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Democracy and National Security in South Korea: The Song Du Yol Affair

by Kajimura Tai'ichiro

Upon his arrival at Seoul's Incheon airport in September 2003, Song Du Yol, professor of philosophy and sociology at Germany's Munster University, was arrested and indicted for offences under South Korea's National Security Law. Prosecutors demanded a fifteen-year sentence. In March 2004 he was found guilty and sentenced to seven years in prison. On appeal, this was reduced to three years, suspended for five years, and on 21 July 2004 he was released. Though now free, he is still not completely free from the web of the National Security Law, and a final "not guilty" verdict still lies somewhere in the future.

The South Korean media pronounced him the "biggest ever catch" under the web of this anti-communist law. Yet at the same time his fate was seen as inseparable from that of this legislation, so that the moment when he is eventually found not guilty is likely also to be the moment when the life of the National Security Law comes to an end. With his release, the legal foundation of anti-communism that has been the pillar of the South Korean state since its foundation has been shaken.

When he was released by the appeal court, the outcome was given top billing in the next day's newspapers in South Korea even though Japanese Prime Minister Koizumi was at the time on his first official visit to the country. Outside South Korea, the affair was scarcely covered at all, so here let me recount the story of the Song Du Yol Affair.

Born in Tokyo in 1944, of Korean parents, Song attended school in Korea (Kwangju), graduated from Seoul National University's Department of Philosophy and, in 1967, moved to Germany for graduate studies, first at Heidelberg University and then at Frankfurt University under Jurgen Habermas. He gained his doctorate in 1972 for his thesis on "The Understanding of Asia in Hegel, Marx, and Weber" and taught first at the Free University of Berlin and from 1982 at Munster University, specializing in social and comparative philosophy and sociological theory. His collected works, including revised versions of his doctoral and professorial theses, have been translated and published in Korea in 10 volumes. While generally most influenced by Habermas, he also followed the critical analytical theories of Peter Christian Ludz, former head of the GDR section of the Institute for Social Science Research at the Free University of Berlin. Just as Ludz's empirical structural analysis, resisting the Cold War totalitarian theory common at the time, was influential in opening the way to the "Ost-Politik" of Willy Brandt, so Song strove to do likewise for Korea, devoting himself to understanding the division system in Korea against the background of the German case. From 1973, intent on gathering first-hand information on the situation, he began a series, 18 in all, of visits to North Korea.

From 1980, Song was closely involved in the movement of overseas Koreans protesting against the massacre of students and citizens at Kwangju [South Korea] in May of that year, culminating in a protest march of 1,500 people, mostly Koreans, through the centre of Berlin. A photograph of him meeting with North Korean leader Kim Il Sung in 1991 was widely reproduced. In 1993, he took German citizenship. In 1994, he was a solitary "South Korean" representative at Kim Il Sung's funeral in Pyongyang. From 1995 he was the key person in organizing a series of "South-North scientific dialogues" held in Beijing (five times) and Pyongyang (once).

My friendship with Song dates to the protest movement in Berlin over the suppression of the Kwangju uprising in 1980. After the assassination of Park Chung Hee, Chun Doo Hwan seized power by coup d'etat and used martial law to suppress the nation-wide protests. Sending martial law troops into Kwangju with American approval, he massacred hundreds of innocent citizens. When the Kwangju People's Uprising, that today is recognized even officially as the torch of South Korean democracy,occurred, a broad-based protest movement developed among Koreans in Germany. First, ten Korean students, including two of Song's female students, dressed in Korean clothes, began a hunger strike in the student facilities of a Christian church near the city centre. The "students starving themselves for democracy" were widely reported in the media. Song busied himself gathering information, attending conferences and writing leaflets.

As a Japanese who was politically relatively safe in the context of West Berlin at the time, I found myself performing a provisional role as a kind of spokesman, trying to explain things to a New York Times reporter who found it difficult to understand the call by South Koreans for withdrawal of US troops that was beginning to be uttered publicly, and telling German Red Army Faction members who were rushing to join in to keep away, for they would only be a nuisance, drawing the attention of the German security police.

On the last day of the hunger strike, there was a demonstration headed by the hunger strikers, down the Kurfurstendam main street. Many Germans, and some 1,500 Koreans, took part. It was a historic moment, the largest-ever demonstration by Koreans in Europe. The overwhelming majority of resident Koreans in Germany supported the demand for democracy. Galvanized by the events of Kwangju, the appearance of these citizens on the streets of Berlin prefigured the democratic future.

Subsequently, many who had participated in the protests finished their studies and, as democratization proceeded in South Korea, returned to Korea where some became professors. With the election as president of Kim Dae Jung in 1998, and in particular with the South-North summit of June 2000, South-North dialogue and reconciliation became the irresistible mainstream of history.

Under the Kim Dae Jung administration, a Korea Democracy Foundation was established by law in 2001. Headed by Park Hyon Gyu, the 82 year old pastor and elder of the democratization movement, as director, it was to gather and manage materials on the democracy movement, promote democratic education, and conduct commemorative events. In October 2002, 67 women and men who had contributed to the democratization struggle from outside Korea, including 33 from Japan, were invited to Seoul, where they met and were publicly thanked by the president.

The following year, September 2003, the Korea Democracy Foundation invited thirty-three more people from overseas. Among them was Kwak Ton Gi, representing the [Tokyo-based] Korean League for Democracy and Unification, an organization that had hitherto been proscribed from entry to the country because it was "anti-state." These invitees were able to enter the country unconditionally. It is well-known that the predecessor of the Korean League for Democracy and Unification, Hanmintong (headquartered in Tokyo), had been the biggest organization giving aid and support to Kim Dae Jung when he was in exile. Meeting these people again for the first time in 30 years, former President Kim Dae Jung, gave a speech of thanks.

However, a problem arose over three others, in Germany and Japan, who had been invited under the same auspices, Song Du Yol in

Germany and Chung Kyung Mo and his wife in Japan. Like Song, Chung is well known as a unification activist. Being informed that there were no conditions attached to their invitation, Chung and his wife presented themselves to the Korean consulate in Yokohama. Chung was then, however, asked to explain his visit to Pyongyang in 1989 when he accompanied the renowned Seoul pastor, Moon Ik Hwan, and had a much publicized meeting with Kim Il Sung. Despite his insistence that "I am no agent of Pyongyang. I have always acted completely on my own independent initiative, without any direction from them," he was asked to make and sign a "voluntary statement." Declaring that "I am now an old man, almost eighty, and have always held fast to the determination to maintain the conscience of the Korean nation and cannot return home now if the price be that I submit to government pressure and cast aside this conscience and determination," he gave up his hope to make his first return home in 30 years. This was on 15 September.

On 22 September, Song Du Yol, with his wife and two children, holding German passports, returned to Korea for the first time in 37 years. His two-week program included meeting with president Roh Moo Hyun, delivering a commemorative lecture, and being conferred with an honorary doctorate. At Incheon airport he was met by German embassy officials and his lawyer, Kim Hong Tae. Officials of the Public Security Institute (formerly KCIA) waiting for him at immigration, said: "You can either come voluntarily to us tomorrow for investigation or we will arrest you on the spot." Song agreed to present himself the following day, provided he could be accompanied by his lawyer. With this, the "Song Du Yol Incident" began, illustrating the split in Korean opinion between the section of government that invited him and the Public Security Institute, which constitutes a state within the state.

From the day after his arrival, harsh interrogation was conducted by ten officials taking thirty minute spells over ten to fifteen hours each day, with the exception of Sunday, an exhausted Song being returned to his hotel at the end of each session. Despite the official promise, and despite repeated protests from the German embassy, his lawyer was not allowed to be present. He was forbidden to leave the country, and on 1 October the Public Security Institute sent to the prosecutors a 2,035 page dossier recommending trial and punishment.

At a press conference on 2 October, Song made several admissions, each of which became a major matter of contention at his subsequent trial. He said:

"It is true that when I entered North Korea in 1973 for research purposes I became a member of the (North) Korean Workers Party, but at the time it was a condition for entering the country. However, not only am I not the Politburo member Kim Chol Su [as alleged] but I have absolutely never acted as such a person, and the money I took from North Korea was as funds for the maintenance of the library of the Institute of Korean Studies in Germany and for travel to North Korea for preparatory meetings for the South-North Unification Academic Conference; not one cent of it was for personal use."

Song's admission of membership of the (North) Korean Workers' Party and of receipt of money from the North shocked South Korean society. The incident became a major public and political issue and Song's detention the subject of hostile exchanges on the floor of the National Assembly. On the day following the press conference, President Roh Moo Hyun made a speech in which he expressed his concern as follows:

"People such as Professor Song were born at a time of national division, so this is not something to get excited over and [for conservatives] to celebrate. Whether Korean society can address this problem in a mature way will be a test of the level it has reached. ... It is more complicated than at first it seemed, since to my dismay matters disadvantageous to Professor Song have emerged. It pains me greatly that Song might now be exploited for ideological purposes."

Investigation by the prosecutors began on 3 October, with Song and his family being placed under police protection "because of threats of harm." On 22 October he was arrested and transferred to a detention centre and on 15 November he was indicted.

Charges against him of violation of the National Security Law and the Criminal Code arose over four matters.

1. Membership and a leading role in an anti-state organization. Among the items listed in the indictment were membership of the North Korean Workers Party, meetings with Kim Il Sung, membership in the Politburo, forming and playing a leading role in an anti-state organization together with Yun Yi Sang, Kim Gil Sun and overseas organizations; glorifying and praising the North's Juche ideology (under ten counts of publishing activities), abetting O Gil Ram to go to North Korea; organizing a scientific gathering in Pyongyang; and accepting money from the North.
2. Fleeing to a region under control of an anti-state organization (Article 6); going repeatedly to North Korea, participating in ceremonies including Kim Il Sung's funeral, and participating in conferences and lecture meetings with North Korean students and scholars.
3. Aiding an anti-state organization (Article 9); entering North Korea on many occasions on behalf of the [South-North] Unification Scientific Conference, and sending congratulatory messages on special occasions.
4. Attempted fraud (in contravention of the Criminal Code). In a 1998 publication, former Korean Workers Party secretary Hwang Jang Yop, who defected to South Korea in 1994, said that he had heard that Song was alternate politburo member Kim Chol Su. Song sued for libel and a Seoul court found in his favour in 2001. The launch of this suit was argued to be an attempt to cover up his Workers Party activities.

In some respects the Song Affair was like something out of a novel. Park Chon Sam, head of the Second Section (responsible for internal affairs) of the Public Security Institute was a former colleague and acquaintance of Song's, one of twenty or so students in the same philosophy department class at Seoul National University. Many members of the elite emerged from this class. Yun Gu Byon was a specialist in Greek philosophy who resigned his chair in this department to become an organic farmer on the Pyonsam peninsula in North Cholla and then a famous novelist. Yun wrote in Munhwa Daily: "I am shocked that a classmate could be thrown into prison over the crime of treason and that it should fall to another of our group to be prosecuting him." The reason that the Song trial may be seen as the last struggle of Korean democratization is because it exposes the Cold War fault lines along which South Korean society has been split. Borrowing Yun Gu Byon's words, the epicenter is deep and Song Du Yol's return home triggered an earthquake.

From Song's return in late September, through his arrest and imprisonment a month later and his indictment a month after that, public opinion boiled up in two different directions. As the three major daily newspapers covered it extensively, exploiting the incident to press for impeachment of the president, they started to look like handouts from the opposition political parties. Public broadcasters such as KBS television found it difficult to show outright support for the president, but on the internet, representing especially young people, opinion favorable to Song and to president Roh was overwhelming. Yi Jong Su, chairman of the board at KBS, commented: "For the newspapers, Song is a criminal, for the television stations, a suspicious character, for the internet generation, a hero."

The incident provided timely material for the battle between the Uri Party, the minority government party that faced the presidential impeachment resolution, and the majority opposition Hannara (Grand National) Party. Hannara succeeded in getting the president impeached over charges of receiving illicit campaign funds and violation of the electoral laws pertaining to the presidential office by campaigning for Uri (Our Open) Party, thus driving President Roh up against the wall, but then suffered a crushing defeat in the April

National Assembly elections. The major factor in bringing this about was the overwhelming power of the youth vote and the role of the internet. To put it in a nutshell, old and new South Korea clashed head on in the battlefield of opinion.

In the appeal court proceedings that began on 19 May, the crucial issues became that of whether Song's definition of himself as a "Border Rider" was a cover for "being a party member of North Korea", and whether academic independence could be dressed up as an academic method of "immanent critical approach."[1] Many scholars were called as witnesses.

In his final statement on 30 June, Song made the following points:

"From the way that this court has been debating matters appropriate to academic debate, the distorted reality of South Korea may be discerned. This society is in a kind of self-hypnotic trance under which it becomes unable to grasp the contradiction that the national security law that supposedly exists for the protection of liberal democracy is actually destroying liberal democracy.

"The ability of a society to reform itself has to be doubted if it makes illegal the works of someone like me who searches for a way to overcome the problem of the last remaining divided state after the collapse of the Berlin Wall.

"Caught in the middle of the deep-rooted contest between the modernizations of Japan and China, for Korea the question of how to accomplish unification is crucial. It is with that problem that my scholarship has been concerned.

"The meaning of 'enlightenment' may be seen in the sense of the words of the Analects of Confucius, that 'if as a result of making an effort, the problems of one corner of a square are solved, the other three corners will be solved too.' I would like this trial to constitute a starting point towards resolution of the three problems of inner (South-South) discord within South Korean society, South-North discord, and North East Asian discord. I am confident that my crime and the 'National Security Law' are both going to pass together into history."

On 21 July, Chief Justice Kim Yon Gyun of the Supreme Court, contrary to most expectation, handed down a decision that amounted to a big step in the direction of this "starting point towards enlightenment." He said,

"Proof of criminality must be perfect, beyond reasonable doubt. ... On the question of whether the accused is an alternate member of the Politburo I hold that, although there may be doubt about it, there is no strict proof and therefore he is not guilty."

Song's guilt was confirmed on just two counts: five visits to North Korea since 1992 were held to amount to spying against the South, and his suit against Hwang Jang Yop was held to have been an attempt to deceive the court. On all other counts he was acquitted. As for the National Security Law, Chief Justice Kim said, "it continues to provide general rules, but because of the risk of infringement of human rights it should only be used in a restricted way."

Song was sentenced to three years imprisonment, suspended for five years, and his immediate release was ordered. The Public Security Institute and the prosecutors were reported to be "perplexed, disappointed, stupefied" at this unexpected judgment, and consequently took no steps to block Song's departure from the country.

Sitting in the parliamentary members reception house overlooking the Han River, I talked with Uri party member Kang Chang Il, professor of Baejae University and head of the "April 3rd Research Institute" on the 1948 Cheju Island Massacres.

"Darkness has prevailed for too long in South Korean society and democratization is still ahead of us. Those with vested interests from the time of the dictatorship are still the mainstream. The three major daily papers are instruments of the establishment. Feelings of resentment against Song are strong among the people. The judgment was proper, and thanks to this trial ordinary people understood for the first time how people overseas viewed Korean society under the dictatorship. The understanding that Song was not a spy but a scholar and his word 'Border Rider' came to be accepted. The National Security Law has long been used as a weapon of the pro-Japanese, anti-unification, anti-democratic elements. Around ten years ago there was an attempt to get rid of it, but it failed. It is already just a law in name, and even if abolished any gaps can be met by revisions to the criminal code. The conservative elements, shamefully, cling to it just in name. It seems likely now that the Uri Party will respond to national sentiment and put forward a compromise proposal not to abolish but to revise it."

In September, on the fifth day of the parliamentary session, in a MBC television interview President Roh Moo Hyun made clear for the first time his intent to abolish the law:

"The National Security Law should be abolished and provisions necessary for national defense addressed by revisions to clauses of the criminal code. ... This is part of the shameful history of South Korean society and it is a legacy of the dictatorship. ... Should we not abolish this old relic, wrap it up and send it to a museum?"

On 7 September, Tong-A Daily said "South Korea has entered on a state of ideological civil war over the National Security Law." On 9 September, Hannara chairperson, Park Geun Hye, took a strong stance in opposition:

"The president is leading the process of pushing for dismantling the defences of the Republic of Korea, driving the Republic into a fierce ideological confrontation and a split in national opinion. We face an unrelenting national struggle if he persists in pushing through the abrogation. I am prepared to stake everything on blocking the abrogation of the National Security Law."

A group of more than one thousand conservative elders from political, legal and educational fields, including former prime ministers and speakers of the parliament under the dictatorship, were mobilized and issued a "Statement of Support for the National Security Law and Concern over the National Identity Crisis" and pressure began to be applied from the streets. The ruling Uri party, in line with the president's statement of intent, adopted repeal of the National Security Law as party policy and began working towards securing parliamentary approval. By 15 September a majority, 172 of the total 300 members of the national Assembly, had signed indicating their agreement to the repeal.

After visits to his native Kwangju and Cheju, on 5 August 2004 Song flew back to Germany, seen off by large crowds. On the Lufthansa plane, he found first-class seats reserved for himself and his wife, courtesy of the German government.

Translator's Postscript

In the wake of Song's departure, a full-scale debate erupted on the question of revision or repeal of the National Security Law. In September the ruling Uri Party and two smaller parties jointly presented a bill for repeal. The furor deepened in October when it was revealed that the country's third largest political party, the Democratic Labor Party, was under investigation for possible breaches as a result of opposition to the war in Iraq, i.e. that the law continued to be used, not for "national security," but for suppression of legitimate political opposition (Hangyoreh, 18 October 2004). By years' end, the confrontation in the parliament had not been resolved, leaders of both government and opposition parties resigned to accept responsibility, and the country was bitterly divided.

From mid-December a group of one thousand people launched a hunger strike to demand repeal, and within weeks some of them were being hospitalized for exhaustion, cold and hunger. Song Du Yol's return home precipitated a crisis that is yet to be resolved.

NOTES

[1] His "immanent" approach, in Song's own words, meant: "I try to understand them first by putting myself in their position, not from the head but from reality. [Even now] we know so little about North Korea that studying an obscure African tribe may be easier than doing research on North Korea." (*Korea Times*, 15 April 2003)

Kajimura Tai'ichiro is an independent Japanese journalist, human rights activist, and historian, long resident in Berlin. This article appeared in the November 2004 issue of the Japanese journal, Sekai. It is translated (and slightly abridged) here by Gavan McCormack, member of the Japan Focus editorial group and author of Target North Korea: Pushing North Korea to the Brink of Nuclear Catastrophe. Posted at Japan Focus on December 10, 2004.

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