

Korea

The Penal Code of the Republic of Korea provides crimes of insurrection or subverting the national constitution under Articles<sup>1/</sup> 87, 88 and 89:

Article 87. A person who creates a disorder for the purpose of usurping the national territory or subverting the National Constitution shall be punished according to the following classification:

1. A ringleader shall be punished by death, penal servitude for life or imprisonment for life.
2. A person who participates in, or directs the plot, or engages in other important activities shall be punished by death, penal servitude, or imprisonment for life or for not less than five years; the same shall also apply to a person who has himself engaged in killing, wounding, destroying or plundering.
3. A person who merely responds to the agitation and follows the lead of another or merely joins in the disorder shall be punished by penal servitude or imprisonment for not more than five years.

Article 88. A person who kills another for the purpose of usurping the national territory or subverting the National Constitution shall be punished by death, penal servitude for life or imprisonment for life.

Article 89. Attempts to commit the crimes of the preceding two Articles shall be punished.

With respect to preparations, conspiracies, agitation or propaganda relating to the crime of insurrection, Article 90 of the same Code states:

Article 90. Any one who makes preparations or conspires with intent to commit the crimes of Articles 87 or 88 shall be punished by limited penal servitude or imprisonment for not less than three years, but when a self-denunciation is made before the intended crime has reached the commencement stage, the punishment shall be mitigated or remitted.

The preceding paragraph shall apply to a person who agitates or propagates the commission of the crimes of Article 87 or 88.

The meaning of "subverting the national constitution" is defined in Article 91 of the same Code:

Article 91. "The purpose of subverting the National Constitution," within the meaning of this Chapter, is implied in conduct which falls within any one of the following paragraphs:

1. Destruction of the functioning of the Constitution or Law without observing the procedure provided by the Constitution or Law.
2. Overthrow of Government organs established by the Constitution or making impossible by force the exercise of their functions.

Crimes of foreign aggression is provided in Articles 92 and 93:

Article 92. A person who, in conspiracy with a foreign country, causes hostilities to commence against the Republic of Korea, or who, in conspiracy with foreigners, fights against the Republic of Korea, shall be sentenced to death or penal servitude for life.

Article 93. A person who fights against the Republic of Korea by joining an enemy country shall be sentenced to death.

The Communist Party is outlawed by the National Security Law<sup>2/</sup> and the Anti-Communists Law.<sup>3/</sup> These laws are subject s to another report, a Xerox copy of which is enclosed.

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<sup>2/</sup> Law No. 549, June 10, 1960, amended by Law 1151, Sept. 24, 1962.

<sup>3/</sup> Law No. 643, July 3, 1961, as last amended by Law No. 1412, Oct. 8, 1963.