

KOJARAN REGIONAL ACTION NETWORK



INTERNAL

For action to:	KOJARAN & KOREA Groups	Action Ref:	KOJARAN1/5
From:	Korea/Japan team		
Start Date Of Action:	1 April 2005	End Date Of Action:	30 June 2005

South Korea:

Long-term Detention of 74 Year-old under the National Security Law



Kang Tae-woon ©AI

Amnesty International believes that the National Security Law (NSL) has been used to target Kang Tae-woon who has exercised his right to freedom of expression and association in a non-violent manner. The 74 year-old South Korean national has been sentenced to six years' imprisonment under the vaguely worded clauses of the NSL by the Seoul District Court and this sentence has been confirmed by the Seoul High Court. Amnesty International considers Kang Tae-woon as a prisoner of conscience. Amnesty International is also concerned about the advanced age and illness of Kang Tae-woon.

CASE DETAILS: Kang Tae-woon was arrested under the Article 8 of National Security Law on 15 August 2003 for meeting members of the Jochongryeon, the association of Koreans in Japan (which is considered by the South Korean government to be a pro-North Korean association) several times in Tokyo and Beijing. Kang had visited Japan several times to meet his wife's nephew who is a member of Jochongryeon.

Kang Tae-woon was sentenced by the Seoul District Court to six years in prison with a suspended sentence of four years and a fine of 20 million won for “collecting and delivering national secrets to North Korea and receiving orders and money from them. Article 8 of the NSL applies to “any person who makes contact with a member of an anti-government organization or a person who has received an order from it, by means of a meeting, correspondence or other method, with the knowledge of the fact that it threatens to endanger the existence and security of the nation...” The maximum punishment is imprisonment for ten years. He was also found guilty of “blindly following the unification theory of North Korea and under suspicion of joining the North Korean Labour Party.

On appeal, the Seoul High Court, in April 2004, confirmed the sentence of six years’ imprisonment and a suspended sentence of four years with a fine of 27.9 million won. The Seoul High Court found that the information he had handed over to North Korea constituted “a breach of national security”.

Kang Tae-woon is imprisoned in Daegu prison. He is the oldest inmate in Daegu prison. Kang suffers from a heart ailment and so is currently admitted to the prison infirmary.

BACKGROUND INFORMATION:

This RAN action focuses on the continued and arbitrary use of the NSL in South Korea and how it’s vaguely worded clauses have long been used to criminalize the exercise of freedom of expression. The law provides long sentences or the death penalty for “anti-state” and “espionage” activities – terms that are not clearly defined and have often been used arbitrarily against people whose only crime is to exercise their basic rights to freedom and association.

Amnesty International acknowledges that every government has a right and duty to take measures to ensure the security of its citizens. We also appreciate that South Korea has special security concerns with regard to North Korea. However, security concerns should never be used as an excuse to deny people the right to express different political views and to exercise fundamental human rights including the right to freedom of expression as established in international standards including the ICCPR.

The NSL has also been frequently used as a form of censorship, to imprison people for publishing and distributing material deemed to "benefit" North Korea. In July 1992 the UN Human Rights Committee, the expert committee established under the International Covenant on Civil and Political Rights (ICCPR) to monitor state compliance with the convention, made the following comment after examining South Korea's initial report under the ICCPR: ". . . *the Committee recommends that the State party intensify its efforts to bring its legislation more in line with the provisions of the Covenant. To that end, a serious attempt ought to be made to phase out the National Security Law which the Committee perceives as a major obstacle to the full realization of the rights enshrined in the Covenant and, in the meantime, not to derogate from certain basic rights*".

In November 1995 the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, after a mission to South Korea, stated that the South Korean government was "strongly encouraged to repeal the National Security Law and to consider other means, in accordance the Universal Declaration of Human Rights and the ICCPR, to protect its national security."

The UN Human Rights Committee in October 1999 considered 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." In this case, Kang Tae-won has been charged under article 8 of the

NSL – another vaguely worded clause – as it penalises anyone who “makes contact with a member of an anti-government organization or a person who has received an order from it.

The NSL is currently applied in an arbitrary fashion - while certain left-wing political works are permitted for academic study, possession of, or reference to the same works by students or activists with perceived "pro-North Korean" leanings is often considered a criminal offence.

The current use of the NSL also appears to contradict the government's "Peace and Prosperity Policy" of engagement with North Korea. Under this policy the government encourages closer relations with North Korea through initiatives such as dialogue, trade and travel. Conversely, under the NSL people continue to be arrested for merely discussing reunification, publishing socialist or "pro-North Korean" material or having views considered similar to those of the North Korean government.

Amnesty International wrote in October 2004 to all leaders of political parties in South Korean government and in July 2004 Amnesty International wrote to members of the 17th National Assembly urging the leaders of the political parties and National Assembly members to repeal or review fundamentally the National Security Law to bring it into line with international standards regarding clarity of criminal law, and the safeguarding of freedom of expression and association. Amnesty International believes that by doing so, the political parties and newly elected members of the National Assembly would be taking a highly significant step in ensuring human rights for all South Korean citizens. In August 2004, the South Korean National Human Rights Commission stated that it would recommend abolition of the NSL to the Minister of Justice Kim Seong-kyu and the National Assembly speaker Kim One-ki. In September 2004, President Roh Moo-hyun stated that he supported the abolition of the NSL.

COUNTRY STRATEGY:

Under GIG 1 with special focus on South Korea, the Sub Regional Team is committed to raising emblematic cases which will highlight the need for the abolition or fundamental review of the NSL to bring into line with international standards of which South Korea is a state party.

RECOMMENDED ACTION

Please write to the South Korean Authorities:

- **Urging them to immediately and unconditionally release Kang Tae-woon who is detained for having peacefully exercised 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 draconian NSL or remove the vaguely worded clauses, such as Articles 3, 7 and 8 to bring the law in line with international standards regarding clarity of criminal law, freedom of expression and association.**

Addresses to write to:

President ROH Moo-hyun (Salutation: Dear President)
Office of President
Cheong Wa Dae (Blue House)
Seoul, Republic of Korea
Fax: +82 2 770 0253/0344
E-mail: webmaster@president.or.kr

Mr KIM Seong-kew (Salutation: Dear Minister)
Minister of Justice
Ministry of Justice
Gwacheon Government Complex
1 Jungang-dong
Gwacheon 427-725
Gyeonggi Province, Republic of Korea
Fax: +82 2 504 3337

Please write letters of support to Kang Tae-woon. His contact details are:

**Prisoner No. 90
Daegu Prison
472 Cheonnae-ri, Hwawon-up,
Darseong-gun,
Daegu,
South Korea 711-836
OR
Darseo P.O.Box 7, Darseo-gu,
Daegu
South Korea 704-600
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