

# The Erosion of Democracy in South Korea: The Dissolution of the Unified Progressive Party (UPP) and the Incarceration of Rep. Lee Seok-ki

By [Hyun Lee](#)

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*On December 19, 2014, South Korea's Constitutional Court delivered an unprecedented ruling to dissolve the opposition Unified Progressive Party and disqualify all five of its representatives from the National Assembly.*

The ruling was in response to a petition filed by the Park Geun-hye government in November 2013 to dissolve the party based on allegations that it was under orders from North Korea to subvert the South Korean state through violent revolution. The government filed the petition two months after it arrested UPP lawmaker and National Assembly member, Lee Seok-ki, who is currently behind bars on charges of inciting an insurrection and violating the National Security Law (NSL).

This is the first time South Korea's Constitutional Court has ordered the breakup of a political party since it was founded in 1988. Pro-democracy advocates state that the court's ruling will set a dangerous and undemocratic precedent for state repression of other progressive parties, civil society organizations, and possibly even individual citizens.

According to South Korean public intellectual and long-time reunification activist Kang Jeong-koo, "The UPP has been the only political party fully advocating not only democracy but also the core values of peace, reunification, and social justice." Kang further stated that the dissolution of the UPP will "not only destroy democracy, but also undermine peace, reunification, and social justice."<sup>1</sup>

Indeed, more than simply seeking to uproot the UPP, the current South Korean administration, under the cover of anti-communism and anti-North national security concerns, aims broadly to delegitimize all progressive elements and values that it deems to be in opposition to its rule. At this juncture, what is on display in South Korea is the state's erosion of the very democracy that the people of South Korea historically struggled for and continue to defend.

## **Park Geun-hye's Campaign against Lee Seok-ki and the UPP**

On August 28, 2013, South Korea's National Intelligence Service (NIS), at the behest of President Park Geun-hye, raided the homes and offices of ten members of the opposition Unified Progressive Party (UPP), including Assemblyman Lee Seok-ki.

Lee was detained and indicted on charges of conspiring to incite an insurrection under criminal law, as well as sympathizing with and praising the enemy and possessing materials

aiding the enemy in violation of the National Security Law.<sup>2</sup> Six other UPP members were indicted on similar charges.

The NIS based its accusations on a speech made by Lee at a May 2013 meeting which, it alleged, was a secret gathering of an underground subversive organization plotting the overthrow of the government.

Before they could defend themselves in a court of law, Lee and his colleagues were the targets of a sensationalized trial by state-aligned media, which made unfiltered leaks from, and unofficial allegations by, the NIS front-page news for over a month. Lee's alleged connections with North Korea made headlines even as this charge was ultimately dropped by the NIS in the subsequent trial for lack of evidence.

The formidable array of forces lined up against Lee included both ruling and main opposition parties, which joined together in common cause, taking measures that had the effect of preemptively judging Lee to be guilty. The National Assembly, with full cooperation from the main opposition party, New Politics Alliance for Democracy (NPAD), stripped Lee of immunity and approved a motion for his arrest.<sup>3</sup> On September 6, 2014, the ruling Saenuri Party sponsored a bill to expel Lee from the National Assembly.

On November 5, 2013, the Park Geun-hye government issued inflammatory charges that Lee and the other UPP members were part of an underground subversive organization with ties to North Korea called RO, or "Revolutionary Organization," which had infiltrated the UPP in order to instigate an insurrection, and filed a formal petition requesting that the Constitutional Court dissolve the UPP. Ironically, its main argument was that the UPP platform and activities violated the democratic tenets of South Korea's Constitution. In a sweeping move, the Park administration also called for the disqualification of UPP members currently holding seats in the National Assembly.

Critics of the Park administration's draconian maneuvers to silence the UPP charge that the "Lee Seok-ki sedition conspiracy case" has all the trappings of political repression and in this regard recalls the authoritarianism of the military dictatorship period. They add that failure to counter the government's attack on Lee and his party signals not only a major setback to democratic progress but also, more ominously, a return to the politics of fear that ruled South Korea only a few decades ago when government surveillance and unwarranted arrests of citizens were routine.

### **The 2013 NIS Scandal**

As critics have pointed out, the sensationalized arrest of Lee Seok-ki was timed to deflect mounting public scrutiny away from the NIS following revelations of its central involvement in manipulating public opinion against opposition candidates and thus in favor of Park Geun-hye's candidacy during the 2012 presidential election. Bolstering their claims is the fact that Lee was arrested in September 2013, four months after the alleged conspiracy plot came to light—precisely a moment when the NIS needed to deflect public attention away from its own scandal.

Throughout 2013, the NIS faced intensified public criticism for its role in illegally intervening in the 2012 presidential election. Former NIS Chief Won Sei-hoon, who had ordered an online disinformation campaign against opposition candidates, was indicted in

June 2013 for interference in the 2012 presidential election.<sup>4</sup> In January 2014, he was found guilty of graft and received a two-year jail term.<sup>5</sup>

Since its foundation, the NIS, formerly known as the Korean Central Intelligence Agency (KCIA), and the National Security Agency have interfered both directly and indirectly in South Korean politics and civil society. Conservative former president Lee Myung-bak strengthened the NIS by restoring its anti-communist investigation and surveillance functions and by appointing Won, his right-hand man, to its helm in 2009. In this capacity, Won actively encouraged NIS manipulation of public opinion in favor of the ruling party.<sup>6</sup>

In the lead-up to the 2012 presidential election, NIS agents, using aliases, posted 5,333 online comments on 15 public websites. The Prosecutor General's office identified 1,704 of these comments as constituting "political involvement" and 73 comments as directly intervening in the election.<sup>7</sup> This investigation also revealed that NIS agents used an automated program to retweet millions of comments about the election.<sup>8</sup>

Throughout the summer of 2013, as the public became aware of the extent of NIS interference in the election, the UPP was at the forefront of protests questioning the legitimacy of Park Geun-hye's presidency. In other words, it was within the very juncture in which disclosures of NIS misconduct had significantly eroded public trust in President Park that her government, in a crude face-saving move, saw fit to arrest Lee and other members of the UPP.

In this way shifting attention away from the NIS role in manipulating democracy to its supposed function of safeguarding democracy against communist infiltration, the trial of Lee Seok-ki and other UPP members became the first "sedition conspiracy" trial since South Korea's first democratic election in 1987.

### **The Trial of Lee Seok-ki and Other UPP members**

The government's case against Lee and other UPP members relied exclusively on two related pieces of evidence, the testimony of a government informant and the transcript of his audio recording of the controversial May 2013 meeting.

During the first trial, however, the defense noted and the NIS conceded that a large portion of the original audio transcript was full of errors—272 errors to be exact.<sup>9</sup> The "errors" in the NIS transcript of Lee Seok-ki's speech reveal a pattern of manipulation and distortion that itself calls out for careful scrutiny. Indeed, NIS transcriptions fundamentally altered the meaning of original phrases, discerning a radicality of purpose that far exceeded the actual language: for example, "carry out propaganda" was distorted as "carry out holy war," and "Jeoldusan Catholic Martyrs' Shrine" was ominously rendered as "shrine for decisive war." Similarly, "specific preparation" was interpreted as "war preparation," "Let us prepare specifically" as "Let us prepare war," and "Let us be decisive" as "Let us carry out a decisive war."<sup>10</sup>

Despite such discrepancies, the Suwon District Court found Lee guilty on all counts, sentencing him to 12 years in prison. This ruling was partially overturned in August 2014 when the Seoul High Court acquitted Lee Seok-ki and his co-defendants of the highest and most controversial charge of conspiring to overthrow the government.

The Seoul High Court found no evidence that the attendees of the May 2013 meeting arrived at a consensus to carry out a concrete plan of action, much less made preparations for violence either before or after the meeting. It found no evidence to substantiate the government's claim that Lee and other UPP members belonged to an underground subversive organization plotting a government overthrow. It furthermore dismissed the testimony of the government's key witness as mere speculation not supported by evidence.<sup>11</sup>

Lee and his co-defendants still remain behind bars, however, on the lesser charge of inciting an insurrection and violating the National Security Law. This is the first time in South Korean history that an "inciting an insurrection" charge has been brought to court. The case is now in the hands of the Supreme Court, which is slated to deliver a final ruling in January 2015.

### **Dissolution of the UPP**

Elaborating on Park Geun-hye's incendiary charges that Lee and the other UPP members were part of RO, the Ministry of Justice alleged that 80-90% of so-called confirmed RO members were part of the UPP and that RO was directly involved in the party's decision-making. The UPP, it insisted, was a political party under orders from North Korea to subvert the South Korean state through violent revolution.

Despite the Seoul High Court's ruling that the prosecution failed to demonstrate that the UPP had any intention to use violent means to overthrow the government or that it had any connection to North Korea—which thereby invalidated the evidentiary basis for the government's petition to dissolve the UPP—the Constitutional Court delivered an 8 to 1 ruling on December 19, 2014 in favor of dissolving the party. The majority of the Constitutional Court found fault with "progressive democracy," as expressed in the UPP's platform, and ruled that progressive democracy coincided with North Korea's aim of fomenting revolution in the South. The court also upheld the government's charge that the UPP aims to install a socialist government through violent means.<sup>12</sup>

The lone dissenting voice was Justice Kim Yi-su, who wrote, "The respondent is a political party in which dues-paying members alone number 30,000. In the process of discerning the majority of its members' political orientation, one must not regard the orientation of a small minority as reflecting the political views of the entire membership." Kim added, "It's hard to deny that the progressive policies proposed by the respondent, from its days as the Democratic Labor Party to the present, have resulted in many changes in our society," and warned that dissolving the party based on the actions of a handful of members would have the effect of stigmatizing all 100,000 of its members as part of an outlaw party. Referring to the dissolution of the Communist Party by the West German Constitutional Court in 1956, he highlighted the undemocratic repercussions of such a draconian action, writing, "From the time the German Communist Party was dissolved until it reformed, 12,500 Communist Party personnel were investigated, 6000-7000 received criminal punishment and in the process were fired from their jobs or otherwise restricted in their social lives"; he further warned, "There is no guarantee that a similar decision will not produce similar results in our society."<sup>13</sup>

### **Aftermath of the Ruling**

Immediately following the Constitutional Court's ruling, the Park Geun-hye government

declared any protests by the UPP against the ruling to be illegal.<sup>14</sup> The Prosecutor General has reportedly opened a criminal investigation based on charges filed by right-wing groups against the entire UPP membership, including Chair Lee Jung-hee, a rival candidate against Park Geun-hye in the 2012 presidential election, for violation of the National Security Law.<sup>15</sup> And a right-wing group calling itself the Freedom Youth League has filed a petition to the Central Board of Election to demand the release of the names of all UPP members. “The reason why we demand the release of the names is to ensure there are no government employees registered as UPP members in the interest of national security,” explained a spokesperson for the group at a press conference on December 24, 2014.<sup>16</sup>



Disqualified Unified Progressive Party National Assembly representatives. From left to right: Kim Mi-hee, Oh Byung-yun, Lee Sang-kyu, Kim Jae-yeon. Source: [Voice of People](#).

The Park government and the ruling Saenuri party appear intent on ending the political careers of all former UPP National Assembly representatives, who have pledged to challenge their disqualification by the Constitutional Court. On December 26, 2014, the Seoul Central District Prosecutor subpoenaed former UPP representatives Lee Sang-kyu and Kim Mi-hee for questioning based on allegations that they received campaign funds from North Korea during the 1995-96 local and general elections.<sup>17</sup> The allegations were made by Kim Young-hwan, a former democracy activist-turned-right-wing human rights activist of the Network for North Korean Democracy and Human Rights, during the Constitutional Court proceedings. Representatives Lee and Kim have filed countercharges against Kim Young-hwan for defamation.

Former UPP representative Oh Byung-yun faces a criminal trial starting January 2015 in the Seoul Central District Court for his alleged role in obstructing the arrest of labor leaders during a railroad workers’ strike against privatization in December 2012, a labor issue that garnered wide international solidarity. The court also issued a summary order against former UPP representatives Kim Mi-hee and Kim Jae-yeon, fining both \$3000 each for the same violation.<sup>18</sup> And, in a final *coup de grâce*, the Saenuri Party has stated that it is drafting a bill to bar the disqualified UPP representatives from running in any political election for the next ten years.<sup>19</sup>

Amnesty International’s East Asia Research Director, Roseann Rife, has stated that the ruling “raises serious questions as to the authorities’ commitment to freedom of expression and association,” adding, “The space for freedom of expression has been vastly diminished in recent years. The authorities are using the NSL to suppress dissent and persecute individuals with opposing political views.”<sup>20</sup>

Like the sensationalized arrest of Lee Seok-ki, which was timed to cover up exposures of the NIS’ illegal meddling in the 2012 presidential election, the government’s November 2013 filing of the petition to dismantle the UPP and the recent Constitutional Court ruling seem perfectly timed to deflect attention away from major crises facing the Park administration. When Park’s approval rating dipped in the fall of 2013 after her retreat on key campaign pledges regarding pensions and college tuition, her Justice Minister, to some degree, succeeded in diverting public attention by filing the petition against the UPP in the

Constitutional Court.<sup>21</sup> In the past month, Park had been embroiled in another crisis after controversial leaks exposed a power struggle among an unofficial group of people, including her own brother, who had been pulling the strings behind her administration.<sup>22</sup> The Constitutional Court's ruling on December 19 helped shift the public spotlight away from the precipitous drop in Park's approval rating to an all-time low of 37%.<sup>23</sup>

We might be reminded that the last time the South Korean government forcibly dissolved an opposition party was during the Syngman Rhee dictatorship, when Rhee charged his political opponent, Cho Bong-am, with espionage and eliminated the Progressive Party.<sup>24</sup> Cho was executed the following year, and Rhee himself was ousted shortly thereafter in the April 19 uprising of 1960.

In the wake of the 1960 uprising, the South Korean constitution was revised to include Article 8 in Chapter I to protect minority opposition parties from government suppression. Article 8 guarantees the freedom to establish political parties and outlines the legal mechanism for the dissolution of parties if their activities pose a clear and urgent threat to the Constitution.<sup>25</sup> The Park Geun-hye government's petition against the UPP was the first invocation of this mechanism since Article 8's inception in 1960. The Constitutional Court's ruling in this case therefore sets an ominous precedent for all opposition parties in the future.

### **Cold War Legacy of Silencing Political Opposition**

South Korea has a long history of wielding anti-communist rhetoric to crack down on progressive political opposition by vilifying the latter as "pro-North Korea" or as North Korean agents.

On the eve of the Korean War, in 1948-49, under the pretext of eliminating "internal enemies," the South Korean government carried out a scorched-earth campaign, killing an estimated 30,000 people, including women, children, and the elderly, on Jeju Island; in the summer of 1950 in the early stages of the war, it executed an estimated 100,000-200,000 in the Bodo League massacre; and in the course of the war, more than one million people were killed, many of them being innocent civilians massacred for having "communist tendencies."<sup>26</sup>

Park Chung-hee, the father of the current president Park Geun-hye, ruled the country by military force for 18 years from 1961 to 1979, and established a vast intelligence apparatus primarily aimed at silencing dissent and eliminating political opponents.

Perhaps the most famous victim of such strong-arm politics was the late president Kim Dae-jung, kidnapped by the precursor to the NIS, the Korean Central Intelligence Agency, and charged with conspiracy and sedition. In 1973, in a dramatic incident that could be plucked from a movie script, the KCIA kidnapped Kim Dae-jung, the major political rival and most vocal critic of then-president Park Chung-hee. Kim narrowly escaped assassination after they took him, blindfolded, out to sea, where he might have met the fate of countless others who had been silently disappeared by the KCIA had they not been discovered at the eleventh hour by Japanese maritime authorities.<sup>27</sup>

Park Chung-hee's successor, Chun Doo-hwan, who like his predecessor seized power

through a military coup, arrested Kim Dae-jung for his role at the time of the Gwangju people's uprising in 1980 and charged him with conspiracy to wage insurrection. Sentenced to death, he escaped execution due to international attention and calls for his release from pro-democracy forces, including from Pope John Paul II, who appealed to Chun for clemency.<sup>28</sup> Kim was exonerated 25 years later in a retrial and later went on to serve as the president of South Korea and to receive the Nobel Peace Prize for his role in the country's transition to democracy.

Today, South Korean courts have established greater judicial independence. Judges are no longer penalized for delivering decisions disagreeable to the ruling administration, as was commonly the case under South Korea's military dictatorship. But South Korea has yet to escape the dark shadow of the National Security Law, which is often used to punish political opponents, including those who simply agitate for social progress and democratic rights.

Enacted on December 1, 1948 by the Syngman Rhee government to crush anti-government forces, the National Security Law gave new life to the infamous Public Order Maintenance Act established by Japanese authorities during the era of Japanese colonial rule on the Korean peninsula.<sup>29</sup> The NSL was wielded by the Rhee regime to arrest, detain, and even execute thousands of opposition figures and dissolve social organizations and political parties. Subsequent military dictators, Park Chung-hee and Chun Doo-hwan, similarly used the National Security Law to fabricate countless espionage cases to suppress opposition parties.

Even after the ostensible end of military dictatorships and the inauguration of democracy in South Korea, the National Security Law continues to be used as a tool for suppressing progressive voices. It makes a broad spectrum of activities punishable by law. Article 7 of the law makes all activities that sympathize, praise, encourage, and/or promote the positions of North Korea punishable by up to 7 years imprisonment. Simply possessing materials that can be considered "benefiting the enemy" is also punishable. Most people accused of violating this law are punished under Article 7.<sup>30</sup>

The National Security Law directly breaches Article 19 of the International Covenant on Human Rights in so far as it fundamentally denies the right to freedom of thought and expression.<sup>31</sup> For this reason, the UN Human Rights Committee as well as a host of international human rights organizations have repeatedly called on the South Korean government to abolish the National Security Law.

### **Born Out of the Struggle for Democracy**

The UPP was heir to political formations that emerged out of the South Korean people's struggle for democracy, namely, the People's Victory 21 of 1987 and the Democratic Labor Party (DLP), founded in 2000.

After the decades-long South Korean struggle for democracy culminated in the June people's uprising of 1987, thus finally putting an end to a succession of U.S.-backed military dictatorships, the forces at the helm of the democracy struggle, labor unions and social movement organizations, joined together to form the People's Victory 21. Running its own candidate in the 1987 presidential election, the People's Victory 21 became the foundation for the establishment of the Democratic Labor Party, which, in 2004, garnered 13% of the general vote and gained ten National Assembly seats to become the third largest political

party in South Korea.<sup>32</sup>

Ahead of the 2012 general election, the DLP sought to unify all opposition parties into a coalition as the only viable strategy to defeat the ruling conservative party. But its hasty merger with other progressive and liberal forces to form the UPP was rocky from the start and eventually led to deep rifts from which the South Korean left has yet to recover. The UPP managed to gain 10.3% of the general vote and 13 National Assembly seats in the 2012 general election, but political infighting led to the defection of half of its National Assembly representatives and many of its party members.

Before the recent Constitutional Court ruling, the UPP held five National Assembly seats and was a membership-driven party with 100,000 dues-paying members, 30,000 of whom paid dues. This self-proclaimed “party for workers, peasants, and the common people” has been the most vocal opponent of Park Geun-hye’s policies on a range of issues, from privatization of public services to her hostile stance towards North Korea.

UPP Chair Lee Jung-Hee, who as a candidate in the 2012 presidential election publicly challenged and humiliated candidate Park in nationally-televised presidential debates, announced that she was running in order to make Park lose the election. Lee furthermore enraged Park by referring to her father, Park Jung-hee, by his adopted Japanese name, Takaki Masao, on national TV to remind the public of his dark past when he collaborated with Japanese colonialists. Many sense an element of revenge in Park’s assault on the UPP.

Lee Seok-ki, the Party’s most vocal critic of Park and the ruling party, has a colorful past like many pro-democracy activists in his generation. He was a student activist during Chun Doo-hwan’s military dictatorship, then served prison time from 2002 to 2003 for his activities in the outlawed People’s Democratic Revolution Party, and was eventually pardoned by former President Roh Moo-hyun. He went on to found a political consulting group, which helped to triple the DLP’s local electoral seats in 2010 and double the UPP’s National Assembly seats from six to thirteen in 2012. His success in helping progressive candidates win elections earned him the second position in the UPP’s party list for proportional representation in the 2012 general election.<sup>33</sup>

As a National Assembly member, Lee was a persistent critic of unequal South Korea-U.S. relations and called for dramatic cuts in South Korean subsidies for U.S. Forces in Korea.<sup>34</sup> When Korea seemed on the brink of war in early 2013, he called for four-party talks among the two Koreas, China, and the United States.<sup>35</sup> Lee also earned Park Geun-hye’s ire for his role in derailing her appointment of Korean American and former Bell Labs president, Kim Jeong-hoon, for the position Minister of Future Creation and Science by exposing his former connection to the CIA.<sup>36</sup>

In the summer of 2013, when the public began to learn about the illegal interference of the NIS in the 2012 presidential election, the UPP was on the streets, marching and organizing candlelight protests. Shortly thereafter, the Park Geun-hye government decided to raid and arrest Lee and other UPP members.

## **The Ongoing Fight to Defend Democracy**



The entry of the Democratic Labor Party (later called UPP) into the National Assembly was heralded as a sign of South Korea's progress as a democracy and a salutary acceptance of a diversity of viewpoints within the political arena. Today's dissolution of the UPP reflects a marked retreat from such progress.

As MIT linguistics professor and political critic Noam Chomsky notes, "The courageous struggle of the Korean people for democracy has been an inspiration worldwide. The assault against the UPP is a serious blight on this record of achievement."<sup>37</sup>

The court ruling was followed by a series of denouncements by labor and civic groups, including the Korean Confederation of Trade Unions, Citizens Coalition for Economic Justice, Professors for Democracy, Korean Alliance of Progressive Movements, and the Writers Association of Korea.



Roundtable to Oppose the Dissolution of the Unified Progressive Party and Defend Democracy. Source: [Voice of People](#).

Under the banner of the "Roundtable to Oppose the Dissolution of the Unified Progressive Party and Defend Democracy," pro-democracy forces that came together in the lead-up to the Constitutional Court ruling held an emergency meeting on December 22. The "Roundtable," composed of leading intellectuals, elected officials, faith leaders, and civic society groups, as well as notable international figures, such as Chomsky and former U.S. Attorney General Ramsey Clark, says the dissolution of the UPP will only further galvanize its forces.

"Remember the law of history: the more they trample on our desire for democracy and progress, the more extensively this desire will spread," said UPP Chair Lee Jung-hee on the steps of the Constitutional Court after last week's ruling, adding, "The outdated system of national division, buttressed through red-baiting, is destined to crumble. I am confident that the dream of progressive politics, shared by the UPP and the people, will only grow. Our people will rise up from this bitter moment and march onward."<sup>38</sup>



Former Unified Progressive Party Chair Lee Jung-hee at a "Funeral for Democracy" after the Constitutional Court ruling on December 19, 2014. Source: [No Cut News](#).

Pro-democracy forces in South Korea vow to mount a challenge to the current government's assault on democracy. They have also launched an international campaign to [demand the release of Lee and his co-defendants](#), awaiting a final Supreme Court ruling expected in January 2015. Their fight might very well be the most important one in recent South Korean history to defend the basic democratic principles that the South Korean people fought so valiantly to secure.

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**Hyun Lee** is a member of the Working Group on Peace and Demilitarization in Asia and the Pacific as well as a fellow at the Korea Policy Institute. She co-produces Asia Pacific Forum, a

weekly radio show on culture and politics in Asia and the Asian diaspora.

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<sup>37</sup> Noam Chomsky, [Remarks at the Roundtable Meeting for the Protection of Democracy and against the Forced Dissolution of the Unified Progressive Party](#), November 6, 2014.

<sup>38</sup> (Jinbodang haesansikindago jinbojeongchiui kkum haesansikil su eopda) ([Dissolution of the UPP will not dissolve the dream of progressive politics](#)), Voice of People, December 19, 2014.

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