

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

1. Please update the 2002 research response on the treatment of those advocating reunification or organising to assist North Korea within South Korea.
2. Please provide yearly breakdown of those prosecuted under the National Security Law in relation to supporting North Korea since 2002 and the current status of those laws.

RESPONSE

1. Please update the 2002 research response on the treatment of those advocating reunification or organising to assist North Korea within South Korea.

Political situation

In December 2004 the International Crisis Group (ICG) reported that, as a result of a generational shift in South Korea, there has been a change in both style and substance in its approach to North Korea. The ICG states that:

While the vast majority still view the North as a threat, confrontation has been replaced by an emphasis on cooperation and reconciliation. The removal of government restrictions on inter-Korean exchanges has led to an explosion of contacts, helping to demystify the North in South Koreans' eyes. Moreover, students are no longer being taught to fear Pyongyang as their parents were. A majority of citizens now see North Korea more as an object for dialogue and assistance (International Crisis Group 2004, *Korea Backgrounder: How the South views its brother from another planet*, Asia Report No. 89, 14 December, 'Executive Summary' – Attachment 1).

In December 2002 Roh Moo-Hyun, a former human rights activist, won the presidential elections and was inaugurated in February 2003. He continued his predecessor's Kim Dae Jung's "Sunshine Policy" towards North Korea, albeit renaming it the "Policy for Peace and Prosperity" (*SBS World Guide* 2005, Hardie Grant Books, 13th ed, Prahran, p.405 – Attachment 2; Adams, Brad 2006, 'South Korea should act like it knows', Human Rights Watch, published in *The Korea Herald*, 15 April <http://hrw.org/english/docs/2006/04/12/nkorea13167.htm> – Accessed 18 April 2006 – Attachment 3).

On the Sunshine Policy the ICG wrote:

...Kim felt that if North Korea were offered economic incentives to open up to the outside world, it would gradually change its system and take a less belligerent stance. He thus held out a range of benefits, including food aid and economic exchanges, and encouraged friendly nations, such as Australia and European Union (EU) countries, to establish diplomatic relations. Under the stated principle of separating politics from economics, he lifted many of the restrictions that prevented South Korean citizens from dealing directly with North Korea. He helped the Hyundai Corporation to establish tours to scenic Mt. Kungang in the North and convinced Pyongyang to allow reunions of long separated family members. Most famously, he travelled to Pyongyang and held summit talks with North Korean leader Kim Jong-il, a breakthrough that earned him the 2000 Nobel Peace Prize (International Crisis Group 2004, *Korea Backgrounder: How the South views its brother from another planet*, Asia Report No. 89, 14 December, p.2 – Attachment 1).

Roh, by adding the word "prosperity" to the policy, was responding to criticism that projects under the Sunshine Policy had been generally unprofitable. Under the "peace" component of the policy, the government aimed to solve the nuclear crisis and build a lasting security regime on the peninsula. In practice, there was little significant change in the government's approach. With a recent cabinet change, Roh signalled that the Sunshine Policy would continue despite North Korea's nuclear test (International Crisis Group 2004, *Korea Backgrounder: How the South views its brother from another planet*, Asia Report No. 89, 14 December, p.3 – Attachment 1; 'SKorea's Roh signals no change in NKorea policy with cabinet shake-up' 2006, *Agence France Presse*, 1 November – Attachment 4).

Recent RRT Country Research Responses on tensions between South Korea and North Korea are attached:

- RRT Country Research 2006, *Research Response KOR30672*, 28 September – Attachment 5.
- RRT Country Research 2006, *Research Response KOR30832*, 6 November – Attachment 6.

Advocates of reunification with, or assisting North Korea

Sources indicate that there a number of non-governmental organisations (NGOs) and people advocating and assisting reunification with North Korea. The National Security Law (NSL) may be used to restrict their action.

However, the US State Department reports that the NSL is vague. Under the law, espionage is defined in broad terms and allows the authorities to detain and arrest people who commit

acts viewed as supporting North Korea and are deemed dangerous to the country. The legal standard ““endangering the security of the State””is vague. Consequently, people could be arrested for the peaceful expression of views that the government considered pro-North Korean or anti-state. According to Amnesty International the NSL is arbitrarily applied (US Department of State 2006, *Country Reports on Human Rights Practices for 2005 – Republic of Korea*, 8 March, Sect.1.d/Arbitrary Arrest or Detention – Attachment 7); Khan, Irene 2004, *Republic of Korea (South Korea): Open Letter to all Leaders of Political Parties: An Important Duty to Revitalise Efforts to Fundamentally Repeal or Review the National Security Law*, 13 October, ASA 25/009/2004 <http://web.amnesty.org/library/index/engasa250092004?open&of=eng-kor> – Accessed 9 November 2006 – Attachment 8).

Kim Dae Jung allowed NGOs to develop direct contacts with their North Korean counterparts. NGOs providing humanitarian aid include Christian, Buddhist and secular organisations (International Crisis Group 2004, *Korea Backgrounder: How the South views its brother from another planet*, Asia Report No. 89, 14 December, p.4 – Attachment 1).

Some South Korean NGOs advocating reunification or assisting the North are:

- World Vision Korea: the Seoul affiliate of the US-based Christian aid and development group, World Vision International (International Crisis Group 2004, *Korea Backgrounder: How the South views its brother from another planet*, Asia Report No. 89, 14 December, p.4 – Attachment 1).
- Korean Sharing Movement: a South Korean NGO founded to provide humanitarian aid to North Korea (International Crisis Group 2004, *Korea Backgrounder: How the South views its brother from another planet*, Asia Report No. 89, 14 December, p.5 – Attachment 1).
- Korean Peace Forum: a non-profit organisation working for peaceful reunification by building bi-partisan support among political parties and private citizens (International Crisis Group 2004, *Korea Backgrounder: How the South views its brother from another planet*, Asia Report No. 89, 14 December, p.13 – Attachment 1).
- Okedongmu (literally “friends shoulder-to-shoulder”): prepares children for reunification. It takes children on trips to North Korea, promotes letter-writing exchanges and sends lecturers into schools to discuss North Korea (International Crisis Group 2004, *Korea Backgrounder: How the South views its brother from another planet*, Asia Report No. 89, 14 December, p.16 – Attachment 1).

Actions taken against those advocating reunification or organising support for North Korea within South Korea include:

- In October 2006, five people were detained for links to an alleged North Korean spy ring; two were associated with the Democratic Labor Party. The people were also said to belong to the pro-Pyongyang group Ilsimhoe (Bang, Annie I. 2006, ‘Spy suspects face extended detention’, *The Korea Herald*, 3 November – Attachment 9; ‘Ilsimhoe Case Handed Over to Prosecutors’ 2006, *Dong-A Ilbo Daily*, 11 November – Attachment 10).

- In September/October 2006 police were investigating the National Youth Student Association for National Unification (NYSANU), said to be an organisation threatening national security, for selling a book through the Internet which admired North Korea's "Seongun politics (politics placing top priority in military activities)" ('Youth Group Selling Pro-North Books' 2006, *Dong-A Ilbo Daily*, 17 October – Attachment 11).
- A September 2006 news article reported that police were investigating some members of the Korean Teachers and Educational Workers' Union for taking part in a seminar, held in 2005 in Busan, in which pro-North Korea and pro-Kim Jong-il materials were used (Lee, Key-one 2006, 'Protesters storm police agency in Busan', Joins.com, 26 September – Attachment 12).
- In August 2006 the banned Federation of University Student Councils (*Hanchongryon*) clashed with police while attempting to enter a site where US forces are expected to be re-located in Pyeongtaek (70 kms south of Seoul) ('Student activists, police clash over relocation of U.S. forces in (sic)' 2006, *Yonhap English News*, 12 August – Attachment 13; 'North Korean agency reports on South group calling for end to security law' 2006, *BBC Monitoring Asia Pacific*, source: KCNA, 15 August – Attachment 14).
- In July 2006 it was reported that a 77 year-old man, "the vice-chairman of the association of branches in Seoul of the BumMinRyon or Pan-Coalition for Unification", was arrested accused of violating the NSL "for admiration toward North Korea and communicating with North Koreans" ('Pro-Unification Group Leader Arrested' 2006, *Dong-A Ilbo Daily*, 20 July – Attachment 15).
- In May 2006 Professor Kang Jeong-koo, of Seoul's Dongguk University, received a suspended sentence for violating the NSL. He had been charged for writing pro-North Korea columns and making pro-North Korea remarks (Ha, Jae-sik and Kim, Soe-jung 2006, 'Sociologist guilty of pro-North advocacy', Joins.com, 26 May – Attachment 16; 'S Korean Gets Suspended Sentence For Pro-North Remarks', *Dow Jones International News*, 26 May – Attachment 17; Adams, Brad 2006, 'South Korea should act like it knows', Human Rights Watch, published in *The Korea Herald*, 15 April <http://hrw.org/english/docs/2006/04/12/nkorea13167.htm> – Accessed 18 April 2006 – Attachment 3).
- Minguhanhyup, a NGO cited by the US State Department, reported that as at September 2005 the government had prosecuted 61 persons for their political beliefs, "many of them student members of a pro-North Korea organization" (US Department of State 2006, *Country Reports on Human Rights Practices for 2005 – Republic of Korea*, 8 March, Sect.1.e Political Prisoners – Attachment 7).

It is of interest that the ICG cites one poll which indicated that only 34% of people in their 20s "often" or "sometimes" discussed North Korea with people close to them. This was the lowest percentage of any age group (International Crisis Group 2004, *Korea Backgrounder: How the South views its brother from another planet*, Asia Report No. 89, 14 December, p.14 – Attachment 1).

2. Provide yearly breakdown of those prosecuted under the National Security Law (NSL) in relation to supporting North Korea since 2002 and the current status of those laws.

Country information indicates that, although calls have been made to abolish the NSL, it is still current in South Korea (Kim, Tong-hyung 2006, 'Security Law Arrests Increase', *Korea Times*, 29 October

<http://times.hankooki.com/lpage/nation/200610/kt2006102919063010510.htm> – Accessed 8 November 2006 – Attachment 18; Lee, Brian and Moon, Byung-joo 2006, 'Caution, confidence mix at prosecution', Joins.com, 30 October – Attachment 19).

Recent news articles from the South Korean media, reporting Justice Ministry statistics, state that arrests under the NSL have increased for the first time in ten years ('Use of National Security Law Increases' 2006, *The Hankyoreh*, 30 October

http://english.hani.co.kr/arti/english_edition/e_national/168207.html – Accessed 16 November 2006 – Attachment 20; Kim, Tong-hyung 2006, 'Security Law Arrests Increase', *Korea Times*, 29 October

<http://times.hankooki.com/lpage/nation/200610/kt2006102919063010510.htm> – Accessed 8 November 2006 – Attachment 18).

The statistics reported by the media for the number of people arrested are:

- 573 people in 1997 ('Use of National Security Law Increases' 2006, *The Hankyoreh*, 30 October http://english.hani.co.kr/arti/english_edition/e_national/168207.html – Accessed 16 November 2006 – Attachment 20; Kim, Tong-hyung 2006, 'Security Law Arrests Increase', *Korea Times*, 29 October <http://times.hankooki.com/lpage/nation/200610/kt2006102919063010510.htm> – Accessed 8 November 2006 – Attachment 18).
- 397 in 1998 ('Use of National Security Law Increases' 2006, *The Hankyoreh*, 30 October http://english.hani.co.kr/arti/english_edition/e_national/168207.html – Accessed 16 November 2006 – Attachment 20; Kim, Tong-hyung 2006, 'Security Law Arrests Increase', *Korea Times*, 29 October <http://times.hankooki.com/lpage/nation/200610/kt2006102919063010510.htm> – Accessed 8 November 2006 – Attachment 18).
- 273 in 1999 ('Use of National Security Law Increases' 2006, *The Hankyoreh*, 30 October http://english.hani.co.kr/arti/english_edition/e_national/168207.html – Accessed 16 November 2006 – Attachment 20).
- 118 in 2000 ('Use of National Security Law Increases' 2006, *The Hankyoreh*, 30 October http://english.hani.co.kr/arti/english_edition/e_national/168207.html – Accessed 16 November 2006 – Attachment 20; Kim, Tong-hyung 2006, 'Security Law Arrests Increase', *Korea Times*, 29 October <http://times.hankooki.com/lpage/nation/200610/kt2006102919063010510.htm> – Accessed 8 November 2006 – Attachment 18).
- 77 in 2003 (Kim, Tong-hyung 2006, 'Security Law Arrests Increase', *Korea Times*, 29 October

<http://times.hankooki.com/lpage/nation/200610/kt2006102919063010510.htm> – Accessed 8 November 2006 – Attachment 18).

- 32 in 2004 (Kim, Tong-hyung 2006, ‘Security Law Arrests Increase’, *Korea Times*, 29 October
<http://times.hankooki.com/lpage/nation/200610/kt2006102919063010510.htm> – Accessed 8 November 2006 – Attachment 18).
- 12 in 2005 (‘Use of National Security Law Increases’ 2006, *The Hankyoreh*, 30 October http://english.hani.co.kr/arti/english_edition/e_national/168207.html – Accessed 16 November 2006 – Attachment 20; Kim, Tong-hyung 2006, ‘Security Law Arrests Increase’, *Korea Times*, 29 October
<http://times.hankooki.com/lpage/nation/200610/kt2006102919063010510.htm> – Accessed 8 November 2006 – Attachment 18).

For the first seven months of 2006, 25 people were “booked” under the NSL and nine arrested. Towards the end of October 2006 these figures rose to 30 and 14 respectively with the arrest of five persons, including a current and a former vice secretary-general of the opposition Democratic Labor Party, for allegedly meeting with a North Korean agent in the 1980s (‘Use of National Security Law Increases’ 2006, *The Hankyoreh*, 30 October http://english.hani.co.kr/arti/english_edition/e_national/168207.html – Accessed 16 November 2006 – Attachment 20; Kim, Tong-hyung 2006, ‘Security Law Arrests Increase’, *Korea Times*, 29 October
<http://times.hankooki.com/lpage/nation/200610/kt2006102919063010510.htm> – Accessed 8 November 2006 – Attachment 18).

According to *The Hankyoreh* 62.4% of those “booked” under the NSL in 1998 were also arrested – this figure dropped to 11.2% in 2005. Of those arrested 48.8% were found guilty in 2005 down from 86.3% in 1997 (‘Use of National Security Law Increases’ 2006, *The Hankyoreh*, 30 October http://english.hani.co.kr/arti/english_edition/e_national/168207.html – Accessed 16 November 2006 – Attachment 20).

Other statistics, in the main from US State Department reports, on the NSL for the years 2003-2006 are:

- Amnesty International stated that, as of 9 March 2006, four men, including two long-term prisoners, were serving sentences under the NSL (Amnesty International 2006, *2006 Elections to the Human Rights Council: Background information on candidate countries*, 1 May, IOR 41/006/2006, ‘South Korea’
<http://web.amnesty.org/library/Index/ENGIOR410062006?open&of=ENG-KOR> – Accessed 9 November 2006 – Attachment 21).
- The US State Department reported that between January and August 2005 the authorities arrested 16 people for alleged NSL violations. It also noted that the prosecutor-general resigned in protest when the justice minister ordered him not to detain an academic who had made pro-North Korean remarks, possibly in violation of the NSL (US Department of State 2006, *Country Reports on Human Rights Practices for 2005 – Republic of Korea*, 8 March, Sect.1.d/Arbitrary Arrest or Detention, Sect.1.e./Denial of Fair Public Trial – Attachment 7).

- A US State Department report for the year 2004 states that, between January-July 2003, 43 people were arrested for violating the NSL. At the end of 2004, nine remained in custody (US Department of State 2005, *Country Reports on Human Rights Practices for 2004 – Republic of Korea*, 28 February, Sect.1.d./ Arbitrary Arrest or Detention – Attachment 22).
- A US State Department report for the year 2003 states that, between January-July 2003, 43 people were arrested for violating the NSL. As at 5 September 2003, 15 people remained in custody (US Department of State 2004, *Country Reports on Human Rights Practices for 2003 – Republic of Korea*, 25 February, Sect.1.d./ Arbitrary Arrest, Detention, or Exile – Attachment 23).

List of Sources Consulted

Internet Sources:

Non-Government Organisations

Amnesty International <http://web.amnesty.org/library/eng-kor/index>

Human Rights Watch <http://hrw.org/doc/?t=asia&c=skorea>

Search Engines

Google search engine <http://www.google.com.au/>

Databases:

FACTIVA (news database)

BACIS (DIMA Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Country Research database, including Amnesty International, Human Rights Watch, US Department of State Reports)

RRT Library Catalogue

List of Attachments

1. International Crisis Group 2004, *Korea Backgrounder: How the South views its brother from another planet*, Asia Report No. 89, 14 December.
2. *SBS World Guide* 2005, Hardie Grant Books, 13th ed, Prahran (MRT-RRT Library)
3. Adams, Brad 2006, 'South Korea should act like it knows', Human Rights Watch, published in *The Korea Herald*, 15 April
<http://hrw.org/english/docs/2006/04/12/nkorea13167.htm> – Accessed 18 April 2006.
(CISNET South Korea CX151320)
4. 'SKorea's Roh signals no change in NKorea policy with cabinet shake-up' 2006, *Agence France Presse*, 1 November. (FACTIVA)
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7. US Department of State 2006, *Country Reports on Human Rights Practices for 2005 – Republic of Korea*, 8 March.
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<http://web.amnesty.org/library/Index/ENGASA250092004?open&of=ENG-KOR> – Accessed 9 November 2006.
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11. 'Youth Group Selling Pro-North Books' 2006, *Dong-A Ilbo Daily*, 17 October. (FACTIVA)
12. Lee, Key-one 2006, 'Protesters storm police agency in Busan', Joins.com, 26 September. (FACTIVA)
13. 'Student activists, police clash over relocation of U.S. forces in (sic)' 2006, *Yonhap English News*, 12 August. (FACTIVA)
14. 'North Korean agency reports on South group calling for end to security law' 2006, *BBC Monitoring Asia Pacific*, source: KCNA, 15 August. (FACTIVA)
15. 'Pro-Unification Group Leader Arrested' 2006, *Dong-A Ilbo Daily*, 20 July. (FACTIVA)
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22. US Department of State 2005, *Country Reports on Human Rights Practices for 2004 – Republic of Korea*, 28 February, Sect.1.d./ Arbitrary Arrest or Detention.
23. US Department of State 2004, *Country Reports on Human Rights Practices for 2003 – Republic of Korea*, 25 February, Sect.1.d./ Arbitrary Arrest, Detention, or Exile.