

# Republic of Korea

## Prisoners of Conscience: Silenced for Speaking Out

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This report describes illustrative cases of political activists who have been imprisoned under the National Security Law (NSL) in the Republic of Korea (South Korea hereafter). They represent five of the 39 people who are currently imprisoned under the National Security Law in South Korea. This report is published in conjunction with another Amnesty International report entitled "Republic of Korea: Summary of Concerns and Recommendations to Candidates in the Presidential Elections in December 2002", November 2002, (AI Index: ASA 25/007/2002).

### **Background**

Amnesty International acknowledges that every government has a right to take measures to ensure the security of its citizens. It also appreciates that South Korea has special security concerns with regard to the Democratic People's Republic of Korea (North Korea hereafter). But this should not be an excuse or justification for denying people the right to express different political views, in accordance with international human rights standards.

The National Security Law (NSL), which has been in force since 1948, has been used throughout the years to imprison people for non-violent political activities.<sup>1</sup> The law provides long sentences or the death penalty for "anti-state" and "espionage" activities but these terms are not clearly defined and have often been used arbitrarily against people whose only crime is to exercise their basic rights to freedom of expression and association. Most arrests today are carried out under Article 7 of the law, which provides sentences of up to seven years' imprisonment for "praising" and "benefiting" the enemy (generally meaning North Korea).<sup>2</sup>

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1 ) In its concluding observations to the second periodic report of the South Korean government in October 1999, the Human Rights Committee reiterated its "grave concern ... regarding the continued existence and application of the National Security Law." The Committee expressed its concern that the NSL was "also used to establish special rules of detention, interrogation, and substantive liability that are incompatible with various articles of the Covenant (ICCPR), including articles 9, 18 and 19." South Korea has been a state party to the International Covenant for Civil and Political Rights (ICCPR) since April 1990.

2 ) It is important to note that the Human Rights Committee had also concluded in its observations in October 1999 that "the scope of activities that may be regarded as encouraging "anti-state organizations" under Article 7 of the National Security Law is unreasonably wide." The Committee found that "restrictions placed on freedom of expression do not meet the requirements of under Article 19, paragraph 3 of the Covenant, as they cannot be regarded as necessary to protect national security."

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The current use of the NSL in South Korea appears to contradict the official ‘Sunshine Policy’ of pro-engagement towards North Korea. The policy includes emphasis on greater business and civilian links such as rail and road links, tourist trips, family reunions and the importing of North Korean literature. Moreover, events such as the Asian Games held in Busan in September 2002 have witnessed the North Korean National Anthem being played in South Korea. Many South Koreans also attended the ‘Arirang’ festival which was held in April-July 2002 in North Korea.

# **Prisoners held under the NSL in South Korea**

## **Minhyukdang Cases**

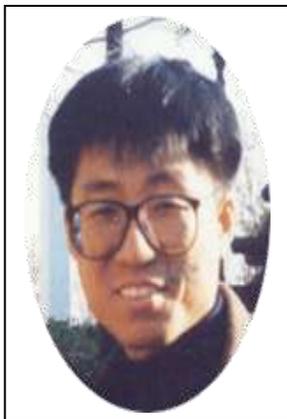
Based on information reportedly collected from the pocket of an alleged North Korean spy found dead inside a sunken North Korean submarine in August 1999, the South Korean National Intelligence Service alleged that several university students were selected by North Korean agents to establish an underground pre-revolutionary group known as ‘*Minhyukdang*’ (National Democratic Revolutionary Party).

It was alleged that the *Minhyukdang* operated ‘spy activities’, although no clear evidence to prove this allegation has yet been presented. The ‘national information’ that *Minhyukdang* was alleged to have sent to North Korea reportedly consisted of newspaper articles published in the South Korean press. A number of men were arrested in 1999 and 2000 and charged under the NSL for “organizing an anti-state group, for helping a North Korean spy and for leaking national secrets.” The *Minhyukdang* reportedly adopted the North Korean *Juche* ideology<sup>3</sup> but there was no evidence that they advocated violence. While the leaders of the *Minhyukdang* who reportedly played a pivotal role in directing the Party were released on bail, its members have been sentenced to long terms of imprisonment. It appears that these members were punished for expressing different political viewpoints. It has also been reported that some of those arrested were tortured to force confessions.

Amnesty International is concerned that there is poor evidence supporting the claim that the *Minhyukdang* prisoners were associated with the North Korean spy who died in the sunken North Korean submarine. *Minhyukdang* was also said to have operated ‘spying activities’ through another organization, the ‘Youngnam Committee’ but no evidence of the link between the two groups was reportedly presented by the authorities.

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3) *Juche* is the ruling ideology of self-reliance in North Korea



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### **Ha Young-ok**

Ha Young-ok, 39, a graduate of Seoul University, studied law and was preparing for the second part of the lawyer's qualification examination when he was arrested on the 19 August 1999.

Ha was accused of organising an anti-state revolutionary group *Minhyukdang*, and communicating with a North Korean spy. He was sentenced to 8 years imprisonment under Article 3 of the NSL and is due to be released in July 2008. It has been alleged that Ha Yong-ok was subjected to violence and drugged during interrogation.



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### **Kim Kyung-hwan**

Kim, 38 was a journalist on the monthly magazine *Mal* when he was arrested in August 1999 on charges of associating and communicating with a spy. He was sentenced to four and a half years and is due to be released in March 2004.

## **TAKE ACTION**

Please write to the South Korean Authorities:

- **Calling for the immediate and unconditional release of Ha Young-ok and Kim Kyung-hwan detained solely for the peaceful exercise of their right to freedom of expression and association;**
- **expressing your concern at the continued and arbitrary use of the NSL which denies the rights of freedom of expression and association;**
- **urging the government to abolish the NSL or remove the vaguely worded clauses, such as Articles 3 and 7, to bring the law into line with international standards;**
- **calling for an independent investigation in to Ha Young-ok's complaints**

**regarding ill-treatment he received from the law enforcement authorities when he was arrested.**

**Please write to Ha Young-ok and Kim Kyung-hwan expressing your support:**

**Ha Young-ok  
Prisoner no. 4000  
Dae-jeon prison  
Dae-jeong dong 36  
Yu-sung Gu  
Dae-jeon shi  
305-600  
Republic of Korea**

**Kim Kyung-hwan  
Prisoner no. 3000  
An-Dong Prison  
121 Sang-li 3 dong  
Pung-san eup  
Andong shi  
Kyung-buk do  
Republic of Korea**

### **Youngnam Committee Cases**

On July 22/23 1998, 15 trade union and democratic movement activists in Ulsan and Busan were arrested, in some cases without warrant, by the Busan City Policy Agency. On 8 September 1998, the 15 were charged under Article 3 of the NSL for the “formation and membership of an anti-state organization”. They were accused of forming a revolutionary political party called the *Youngnam* Provincial branch of *Hanminjong* (Korean Peoples Democracy Front, known as the ‘*Youngnam Committee*’) and spreading North Korean ideology within the trade union movement. They were tried in court hearings that were closed to the public. On 15 January 1999 all 15 defendants were sentenced to various terms of imprisonment with a corresponding suspension of their civil and political rights. After they appealed, the prosecution asked for the charges to be changed from Article 3 of the NSL to Article 7 -“formation and membership of an enemy-benefiting organization”. Charges under the latter are less serious suggesting that the prosecution lacked the evidence to pursue the original charge.

In May 1999 the appeal court found all the defendants guilty under Article 7 of the NSL. Nine were given prison sentences and the remaining six were given suspended sentences and conditionally released. On 10 January 2000, six members of the *Youngnam Committee* who had their cases examined by the lower court were acquitted. Amnesty International believes that all the *Youngnam Committee* members, were prisoners of conscience as they were imprisoned for the non-violent exercise of their rights to freedom of expression and association.



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**Park Kyong-soon**

Park Kyong-soon, 45, was the owner of *Nulpurun* bookshop when he was arrested in July 1998. He is the last remaining *Youngnam Committee* member who is still held in detention, Amnesty International calls for his unconditional and immediate release. He was sentenced to 15 years imprisonment which was reduced to seven years upon appeal. He is due to be released in 2005. Park Kyong-soon is suffering from cirrhosis of the liver.

**Take Action**

**Please write to the South Korean Authorities:**

- **Calling for the immediate and unconditional release of Park Kyong-soon detained solely for the peaceful exercise of his right to freedom of expression and association;**
- **expressing your concern at Park Kyong-soon's deteriorating health;**
- **expressing your concern at the continued and arbitrary use of the NSL which denies the rights of freedom of expression and association;**
- **urging the government to abolish the NSL or remove the vaguely worded clauses, such as Articles 3 and 7, to bring the law into line with international standards.**

**Please write to Park-Kyong-soon expressing your support:**

**Prisoner no. 144  
Busan prison  
PO BOX 57  
Buk Busan Post Office  
Busan Shi  
Kyongnam-do  
630-900  
Republic of Korea**

## **Hanchongnyeon Case**

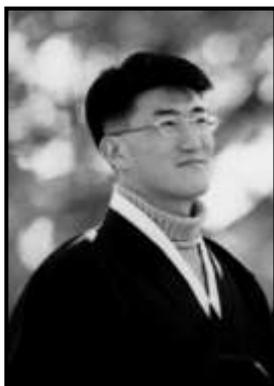
*Hanchongnyeon* (Korea Federation of General Student Councils) which was formed in 1993 is an autonomous national university students organization that works to realize the “autonomy, democracy and reunification of the Korean Nation”.<sup>4</sup> Article 3 of *Hanchongnyeon*’s “Platform” states that “We shall block the permanent division of our nation, and under the principles of autonomy, peaceful reunification and grand national unity, we shall uphold the June 15 Inter-Korean Joint Declaration as our reunification platform in reunifying our nation in the near future”. *Hanchongnyeon* calls for national autonomy and reunification, endorsing the Inter-Korean Joint Declaration and removal of American troops from South Korea. These are views shared by other members of civil society such as academics and NGO’s. In April 2001 *Hanchongnyeon* revised its Platform and dropped North Korea’s proposed “federation system” from the Platform, replacing it with “implementation of the 15 June Inter-Korean Joint Declaration”. The original Platform was reportedly the main reason why the authorities defined the group as “enemy benefiting”. Amnesty International is concerned that the South Korean authorities can brand an organization as ‘illegal’ under the vaguely defined clauses of the NSL and then arrest and punish individuals simply for being members of the organization.

*Hanchongnyeon* was branded as an ‘enemy benefiting organization’ by the South Korean authorities in 1997 and is therefore deemed illegal. According to a High Court ruling reportedly issued every year since 1997 *Hanchongnyeon* “adopts violent revolutionary policies to commensurate with North Korea’s policy of reunification by communizing the South, thereby aiming to praise, encourage and publicize such activities and sympathize with such acts, and is therefore an organization benefiting the enemy as defined in Article 7 of the National Security Law”.<sup>5</sup> The Supreme Court rejected an appeal by *Hanchongnyeon* against the High Court ruling in 1997. Recognizing the fact that the organization elects new representatives every year, the Supreme Court added that the “enemy benefiting” definition had to be reviewed each year. Since then prosecutors have reportedly asked the courts to define *Hanchongnyeon* as “enemy benefiting”. Amnesty International has no position on the political ideology of *Hanchongnyeon* but believes that criminalizing the expression of views, without demonstrating the direct and immediate connection between the expression of these views and the likelihood or occurrence of violence, amounts to violating international human rights standards. The Universal Declaration of Human Rights and international human rights conventions guarantee the freedom of peaceful assembly and association and freedom of expression. South Korea is a signatory to these international human rights instruments and should ensure that every person under its jurisdiction enjoys basic fundamental human rights and can criticize the government in a peaceful manner.

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4) The Statutes of Hanchongnyeon – Summary 1. Realisation of the Platform.

5) See Hanchongnyeon website: <http://www.h-gen.net>



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### **Son Joon-hyek**

Son Joon-hyek, 30, a university student was arrested on 21 May 2001. He was arrested because he was elected as the sixth president of *Hanchongnyeon*, which has been classified by the government as an “enemy benefiting organization”. He was sentenced to three years imprisonment and is due to be released in May 2004.

### **Take Action**

**Please write to the South Korean authorities:**

- **Calling for the immediate and unconditional release of Son Joon-hyek detained solely for the peaceful exercise of his right to freedom of expression and association;**
- **expressing your concern at the continued and arbitrary use of the NSL which denies the rights of freedom of expression and association;**
- **urging the government to abolish the NSL or remove the vaguely worded clauses, such as Articles 3 and 7, to bring the law into line with international standards.**

**Please write to Son Joon-hyek expressing your support:**

**Prisoner no. 3001  
An-Dong prison  
121 Sang-li 3-dong  
Pung-San eup  
Andong shi, Kyung-buk do  
Republic of Korea**

## The 'Internet Spy' Case

The NSL has been used as a form of censorship to imprison people for publishing material deemed to 'benefit' North Korea. The NSL is applied in an arbitrary fashion. While certain left-wing political works are permitted for academic study, possession or reference to the same works by a student or activist with perceived 'pro-North Korean' leanings can become a criminal offence.



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### **Kim Kang-phil**

Kim Kang-phil, 35, worked as a computer programmer with an IT company in Busan when he was arrested on the 25 July 2002 and detained in Seoul Detention Centre, charged under Article 7 (5) of the NSL for possessing "enemy-benefiting materials" and "for the worship and praise of an enemy benefiting/anti-state group".

Kim Kang-phil, had developed his own website and enjoyed talking to people, exchanging information on film and books. In January 2002, Kim argued about *Jucheism* with a well-known Korean scholar on the Korean Confederation of Trade Unions' website. He aired his pro-Jucheist leanings in the discussion and also referred to North Korean publications, such as *Tong-il Arirang* and *Baek-du san*, to support his arguments.

In July 2002 Kim Kang-phil was reportedly visited at home by 10 National Intelligence Service officers and was arrested without a warrant. The Seoul Police later revealed that Kim's main 'offence' was to edit and publicize the above mentioned North Korean publications. In September, the Seoul District Court handed Kim Kang-phil a one year suspended sentence. He is currently appealing against the sentence.

### **Take Action**

**Please write to the South Korean Authorities:**

- **Calling for the immediate review of the suspended sentence passed on Kim Kang-phil, solely for the peaceful exercise of his right to freedom of expression and association and calling for his immediate and unconditional release;**
- **expressing your concern at the continued and arbitrary use of the NSL which denies the rights of freedom of expression and association;**
- **urging the government to abolish the NSL or remove the vaguely worded clauses, such as Articles 3 and 7, to bring the law into line with international standards.**

**Please write to Kim Kang-phil expressing your support:**

**Prisoner No. 11  
Seoul Detention Centre  
PO Box 20  
Gunpo Post Office  
Kyunggi do  
435-080  
Republic of Korea**

### Addresses to Write to:

<b>Name and address</b>	<b>Function</b>	<b>Salutation</b>
President Kim Dae-jung The Blue House 1 Sejong-no, Chongno-gu Seoul, Republic of Korea <b>Fax: +82 2 770 0253/0344</b> <b>E-mail: See AE-mail the President@ at</b> <b>www.bluehouse.go.kr/index-eng.html</b>	President	Dear President
Mr Kim Suk-su Prime Minister Prime Minister=s Office 77 Sejong-no, Chongno-gu Seoul 110-760 Republic of Korea <b>Fax: +82 2 739 5830 / 737 0109</b>	Prime Minister	Dear Prime Minister
Mr Sim Sang-myung Minister of Justice, Ministry of Justice 1 Chungang-dong Kwachon City Kyonggi Province Republic of Korea <b>Fax: +82 2 504 3337</b>	Minister of Justice	Dear Minister
Mr Choi Sung-hong Minister of Foreign Affairs and Trade Ministry of Foreign Affairs	Minister of Foreign Affairs and Trade	Dear Minister

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Seoul 110-760, Republic of Korea  
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Mr Jeong Se-hyun  
Minister of National Unification  
Ministry of National Unification  
77-6 Sejong-no, Chongno-gu  
Seoul 110-760  
Republic of Korea  
**Fax: +82 2 725 0764**

Minister of National  
Unification

Dear Minister