

REPUBLIC OF KOREA (SOUTH KOREA)

Foreign Policy and Human Rights

Introduction

Since President Kim Dae-jung took office in February this year, the South Korean Government has made a number of positive steps to improve its human rights record at the national level. For example, proposals have been tabled to establish a national human rights commission and a number of political prisoners have been released. Despite concern that these initiatives have not yet gone far enough, Amnesty International is optimistic about the general direction of reform in South Korea.

However, human rights issues are not only a domestic concern. The Vienna Declaration and Programme of Action¹ reaffirmed that human rights are a concern of the international community. Far from being an internal affair, human rights issues engage the international interests and responsibilities of every state. The promotion of human rights should therefore be made a key part of every country's foreign policy. As a former political dissident and prisoner of conscience, President Kim understands at first hand the importance of human rights and holds the moral authority to influence the protection and promotion of human rights at both a regional and international level.

“I and the Korean people will march firmly hand-in-hand with you, so this important principle of human rights will spread to every corner of the world....Actions infringing upon the dignity of human beings should not be tolerated. Regional or cultural characteristics should no longer serve as excuses for the violation of human rights. We must uphold what history has already proven, that human rights is a universal value”

¹ Excerpt from a speech made by South Korean President Kim Dae-jung at the International League for Human Rights, New York, USA, 6 June 1998

South Korea has ratified a number of important human rights conventions, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC). However, despite displaying a commitment to international human rights standards, South Korea has not played a very prominent role in intergovernmental organizations which deal with human rights issues.

¹ Adopted at the World Conference on Human Rights, Vienna, Austria, June 1993

Since his election, President Kim Dae-jung has made a number of statements which appear to signal a more positive approach towards human rights on the international stage. For example, in a statement made in Geneva on 1 April 1998 in celebration of the 50th Anniversary of the Universal Declaration of Human Rights (UDHR), President Kim said:

"I was persecuted for 40 years and I have fought for human rights undauntedly...From this day on for the rest of my life, I will devote myself to furthering human rights. I am grateful to all my friends around the world who are fighting in the defence of human rights."

In this report, Amnesty International outlines its recommendations for the strengthening and development of an ethical dimension to South Korean foreign policy in line with President Kim's commitment to the promotion of human rights internationally.

Human Rights at an international level

1. The International Criminal Court

Amnesty International welcomes the positive and constructive role that South Korea played in the deliberations over the statute of the International Criminal Court (ICC) in June/July this year. It was in part due to South Korea's committed and principled approach that the final Statute received the approval of as many as 121 states. This shows South Korea's capacity to demonstrate international leadership in strengthening the international human rights framework. Amnesty International hopes that the South Korean Government will follow through on this initiative by taking the following steps:

- ! South Korea should sign and ratify the ICC Statute as soon as possible and without reservation or declaration.
- ! South Korea should continue to play a leading role during the run-up to the establishment of the ICC, in particular through its participation in the ICC preparatory committee.
- ! As part of its foreign policy, South Korea should actively encourage other states to sign and ratify the Statute of the ICC as soon as possible and without reservation or declaration. In particular, states should be encouraged not to make a declaration invoking a "seven-year transitional phase" (during which prosecutions for war crimes may not be brought against their own nationals or against other nationals found on their territory).

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- ! South Korea should play a proactive role to ensure that the ICC is strong, effective and empowered. Once the Court is established, South Korea should actively oppose any attempts by members of the United Nations Security Council to defer investigations or prosecutions, and should work to ensure that the Court receives adequate funding to enable it to function properly.

2. Other International Initiatives

In addition to its role in the ICC deliberations, the South Korean Government could be doing more to promote the observance and protection of human rights in its dealings with other states. In particular, South Korea should be playing a constructive role in two major human rights initiatives that are currently being debated in the international arena: the *United Nations Declaration on Human Rights Defenders*, and the *Draft Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts*. With regard to the death penalty, South Korea should, at the very least, be refraining from international activities in support of the death penalty. Amnesty International recommends the South Korean Government to take the following measures which would enable it to play an effective role in promoting human rights at the international level:-

Universal Declaration of Human Rights

1998 is the 50th Anniversary of the Universal Declaration of Human Rights (UDHR). It also marks the 50th Anniversary of the Republic of Korea as a state. The coincidence of these anniversaries provides an ideal opportunity for the South Korean Government to demonstrate a clear and strong commitment to the universality and indivisibility of human rights. It should work to raise public awareness of the values enshrined in the UDHR at both a domestic and international level.

Declaration on Human Rights Defenders

The Declaration on Human Rights Defenders has been adopted by the United Nations Commission on Human Rights and is now awaiting approval from the General Assembly. As a former human rights defender himself, President Kim Dae-jung should ensure his government works to expedite this process. The South Korean Government is urged to push for the adoption of the Declaration on 10 December 1998 as a fitting culmination to the UDHR 50th Anniversary celebrations.

Recruitment of child soldiers

Children have been recruited into armed forces in a number of countries including Colombia, Sierra Leone, Sri Lanka and Uganda. It is estimated that around the world there are a quarter of a million children and young people under the age of 18 years in government armed forces

or armed opposition groups². In response to growing international pressure to prevent the involvement of children in armed conflicts, the UN Commission on Human Rights established a Working Group in 1994 to draft an optional protocol to the Convention on the Rights of the Child. This bans the recruitment of child soldiers under the age of 18. South Korea is urged to take a leading role in promoting the adoption of this protocol at the international level.

Abolition of the death penalty

At its 54th session, the UN Commission on Human Rights passed a resolution calling upon states which still maintain the death penalty to establish a moratorium on executions with a view to completely abolishing the death penalty³. Amnesty International is dismayed that South Korea was one of a number of states that signed up to a joint statement disassociating themselves from this resolution and questioning the notion that the death penalty is a human rights issue⁴. This is particularly alarming since President Kim Dae-jung was once a death penalty prisoner himself, and therefore has firsthand experience of its cruelty as well as the arbitrary nature of its imposition. Amnesty International urges South Korea to abstain from any pro-death penalty initiatives within the international community. It should immediately commute all death sentences pending abolition of the death penalty and encourage other states to do the same.

Human Rights at a regional level

In general, international human rights instruments have not achieved a high level of ratification by states in the Asia-Pacific region. As a major Asian power that has made a swift transition from military rule to democratic government, South Korea should take a lead by making human rights a cornerstone of its regional foreign policy. In particular, representatives of the South Korean Government should make clear and unequivocal public statements promoting the universality and indivisibility of human rights. This is especially important in the Asia-Pacific region where a number of political leaders have attempted to excuse their violations of many of the rights in the UDHR by pointing to cultural difference or juxtaposing human rights with economic development. President Kim Dae-jung is to be commended for being one of the few Asian leaders to publicly state his commitment to universal human rights and Amnesty International hopes that he will use his new position of authority to promote this stance.

² See 'Old enough to kill but too young too vote' : *Draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts* (AI Index: IOR 51/01/98)

³ Commission on Human Rights resolution 1988/8 on the Question of the Death Penalty

⁴ Joint Statement on the Question of the Death Penalty, ECOSOC document E/1998/1

In order to encourage greater respect for human rights in the region, South Korea is urged to ensure that human rights issues are placed on the agenda of all regional groupings of which it is part. These include the Asia Pacific Economic Cooperation (APEC) Leaders' Meeting and the Asia Europe Meeting (ASEM).

As the hosts for the next ASEM in the year 2000, the South Korean authorities are in a strong position to ensure that the promotion of human rights issues is squarely on ASEM's agenda, both in terms of the leaders' meeting and other ASEM initiatives. Non-governmental organizations should be allowed to participate in ASEM initiatives such as programmes on law and governance.

South Korea should also make human rights an important component of its bilateral relations with other states. Its own historical experience and importance in the region as a trading partner and investor put it in a strong position to encourage other Asian states to show greater concern for the protection of human rights. Moreover, the personal status of President Kim Dae-jung as a former prisoner of conscience gives him the moral authority to seek assurances on human rights reforms from other regional leaders. For example:-

In its relations with **Indonesia**, South Korea should urge the new administration of President Habibie to release all prisoners of conscience in Indonesia and East Timor and press for the establishment of mechanisms which will bring about systematic accountability of the military. It should call for a thorough review of all convictions of political prisoners in Indonesia and independent investigations into all past human rights violations. South Korea should also voice public concern over continued human rights violations in East Timor and urge the Indonesian authorities to ensure immediate improvements in the human rights situation there as a step towards any permanent solution to the ongoing conflict.

In its relations with **Myanmar**, the South Korean Government should continue to show concern over the treatment of Daw Aung San Suu Kyi and the National League for Democracy (NLD). President Kim has declared a personal interest in Myanmar and his "Forum of Democratic Leaders" has made a number of statements calling for the Myanmar authorities to cease its oppression of democratic forces, enter into a constructive dialogue with the NLD, and release all political prisoners. It has also urged the Myanmar authorities to honour the right to freedom of assembly, speech and political participation. These recommendations should be translated into official government policy and placed at the heart of all bilateral relations with the Myanmar authorities and interactions between South Korea and Myanmar at the regional level.

In its relations with the **Socialist Republic of Viet Nam**, the South Korean Government should be encouraging efforts to revise the Vietnamese Criminal Code. In particular it should call for the Criminal Code to be brought into line with the ICCPR (to which Viet Nam is a party). South Korea should also be calling for the release of prisoners of conscience and

respect for freedom of belief and worship in Viet Nam. Having released a large number of prisoners of conscience and political prisoners in a recent amnesty, President Kim Dae-jung holds the moral authority to encourage a similar initiative in Viet Nam. A number of prisoners of conscience in Viet Nam are held because of their adherence to religious organizations that have not been state-approved. The South Korean Government should urge the Vietnamese authorities to release all such prisoners immediately and unconditionally.

In its relations with **Afghanistan**, the South Korean Government should urge all warring factions to respect the human rights of all Afghan citizens, including minorities and those held in detention. It should strongly urge the Taleban authorities to respect and protect the human rights of women who currently have no access to education or employment. Taleban edicts have restricted tens of thousands of women to their homes. These women are, in effect, prisoners of conscience and the South Korean Government should be calling for these edicts to be revoked immediately and unconditionally. Amnesty International welcomes the positive role that the UN Special Rapporteur on Afghanistan, Professor Paik Choong-hyun from South Korea, has played in advancing these issues. The South Korean Government should follow his example and call for fundamental human rights improvements in Afghanistan.

Conclusion and Summary of Recommendations

This report highlights ways in which South Korea can have a positive impact on the protection of human rights beyond its borders. This can be achieved at both an international level under the auspices of the United Nations and at a regional level through bilateral contacts and participation in regional groupings. President Kim Dae-jung is urged to use his political and moral authority to call for lasting and effective improvements in human rights in international fora and throughout the region.

The following is a summary of Amnesty International's recommendations to the South Korean Government:

- ! South Korea should build on its positive interventions with regard to the proposed Statute of the ICC by playing a leading and constructive role in future deliberations during the run-up to the establishment of the Court. It should ratify the statute without delay or reservation and encourage other states to do the same.
- ! South Korea is urged to promote wider ratification of international human rights instruments, particularly among states in the Asia-Pacific region.
- ! South Korea should encourage the adoption of the Declaration on Human Rights Defenders at the end of this year as a fitting celebration of the 50th Anniversary of the UDHR.

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- ! South Korea is urged to play a leading role in encouraging the adoption of the Optional Protocol to the CRC on the Involvement of Children in Armed Conflicts.
 - ! South Korea should work more positively towards the worldwide abolition of the death penalty by taking a lead in commuting all death sentences and persuading other states which maintain the death penalty to do the same.
 - ! South Korea is urged to make human rights a cornerstone of its bilateral relations with other states, particularly in Asia. Human rights issues should be raised and discussed in all regional groupings of which it is part and South Korea should urge such groupings to make frequent public statements on human rights issues arising in the region.
 - ! President Kim and his ministers should raise human rights issues directly with their Asian counterparts, particularly in those countries with which South Korea has close links or shares historical experience.