

REPUBLIC OF KOREA (SOUTH KOREA)

Workers rights at a time of economic crisis

1998 was a difficult year for South Korea's workers. As the economic crisis unfolded and unemployment soared to unprecedented levels, thousands of people were left destitute; disadvantaged groups including women and migrant workers faced new levels of discrimination in the job market and those lucky enough to keep their jobs suffered huge pay cuts. Some of the country's main trade union leaders were arrested and prosecuted for leading strikes and demonstrations to protest against economic policies leading to mass redundancies. Unemployment is expected to increase in 1999, leading to renewed social unrest and further tensions between labour, employers and the government. Amnesty International is calling on the South Korean Government to protect the rights of workers and to ensure that trade union leaders are able to peacefully exercise their rights to freedom of expression and association without facing arrest and criminal prosecution.

President Kim Dae-jung took office in February 1998 making new commitments to protect and promote human rights and his government deserves credit for taking some positive steps. One of its early reforms was the establishment of a Tripartite Commission composed of government, business and trade union representatives. The formation of this commission opened up new possibilities for dialogue with the trade unions and it made a promising start. Disagreements soon emerged, however, over the issue of mass redundancies and the arrests of trade unionists. Other positive reforms introduced by the new government included the enactment of a law allowing teachers to form and join trade unions and the removal of a ban on trade union participation in political activities.

Amnesty International's main concern on workers rights over the past year has been the arrest, prosecution and harassment of trade union leaders for organizing strike action and demonstrations to protect the rights of their members. During 1998 the economic crisis and conditions laid down by the IMF led to obvious tensions and conflicts of interest between business, labour and the government. The government appears to have viewed trade union protest as an obstacle to economic recovery and a factor which would deter foreign investors. It reacted to strike action by attempting to remove the trade union leaders it deemed responsible and by deploying large contingents of riot police to break strike action and block demonstrations. This resulted in numerous human rights violations, increased tension and less protection for all workers. The National Security Law was also used to arrest trade unionists and workers and some were given heavy sentences.

As the economic crisis continues, Amnesty International urges the government to recognise that suppression of workers rights is short-sighted and counter-productive. Respect for basic human rights, including labour rights, will be important for the country's stability, economic recovery and long-term development.

Arrests of trade union leaders

In February 1998, South Korea's National Assembly adopted amendments to labour legislation which paved the way for mass redundancies. The government argued that the new legislation was necessary to fulfil the conditions for restructuring and labour market flexibility laid down by the IMF when it loaned US\$57 billion to Korea in late December 1997. Trade unions opposed the new legislation, fearing mass job losses in a country which lacks a social safety net for the unemployed.

In May and July the Korean Confederation of Trade Unions (KCTU) called general strikes to protest against the government's economic policies including restructuring leading to mass redundancies, inadequate social welfare provision, the failure to prosecute employers engaging in illegal lay-offs and the lack of effective consultation between the government, employers and trade unions. The KCTU also claimed that in some cases businesses had made use of the new legislation to lay-off trade union leaders before other workers. As a result of these two strikes, and organization of a May Day demonstration, arrest warrants were issued against many of South Korea's leading trade unionists. Some went into hiding but most were eventually arrested and prosecuted.

Many of the arrested trade union leaders were charged with "obstruction of business" under South Korea's Criminal Code, on the grounds that the two strikes were illegal. The authorities defined the two general strikes as technically illegal because they were in protest at general economic and social policies and were not specific to the workplace.

Those arrested included Koh Young-ju, Secretary General of the KCTU, who was sentenced to 18 months' imprisonment in October 1997 and released on appeal in January 1999. Others arrested and later released included Kim Ho-seun, President of the Korean Federation of Public Sector Unions; Kang Han-kyu, Chairperson of the KCTU Pusan Regional Council; Kim Je-yeun, First Vice President of Korea Telecom Trade Union; Park Chol-woo, Chairperson of the Seoul Branch of Korea Telecom Trade Union; Hwang Young-ho, President of the Korean Federation of Chemical and Textile Trade Unions and Park Seun-cheol, President of the Donghwa Bank Trade Union. Amnesty International called for the release of these and other trade union leaders arrested for calling the two general strikes and May Day demonstration.

In September 1998 Amnesty International's Secretary General met Dan Byung-ho, President of the Korean Metal Workers' Federation and Vice President of the KCTU and Yu Deuk-sang, First Vice President of the KCTU. The two leaders were evading police arrest in the compound of Myongdong Catholic Cathedral in central Seoul. Amnesty International called for the charges against these two leaders to be dropped but Dan Byung-



ho was later arrested and in January 1999 he was sentenced to two years' imprisonment. In February 1999 Yu Deuk-sang was still evading arrest.

Many other trade union members were arrested in the course of separate labour disputes at Hyundai, Mando Machinery and other large companies. While most were charged with "obstruction of business", many were additionally charged with committing acts of violence during clashes with riot police. One such incident took place in September when 10,000 riot police were used to break a strike at seven Mando Machinery factories. Dozens of workers were arrested and television pictures of the raid showed policemen beating unarmed demonstrators. Amnesty International does not condone the use of violence by workers and has not called for the release of those arrested for violent actions. However, it is concerned that on several occasions, such as the raid on Mando Machinery factories, the police used excessive force which only served to exacerbate tensions and resulted in injuries to both demonstrators and police.

Over 400 trade unionists were arrested and prosecuted during the year (about half were detained pending trial and others were freed on bail). Most were released after trial, either with a suspended sentence or a fine. A small number of key trade union leaders were, however, given a prison term. In February 1999 some 20 trade unionists remained in prison and a small number were still evading arrest. President Kim Dae-jung is reported to have called for leniency in dealing with the remaining detainees and further releases were expected.

Although most trade unionists had been released by early 1999, tensions remain and further human rights violations may occur at any time. The mass arrests over the past year have weakened the trade union movement at a time of instability and uncertainty. In January 1999 the head of the Tripartite Commission predicted that industrial relations would continue to be unstable and that mass unemployment and a lack of protection for the jobless would be the most serious social problem of the year.

Trade union leaders face an uncertain future as they continue to risk arrest and imprisonment for exercising their right to take strike action and to call demonstrations in protest at economic and social policies which will affect the lives of their members. Powerful groups within business and government circles continue to oppose rights for trade unionists.

In November 1998 the International Labour Organization (ILO) Committee on Freedom of Association examined two complaints lodged by the KCTU earlier that year. The Committee stated in its conclusions: *"The Committee must express its deep concern over the fact that trade union leaders and members are still detained or on trial, it would appear, for activities linked to collective labour disputes. The Committee is convinced that it will not be possible for a stable industrial relations system to function harmoniously in the country as long as trade unionists are the subject of detentions and judicial proceedings. The Committee considers that, in the new climate of tripartism prevailing in the country, it would be particularly appropriate for the authorities to pursue measures which would allow for the building of a new industrial relations system based on a climate of confidence"*.

The Committee went on to recommend that *"the Government take the appropriate measures so that the persons detained or on trial or for whom arrest warrants have been issued as a result of their trade union activities are released or that the charges brought against them are dropped or that the arrest warrants are withdrawn. In the case of persons charged with violence or assault, the Committee asks the Government to ensure that these charges are dealt with as soon as possible."*¹

¹Taken from 311th Report of the Committee on Freedom of Association, Case no 1865

Use of the National Security Law

In July 1998, fifteen trade unionists and political activists, were arrested under the National Security Law on charges of forming an "anti-state" organization. The arrests in Ulsan and Pusan Cities took place around the time of the July general strike and those arrested were actively involved in the trade union movement and opposition to government economic and social policies. The 15 were accused of supporting North Korea through joining the "Youngnam Committee" with alleged links to North Korea, spreading North Korean ideology, including within the trade union movement, and attempting to indoctrinate South Korean society with North Korea's *Juche* ideology. Amnesty International believes the charges are unfounded and is concerned that the 15 appear to have been arrested principally because of their opposition to government policies and as a means of curtailing anti-government protests at a time of social unrest. It is concerned at this apparent attempt to link the trade union movement to alleged pro-North Korean activities.

Amnesty International is calling for the release of the 15 activists who were put on trial and given sentences of between three and 15 years in January 1999. They include Pang Suk-soo, Education and Publicity Officer of the Ulsan Regional Council of the KCTU, and Kim Myong-ho, Policy Director of the Ulsan Office of the Korean Metal Workers' Federation, who were both sentenced to five years' imprisonment. Among the women prisoners is Lee Eun-mi, Chairperson of a preparatory committee for the Ulsan Women's Association, who was sentenced to four years' imprisonment.

The National Security Law is frequently used to arrest people for exercising their rights to freedom of speech and freedom of association. Throughout the decades, at times of social unrest, it has been used to arrest government opponents on the pretext that they pose a threat to state security. Amnesty International is calling for an end to abuses under the National Security Law and for the law to be amended in accordance with international standards (see *South Korea: Time to reform the National Security Law*, AI Index: ASA 25/03/99, February 1999).

Trade Union rights in South Korea

Only a small portion of South Korea's workforce is unionised and the economic crisis has further weakened existing structures. The two main trade union confederations are the Korean Confederation of Trade Unions (KCTU), with around half a million members, and the longer-established Federation of Korean Trade Unions (FKTU) which has around 1.5 million members. Though established in 1995, by early 1999 the KCTU had still not been able to obtain legal registration.

Trade unions in South Korea are company-based, making them unviable in very small companies, and as a consequence they are mostly confined to heavy industry. Women make up over 40% of the workforce but work mostly in the informal sector or in small companies where there are few trade unions. In January 1999 the first women's trade union organization was established in Seoul. Under current legislation only one trade union is permitted at each workplace, a factor which has restricted the growth of independent trade unions. Legislative amendments in 1997 stated that multiple unions will be permitted at company level from the year 2002.

In spite of the government's commitment to initiate reforms, several provisions of the Trade Union Labour Relations Adjustment Act (enacted in March 1997) remain in contravention of international standards relating to freedom of association. These include a prohibition of the right to strike in some non-essential services; denial of the rights of dismissed and unemployed workers to organize; denial of the right of civil servants to join or establish trade unions; and a requirement to notify the government of the identity of third parties who intervene in collective bargaining and industrial disputes.

In February 1998 the government agreed to allow teachers to form a trade union and legislation to this effect was adopted by the National Assembly in December. Teachers will be permitted to form a trade union from July 1999, though they will remain banned from taking collective action. Most civil servants are prohibited from joining trade unions, but will be permitted to form workplace associations from January 1999.

South Korea became a member of the ILO in 1991 but has not ratified ILO Convention 87 (on freedom of association and protection of the right to organize) or Convention 98 (on the right to organize and collective bargaining). As a condition of its entry to the OECD in 1996 South Korea agreed to bring its labour laws into conformity with international standards.

Effects of the crisis on women and vulnerable groups

Few in South Korea remain unaffected by the worst economic crisis to hit the country in decades. By the end of 1998 official figures put the number of unemployed at just over 1.5 million but civil rights groups and trade unions estimated the real figure to be more than two million. The country lacks a social safety net for the jobless and thousands have been forced to rely on friends, family and voluntary organizations for their livelihoods. By late 1998 over 3,000 people were estimated to be living on the streets in Seoul, with thousands more in other cities.

During 1998 President Kim committed his government to improving the rights of Korean women and one positive step during the year was the introduction of legislation to outlaw discrimination in the workplace. Women's groups claim, however, that too little has been achieved. Women were often laid off before their male counterparts or put

under pressure from employers to accept voluntary redundancy, although labour laws prohibit redundancy on the grounds of gender. Women are vulnerable because they are often employed on a part-time or temporary basis in the informal sector, because they are not considered the main bread-winner and because they are less likely or able to resist than their male colleagues. Most women work in small companies which are not covered by unemployment legislation. Women's groups have claimed that government employment programs do not adequately reflect the needs and rights of women. In July 1998 the Committee on the Elimination of Discrimination against Women expressed concern about female unemployment during the economic crisis and made a series of recommendations to the South Korean Government, including the provision of statistical data on female unemployment and increased trade union involvement for women.

Thousands of migrant workers who lost their jobs in 1998 were told by the government to either leave the country or pay a large fine. Many had not been paid for many months and could not afford to comply with these measures. Amnesty International has received recent reports of incidents where detained migrants were held in cramped conditions and beaten by immigration officials prior to deportation. Even before the economic crisis, migrant workers were a vulnerable group, often the victims of unscrupulous brokers, low or unpaid wages, a high rate of industrial accidents, poor health, poor working conditions and racial discrimination. Most migrant workers lack legal protection and workers' organizations have been campaigning for legislation to introduce a work permit scheme, giving migrant workers the same rights and benefits as Korean workers. At the end of 1998, some 90,000 undocumented workers remained in South Korea, with minimal legal protection. In September 1998 the Minister of Justice told Amnesty International that provisions to protect the rights of migrant workers would be included in a proposed human rights act.

Recommendations to the government

- Trade union leaders and members arrested over the past year for non-violent trade union activities should be unconditionally released and outstanding charges should be dropped.
- The government should ensure that trade unionists are able to exercise their legitimate trade union rights, including the right to take strike action and to hold demonstrations, without fear of arrest and prosecution.
- Trade union leaders and others imprisoned under the National Security Law for their non-violent trade union and political activities should be released. The National Security Law should either be substantially amended in accordance with international standards or abolished.

- Police officers, in carrying out their duty, should apply non-violent means before resorting to the use of force. Whenever the lawful use of force is unavoidable, police officers must exercise restraint and act in proportion to the seriousness of the offence and the legitimate objective to be achieved. Relevant international standards, including the *UN Code of Conduct for Law Enforcement Officials*, should be widely disseminated and police should receive training in their practical application.
- South Korea's labour legislation should be brought fully into line with international labour standards. South Korea should ratify ILO Conventions 87 and 98 and take steps to implement the recommendations made in November 1998 by the ILO.
- The government should take steps to protect and promote the rights of women, migrant workers and other vulnerable groups who have faced increased discrimination during the economic crisis. It should implement the July 1998 recommendations of the Committee on the Elimination of Discrimination against Women.
- South Korea should ensure that the social and human rights dimensions of the Asian economic crisis are addressed at Asia Pacific Economic Cooperation (APEC) ministerial meetings and working groups and in other regional fora.

Recommendations to companies in South Korea

- Companies should ensure that all employees are able to exercise their rights to freedom of expression, peaceful assembly and association, as well as a fair means of collective bargaining without discrimination, including the right to form trade unions and to strike. Employees should not face arrest and prosecution for exercising these rights.
- Amnesty International calls on all companies to adopt codes of conduct which include an explicit commitment to respect human rights in their operations, including those set out in the Universal Declaration of Human Rights, the ILO "core" Conventions and other international standards. They should establish mechanisms to monitor effectively all their operations' compliance with international human rights standards.
- As part of this code of conduct, companies should ensure that their policies and practices prevent discrimination based on sex, ethnic origin, colour, social origin, religion, economic status, political or other conscientiously held beliefs.