

## **Statement on the Constitutional Review of South Korea's National Security Act**

The Asian Forum for Human Rights and Development (FORUM-ASIA) expresses concern over the implications to human rights and democracy of the continued application of certain provisions of the Republic of Korea's (South Korea) National Security Act (Act No. 11042, or the NSA). FORUM-ASIA has submitted an amicus brief to the Constitutional Court of Korea for its review of the National Security Act, strongly recommending for the court to decide that the legislation is in violation of the Constitution of the Republic of Korea and international laws. We believe Articles 2 and 7 of the NSA violate human rights and fundamental freedoms of the South Korean people, including the freedoms of expression, assembly, and association. The law also has been used to arbitrarily detain, prosecute and torture certain individuals.

Specific provisions under Article 7 of the NSA describe what can be considered as crimes by affiliation with an "anti-government organization" in the name of national security, and Article 2 defines what an "anti-government organization" is. But the descriptions and definitions of what constitutes criminal acts under the NSA are vague, over-broad and arbitrary and, as such, are open to abuse. Legitimate acts of protest such as peaceful demonstrations, expression of opinions, and even cultural activities critical of the government, all of which are essential for a democratic society to function, can therefore be criminalised. Indeed, over several decades the law has been used to criminalise dissent and the activities of many human rights defenders and pro-democracy activists.

The NSA is therefore inconsistent with international human rights treaties which South Korea is party to, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Additionally, the law is a remnant of the Cold War era, and it is archaic, outdated, and no longer in tune with the times.

FORUM-ASIA therefore calls on the Constitutional Court of Korea to heed the call of the South Korean people and the international community to respect human rights and ensure that the South Korean legal system is in line with international standards. FORUM-ASIA urges the Constitutional Court of South Korea to recognize that the NSA is in violation of the human rights and freedoms enshrined in Chapter 2 of the Constitution of the Republic of Korea, particularly those that guarantee freedom of expression and peaceful assembly and association, as well as those that recognize and emphasize South Korea's obligations to abide by international human rights treaties. Finally, FORUM-ASIA calls on the Constitutional Court of Korea to declare Articles 2 and 7 of the National Security Act unconstitutional.

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### **About FORUM-ASIA:**

**The Asian Forum for Human Rights and Development (FORUM-ASIA)** is a network of 85 member organisations across 23 countries, mainly in Asia. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond. It has consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. The FORUM-ASIA Secretariat is based in Bangkok, with offices in Jakarta, Geneva and Kathmandu. [www.forum-asia.org](http://www.forum-asia.org)

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