Federation of Korean Trade Unions, a moderate nationwide umbrella labor group, held a peaceful and orderly protest of 25,000 workers with no arrests ('[Editorial] Intolerance of violence' 2006, *The Korea Herald*, 27 November – Attachment 6).
- 22 November 2006 – 72,000 demonstrators (trade unionists and anti-globalization protestors) in 13 cities around the nation:

Wednesday saw the biggest labor protests since the Roh Moo-hyun administration took office when some 72,000 demonstrators took to the streets in 13 cities around the nation. They included farmers against a planned free trade agreement with the U.S. and members of the Korean Confederation of Trade Unions (KCTU) who went on general strike on the day. Violence and arson attempts were the order of the day as demonstrators armed with wooden and bamboo sticks launched well-coordinated attempts to break into city and provincial government offices. Police, unable to mobilize more than 25,000 officers, were overwhelmed, saying it was the first protest on such a scale under this government and complaining of restrictions in dealing with it.

Some 1,000 farmers, laborers and college students engaged in a pitched battle with police when they tried to break into the municipal building in Gwangju, Jeolla Province. About 300 of them brandished wooden and bamboo sticks and hurled

paving stones at the building, breaking 40 windows. They seized riot shields and helmets from police and set them on fire.

....

In terms of numbers, the demonstrations were only overshadowed by the 130,000 who took part in a candlelight vigil opposing the impeachment of President Roh in March 2004 and the 100,000 who marched to uphold the National Security Law in October that year. "There have been rallies attended by 10,000-20,000 from provincial areas, but this is the first time that such organized and violent demonstrations took place in many corners of the nation," a police official in Seoul said. "We will take legal action against everyone involved in illegalities during the protests." ('Korea Sees Worst Labor Protests in Years' 2006, *The Chosun Ilbo*, 23 November

<http://english.chosun.com/w21data/html/news/200611/200611230009.html> – Accessed 20 December 2006 – Attachment 7).

B. Democracy and the Pro-democracy movement in South Korea today

A popular South Korean pro-democracy movement was large and active in the 1970s and 1980s when Korea was ruled by an authoritarian military regime. This repressive regime was ended in 1987 when multiparty democracy was restored. Although the first democratically elected government, and to some extent the second, were connected to the old military regime, and were therefore still opposed by some democracy activists, the election to President of a pro-democracy dissident leader, Kim Dae-Jung, and the passing of power to an opposition party for the first time in 1997 represented a final break with the non-democratic regimes of the past (see *The Far East and Australasia 2004* 2004, Europa Publications, 35th edn, London, pp.512-516 – Attachment 8).

The US Department of State *Country Reports on Human Rights Practices 2006* report also notes that Korea has a functioning democratic system: "The law provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage for all citizens 20 years of age or older." (US Department of State 2006, *Country Reports on Human Rights Practices 2006* – Korea, Republic of, 8 March, Sec.3 – Attachment 2).

Other sources also note that the democracy issue is a past issue in South Korea, since Korea's transition to democracy from 1987 to 1997. The *Chosun Ilbo* says "The demonstrations were as fierce as any during the 1980s democracy struggle. Those struggles have long been won, yet not a day passes without a protest somewhere in the country." ('Counting the Cost of Korea's Protest Culture' 2006, *Chosun Ilbo*, 25 November – Attachment 3). Likewise, *The Korean Herald* says:

In a bygone era when the nation was under the rule of military-backed dictators, many citizens were sympathetic to activists taking violent action against riot police. With democracy now firmly established as the guiding principle of governance, they have long been demanding the rule of law ('[Editorial] Intolerance of violence' 2006, *The Korea Herald*, 27 November – Attachment 6).

C. Persons or groups subject to arrest by the government for political reasons

As noted above, political groups are able to operate without government harassment, unless they threaten to overthrow the democratic system in South Korea or support the North Korean regime or hold illegal and violent demonstrations. The US Department of State

Country Reports on Human Rights Practices 2006 – South Korea notes that some people or groups considered dangerous to national security may face arrest:

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. However, rules regarding arrest and detention under the National Security Law (NSL) are vague. For example, the NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supporting North Korea and therefore deemed dangerous to the country. The NSL permits the imprisonment for up to seven 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 what constitutes “endangering the security of the State” is vague. Thus, **persons could be arrested for the peaceful expression of views that the government considered pro-North Korean or antistate.** Between January and August authorities arrested 16 persons for alleged NSL violations (US Department of State 2006, *Country Reports on Human Rights Practices 2006 – Korea, Republic of*, 8 March, sec.1 d. ‘Arbitrary Arrest or Detention’ – Attachment 2).

The report also notes the following incident in 2006: “in October the prosecutor-general resigned in protest after the justice minister ordered him not to detain an academic who made pro-North Korean remarks in possible violation of the NSL” (Sec. 1e) (US Department of State 2006, *Country Reports on Human Rights Practices 2006 – Korea, Republic of*, 8 March, sec.1 d. ‘Arbitrary Arrest or Detention’ – Attachment 2).

Amnesty International recently noted that:

The NSL, in force since 1948, allowed for long prison sentences or the death penalty for non-violent political activities, including vaguely termed offences such as “benefiting the enemy” or “anti-state” activities. Despite growing support for repeal of the NSL, including from President Roh Moo-hyun and the National Human Rights Commission, the government did not amend or repeal it (Amnesty International 2006, *Amnesty International Annual Report 2006 – South Korea* – Attachment 9).

Amnesty International did not note any new arrests under the NSL in 2005.

Amnesty International gave an outline of how the bill has been used in recent years under a democratic government in a 2002 report. It notes the main target of the law:

The NSL has been used frequently as a form of censorship, to imprison people for publishing and distributing material deemed to “benefit” North Korea. The NSL is applied in an arbitrary fashion – while certain left-wing political works are permitted for academic study, possession or reference to the same works often become a criminal offence in the hands of a student or activist with perceived “pro-North Korean” leanings.

...

Current use of the National Security Law appears to contradict the government’s “sunshine policy” of engagement towards North Korea.(8) While some people are permitted such contacts, others continue to be arrested for merely discussing reunification, publishing socialist or “pro-North Korean” material or having views considered similar to those of the North Korean Government. (p.4) (Amnesty International 2002, *Republic of Korea (South Korea) Summary of Concerns and Recommendations to Candidates for the Presidential Elections in December 2002*, AI Index: ASA 25/007/2002, 6 November – Attachment 10).

Examples of groups which have been subject to arrest under the NSL in the last ten years are:

- *Minhyukdang* (National Democratic Revolutionary Party). According to Amnesty International:

the National Intelligence Service alleged that several university students had established a secret revolutionary group known as the Minhyukdang. It was alleged that the Minhyukang operated 'spy activities' with the Youngnam Committee (under which Park Kyung-soon is serving a seven year sentence); though no clear evidence to prove this allegation has yet been presented. At least six men ... were arrested in 1999 and 2000 and charged under the NSL for "organizing an anti-state group, for helping a North Korean spy and for leaking national secrets." (For information, see Amnesty International 2002, *Republic of Korea (South Korea) Summary of Concerns and Recommendations to Candidates for the Presidential Elections in December 2002*, AI Index: ASA 25/007/2002, 6 November – Attachment 9).

List of Sources Consulted

Internet Sources:

Search Engines

Google search engine <http://www.google.com.au/>

Databases:

Public	<i>FACTIVA</i>	Reuters Business Briefing
DIMIA	<i>BACIS</i>	Country Information
	<i>REFINFO</i>	IRBDC Research Responses (Canada)
RRT	<i>ISYS</i>	RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State <i>Country Reports on Human Rights Practices</i> .
RRT Library	<i>FIRST</i>	RRT Library Catalogue

List of Attachments

1. Sang-Hun, Choe 2006, 'In South Korea, protesting is an occupation', *International Herald Tribune*, 2 March (CISNET CX147923)
2. US Department of State 2006, *Country Reports on Human Rights Practices 2006 – Korea, Republic of*, 8 March, sec.2b. 'Freedom of Peaceful Assembly and Association'
3. 'Counting the Cost of Korea's Protest Culture' 2006, *Chosun Ilbo*, 25 November (Factiva).
4. Shin, Hae-in 2006, 'Police arrest labor leaders for staging illegal protest', *The Korea Herald*, 14 December (Factiva)
5. '12 are arrested, 20 injured in clash at anti-trade rally' 2006, Joins.com, 7 December (Factiva)
6. '[Editorial] Intolerance of violence' 2006, *The Korea Herald*, 27 November (Factiva)
7. 'Korea Sees Worst Labor Protests in Years' 2006, *The Chosun Ilbo*, 23 November <http://english.chosun.com/w21data/html/news/200611/200611230009.html> – Accessed 20 December 2006.
8. *The Far East and Australasia 2004* 2004, Europa Publications, 35th edn, London, pp.512-516 (RRT LIBRARY)
9. Amnesty International 2006, *Amnesty International Annual Report 2006 – South Korea*.
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