International Crisis Group
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Risks of Intelligence Pathologies in South Korea

Asia Report N°259 | 5 August 2014

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Executive Summary

A failure of intelligence on the Korean peninsula – the site of the world's highest concentration of military personnel with a history of fraught, sometimes violent, sabre-rattling – could have catastrophic consequences. Yet the South Korean intelligence community has revealed its susceptibility to three types of pathologies – intelligence failure, the politicisation of intelligence, and intervention in domestic politics by intelligence agencies – which bring into stark relief the potential for grievous miscalculation and policy distortions when addressing the threat from North Korea. Moves by intelligence agencies to recover or bolster their reputations by compromising sensitive information have compounded the problem. Efforts are needed to reform the South's intelligence capacities, principally by depoliticising its agencies and ensuring adequate legislative and judicial oversight. Lawmakers and bureaucrats also need to fulfil their responsibilities to protect classified information and refrain from leaking sensitive intelligence for short-term personal political gains.

The Republic of Korea (ROK or South Korea) has been plagued by a series of scandals in its intelligence services since the fall of 2012. Many in the main opposition party, the New Politics Alliance for Democracy (then named the Democratic Party), believe the National Intelligence Service (NIS) swayed the outcome of the December presidential election through an internet smear campaign against opposition candidate Moon Jae-in to ensure a victory by President Park Geun-hye.

The accusations and discord paralysed the National Assembly for much of 2013 and the Park administration's legislative agenda has been put on hold. NIS employees including former Director Wŏn Se-hun were indicted for violating electoral laws and the NIS Act governing the conduct of staff.

The public's trust and confidence in the intelligence community has been damaged by the scandals. The ROK government has been unable to implement serious reform because the necessary legislative and executive implementation also is politicised. The secrecy and technical nature of intelligence mean that most citizens – including many lawmakers – have little insight into the intelligence process and its impact on policy. The president, whose ruling Saenuri Party has a majority in the National Assembly, and NIS directors have shown little or no interest in serious reform because it almost certainly would mean a reduction in their powers.

Historical legacies have had a great impact on the structure and organisation of the South Korean intelligence community. Japanese colonialism, liberation, the Korean War and decades of authoritarian rule mean a heavy emphasis on military intelligence, internal security and counter-espionage. Democratisation in the late 1980s led to reform; tremendous progress has been made, but the process is incomplete.

This report explains why South Korean intelligence pathologies matter to the international community, and how the country's intelligence processes work. The institutional mapping of the intelligence community provides a basis for understanding when, where, why and how intelligence weaknesses can occur in the ROK.

Through separate initiatives, findings by the main opposition party and former NIS Director Nam Jae-jun independently agreed that four broad reforms are necessary: ending the practice of embedding NIS officers in South Korean institutions such as political parties, the legislature, ministries and media firms; establishing

greater oversight to ensure intelligence officers obey the law; providing greater whistleblower protections; and restricting cyberspace operations to North Korean entities and not South Korean citizens or institutions. These measures should not be difficult to implement given South Korea's broad consensus, but this is not sufficient.

Institutional changes also are needed. Criminal investigation powers held by the NIS should be transferred to the Supreme Prosecutors Office, and NIS directors should receive confirmation from the National Assembly's Intelligence Committee after being nominated by the president. Special courts or judges should be selected to provide oversight and prosecution of sensitive national security cases. Finally, intelligence capabilities should be enhanced but only with appropriate oversight along with checks and balances to reduce the likelihood of the intelligence pathologies outlined in this report.

The stakes are high. Were intelligence failure or the politicisation of intelligence to lead to open conflict on the Korean peninsula, the costs would be enormous. The ROK is the world's seventh largest exporter and ninth largest importer of merchandise. Seoul also has a mutual defence treaty with Washington, so any conflict would draw in the immediate involvement of 28,500 U.S. military personnel deployed in South Korea. North Korea and China likewise have a bilateral treaty that includes a security clause whereby both parties pledge to assist in case the other is attacked.

Quality intelligence is critical for managing the challenges. Pyongyang is committed to increasing its nuclear and missile capabilities and it presents other asymmetric and conventional military threats. South Korea, with twice the population, about 40 times the economic output and significant technological advantages, is expanding its counterstrike capabilities and has pledged to deploy its so-called "kill chain" to identify and neutralise any imminent attack. High-quality intelligence also is needed for non-conflict scenarios, particularly in anticipation of the North's state collapse or a massive humanitarian crisis. In the case of a North Korean collapse and sudden unification, Seoul would have to make quick decisions to prevent a rapid deterioration of the situation.

Without accurate intelligence, several types of errors could occur: a failure to perceive an imminent attack; incorrectly assessing that an attack is imminent; or failing to develop effective contingency planning. On the Korean peninsula, given the vulnerabilities in the South's current intelligence apparatus, any of these scenarios constitute a distinct possibility.

Recommendations

To mitigate risks of intelligence failures, the politicisation of intelligence and the direct intervention of intelligence agencies in domestic politics

To the government of the Republic of Korea:

1. Revise legislation governing the intelligence community as proposed by the opposition party and the former NIS director, to include:
   a) terminating the practice of NIS intelligence officers being embedded and monitoring political parties, lawmakers, mass media and other institutions;
   b) establishing and exercising greater oversight of intelligence officers to ensure they do not intervene in domestic politics;
   c) establishing an "inspector general" or complaint/compliance centre with whistle-blower protections within the NIS; and
   d) ensuring that military information support operations (psychological operations) in cyberspace targeted at North Korea stay clear of ROK domestic politics while protecting the identity and privacy of ROK citizens and institutions.
2. Revise legislation governing the intelligence community to include:
   a) removing the criminal investigation powers within the NIS and transferring this function to the Supreme Prosecutors Office;
   b) requiring the president's nominee for NIS director to be confirmed by the National Assembly's Intelligence Committee; and
   c) establishing a national security court or assign special judges to adjudicate national security cases and to ensure constitutional and civil rights of ROK citizens are protected, and to ensure that national security information is not compromised.

To improve intelligence processes and the impact of intelligence on policymaking

To the government of the Republic of Korea:

3. Acquire the intelligence, surveillance and reconnaissance (ISR) hardware such as Global Hawk surveillance unmanned aerial vehicles (UAVs) and space-based platforms for early warning capabilities commensurate with North Korea's growing asymmetric military threats; and ensure the necessary training to operate the systems.
4. Sign and ratify an intelligence-sharing agreement with Japan, or a trilateral intelligence sharing agreement with Japan and the U.S., in order to share, if necessary, intelligence regarding North Korean threats.
5. Obey and enforce South Korean laws that prohibit the leaking of classified information (for perceived domestic political gains).

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Risks of Intelligence Pathologies in South Korea

I. Introduction

For over two decades, various forms of diplomacy have failed to resolve the insecurity on the Korean peninsula. Most of the focus has been on North Korea's nuclear and ballistic missile programs, but Pyongyang presents a multitude of traditional and non-traditional security challenges.[1] Sound policy responses – which manage, rather than exacerbate tensions or, worse, trigger open conflict – demand sound intelligence and the effective processing of that intelligence. There are reasons for concern as to how effectively Seoul engages in both.

Several intelligence failures – real or perceived – have occurred on the Korean peninsula in the past, including the North's invasion of the South in June 1950; the Chinese intervention in the war in October 1950; the raid against the South Korean presidential residence (*Ch'ŏngwadae* or Blue House) in 1968; the 1983 bombing in Yangon (Rangoon) that killed 21 in a failed assassination attempt against the South Korean president; the death of Kim Il-sung in 1994; the sinking of the South Korean naval vessel *Ch'ŏnan* in 2010; and the death of Kim Jong-il in 2011.

Since late 2012, South Korea's National Intelligence Service (NIS) has been plagued by three major scandals and arguably by other malfeasance. These scandals include an online campaign against the opposition presidential candidate in the fall of 2012, the former NIS director's release of a classified transcript from the October 2007 inter-Korean summit, and the fabrication of evidence in a counter-espionage court case. Furthermore, a former NIS director was indicted and convicted for accepting bribes from a construction firm.

The Republic of Korea (ROK)'s intelligence capacity has, of late, evinced a range of weaknesses, including human failure; politicisation of intelligence; and, most seriously, allegations of overt malfeasance through direct intervention in domestic politics.[2]

[1] See Crisis Group Asia Report N°230, *North Korean Succession and the Risks of Instability*, 25 July 2012; Asia Briefing N°130, *South Korea: The Shifting Sands of Security Policy*, 1 December 2011; Asia Reports N°208, *Strangers at Home: North Koreans in the South*, 14 July 2011; N°198, *North Korea: The Risks of War in the Yellow Sea*, 23 December 2010; Asia Briefing N°101, *North Korea under Tightening Sanctions*, 15 March 2010; Asia Reports N°168, *North Korea's Nuclear and Missile Programs*, 18 June 2009; and N°167, *North Korea's Chemical and Biological Weapons Programs*, 18 June 2009.

[2] While the terms "intelligence" and "information" sometimes are used interchangeably, intelligence is more than just information. It contains an element of secrecy because its divulgence could lead to changes in the behaviour of an actor engaged in strategic interaction, which could result in detrimental outcomes for the other actor. Robert Jervis writes that "intelligence is a game between hiders and finders". Peter Gill defines intelligence as "mainly secret activities – targeting, collection, analysis, dissemination and action – intended to enhance security and/or maintain power relative to competitors by forewarning of threats and opportunities". Gill's definition applies to both state and non-state entities, but Michael Warner restricts intelligence to the realm of states: "Intelligence is secret, state activity to understand or influence foreign entities". See Robert Jervis, *Why Intelligence Fails: Lessons from the Iranian Revolution and the Iraq War* (Ithaca, 2010); Peter Gill, "Intelligence, Threat, Risk and the Challenge of Oversight", *Intelligence and National Security*, vol. 27,

A failure to adequately address all three pathologies carries with it a double risk: that further intelligence failures will occur and/or that otherwise sound intelligence will not be acted on in a climate in which the ROK's intelligence services are too denuded of credibility. Either scenario, in the Korean context, is dangerous.

Research for this paper included interviews with government officials, military officials, scholars and private citizens. Due to the sensitivity of the subject, almost everyone requested anonymity, so most of their names have been withheld.

no. 2 (April 2012), pp. 206-222; Michael Warner, "Wanted: A Definition of 'Intelligence'", *Studies in Intelligence*, vol. 46, no. 3 (2002).

II. Why ROK Intelligence Capabilities Matter for the International Community

The consequences of intelligence failure or the manipulation of intelligence in the ROK could be catastrophic for the peninsula and the region, but the impact would be global. Over 1.5 million foreign nationals live in South Korea, including 114,000 U.S. citizens.[3] The ROK is the world's seventh largest exporter and ninth largest importer of goods, and the disruption of trade would affect several major economies.[4]

The Democratic People's Republic of Korea (DPRK or North Korea) remains committed to developing nuclear weapons despite long-term international efforts to curb and roll back the nuclear program.[5] In response to Pyongyang's methodical expansion of its nuclear and missile programs, Seoul is augmenting its counter-strike capabilities to thwart both conventional and nuclear attacks.[6]

The ROK's ability to collect, analyse and distribute timely tactical military intelligence will be vitally important during a crisis or escalation. A war on the peninsula would trigger immediate involvement by the approximate 28,500 U.S. military personnel in the ROK. A second Korean war also would trigger the activation of the UN Command (UNC), which commands and controls allied troops in support of the ROK during war, if South Korean allies decide to send military assistance.[7]

According to the mutual defence treaty between the U.S. and the ROK – in effect since 1954 – the two militaries would fight as a combined force in a conflict with the DPRK. A war would activate the Combined Forces Command (CFC) and the UNC with the U.S. Forces Korea (USFK) commander, a four-star general, taking command. The U.S. general would take operational control (OPCON) of the ROK military (ex-

[3] "Number of foreign nationals in Korea tops 1.5 million", KBS Radio News, 10 June 2013. Curtis M. Scaparrotti, "Statement of General Curtis M. Scaparrotti Commander, United Nations Command; Commander, United States-Republic of Korea Combined Forces Command; and Commander, United States Forces Korea before the Senate Armed Services Committee", 25 March 2014, http://1.usa.gov/1x6gbcW.

[4] "Country Profile: Korea, Republic of", World Trade Organisation, March 2014, http://bit.ly/1jXeYDU.

[5] The preamble to the DPRK constitution as amended in 2009 declared the DPRK to be a "nuclear state [核保有國]". On 31 March 2013, the Korean Workers Party (KWP) Central Committee "set forth a new strategic line on carrying out economic construction and building nuclear armed forces simultaneously ..." that is attributed to leader Kim Jong-un. On 1 April 2013, the Supreme People's Assembly passed legislation "consolidating the DPRK's position as a nuclear weapons state". See "Report on plenary meeting of WPK Central Committee", Korean Central News Agency (KCNA), 31 March 2013; "Law on consolidating position of nuclear weapons state adopted", KCNA, 1 April 2013. There is an extensive literature detailing the diplomatic efforts to freeze and roll back the North Korean nuclear program. For example, see Leon V. Sigal, *Disarming Strangers* (Princeton, 1999); Joel S. Wit, Daniel B. Poneman and Robert Gallucci, *Going Critical* (Washington, 2004); Mike Chinoy, *Meltdown* (New York, 2008); Charles L. Pritchard, *Failed Diplomacy* (Washington, 2007); Yoichi Funabashi, *The Peninsula Question* (Washington, 2007).

[6] James Hardy, "North Korea, beware of Seoul's mighty missiles", *The National Interest*, 2 July 2014; "South Korea extending ballistic missile range to counter North's threat", Reuters, 4 April 2014; Daniel Pinkston, "South Korea's New Missile Guidelines: Part II", Crisis Group Blog, 22 November 2012, http://bit.ly/1x6hjgz; "S. Korea sets out 'active deterrence' against N. Korea's nuke threats", Yonhap News Agency, 1 April 2013.

[7] Sixteen countries sent troops to assist the ROK and fight under the UNC during the war. Five states sent personnel to provide humanitarian assistance.

cept for a few units). However, the ROK Joint Chiefs of Staff currently maintains operational control during peace time.

In December 2015, the U.S. and South Korea are scheduled to transfer wartime OPCON from the U.S. to the ROK. The two countries agreed in 2007 to transfer it in 2012, but the transition date was postponed to 2015.[8] The transfer could be postponed once again and the two sides have set a number of benchmarks for the South Korean military before the transition is completed. One important aspect is the ROK military's intelligence, surveillance and reconnaissance (ISR) capabilities. If the ROK military is to take the lead in military operations during war, it must have adequate situational awareness. More precisely, it needs to upgrade its command, control, communications & intelligence (C3I).[9]

The South Korean government's demand and need for intelligence is not limited to military affairs. Since the death of former DPRK leader Kim Il-sung in 1994, there has been much speculation about a collapse in the north and the challenges of sudden unification; recently, the ROK government has been speculating on this point with some anticipating unification could happen soon.[10] Instability or state collapse in North Korea would require the ROK president and senior officials to make a number of critical decisions that would be influenced by the quality of intelligence they receive concerning North Korean economics, public health, society and public security.

North Korea's underdevelopment in a region of economic vitality is well known, but the DPRK publishes no economic data. Instead, the state engages in denial and deception to project a picture of prosperity and progress in order to sustain political control. Intelligence on the DPRK economy and industrial capacity is important for a number of reasons. First, accurate economic and technical assessments are required to produce high-quality estimates of the country's capacity to produce, deploy and export weapons systems and illicit materials. These assessments affect policies such as export controls designed to thwart Pyongyang's proliferation activities. In other words, intelligence on firms, management, factories, banks, personnel and networks for procurement and sales is critical to the establishment of any sanctions regime.[11]

Secondly, intelligence on the DPRK economy would be vital if there were a sudden unification under ROK authority. In this scenario quick decisions would be needed on how to allocate emergency humanitarian resources such as food, medicine and critical social services as well as, mid-term, on infrastructure priorities. Finally, in the case of a sudden unification under the ROK, accurate intelligence would be needed to adjudicate cases of alleged human rights abuses in the North.[12] The DPRK's torrid history of human rights violations was recently documented in a report by the UN

[8] "South Korea to reclaim wartime OPCON in April 2012", Yonhap News Agency, 24 February 2007; Lee Chi-dong, "(LEAD) S. Korea, U.S. reschedule OPCON transfer after N. Korea's provocation", Yonhap News Agency, 26 June 2010.

[9] Crisis Group interview.

[10] For example, see President Park's speech on North Korea delivered in Dresden, Germany on 28 March 2014, available at "Full text of Park's speech on N. Korea", *The Korea Herald*, 28 March 2014.

[11] For information on the UN sanctions regime targeting the DPRK's nuclear and missile development, see the "Security Council Committee established pursuant to resolution 1718 (2006)" website at www.un.org/sc/committees/1718/.

[12] The admissibility in court of intelligence acquired by clandestine means as well as possible issues related to the protection of intelligence sources and methods would have to be addressed. Ian Bryan and Michael Salter, "War Crimes Prosecutors and Intelligence Agencies: The Case for Assessing their Collaboration", *Intelligence and National Security*, vol. 16, no. 3 (2001).

Human Rights Council Commission of Inquiry.[13] Korean unification would likely include questions about transitional justice and accountability, as well as about which security units, involving how many personnel, would need to be decommissioned.

[13] "Report of the detailed findings of the commission of inquiry on human rights in the Democratic People's Republic of Korea", UN Office of the High Commissioner for Human Rights, 7 February 2014.

III. The ROK Intelligence Community

A. *History and Origins*

South Korean intelligence took shape after liberation from Japanese colonial rule in August 1945.[14] South Korea was administered by the U.S. Army Military Government until full sovereignty was restored with the establishment of the Republic of Korea on 15 August 1948. Consequently, ROK intelligence, heavily influenced by the U.S. Army, took on a military focus.[15]

Seoul was dependent upon U.S. expertise, training and assistance in establishing its intelligence institutions. After the U.S. withdrew its troops in July 1949, a number of military advisers stayed behind under the newly formed Korea Military Advisory Group (KMAG), which contained a military intelligence section (G-2). However, the G-2 was dependent upon the ROK military for practically all of its human intelligence (HUMINT) on North Korea.[16] Nevertheless, senior U.S. military intelligence officials in Tokyo and Washington distrusted the intelligence data provided by the ROK, viewing it as "puerile and tainted by internal politics".[17]

In June 1949, the U.S. formed a small HUMINT unit with five military personnel called the Korean Liaison Office (KLO) that worked with the South Korean military to infiltrate agents into the North. The operations were productive, but the network in the North evaporated when the war broke out on 25 June 1950. Meanwhile, the U.S. Air Force also established a three-man HUMINT collection unit that relied mainly on the ROK National Police and Coast Guard for its intelligence reporting.[18]

During the war, the U.S. military established the 8240 Au Unit and the 8086 Au Unit to conduct infiltrations for sabotage, intelligence collection and other special operations. These units managed the "partisans" or Higher Intelligence Division personnel, many of whom were from the North and had expressed a desire to conduct guerrilla operations back there.[19] In December 1951, the Combined Command for

[14] In the modern era, the first Korean intelligence service was established in June 1902 during the Korean Empire [大韓帝國] period (1897-1910) when "Emperor" Kojong established the Imperial Interest and Collection Agency [帝國益聞社] with a total of 61 personnel. As Korea was facing pressure from foreign powers in the late nineteenth century, King Kojong established the empire as part of an effort to modernise and stand up to imperial powers. However, the country was coming under strong Japanese influence and, after becoming a protectorate in 1905, was annexed as a Japanese colony in 1910.

[15] During the period of U.S. military administration, the U.S. Army's Counterintelligence Corps (CIC) was deployed to Korea for intelligence operations. During 1948-1950, the ROK Army Headquarters Intelligence Bureau [陸軍本部情報局] worked with the CIC to establish an independent intelligence agency. However, the soon-to-be ROK president, Rhee Syngman [Yi Sŭng-man, 李承晚], also with assistance from the CIC, established the Korea Research Agency [大韓觀察府] in July 1948. And in September and October, the CIC sent 41 ROK military officers for special training at a CIC counter-intelligence facility in San Francisco. 국가정보포럼, *국가정보학*(서울, 2006), 243-249쪽 [State Intelligence Forum, *State Intelligence Studies* (Seoul, 2006), pp. 243-249].

[16] KMAG also served a liaison for the different military intelligence units and the CIA on the peninsula. Matthew M. Aid, "US Humint and Comint in the Korean War: From the Chinese Intervention to the Armistice", Chapter 2 in Richard J. Aldrich and Ming-Yeh Rawnsley (eds.), *The Clandestine Cold War in Asia, 1945-65: Western Intelligence, Propaganda and Special Operations* (New York, 2000).

[17] Ibid.

[18] Ibid.

[19] "UN Partisan Warfare in Korea, 1951-1954", U.S. Army Forces Far East Military History Section, Operations Research Office, the Johns Hopkins University, June 1956 (declassified 9 April 1990).

Reconnaissance Activities, Korea (CCRAK) was formed to oversee the operations, which were ramped up after the KLO operations dried up.[20] In the early period of the war, the number of partisans was about 6,000, but they reached a peak of 22,200 in May 1953, only two months before the armistice was signed.[21] The partisans and special agents conducted numerous sabotage raids and provided significant volumes of intelligence data.

The operations remained classified until the 1990s. In the late 1990s it was revealed that 7,726 of these partisans or special agents were confirmed to have died in the North out of about 13,000 sent there. About 200 were injured and the rest are unaccounted for.[22] Although the U.S. disbanded the combined infiltration units in July 1954, the ROK sent special agents into the North until 1972 when Seoul and Pyongyang established high-level contacts in the lead-up to the 4 July North-South Joint Statement.[23] The history of irregular warfare and infiltration of special agents is still a sensitive issue in both Koreas; in November 2013, 85-year old Merrill Newman, a U.S. veteran of the 8240 Au Unit, was detained in the DPRK after he asked for information about some of the partisans who might still be alive in the North.[24]

Differences in physical appearance, language and culture made U.S. agents ill-suited for HUMINT activities, but the U.S. also was dependent upon the ROK for the translation and processing all of the signals intelligence that was being intercepted during the war. In December 1950, the two militaries signed an agreement to create a combined communications intelligence (COMINT) unit: the U.S. Air Force Security Services (USAFSS)/ROK Air Force (ROKAF) Detachment C, 1st Radio Squadron Mobile. Under this agreement, 35 military personnel and two civilians from the ROKAF Detachment 3 were attached to the USAFSS unit.[25]

This legacy had implications for the future ROK intelligence community's institutional design and ideas about the role and responsibilities of the agencies. Whereas the U.S., for example, could subsume its counter-espionage function within domestic law enforcement and investigative agencies such as the Federal Bureau of Investigation (FBI), the ROK found itself steered toward counter-espionage, intelligence collection and analysis, and internal security functions given the challenges of national division and war. The integration of intelligence collection and analysis with infiltration and special operations gave ROK military intelligence the tools to intervene in South Korean politics.

Former President Park Chŏng-hŭi and former Prime Minister Kim Jong-p'il both served in the ROK Army Headquarters Intelligence Bureau (AHIB). Park was ap-

[20] Ibid., pp. 34-39.
[21] Ibid., p. 186.
[22] "[책갈피 속의 오늘] 1971년 '684부대' 실미도 탈출", *동아일보*, 2004년 8월 23일 ["In 1971 'Unit 684' escaped from Silmi Island", *Donga Ilbo*, 23 August 2004]; "6.25이후 북 침투 실종, 사망한 공작원 7726명 달해", *매일경제*, 1999년 7월 28일 ["Agents sent to the North missing since 25 June [1950]; Number of dead special agents total 7,726", *Maeil Business Newspaper*, 28 July 1999].
[23] Ibid.
[24] "US vet detained in NKorea oversaw guerrilla group", Associated Press, 3 December 2013; "Korean War vet from US served in secret unit with Korean partisans", ABC News, 3 December 2013.
[25] In December 1950, U.S. Air Force personnel totalled two officers and 25 enlisted airmen. At the same time, the U.S. Army Security Agency (ASA) included 476 personnel. The ASA's collection and translation unit was the 60th Signals Service Company, but it had a serious shortage of qualified linguists and translators. Matthew M. Aid, "American Comint in the Korean War (Part II): From the Chinese Intervention to the Armistice", *Intelligence and National Security*, vol. 15, no. 1 (spring 2000).

pointed deputy director of the AHIB in 1952;[26] Kim served as director of the North Korea Team in the Combat Intelligence Division.[27] The AHIB's responsibility for special operations and infiltration into the North, and counter-espionage in the South, contributed significantly to their experience and situational awareness that enabled them to execute the 16 May 1961 coup.[28]

B. *The Korean Central Intelligence Agency*

The institutional design and policy role of the Korean Central Intelligence Agency [中央情報部] or KCIA, established in the days following the 1961 coup, had important long-lasting effects upon the ROK intelligence community.

The new KCIA borrowed the U.S. moniker but was organised more along the lines of the Soviet KGB with responsibilities for foreign and domestic intelligence.[29] Thus it also was given criminal investigative powers and the power to "coordinate and supervise state ministries and the armed forces in the realm of national security affairs".[30] The KCIA director had extensive authority including the power to "establish local branches when necessary" and to "receive support and assistance from all state institutions when necessary". Furthermore, the KCIA was immune from National Assembly and Board of Audit and Inspection oversight since the director could refuse requests for reports or testimony.[31] The agency's budget, facilities and organisational structure were state secrets; this is still true for today's National Intelligence Service.

Despite some drawbacks and criticism from the political opposition, with the KCIA, South Korea established a true foreign intelligence service for the first time. Kim Jong-p'il, along with several fellow army intelligence officers who graduated in the 8th class (1949) of the Korean Military Academy, did the ground work in establishing the KCIA. Although they had served as intelligence officers in the ROK Army, they did not have experience in conducting investigations, one of the new powers

[26] Byung-Kook Kim, "The Labyrinth of Solitude: Park and the Exercise of Presidential Power", chapter 5, in Byung-Kook Kim and Ezra F. Vogel (eds.), *The Park Chung Hee Era: The Transformation of South Korea* (Cambridge, 2013), p. 143.

[27] 김당, "한국의 국가정보체계", 제18 장, 문정인 편저, *국가정보론*(서울, 2002), 573 쪽 [Kim Dang, "Republic of Korea's National Intelligence System", Chapter 18 in Moon Chung-in (ed.), *Essays on National Intelligence* (Seoul, 2002), p. 573].

[28] In April 1960, a student-led democracy movement led to the downfall and exile of first ROK President Rhee Syngman. A new constitution established the short-lived Second Republic, the only parliamentary system in ROK history. The Democratic Party won a landslide victory in June 1960, followed by the election of Yun Bo-sŏn as nominal president and Chang Myŏn as prime minister. The Second Republic was beset with problems from the beginning, including factionalism in the ruling Democratic Party, high inflation and high rates of unemployment. It also had to deal with Yi's legacies, particularly his use of military police and intelligence for electoral and political advantages. This legacy of military involvement in politics laid the groundwork for disgruntled military officers like Park Chŏng-hŭi, an Army major general and deputy commander in chief of the army at the time, to plan and stage a coup. For more information, see Byung-Kook Kim and Ezra F. Vogel, op. cit.

[29] The Second Republic, which lasted only about eight months before the coup, was a cabinet system of government with a Central Intelligence Committee [中央情報委員會] directly under Prime Minster Chang Myŏn, but its only real function was to exchange intelligence with the U.S. CIA. The committee was established at the request of the CIA, but it neither gained oversight of military intelligence institutions nor did it centralise intelligence within the military. 국가정보포럼 [State Intelligence Forum], op. cit., p. 254; 김당 [Kim Dang], op. cit., p. 574.

[30] Ibid., pp. 574-575; Byung-Kook Kim, op. cit., p. 143.

[31] Byung-Kook Kim, op. cit., p. 144.

under the KCIA. Therefore, they drew upon human resources in the ROK AHIB, counter-espionage units and intelligence collection units in the military, the military police and the National Police.[32]

The KCIA had extensive powers with almost no oversight, and it also operated as a policy instrument for President Park. "From its inception, the KCIA was Park's favourite instrument of power. Unlike state ministries, it could ensure secrecy in both the formulation and implementation of policy. By bringing people from line ministries and the armed forces into a working group, the KCIA also could rise above ministerial turf wars and devise policy solely from Park's perspective". [33]

At the same time, ROK military intelligence was expanding its scope. In 1977, the Defence Security Command [DSC, 國軍保安司令部] was established by integrating three security units within three separate ROK armies. The DSC began to take on a greater role in domestic security and was instrumental in the rise to power of Chŏn Du-hwan [Chun Doo-hwan] in 1980 following Park's assassination in October 1979. Chŏn, commander of the Defence Security Command, was in charge of the investigation into the circumstances surrounding Park's assassination by KCIA Director Kim Jae-gyu.[34] Chŏn's controversial legacy is beyond the scope of this paper, but in short, about 300 KCIA personnel were purged as a result of their association with Kim Jae-gyu and the KCIA was renamed the National Security Planning Agency.[35]

C. *The National Intelligence Service*

The NIS was established in January 1999 as the successor to the National Security Planning Agency.[36] The re-launch of the intelligence agency under the Kim Dae-jung administration (February 1998 – February 2003) demoted the NIS director from the level of deputy prime minister to minister. However, the adjustments did not constitute significant legal or institutional changes.

The NIS director is appointed by, and reports directly to, the president. The newly-appointed director is only required to make a courtesy call before a National Assembly committee; the National Assembly does not have the power to reject the appointment. The NIS director does not have to appear before the National Assembly if summoned, nor does he or she have to submit budgets to the assembly's Intelligence Committee. NIS budgets are classified; they are prepared by the director and approved by the president, with no additional oversight.[37] According to opposition party lawmaker Shin Kyŏng-min, the NIS annual budget is about ₩1 trillion (about $970 mil-

[32] Some of these detectives had served as investigators during the colonial period under the Japanese "thought police" [思想警察]. Their backgrounds and methods led to human rights abuses including torture. 김당 [Kim Dang], op. cit., p. 575.
[33] Ibid.
[34] According KCIA Director Kim Jae-gyu, he claims to have shot President Park to thwart his plan to use force to quell public disturbances in the cities of Pusan and Masan. James W. West, "Martial Lawlessness: The Legal Aftermath of Kwangju", *Pacific Rim Law & Policy Journal*, vol. 6, no. 1 (January 1997), p. 91.
[35] 김당 [Kim Dang], op. cit., p. 575.
[36] The National Intelligence Service Act [國家情報院法] was revised in November 2011 and again partially in January 2014.
[37] NIS Act. See also Article 17 of the Government Organisation Act. The National Finance Act [國家財政法] stipulates that state bureaucracies disclose their budgets to the National Assembly and relevant state agencies, but the NIS is exempted.

lion),[38] compared to the annual defence budget of ₩35.7 trillion (about $34.6 billion) and the total government budget of ₩355.8 trillion (about $347.8 billion) in 2014.[39]

By law, the NIS director participates in National Security Council (NSC) meetings and is responsible for collecting and assessing domestic and foreign intelligence, and presenting the results to the NSC.[40] This gives the NIS director extensive power through agenda setting and the control of information and intelligence.[41] The director generally acts as an "information clearing house" and can determine who gets access to secret information since the NIS is responsible for the protection of state secrets.[42] As the custodian of classified documents, the NIS sometimes distributes documents in hardcopies that must be signed for and returned to reduce the risk of unauthorised electronic copying and distribution.[43]

NIS control of classified materials led some former senior government officials to distrust the NIS director because of possible motivations to politicise intelligence.[44] Since the NIS director is a presidential appointee, he or she generally has a close relationship with the president. While such proximity is desirable to ensure trust, personal relationships often have trumped the need for a director with experience in the intelligence field.[45]

[38] "신경민 '가림막 속 국정원, 통제 안돼'", 연합뉴스, 2013년 10월16일 ["Shin Kyŏng-min: 'Hidden NIS impossible to control'", Yonhap News Agency, 16 October 2013].

[39] 2014 대한민국 재정 [2014 Republic of Korea Public Finance], the National Assembly Budget Office, 21 April 2014, available at: http://bit.ly/1x6nAbW.

[40] The NSC includes the president, the prime minister, the unification minister, the defence minister, the NIS director and a few others at the president's discretion. NSC meetings are chaired by the prime minister, but this task can be delegated to another member. National Security Council Act [國家安全保障會議法].

[41] Crisis Group interview.

[42] The NIS Act; Crisis Group interview.

[43] Crisis Group interview.

[44] Crisis Group interview.

[45] Under the military governments (1961-1987), all KCIA directors had served as senior army officers, and only one National Security Planning Agency (NSPA) director was not a career army officer. Some of them had served in military intelligence positions, yet almost all directors were known to have very close personal ties to the president. For example, Kim Jong-p'il, who founded the KCIA and served as its first director, was Park Chŏng-hŭi's nephew-in-law (he married his niece) and one of the main conspirators of the 16 May coup. Yi Hu-rak, the sixth KCIA director, was one of Park Chŏng-hŭi's most loyal aides. The twelfth director, No Shin-yŏng, a professional diplomat and the only director without a military background under the military rule, gained President Chŏn Du-hwan's confidence while serving as foreign minister for two years before he was appointed as NSPA director. Chang Se-dong, No's successor, also was known as one of Chŏn's closest aides. After democratisation in the late 1980s and the establishment of civilian governments, the NSPA and NIS directors generally have had more extensive backgrounds in intelligence. For example, Yi Jong-ch'an, a professional intelligence officer who joined the KCIA through its first open recruitment, served as NIS director from March 1998 to May 1999. However, some directors had little or no experience in intelligence matters. For example, Go Yŏng-gu, the first NIS director under President Roh Moo-hyun [No Mu-hyŏn], was a former judge and human rights lawyer, yet he shared an ideological orientation with the president. Wŏn Se-hun, the second NIS director under President Lee Myung-bak [Yi Myŏng-bak], is the only director with a public administration background. Wŏn was Lee's deputy when he was the mayor of Seoul. He also served as Lee's first public administration and security minister before becoming NIS director. See "31일 타계한 이후락 전 중정부장 '박정희 그림자' 13년…은둔생활 30년", *중앙일보*, 2009년 11월 2일 ["The former KCIA director Yi Hu-rak who lived as 'Park Chŏng-hŭi's shadow' for thirteen years and in seclusion for 30 years, died on 31 October", *Joongang Ilbo*, 2 November 2009]; "<국정원 50주년 인터뷰> 노신영 前총리•안기부장", 연합뉴스, 2011년 6월 6일 ["<NIS' 50th Anniversary Interview> No Shin-yŏng, the former prime

The official duties of the NIS are the collection, production and dissemination of intelligence related to the following: foreign intelligence and domestic intelligence (anti-communism); anti-government subversion; counter-espionage; terrorism; and international crime. The NIS also is responsible for the protection of the ROK's classified documents, sensitive materials and high-security facilities. Furthermore, the NIS director is responsible for the planning and coordination of tasks related to intelligence and security.[46]

The agency also is responsible for investigations of alleged crimes of insurrection and treason under the criminal code, crimes of mutiny and illegal use of encryption under the Military Criminal Act, crimes prescribed by the Military Secrets Protection Act, and crimes as defined under the National Security Act [國家保安法]. The NIS authority for criminal investigations also covers alleged crimes related to the official duties of NIS staff. In addition to its traditional intelligence and security duties, the NIS manages affairs related to industrial espionage, counter-terrorism, and cyber security.

The organisational structure of the NIS is mostly confidential.[47] The director organises the NIS and determines the total number of personnel with the president's approval. The agency can employ officers in addition to the director, deputy director, and the head of its Planning and Coordination Office, including more than one deputy director.

Since its inception, the NIS has maintained three deputy directors with each heading a separate bureau for foreign intelligence, domestic intelligence and security, and North Korea intelligence. In 2009, former NIS director Wŏn Se-hun reorganised the three bureaus into analysis, collection, and technical (scientific) intelligence, respectively. The North Korea Strategy Department [對北戰略局], which had been under the third deputy director who managed the North Korea Intelligence Bureau, was disbanded, and the North Korea bureau was moved to the analysis department under the first deputy director. These moves were not without controversy, in the eyes of some depleting ROK's intelligence capacities vis-à-vis the North.[48]

The current Park government mostly has maintained the organisational structure established by former NIS Director Wŏn. The First Bureau is responsible for intelli-

minister and NSPA director", Yonhap News Agency, 6 June 2011]; "[1월 27일-역사 속 오늘] '전두환의 남자' 장세동, 구속되다", *시사위크*, 2014년 1월 27일 ["[27 January-Today in History] 'Chŏn Du-Hwan's man' Chang Se-dong got arrested", *Sisaweek*, 27 January 2014]; "[초대석] 이종찬 DJ정부 초대 국가정보원장", *동아일보*, 2013년 12월 30일 ["[Invitation] Yi Jong-ch'an, the first NIS director of the Kim Dae-jung government", *Donga Ilbo*, 30 December 2013]; "국정원장 내정된 고영구, 누구인가", *프레시안*, 2003년 3월 26일 ["The NIS director nominee Go Yŏng-gu, who is he?", *Pressian*, 26 March 2003]; 황준범, 강희철, "국정원장 원세훈…'친위세력' 전면 배치", *한겨레*, 2009년 1월 18일 ["NIS Director Wŏn Se-hun …President Lee Myung-bak brings his 'old guard' to the front", *The Hankyoreh*, 18 January 2009].

[46] 정보및보안업무기획조정규정 (대통령령 제21214호) 제3조 [Article 3, Regulation on Planning and Coordination of Intelligence and Security Operations (Presidential Decree No. 21214)].

[47] The organisation, location and the total number of NIS staff can be kept confidential when it is necessary for national security (Article 6 of NIS Act). See also Act on the Staff of NIS.

[48] The reorganisation also included a significant reduction in the number of North Korea information officers, which has been criticised as having a negative impact on South Korea's HUMINT capabilities. Some people argue that this contributed to the NIS failure to learn of Kim Jong-il's death until the official announcement by North Korean state media. See "[김정일사망] 대북전략국 폐지, 정보요원 감축…'휴민트' 급속붕괴", *국민일보*, 2011년 12월 20일 ["[Kim Jong-il's death] Disbanding North Korea Strategy Bureau and reducing intelligence officers may have led to rapid HUMINT loss", *Kookmin Ilbo*, 20 December 2011].

gence on North Korea and ROK national interests overseas; the Second Bureau conducts investigations into domestic communist activities, terrorism, counter-espionage, and public security intelligence; the Third Bureau is responsible for SIGINT (signals intelligence) and scientific (technical) intelligence.[49]

The NIS can request other government institutions to provide military officers or public servants to serve as temporary liaison officials at the NIS. These officials hold their NIS positions concurrently with those of their principal institutions but are supervised by the NIS while on their temporary assignments. The NIS director decides the total number of temporary liaison personnel in consultation with the ministers or directors of other institutions, and the president gives final approval. For example, the NIS has a defence aide position that is filled by an active duty military officer to provide military advice and information to the NIS director in addition to serving as a communication link with the defence minister. In sum, these NIS liaison officials are intended to provide a channel for the ROK intelligence community to communicate and share information.

D. *Military Intelligence*

ROK military intelligence, initially cultivated under U.S. tutelage during the U.S. military government in Korea, expanded significantly during and after the Korean War. ROK military intelligence included tactical collection units within the service branches that fed into their respective service branch headquarters and the ROK Combined Staff Council, the predecessor to the Joint Chiefs of Staff (JCS).[50] The current ROK JCS structure includes an intelligence division (J-2) that provides operational intelligence to the JCS chairman in support of real or anticipated military operations. The ROK military, in an attribute reinforced by the Korean War, has been very army-centric.

1. Joint Chiefs of Staff J-2

The National Military Organisation Act [NMOA, 國軍組織法] provides the legal basis for the establishment of the Joint Chiefs of Staff (JCS), which is responsible for the command and control of ROK military operations. The JCS also advises the defence minister and the president on military matters. The JCS Directorate for Intelligence [J-2, 情報本部] provides tactical intelligence support for military operations.[51] Division-level and corps-level intelligence units report to service branch headquarters, which in turn report to the Intelligence Fusion Centre [情報綜合室]. This centre is

[49] The first deputy director, Han Gi-bŏm, previously served as NIS third deputy director when that department was responsible for intelligence on North Korea. The Second Bureau director, Sŏ Ch'ŏn-ho, previously served as an administrator and planner in the Seoul National Police Office, and he was the chief of police in Pusan and in Kyŏnggi Province. The Third Bureau director, Kim Kyu-sŏk, is a retired army general and former president of the ROK Army Intelligence and Communications School. "국정원 1차장 한기범•2차장 서천호•3차장 김규석", 연합뉴스, 2013년 4월 12일 ["NIS 1st Deputy Director Han Gi-bŏm•2nd Deputy Director Sŏ Ch'ŏn-ho•3rd Deputy Director Kim Kyu-sŏk", Yonhap News Agency, 12 April 2013].

[50] The Combined Staff Council [聯合參謀會議] was established on 7 December 1948. The name was changed to the Joint Staff Council [合同參謀會議] on 17 February 1954, and to its current name, the Joint Chiefs of Staff [合同參謀本部] on 1 June 1963. See the JCS website, http://jcs.mil.kr/.

[51] Crisis Group interview.

jointly operated by the JCS J-2 and the Korea Defence Intelligence Agency (KDIA).[52] The KDIA and JCS J-2 serve slightly different functions, but basically work side-by-side, rendering much of their work redundant. Many of their personnel are former military colleagues or former classmates, and they generally coordinate to process and analyse the intelligence collected from field units.[53]

2. The Korea Defence Intelligence Agency

The KDIA director is a general officer who reports directly to the defence minister and has a broad mandate covering a wide-range of intelligence activities.[54] The director has command and control of the units under the KDIA and he supports the JCS chairman with regards to military and strategic intelligence. While the KDIA director has nominal control of the budget, the NIS is said to have influence over final budgets.[55] Furthermore, the NIS is said to have "infiltrated the KDIA", but military intelligence officers do not have the same internal access to the NIS.[56]

The KDIA director has three institutions under his or her management for collection and processing of intelligence data: the Defence Intelligence Command (DIC); the 777 Command; and the National Geospatial-Intelligence Agency (NGIA).[57] The KDIA analyses data collected by field units. The process of drafting budgets, resource planning, tasking, collection and analysis is said to be adequate.[58]

However, a significant drawback in the ROK's military intelligence process is said to be the "corporate culture" or "drinking buddy syndrome" whereby assignments and promotions can be determined more by personal connections than merit.[59] Juniors are strongly discouraged from challenging the authority, directives, assumptions and analytical conclusions of their seniors. This, in the views of some, can lead to a

[52] 최강, "국방정보론", 제3 장, 문정인 편저, *국가정보론*(서울, 2002), 73-76 쪽 [Ch'oi Kang, "National Defence Intelligence Theory", Chapter 3 in Moon Chung-in (ed.), *Essays on National Intelligence* (Seoul, 2002), pp. 73-76].

[53] Crisis Group interviews.

[54] See the Executive Order on the [Korea] Defence Intelligence Agency. Specifically, it stipulates that the KDIA is responsible for: integrating and managing defence intelligence policies and planning; assessing international trends; collecting, analysing, producing and disseminating foreign military intelligence; collecting, analysing, producing and disseminating military strategic intelligence; providing necessary intelligence support for foreign military diplomacy and defence industries; dispatching and supervising military attachés stationed abroad; cooperating with foreign military attachés assigned to the ROK and exchanging intelligence with foreign countries; drafting and managing the budgets for special military intelligence units under the JCS, the individual army corps, and the operational commands of the service branches; supporting security policies for cyber security, military security, and defence industry security; establishing military intelligence capacity; military technical intelligence; military-related geospatial intelligence; other military intelligence matters as required.

[55] Crisis Group interview.

[56] Crisis Group interview.

[57] The DIC [情報司令部] is responsible for the collection of HUMINT, IMINT (Imagery Intelligence) and MASINT (Measurement and Signature Intelligence). It also conducts research and provides support in these areas, and provides counter-measures in support of counter-intelligence. The 777 Command is tasked with support, research and collection of SIGINT. The NGIA [國防地形情報團] is responsible for the collection and integration of IMINT.

[58] Crisis Group interview.

[59] Crisis Group interview.

top-down group think whereby lower ranking analysts or intelligence officers will tell their superiors what they believe their superiors want to hear.[60]

3. The Korea Institute for Defence Analyses

The Korea Institute for Defence Analyses [KIDA, 韓國國防研究院], established in 1987, is the defence ministry think-tank. Its civilian and active duty military personnel conduct scientific, quantitative and policy research in the realm of security studies. The focus on the DPRK was deepened in 2007 with the establishment of the Centre for North Korean Military Studies.[61] KIDA does longer-term, academic-style research and assessments of DPRK weapon systems and military doctrine in contrast to KDIA's and J-2's focus on short-term tactical intelligence. In the past, KIDA has not been immune to allegations of politicisation. During the Roh Moo-hyun [No Mu-hyŏn] administration, its researchers were reportedly told by the Blue House to "downplay North Korean nuclear capabilities because assessments describing advanced nuclear capabilities could obstruct Roh's engagement policy with Pyongyang".[62]

E. *Unification Ministry Intelligence and Analysis Bureau*

The unification ministry Intelligence and Analysis Bureau [IAB, 情勢分析局] provides multiple-source intelligence products in support of national policies toward North Korea and unification. The bureau analyses DPRK open source materials to understand trends in North Korean politics, economics, military affairs, society and culture.[63] The bureau also utilises information from defectors and other classified sources. Although some publications are unclassified, including summaries of DPRK media reports, about 80 per cent of the bureau's products are classified.[64] The IAB also produces in-depth studies, current intelligence (nearly daily situational updates), and estimates (assessments about the future). ROK government consumers increasingly have demanded more current intelligence reports from the bureau.[65]

F. *The Supreme Prosecutors Office*

The Supreme Prosecutors Office (SPO) has specialised departments that collect, process and analyse intelligence. First, the Office of Criminal Intelligence Planning, which is composed of two divisions, focuses on criminal activities. Its director and two deputy directors assist the deputy prosecutor general on criminal intelligence.[66]

Secondly, the SPO's Public Security Department, which is composed of three divisions, performs intelligence activities. The first division deals with cases that involve communist activities, terrorism, immigration, as well as inter-Korea exchanges

[60] Crisis Group interviews.
[61] Korea Institute for Defence Analyses website, http://www.kida.re.kr/.
[62] Crisis Group interview.
[63] 국가정보포럼, *국가정보학* (서울, 2006), 265쪽 [State Intelligence Forum, op. cit., p. 265].
[64] Crisis Group interview.
[65] Crisis Group interview.
[66] Article 3 of the Organisation Regulations for the Prosecutors' Office. The first deputy director assists the director in collecting and managing intelligence on corruption, hindrance to economic order and open criminal activities in newspapers, broadcasts, publications and communications. The second deputy assists in collecting and managing intelligence on public security cases that involve communist, social or religious organisations, cases related to elections or labour issues or that involve educational institutions or external affairs including foreigners in South Korea.

and cooperation. The second deals with cases related to elections, political parties and political funds. The third deals with public security cases that involve labour issues, educational institutions, social or religious organisations and group action.[67]

[67] Article 8 of the Organisation Regulations for the Prosecutors' Office stipulates that the director general of the Public Security Planning Bureau assists the director of the Public Security Department in collecting, managing and analysing intelligence on, and assessing threats to, public security.

IV. **Scandals and Public Criticism**

The NIS and its predecessors all have had the authority to investigate crimes or criminal activities related to national security and subversion of the ROK government.[68] This authority is a legacy of the Korean War, the ROK's pre-democratic past, and the blurring of internal and external national security threats from subversion, sabotage, insurrection, armed rebellion, military attack and war.[69] This structure reduces the risk of intelligence failure due to stovepiping, whereby government agencies fail to share information related to diverse, complex threats.[70] However, extensive NIS powers and secrecy combined with little if any oversight, arguably enable the NIS to define unreasonably expansively, and investigate, activities it deems are a threat to national security. In most cases, the interpretations are clear, but in some cases critics argue that broad charges of illegal activities under the National Security Act[71] have led to civil rights abuses and unwarranted legal prosecutions.[72]

[68] 김당 [Kim Dang], op. cit., pp. 576-578; NIS Act.
[69] 국가정보포럼, *국가정보학*(서울, 2006), 258쪽 [State Intelligence Forum, op. cit., p. 258].
[70] For example, many critics argued that the U.S. structure separating domestic counter-intelligence and foreign intelligence functions between the FBI and CIA contributed to the September-11 intelligence failure because the two agencies were unable to share relevant data. U.S. intelligence reform in 2004 aimed to break down those barriers. Some South Koreans believe this validated the ROK's inclusion of both domestic and foreign intelligence functions within a single agency, the NIS. National Security Forum, op. cit., p. 258.
[71] The National Security Act outlaws the DPRK and regulates how ROK citizens interact with the DPRK. Any praise or expressions of approval for the country are prohibited as support for an anti-state entity.
[72] For example, the first of two People's Revolution Party (PRP) incidents took place in 1964 when the KCIA detained 41 students, teachers and journalists, arguing that they had formed an organisation, the PRP, to overthrow the government on orders from the Workers Party of Korea in Pyongyang. Thirteen were indicted and found guilty by the Supreme Court in September 1965. However, four prosecutors refused to indict them and resigned. The second case occurred in 1974 with allegations that the Committee for the Reestablishment of the PRP (CRP) was behind a campaign by the Democracy Youth and Student League against President Park Chŏng-hŭi's Yushin regime. On 8 April 1975, the Supreme Court conferred death sentences for eight anti-Yushin activists who the KCIA claimed were CRP members. They were executed eighteen hours later. Another seventeen people were sentenced to prison terms of fifteen years to life. The petition for a retrial was accepted in December 2005, and the court acquitted most of the people who had been found guilty, including the eight who were executed. When Chŏn Du-hwan seized power in a military coup on 17 May 1980, Kim Dae-jung was detained on the same day on charges of treason. A military court sentenced him to death in November. The sentence was later commuted to life imprisonment, and then to twenty years. In December 1982, his prison term was suspended, and he was eventually acquitted in January 2004 after a retrial. More recently, on 11 January 2012, Park Chŏng-gŭn, a 23-year-old photographer, was detained for reposting and uploading songs and posters from North Korean websites to his Twitter account in violation of Article 7 of the National Security Act. Park explained that he intended to satirise the North Korean regime and leaders, yet he was initially found guilty. He was acquitted on the second trial on 22 August 2013, but the prosecution has appealed to the higher court. "김지하, '인혁당 조작 사건' 동아일보에 폭로", *동아일보*, 2013년 7월 22일 ["Kim Ji-ha exposed the 'fabrication of PRP incident' to Donga Ilbo", *Donga Ilbo*, 22 July 2013]; "'1차 인혁당 사건' 48년만에 재심서 무죄", 연합뉴스, 2013년 11월 28일 ["The court has acquitted 'the first PRP incident' on the retrial after 48 years", Yonhap News Agency, 28 November 2013]; "내란음모 재심 DJ에 무죄선고", *한겨레*, 2004년 1월 30일 ["Kim Dae-jung was acquitted of rebellion conspiracy", *The Hankyoreh*, 30 January 2004]; "'리트윗 보안법' 논란 박정근, 2심서 무죄", *경향신문*, 2013년 8월 22일 ["Park Chŏng-gŭn, who had caused 'retweet security act' controversy, was found innocent on the second trial", *The Kyunghyang Shinmun*, 22 August 2013].

Public concerns over the politicisation of intelligence and the direct intervention of the intelligence services in domestic politics became part of the public discourse following democratisation in the late 1980s. The general view was that the powers of intelligence agencies should be checked to minimise abuses, particularly after the disclosure by an army private in October 1990 that the Defence Security Command (DSC) was investigating civilians.[73] The DSC investigative powers were expanded to investigate the KCIA and President Park's assassination in October 1979. The authority to investigate civilian cases was returned to the KCIA successor, the National Security Planning Agency, in 1984, but the DSC did not discontinue its surveillance and investigation of civilians. In June 1994, a permanent National Assembly committee, the Intelligence Committee, was established to provide oversight and reduce the risks of abuses, but as mentioned above, its powers are limited.[74]

Further, policymakers in the presidential office and the National Assembly are said to lack an understanding of the intelligence process.[75] The lack of trust or confidence goes both ways. For example, a former senior official told Crisis Group that he did not trust intelligence from the NIS and that he often sought information from alternative sources.[76]

In South Korea, the intelligence community is influenced by a culture and education system that emphasises rote learning and exams for recruitment and promotion. Confucian traditions prescribe loyalty and obedience to senior colleagues, arguably creating a "group think" culture whereby personnel accept the analytical assumptions of superiors without serious challenge.[77] Furthermore, ROK intelligence officers often discount or dismiss foreign analysis of North Korea since "they automatically believe they understand North Korea and North Koreans better than anyone else can".[78]

It is in this overall context that the following, contemporary ROK intelligence failings need to be understood and assessed.

A. *The 2012 Presidential Election and the NIS*

In the fall of 2012, South Korea became embroiled in a scandal surrounding accusations that the NIS tampered in the presidential election to ensure the victory of ruling party candidate Park Geun-hye over opposition candidate Moon Jae-in. Park won the 19 December 2012 presidential election in a very close race (51.6 per cent to 48.0 per cent).[79]

1. October 2007 inter-Korean summit transcript

The scandal is multifaceted and has resulted in indictments of the former NIS director, Wŏn Se-hun, the former chief of the Seoul Metropolitan Police Agency, and two

[73] 김당 [Kim Dang], op. cit., pp. 576-577.
[74] 국가정보포럼, *국가정보학*(서울, 2006), 258쪽 [State Intelligence Forum, op. cit., p. 258]
[75] A source told Crisis Group that they "have no understanding of intelligence matters and that this is a big problem". Others expressed a lack of confidence in the understanding of intelligence matters in government bureaucracies. Crisis Group interviews.
[76] Crisis Group interview.
[77] Some analysts and scholars believe this is a serious problem, but former NIS Deputy Director Yŏm Don-jae disagrees and believes it is improving. Crisis Group interviews; email correspondence, Yŏm Don-jae, 28 April 2014.
[78] A Crisis Group source described this as "very problematic". Crisis Group interview.
[79] The ROK president is elected by simple majority for a single, non-renewable five-year term.

NIS employees. One dimension of the scandal refers to a leaked transcript of the October 2007 inter-Korean summit in Pyongyang. On 8 October 2012, Chŏng Munhŏn [Chung Moon-hun], a National Assembly member of the ruling Saenuri Party (SNP), first referenced the transcript that he asserted included statements by former President Roh Moo-hyun regarding the Northern Limit Line (NLL) – including that it could be nullified – in the Yellow Sea.[80] The opposition Democratic United Party (DUP) viewed this as an attempt to smear its candidate Moon Jae-in, since he was Roh's chief of staff at the time of the summit. At the time, some polls showed Park Geun-hye trailing her opponents Moon Jae-in and independent An Ch'ŏl-su.[81]

Many people were surprised that Chŏng would have had access to the transcript and disclose it.[82] Former President Roh was deceased, and since the transcript was classified, no one could confirm or falsify his claims. The lead-up to the election was a firestorm of controversy and mud-slinging between the ruling and opposition parties, and between the Park and Moon campaigns.[83] Some suspected that Chŏng had received the transcript – either the true copy or a manipulated one – from the NIS.[84] However, according to Crisis Group sources, Chŏng read it while he was working in the Blue House under President Lee Myung-bak's [Yi Myŏng-bak] national security adviser, Ch'ŏn Yŏng-u.[85] Many people had suspected that Chŏng was put up to the task by the Park campaign or conservatives in the Lee government who wanted to prevent a Moon victory.[86] However, another argument holds that such a conspiracy

[80] "Late President Roh allegedly agreed to nullify NLL: lawmaker", *The Korea Times*, 8 October 2012. Chung's accusation came only seventeen days after South Korean patrol boats fired warning shots at North Korean fishing boats that had crossed the NLL. The North Korean military and state media also were issuing bellicose statements in the late summer that sounded much like the threats that preceded the March 2010 sinking of the *Ch'ŏnan*. "S. Korean Navy's intrusion into territorial waters of DPRK censured", KCNA, 22 September 2012; "N. Korea threatens military action amid maritime tension", *The Korea Times*, 22 September 2012; "'S. Korea deployed F-15K during maritime border incident'", *The Korea Times*, 22 September 2012; "NK fishing boat violates western sea border again", *The Korea Times*, 27 September 2012; "Only death awaits S. Korean warmongers: NDC Policy Department", KCNA, 29 September 2012.

[81] "Poll: Park Geun-hye trails both Moon and Ahn head-to-head", *The Hankyoreh*, 8 October 2012.

[82] Crisis Group interviews; "Political parties square off over late president's alleged disavowal of NLL", Yonhap News Agency, 30 October 2012; "Prosecutors drop all charges on 'NLL transcript'", *The Kyunghyang Shinmun*, 22 February 2013; "Ruling party lawmaker summoned over alleged summit transcript leak", Yonhap News Agency, 19 November 2013; "Opposition protests result of NLL probe", *The Korea Herald*, 10 June 2014.

[83] "Parties lock horns over Roh's alleged bid to nullify NLL", *The Korea Times*, 12 October 2012; "Saenuri ups pressure on opposition over NLL", *The Korea Times*, 14 October 2012; "Negative campaigns build", *The Korea Herald*, 14 October 2012; "Partisan dispute over NLL gets ugly", *The Korea Herald*, 18 October 2012; "Political parties square off over NLL", *The Korea Times*, 30 October 2012; "DUP to file charges in NLL dispute", *The Korea Herald*, 30 October 2012; "Park, Moon mobilize feisty mouthpieces to do dirty work", *The Korea Times*, 26 November 2012.

[84] "새누리당 '노무현 前 대통령 NLL포기 취지 발언 했다'", *매일경제*, 2013년6월 20일 ["Saenuri Party, 'Former President No Mu-hyŏn announced his purpose of abandoning the NLL'" *Maeil Kyŏngje Sinmun*, 20 June 2013].

[85] Chŏng read a hardcopy provided by the NIS while working at the Blue House and was referencing the document through memory during the October 2012 National Assembly hearing. Crisis Group interview.

[86] For example, Democratic Party lawmaker Pak Yŏng-sŏn said she believed the controversy over former President Roh and the NLL was a conspiracy fabricated by the Saenuri Party and the NIS. "'NLL 포기 발언'으로 전선 확대", *경상일보*, 2013년 6월 19일 ["Battle expands over 'announcement to abandon the NLL'", *Kyŏngsang Ilbo*, 19 June 2013].

would have been difficult to keep secret, and that Chŏng was more likely to have discussed the transcript during the National Assembly hearing on his own initiative to appeal to his conservative constituents.[87]

The parties debated whether the transcript should be released. The National Assembly has the legal authority to disclose presidential records if two-thirds of its members approve.[88] The opposition Democratic Party (DP) argued that doing so would violate the law and potentially damage inter-Korean relations. The DP also appears to have been concerned that the NIS copy of the transcript could have been doctored to defame DP members, particularly presidential candidate Moon Jae-in.[89]

For conservatives who assert that the NLL meets the legal definition of a maritime boundary, the release of the transcript unveiled "treasonous" acts by former President Roh and his advisers that potentially could "surrender the ROK's territorial waters".[90] Members of the ruling Saenuri Party (SNP) thus sought the disclosure of the transcript, or at least relevant excerpts, both to highlight the national security concerns and to discredit former President Roh and his associates still active in politics.

Then-NIS Director Nam Jae-jun took the matter into his own hands releasing the transcript to SNP members of the National Assembly's Intelligence Committee on 20 June 2013.[91] Four days later, he released it to all National Assembly members,[92] who then disclosed the text to the media. The National Assembly subsequently passed a resolution on 2 July to release all archival materials related to the October 2007 inter-Korean summit.[93]

Nam claimed to have made the decision himself to release the transcript to "defend the honour of the NIS".[94] Many refuse to believe that he released it without first consulting with President Park.[95] Although it has not been possible to prove whether Nam consulted with the president or not,[96] there are three possibilities, each with negative implications.

[87] Crisis Group interview.
[88] 대통령기록물관리법 [Presidential Records Management Law]. "Partisan dispute over NLL gets ugly", *The Korea Herald*, 18 October 2012; "Political parties square off over NLL", *The Korea Times*, 30 October 2012; "DUP to file charges in NLL dispute", *The Korea Herald*, 30 October 2012.
[89] Crisis Group interviews.
[90] For example, see "Summit transcripts throw new light on Roh's view of NLL", *The Chosun Ilbo*, 25 June 2013.
[91] "NIS faces a new round of allegations of political interference", *The Hankyoreh*, 22 June 2013. Under pressure to resign, Nam submitted his resignation on 22 May 2014. It was due to a broad government shake-up after the disastrous sinking of the *Sewŏl* ferry on 16 April 2014. "South Korean leader dismisses more aides after ferry disaster", *The New York Times*, 22 May 2014.
[92] "Parties clash over release of minutes", *The Korea Herald*, 24 June 2013; "Did Roh offer to give up NLL or not?", *The Korea Times*, 24 June 2013.
[93] Of the 276 lawmakers present, 257 voted for the resolution and seventeen against. There were two abstentions. "[News analysis] Main parties agree to release all records of 2007 inter-Korean summit", *The Hankyoreh*, 3 July 2013.
[94] "'We wanted to defend our honor'", *The Korea Times*, 25 June 2013; "Did the president know about it?", *The Korea Times*, 26 June 2013.
[95] Crisis Group interviews; "[단독] 이종석 '기밀인 회의록 불법 공개한 정문헌, 감옥에 보내야 한다'", *경향신문*, 2013년 7월 4일 ["[Exclusive] Yi Jong-sŏk, 'Chŏng Mun-hŏn must be sent to jail for illegally disclosing the secret transcript'", *The Kyunghyang Shinmun*, 4 July 2013]; "대통령 지시인가, 남재준 거사인가 국정원 대변인 성명이 나온 이유", *한겨레*, 2013년 7월 12일 ["President's directive? Nam Jae-jun's insubordination? The reason the NIS spokesman's statement was issued", *The Hankyoreh*, 12 July 2013.
[96] The president has not commented on the transcript's release by Nam.

First, Nam could be telling the truth and he took the initiative on his own to release the transcript without informing the president. However, this would constitute a significant act of insubordination as the release of the transcript could have a tremendous impact on the president's ability to conduct inter-Korean policy and foreign policy – it could compromise the ability to engage in candid, confidential dialogue.

Secondly, President Park could have delegated the decision on the transcript disclosure to Nam. It seems extremely implausible given the obvious significance of the issue that Park could have been indifferent. Furthermore, such action would mean that Nam and Park misrepresented the sequence of events by stating or implying that Nam released the transcript without consulting the president.

Thirdly, Nam could have consulted with President Park over the transcript, and she could have given permission for its release but with deniability for her. In this case, both Nam and Park would be lying. This would undermine public trust in the NIS and damage the agency's credibility.[97]

2. Pro-Park and anti-Moon internet comments

The second aspect of the NIS election scandal is related to accusations that the NIS interfered in the election by uploading website comments critical of Moon and supportive of Park. Only one week before the election, opposition DUP representatives filed a complaint with the Seoul Metropolitan Police Agency (SMPA) and the National Election Commission (NEC) alleging that NIS agents were submitting online comments denouncing Moon in violation of the National Intelligence Service Act and the Public Offices Election Law.[98]

Public suspicions of NIS political activities and electoral intervention undermined confidence in the agency and its legal obligation to maintain neutrality in domestic politics.[99] Many opposition party members and supporters still question the legitimacy of Park's electoral victory, which has obstructed her efforts to build a national consensus for her policy agenda.[100] Furthermore, the scandal has rejuvenated memories of past interventions in domestic politics by the intelligence services prior to democratisation in the late 1980s.[101]

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[97] For a discussion of these scenarios, see "회의록 공개한 남재준…'충분히 그럴 사람'", *오마이뉴스*, 2013년 7월 3일 ["Nam Jae-jun who released the transcript…'It is very much like him'", *Ohmynews*, 3 July 2013]; "철저한 원칙주의자, 폭풍 정국의 중심에 서다", *한국일보*, 2013년 6월 28일 ["An out-and-out fundamentalist in the centre of the stormy political situation", *The Hankook Ilbo*, 28 June 2013].

[98] "NIS accused of anti-Moon campaign", *The Korea Times*, 12 December 2012; "Political dogfight moving onto SNS", *The Korea Herald*, 12 December 2012; "DUP gears up offensive on intelligence agency", *The Korea Times*, 13 December 2012.

[99] During the summer of 2013, large street protests against the NIS were held almost weekly in downtown Seoul. Although public opinion is divided on complex intelligence issues, protesters called for reform or the dismantlement of the NIS. Crisis Group interviews; "Uphill battle for NIS nominee", *The Korea Herald*, 11 June 2014; Kim Jiyoon and Karl Friedhoff, "Complex and Confusing: Public Opinion Reaction to the NIS Scandals", The Asian Institute for Policy Studies, Issue Brief no. 68, 22 August 2013.

[100] "[Interview] One year into the Park Geun-hye administration", *The Hankyoreh*, 18 December 2013; "[President Park Geun-hye's first year] 'Her' principles over campaign pledges, far from public opinion and an obstacle to state affairs", *The Kyunghyang Shinmun*, 24 February 2014; "[Editorial] Agenda for 2014", *The Korea Herald*, 30 December 2013.

[101] Noteworthy examples include allegations of vote rigging during the 1971 presidential election when incumbent President Park narrowly defeated Kim Dae-jung; the KCIA's kidnapping of Kim Dae-jung from his Tokyo hotel room in August 1973; and the declaration of martial law in May

As the scandal unfolded in March 2013, the NIS came under greater public scrutiny and alleged evidence appeared to implicate former NIS Director Wŏn Se-hun.[102] Wŏn and former Seoul Metropolitan Police Agency Chief Kim Yong-p'an were detained on 14 June 2013 and accused of having abused their authority and having interfered in the presidential election.[103] Wŏn also was indicted for corruption on 10 July for allegedly taking bribes from a construction company (see below).[104] Kim Yong-p'an was acquitted in February 2014 but Wŏn's trial regarding alleged violations of electoral laws and the NIS Act has yet to conclude.[105]

On the same day as Wŏn's indictment, the NIS declared it was forming a task force for "self-reform" for a "second round of reform measures" so as to focus on national security, counter-espionage and counter-terrorism. Two days earlier, President Park had ordered the NIS to "reform itself".[106]

3. Wŏn Se-hun's politicisation of intelligence and legal troubles

Wŏn Se-hun, the second NIS director under President Lee Myung-bak, was a municipal administrator who had served in a number of public offices for 29 years, mostly in Seoul prior to his NIS appointment. When Lee was Seoul mayor (2002-2006), Wŏn played a prominent role in guiding Lee's projects to revamp the city bus system and to restore a stream (Chŏnggyech'ŏn) in downtown Seoul, contributing greatly to Lee's popularity and presidential victory.

Wŏn backed Lee in his 2007 presidential bid and he replaced former NIS Director Kim Sŏng-ho one year into Lee's five-year term and until the end of his presidency.

1980. Namhee Lee, *The Making of Minjung: Democracy and the Politics of Representation in South Korea* (Ithaca, 2009), p. 34; "1973 kidnapping of Kim Dae Jung was approved by Korean president, panel finds", *The New York Times*, 24 October 2007; Don Oberdorfer and Robert Carlin, *The Two Koreas: A Contemporary History* (Philadelphia, 2014); William Gleysteen, *Massive Entanglement, Marginal Influence: Carter and Korea in Crisis* (Washington, 2000); John A. Wickham, *Korea on the Brink: A Memoir of Political Intrigue and Military Crisis* (Dulles, 2000).

[102] "Spy watchdog illegally involved in politics", *The Korea Times*, 18 March 2013; "Lawmaker claims NIS chief ordered election interference", *The Korea Herald*, 18 March 2013; "New evidence that NIS director ordered interference in politics", *The Hankyoreh*, 18 March 2013; "Former NIS chief barred from fleeing the country", *The Hankyoreh*, 25 March 2013; "[Newsmaker] Former spy chief accused of political intervention", *The Korea Herald*, 25 March 2013.

[103] "Former chiefs of NIS, Seoul police indicted over election interference", *The Korea Herald*, 14 June 2013; "South Korean former spy chief accused of election meddling", Associated Press, *The Guardian*, 14 June 2013; "Prosecutors: former NIS chief ordered systemic political interference", *The Hankyoreh*, 15 June 2013.

[104] "Former South Korean spy chief charged with bribery", *The New York Times*, 10 July 2013; "Ex-NIS chief detained over bribery charges", *Korea Joongang Daily*, 12 July 2013.

[105] "Former Seoul police chief acquitted", *The Korea Times*, 6 February 2014; "DP howls over former police chief's acquittal", *Korea Joongang Daily*, 8 February 2014. Kim Yong-p'an again was acquitted in the court of appeals on 5 June 2014. The Seoul High Court upheld the lower court ruling, citing that Kim's acts cannot be judged as campaign activities. "Appeals court upholds acquittal of ex-Seoul police chief", Yonhap News Agency, 5 June 2014. Regarding former NIS Director Wŏn Se-hun's case, on 14 July 2014, prosecutors demanded a four-year prison term and the suspension of some civil liberties for four years after his release. Wŏn has denied all charges against him. The Seoul Central District Court will announce the verdict on 11 September. "Ex-intelligence chief denies charges in NIS election scandal", Yonhap News Agency, 8 July 2014; "Four-year prison term sought for ex-spymaster in election meddling", Yonhap News Agency, 14 July 2014.

[106] "NIS vows focus on terror, not politics", *The Korea Herald*, 10 July 2013; "NIS attempts to defend release of 2007 inter-Korean summit transcript", *The Hankyoreh*, 11 July 2013; "NIS head rekindles NLL dispute", *The Korea Times*, 11 July 2013.

Wŏn's lack of experience in intelligence matters was apparent to senior presidential advisers. A former official told Crisis Group that "Wŏn was in over his head and did not know anything about intelligence and did not know how to manage an intelligence bureaucracy". Furthermore, the official did not trust the intelligence products provided by Wŏn so he frequently "sought alternative data and information because he thought the intelligence Wŏn provided was not that good".[107]

During meetings with the president and senior officials at the Blue House, Wŏn allegedly frequently claimed that North Korea was on the brink of collapse and that it was urgent for Seoul to prepare for sudden unification. Others disagreed with his assertions, and when asked for evidence or intelligence supporting his claims, Wŏn never provided any.[108] Nevertheless, he eventually was able to persuade Lee so the president began to reflect this position in policy speeches.[109]

On 10 July 2013, Wŏn was arrested on charges of bribery and personal corruption, a case separate from the allegations against the NIS for having intervened in the 2012 election. Wŏn was suspected of using his influence to help a construction company promptly receive a permit from the Korea Forest Service to build a new training centre for Samsung Tesco in return for cash, gold and other gifts worth up to ₩170 million (about $166,000) from July 2009 to December 2010.[110] Wŏn claimed that he never received bribes and the evidence that the prosecutors submitted was not credible.[111] However, the evidence submitted by the prosecutors was recognised as admissible and Wŏn was found guilty. On 22 January 2014, he was sentenced to two years in prison with a fine of ₩162 million (about $158,000).[112] Wŏn appealed the verdict to the High Court and continues to deny the charges of bribery.[113] On 22 July 2014, the High Court reduced his sentence by ten months, finding that some of the money he received from the construction company was not a bribe. Accordingly, his fine was reduced to ₩100.8 million (about $98,460).[114]

4. The scandal spreads to the defence ministry Cyber Command

During the summer of 2013, prosecutors continued their investigation of the 2007 summit transcript and the uploading of online pro-Park comments. As often is the

[107] Crisis Group interview. Another source told Crisis Group that morale in the NIS plummeted so much during Wŏn's tenure that about ten NIS officers committed suicide while he was director.
[108] Crisis Group interviews.
[109] "Lee proposes unification tax", *The Hankyoreh*, 16 August 2010; "Duty calls: Talk in South Korea of a new levy to pay for unification with the North" *The Economist*, 19 August 2010; "South Korea plans $50 Billion fund to pay for unification with the North", Bloomberg, 1 November 2011.
[110] "원세훈, 건설업자한테 달러•귀금속 1억 7천만원 받아", 연합뉴스, 2013년 7월 26일 ["Wŏn Se-hun received ₩170 million in U.S. dollars and jewellery from a construction contractor", Yonhap News Agency, 26 July 2013].
[111] "원세훈 전국정원장 '개인비리'로 구속 수감", *경향신문*, 2013년 7월 11일 ["Former NIS Director Wŏn Se-hun detained for 'personal corruption'", *The Kyunghyang Shinmun*, 11 July 2013].
[112] "원세훈 '개인비리' 유죄...징역 2년-추징금 1억6천", *오마이뉴스*, 2014년 1월 22일 ["Wŏn Se-hun guilty of 'personal corruption'...sentenced to two years and fined ₩160 million", *Ohmynews*, 22 January 2014].
[113] "억대금품 수수혐의 원세훈 전국정원장 항소심서도 "결백하다"", *경향신문*, 2014년 4월 3일 ["Former NIS Director Wŏn Se-hun says in appeals court he is innocent of suspicions he received about ₩100 million in cash", *The Kyunghyang Shinmun*, 3 April 2014].
[114] "'알선수재' 원세훈 前원장 2심서 징역 1년2월", 연합뉴스, 2014년 7월 22일 ["'Influence peddling' former NIS Director Wŏn Se-hun receives one year and two months in prison in the second trial", Yonhap News Agency, 22 July 2014].

case in South Korea, new scandalous information is discovered during the annual National Assembly audit and hearings in early October. In mid-October 2013, rumours and accusations began to swirl over the scale of NIS online activities and it was alleged that the Cyber Command under the defence ministry, a relatively obscure entity, also had participated in online activities in support of Park Geun-hye's candidacy. The Cyber Command, also known as Unit 530, was established in 2010 to counter DPRK cyber attacks, and was first subjected to a National Assembly review in 2013. The command has about 400 personnel, about half of whom are assigned to its "psychological warfare division".[115]

In response to allegations by lawmakers in October 2013, the defence ministry's Criminal Investigation Command commenced an investigation of the Cyber Command.[116] In December 2013, eleven members of the Cyber Command were indicted for having allegedly posted 2,100 political comments in support of Park Geun-hye during the presidential campaign.[117] However, the scale of the Cyber Command's apparent activities was dwarfed by those of the NIS. On 21 November, prosecutors announced that NIS agents had allegedly posted and re-tweeted 1.2 million messages supporting Park or criticising Moon during the campaign.[118]

The NIS election scandal at the very least raises doubts as to the political neutrality of ROK's pre-eminent intelligence agency. It further raises questions about the NIS's regard for domestic law, while also indirectly highlighting whether political fealty is more valued at senior levels than expertise. Questions still remain as to whether senior NIS officials directed the internet operations in support of presidential candidate Park Geun-hye, or whether lower-level officials did the activities on their own volition. However, at the very least, the activities violate the law and are a misallocation of NIS human resources even if they had no effect upon the election. This episode further tarnished an intelligence service with a reputation in some quarters for political interference.

B. *The Politicisation of Military Intelligence during the 2002 World Cup*

The so-called "second battle of Yŏnp'yŏng Island" occurred on 29 June 2002, during the morning of the World Cup third place match between Turkey and co-host South Korea, and one day before the final held in Japan.[119] The battle between Korean People's Army (KPA) patrol boats and the ROK navy resulted in the sinking of a ROK pa-

[115] "(LEAD) Defense ministry probes cyber command's alleged online smear campaign", Yonhap News Agency, 15 October 2013; "Another state agency found interfering in elections", *The Hankyoreh*, 15 October 2013. The U.S. military now refers to these activities as "military information support operations". For example, see Jordan Stern, "Civil Military Operations & Military Information Support Operations Coordination", *Small Wars Journal*, 1 November 2011.

[116] "Investigators raid agency of military in South Korea", *The New York Times*, 22 October 2013; "(LEAD) Cyber command headquarters raided over alleged smear campaign", Yonhap News Agency, 22 October 2013.

[117] "South Korean officials accused of political meddling", *The New York Times*, 19 December 2013.

[118] "Prosecution finds more evidence of online NIS election activity", *The Korea Herald*, 21 November 2013; "NIS accused of massive pre-poll tweeting", *The Korea Times*, 21 November 2013; "NIS's tweets about elections surpassed 1 million", *Korea Joongang Daily*, 22 November 2013.

[119] "Four killed as North and South Korean Navy vessels trade fire", *The New York Times*, 29 June 2002; "Brazil crowned world champions", BBC, 30 June 2002.

trol boat and the deaths of six South Korean sailors.[120] Eighteen ROK sailors were injured and as many as thirteen North Korean sailors reportedly were killed.[121] Despite the shoot-out, President Kim Dae-jung did not cancel his plans to attend the World Cup final match in Yokohama the next day.

The *Mainichi Shimbun* reported on 2 July 2002 that the ROK government informed the U.S. and Japan of its analysis that the naval clash was more likely accidental than premeditated after examining North Korean communications collected by ROK military intelligence.[122] The two Koreas had a violent naval battle in the same area in 1999, but the number of North Korean intrusions had dropped significantly from 70 in 1999 to fifteen and sixteen in 2000 and 2001, respectively, in the wake of the June 2000 inter-Korean summit.[123] When President Kim returned from Pyongyang he declared "there no longer will be any war in Korea". ROK government and military officials allegedly began to discount the threat of inter-Korean armed conflict.[124]

June is crab fishing season around the NLL so the number of fishing vessels and KPA escort boats was increasing in the lead-up to the 29 June battle. There were also indications that the KPA navy was planning a military operation against the South. On 13 June, 777 Command Unit 5679 intercepted communications between the KPA Navy West Coast Fleet 8th Operational Command [西海艦隊 8戰隊司令部] and a patrol ship. The message conveyed: "Getting ready to fire coastal artillery, don't lower your guard [海岸砲發砲準備中이니 放心말라]". On the same day, a KPA patrol boat crossed the NLL and was pushed back by ROK navy patrol boats. Unit 5679 reported the intercepted data and initial assessment to its higher command and disseminated them to other military units including the U.S.-ROK Combined Forces Command (CFC) and the ROK Second Fleet Command. Even though Unit 5679 is only tasked with collection and the KDIA is the final authority on analysis of intelligence data, the unit said it believed the NLL incursion was intentional and that the KPA navy was preparing an attack; hence, the urgency of the message.[125]

The JCS, KDIA and defence ministry rejected Unit 5679's initial assessment of "intentional incursion" and concluded the NLL crossing was "accidental or unintentional [單純侵犯]".[126] The JCS said the KPA patrol boat appeared to be escorting

[120] For background and details on the naval clash, see Crisis Group Report, *North Korea: The Risks of War*, op. cit., pp. 8-11.

[121] "제2연평해전은 승전…北피해 훨씬 컸다", *동아일보*, 2009년 6월 29일 ["Victory in the second Yŏnp'yŏng sea battle…North's losses much greater", *Donga Ilbo*, 29 June 2009].

[122] According to the *Mainichi Shimbun*, the ROK government shared its analysis during the Japan-ROK summit on 1 July 2002, a day after President Kim attended the World Cup final in Yokohama. "서해교전은 '우발적 가능성' 크다", *프레시안*, 2002년 7월 2일 ["Highly likely the West Sea battle was 'accidental'", *Pressian*, 2 July 2002].

[123] "North Korea sets maritime border to avoid conflicts", *The Korea Times*, 19 June 2002.

[124] Crisis Group interviews; 한철용, *진실은 하나: 제2연평해전의 실체적 진실* (서울, 2010), 81-84쪽 [Han Ch'ŏl-yong, *There is One Truth: The Substantial Truth of the Second Battle of Yŏnp'yŏng* (Seoul, 2010)].

[125] Crisis Group interview, Han Ch'ŏl-yong, Cheju City, ROK, 17 March 2014.

[126] According to Major General Han Ch'ŏl-yong (ret.), the special intelligence disseminated directly from an individual intelligence unit does not attract much attention from other units unless it is highlighted in the defence ministry's consolidated intelligence report. Therefore, although the ROK Fleet Command had received the special intelligence from the 5679 Unit, it did not act on it since the defence ministry did not include it in its consolidated intelligence report. Crisis Group interview, 17 March 2014.

North Korean fishing vessels in that area and there were no unusual movements.[127] However, on the same day as the intercept – 13 June – satellite imagery indicated that the KPA had moved silkworm anti-ship missiles out of their tunnels so they could be fired with little notice; this failed to trigger a reassessment by the KDIA.[128] The next day, KDIA and JCS general officers held a meeting that was attended by Major General Han Ch'ŏl-yong, commander of Unit 5679. Han asserts that he warned the other generals about KPA intentions but they dismissed his concerns and told him he was overreacting.[129]

On 19 June, Major General Kwŏn Yŏng-dal, director of intelligence (J-2) for the JCS, told the press that "North Korea seems to have a self-imposed line aimed at preventing a fleet of boats fishing for blue crabs from operating outside its waters … in the wake of the naval conflict off Yŏnp'yŏng Island [in 1999]". Kwŏn also said the incursions at that time were considered "accidental because only one patrol boat usually intruded … and it immediately retreated without countering our patrol boats' warnings".[130] The ROK prevailing view at the time was that KPA patrol boats had no hostile intent; this assessment was repeated on 27 June when another KPA patrol ship crossed the NLL.[131]

Also on 27 June, Unit 5679 again intercepted communications between the 8th Operational Command and a KPA patrol boat in which the command allegedly mentioned the word "fire [發砲]" once, and the patrol ship responded, "we will fire as soon as we get the order to fire [發砲命令만 내리면 바로 發砲하겠다]".[132] Unit 5679 apparently reported the intercepted data to its higher command, but the JCS and KDIA ignored it again and did not include an assessment of the intercepted communications in the consolidated intelligence report for the Combined Forces Command and others.[133] According to Han Ch'ŏl-yong, the information was sent to General Nam Jae-jun, deputy commander of the CFC under U.S. General Leon LaPorte, but Nam (former NIS director who resigned on 22 May 2014) either missed the report or decided not to pass the information to LaPorte.[134] Nam claims that he did not receive any special intelligence from Unit 5679 regarding the likelihood of a KPA provocation.[135]

[127] "北경비정NLL한때 침범", 연합뉴스, 2002년6월13일 ["A North Korean patrol ship briefly violated the NLL", Yonhap News Agency, 13 June 2002].
[128] Crisis Group interview, Han Ch'ŏl-yong, Cheju City, ROK, 17 March 2014.
[129] Ibid.
[130] "北서해NLL 침범 80% 감소, 99년 교전 후 불필요한 충돌 적극 억제 관측", *경향신문*, 2002년 6월 20일 ["North Korea's NLL violations decreased by 80 per cent, speculations are that North Korea is determined to prevent unnecessary conflicts since the naval clash in 1999", *The Kyunghyang Shinmun*, 20 June 2002].
[131] "NK patrol boats cross NLL", *The Chosun Ilbo*, 28 June 2002.
[132] "2002년 제2연평해전 당시 북한 군부와 北경비정 교신기록 최초 공개", *월간조선*, 2012년 7월 ["The intercepted communications between the North Korean military authorities and the North's patrol boat during the second battle of Yŏnp'yŏng Island disclosed for the first time", *Monthly Chosun*, July 2012].
[133] Crisis Group interview, Han Ch'ŏl-yong, Cheju City, ROK, 17 March 2014.
[134] Ibid.
[135] "'도발징후 통보 받은 적 없다' 주한美軍 한미연합司 부인", *경향신문*, 2002년 10월 8일 ["'Never received a report of provocation signs' USFK CFC denies", *The Kyunghyang Shinmun*, 8 October 2002]. According to Han, Nam threatened to sue Han for defamation and Han welcomed the opportunity to face Nam in court, but Nam never followed up his threat. Crisis Group interview, Han Ch'ŏl-yong, Cheju City, ROK, 17 March 2014. Also see "2010년 '남재준-한철용 대화록' 전문", *한겨레*, 2013년 7월 27일 ["Full text of 'email correspondence between Nam Jae-jun and Han Ch'ol-yong'", *The Hankyoreh*, 27 July 2013].

The following day, one day before the clash, two KPA patrol boats crossed the NLL and retreated about an hour later, but the JCS J-2 maintained that they were simply guarding North Korean fishing boats.[136] These were the same patrol boats that were engaged in the clash and sunk the ROK patrol boat the next day.[137] After the exchange of fire and the sinking of the boat, the JCS still maintained that it was an accident.[138]

Han Ch'ŏl-yong asserts that U.S. General LaPorte paid an unscheduled visit to the ROK defence ministry on 5 July to meet with Defence Minister Kim Dong-shin. LaPorte brought analytical staff and intelligence to support the hypothesis that the recent KPA patrol boat incursions across the NLL were intentional and that the 29 June battle was a planned ambush against the ROK patrol boat. Han asserts that this meeting influenced the ROK defence ministry to change its official position on 7 July regarding the nature of the KPA naval incursions across the NLL and DPRK intent.[139]

Attention subsequently shifted to the question of whether the battle could have been foreseen and averted. Some South Korean media reported that ROK military intelligence had failed to collect data on the KPA's intention to attack, but during the National Assembly's annual audit and hearings in October 2002, it was disclosed that Unit 5679 had intercepted communications indicating an imminent KPA navy attack and had reported them to its higher command.[140]

In sum, the June 2002 Yŏnp'yŏng naval battle raised questions as to the politicisation or distortions of intelligence at several levels. Clearly, ROK military intelligence was able to intercept sensitive communications that in the context of satellite imagery indicating the movement of anti-ship missiles should have raised the threat level. ROK analysts failed to interpret the data correctly, or senior officials ignored it and changed analytical assessments. Human error – a chain of errors in judgment is possible – but the incident raised the more fundamental concern that assessments might have been changed (and the data ignored) in an apparent effort to please political superiors who had declared that the DPRK threat had disappeared.

C. *Politicising Intelligence "Successes" to Recover Institutional Reputation*

Since intelligence agencies are engaged in clandestine activities, they generally refrain from taking public action to defend their reputation. However, the ROK intelligence community on several occasions has disclosed sensitive information to show "intelligence successes" despite the potential damage to national security or future intelligence collection efforts.[141]

[136] "NK patrol boats cross NLL", op. cit.
[137] "6•29 서해교전은 김정일의 '6•15 격침작전' 이었다", *신동아*, 2002년 8월 ["The naval crash on 29 June was Kim Jong-il's 'operation to sink the North-South Joint Declaration of 15 June [2000]'", *Shindonga*, August 2002].
[138] Ibid.
[139] The defence ministry changed its conclusion to describe the battle as a deliberate attack by North Korea. Crisis Group interview, Han Ch'ŏl-yong, Cheju City, ROK, 17 March 2014.
[140] Han Ch'ŏl-yong, commander of Unit 5679 at the time, was summoned to testify before the National Assembly National Defence Committee in October 2002. "'北도발보고서' 내용 누가 삭제 지시했나", *매일경제*, 2002년 10월 7일 ["Who ordered the contents of the 'North's provocation report' to be deleted?", *Maeil Kyŏngje Shinmun*, 7 October 2002]; Crisis Group interview, Han Ch'ŏl-yong, Cheju City, ROK, 17 March 2014.
[141] Prospect theory and behavioural studies have shown that people will take greater risks to recover losses than they would to achieve gains of equivalent value. In 2013, the NIS was under extreme

1. Fabricated evidence to convict "spy" Yu U-sŏng

As the scandal surrounding the 2012 presidential election was unfolding, the NIS announced on 21 January 2013 the arrest of an alleged North Korean spy, later identified as 33-year-old Yu U-sŏng [Yoo Woo–sung]. While the arrest initially appeared to be a counter-espionage triumph for the NIS, Yu's prosecution and conviction eventually were overturned when the NIS was discovered to have falsified evidence.

Yu initially sought asylum in South Korea in 2004 under the pretense of being a North Korean defector, but his claim turned out to be false. In reality, he was a "member of the Chinese Diaspora in the DPRK". Although Yu was born in Hoeryŏng, North Hamgyŏng Province (in DPRK), he held Chinese citizenship in addition to permanent residence status in North Hamgyŏng Province.[142] Therefore, on being granted a ROK passport, Yu could not only travel freely across the China-DPRK border, he could easily travel between South Korea, China and North Korea, a rare privilege since the DPRK and the ROK ban their citizens from traveling to the other Korea without special permission.

Yu supposedly worked as a surgeon in North Korea before fleeing in 2004, and later attended Yonsei University in Seoul before taking a job at a trading company.[143] In June 2011, he received a two-year contract with the Seoul city government to collect information and provide assistance to approximately 10,000 North Korean defectors (out of approximately 23,000 living in South Korea at the time).[144] Yu was then accused of passing information about the defectors, including their home addresses in Seoul, details of their employment, and other information to Pyongyang's security services.[145] Yu maintained his innocence, claiming that he simply came to South Korea seeking a better life, and had never spied for the DPRK.

One of the crucial witnesses in the prosecution's case against Yu was his sister, another supposed North Korean defector who had been detained and questioned at the ROK's Joint Interrogation Centre for a period of six months beginning on 30 October 2012. She initially reported that he was a spy, but after she was freed by the court due to a habeas corpus request, she claimed that her statements had been coerced, and that she had been subjected to abuse and threats while detained.[146] She also claimed that she was pressured to verify a document containing a supposed confession from her brother regarding his spying activities, as she was told that if she verified the document, her brother "would only get a one- to two-year sentence, and then the two of them could live here in South Korea".[147] Initially, the court dismissed her claims, but the appellate court accepted and upheld them.[148]

After a lengthy trial, a Seoul district court acquitted Yu U-sŏng on 22 August 2013. The judge explained that the decision was based on "inconsistent, implausible

public scrutiny and its reputation had been tarnished by scandals, so senior NIS officials might have been willing to take calculated risks to "restore the agency's tarnished reputation" that officials might have felt pushed the NIS into the realm of losses.

[142] "A spy who masqueraded as a North Korean refugee", New Focus International, 11 October 2013.

[143] "S Korea bureaucrat charged with spying", *Financial Times*, 21 January 2013.

[144] "Number of North Koreans entering the South", Republic of Korea Ministry of Unification, North Korean Refugees and Resettlement, http://bit.ly/1jXvRhL.

[145] "North Korean defector charged with spying", *The Telegraph*, 21 January 2013.

[146] "Sister of alleged N. Korean spy says she was illegally detained", *The Hankyoreh*, 30 April 2013.

[147] Ibid.

[148] "유우성씨 여동생, 국정원 회유로 허위 진술", *한국일보*, 2014년 4월 25일 ["Yu U-sŏng's sister was pressured to make a false statement", *The Hankook Ilbo*, 25 April 2014].

and unreliable" statements from Yu's sister, a lack of evidence found on Yu's computer, and the fact that if Yu really were a spy, he would have been able to pass that information to the North "without the risky border crossing" he made to China.[149]

The prosecution subsequently appealed the decision, submitting as new evidence notarised Chinese immigration records of his alleged trips between China and the DPRK, which were assumed to be for espionage purposes. However, the official Chinese immigration records only could have been obtained via a formal request from the ROK foreign ministry to the Chinese authorities, but the Chinese consulate in Seoul claimed ROK authorities "never received our cooperation. It's not believable that Mr. Yu's border [crossing] records could have been submitted to a South Korean court".[150] Yu's attorney stated he was confident that the "official border records" submitted as evidence were actually forged documents, and the Chinese government later confirmed they were.[151]

In January 2014, based on the apparent forgery of the documents, Yu U-sŏng pressed charges against the investigators in his case, accusing the prosecutors and the NIS of "concealing and fabricating evidence in order to frame him as a spy".[152] Prosecutors in the case ordered a raid of NIS headquarters in March 2014 as part of the investigation, and consequently indicted two men connected to the NIS – an agent and an informant – for their role in the alleged forgery.[153] On 6 March, the informant attempted suicide after admitting to acquiring the falsified documents at the behest of the NIS.[154] Ultimately, on 25 April, an appeals court upheld the lower-court ruling that acquitted Yu, while the Seoul High Court maintained Yu's one-year prison sentence (suspended for two years) since he concealed his Chinese citizenship and violated a law regarding the protection of North Korean defectors.[155]

Prosecutors appealed to the Supreme Court on 1 May, while three NIS agents and one informant were still on trial as of July 2014 (two NIS agents are being prosecuted without detention). On 14 April, NIS Second Deputy Director Sŏ Ch'ŏn-ho offered his resignation after the Seoul Central District Prosecutors Office investigation concluded the NIS had forged evidence. The prosecutors said the NIS leadership was not involved and did not indict NIS Director Nam Jae-jun or two prosecutors who had been suspected of illegal involvement.[156] The next day, Nam and President Park offered their apologies. Nam held a press conference and gave a three-minute speech without taking any questions from the press; and President Park delivered three sentences during a regular cabinet meeting, stating that "the organization responsible for the situation should resolve it and develop appropriate measures".[157]

[149] "Prominent North Korean defector acquitted of espionage by South Korean court", *The Washington Post*, 22 August 2013.
[150] "Did prosecutors use photoshop to make spying charges stick?" *The Hankyoreh*, 7 December 2013.
[151] "Chinese government says Korean officials forged immigration documents", *The Hankyoreh*, 15 February 2014.
[152] "N. Korean refugee accused of spying brings charges against investigators", *The Hankyoreh*, 8 January 2014.
[153] "Indictments over NIS's falsification of documents in alleged spy case", *The Hankyoreh*, 1 April 2014.
[154] "NIS mouthpiece conservative newspapers making abrupt U-turn on spy case", *The Hankyoreh*, 11 March 2014; "Suspicious charges in espionage case", *The Hankyoreh*, 15 March 2014.
[155] "Spy suspect acquitted", *The Korea Times*, 27 April 2014.
[156] "Two NIS officials indicted for faking spy case evidence", Yonhap News Agency, 14 April 2014.
[157] "Growing calls for NIS director to resign", *The Hankyoreh*, 17 April 2014.

2. Chang Sŏng-t'aek's arrest and execution

The early disclosure of Chang Sŏng-t'aek's demise in December 2013 is a case of two recurring intelligence problems in South Korea: leaks by National Assembly members and the NIS's occasional disclosure of sensitive intelligence for domestic political reasons. On 3 December, when the NIS was still under public scrutiny for perceived incompetence or excessive political influence, the agency told the National Assembly's Intelligence Committee that Chang Sŏng-t'aek, the husband of Kim Jong-il's younger sister, had been purged.[158] Some doubted it,[159] but DPRK media confirmed Chang's demise on 9 December with the report of an expanded politburo meeting the previous day.[160]

The NIS told the National Assembly that two close associates of Chang had been executed in mid-November and that Chang apparently had been stripped of his positions. The officials were Ri Ryong-ha, deputy director of the Central Committee's First Administrative Department, and Chang Su-gil, deputy director of the Central Committee's Administrative Department. The information immediately was revealed to the press by National Assemblyman Chŏng Ch'ŏng-nae [Jung Chung-rae] of the opposition Democratic Party.[161]

The National Assembly is notorious for intelligence leaks. A former National Assemblyman told Crisis Group that basically everything the NIS tells the lawmakers gets leaked, so the NIS withholds intelligence unless it wants the intelligence disclosed.[162] The ROK institutions' proclivity to leak classified information has been a serious impediment to intelligence sharing with the U.S. Despite the very close nature of the bilateral alliance, the U.S. has had occasions to feel it cannot share its most sensitive intelligence on North Korea with Seoul.[163]

Given the sensitivity of Chang Sŏng-t'aek's detention, only a small number of people in North Korea were likely to have been aware of his arrest. The NIS announcement risked triggering in the North an internal investigation into how the NIS obtained the intelligence. ROK media reported details of a party hosted by Chang at one of former leader Kim Jong-il's villas on the outskirts of Pyongyang in early November that apparently could have been the last straw in what Kim Jong-un viewed as insubordination on the part of Chang and his coterie.[164]

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[158] "처형된 북한 리룡하•장수길은 누구인가", 연합뉴스, 2013년 12월 3일 ["Who are Ri Ryong-ha and Chang Su-gil, the North Koreans who were executed?", Yonhap News Agency, 3 December 2013]; "Jang Song-thaek was purged, claims NIS", *Korea Joongang Daily*, 4 December 2013.

[159] "Seoul report on Kim purge open to doubt", Associated Press, *The Japan Times*, 5 December 2013

[160] "Report on enlarged meeting of Political Bureau of Central Committee of WPK", KCNA, 9 December 2013.

[161] "처형된 북한 리룡하•장수길은 누구인가", 연합뉴스, 2013년 12월 3일 ["Who are Ri Ryong-ha and Chang Su-gil, op. cit.]; "Jang Song-thaek was purged, claims NIS", *Korea Joongang Daily*, 4 December 2013.

[162] Crisis Group interview.

[163] Crisis Group interviews.

[164] Ri Rong-ha and Chang Su-gil along with about 25-30 others reportedly attended the party where they toasted Chang Sŏng-t'aek and praised him as "comrade number one". "[北장성택 숙청 후 폭풍] 北 "장성택, 적대세력에 편승" 韓美에 화살", *동아일보*, 2013년 12월 11일 ["[The storm after Chang Sŏng-t'aek's purge] North 'accuses Chang Sŏng-t'aek of siding with the enemy' and shoots arrow at South Korea and the U.S.", *Donga Ilbo*, 11 December 2013]; "장성택 특각모임 30여명 '추가 숙청 첫 타깃'", *문화일보*, 2013년 12월 16일 ["The first target of additional purges is the approximate 30 people who attended Chang Sŏng-t'aek's villa gathering", *Munhwa Ilbo*, 16 December 2013].

Detailed intelligence data about senior DPRK officials and the inner workings of the Kim family regime are only obtainable through sensitive HUMINT or possibly SIGINT sources. Leaking such intelligence can compromise extremely valuable sources and methods. Some analysts believe that the disclosure of Chang's purge could have resulted in his public trial and execution if Pyongyang believed that someone inside the regime, particularly someone close to Chang, tipped off the NIS.[165] Furthermore, if the source was a well-placed HUMINT asset inside the DPRK, the NIS very well could have lost that source as a result. [166] It would not be the first time leaks have resulted in the loss of valuable HUMINT assets for the NIS.[167]

3. The Cyber Command's declaration of cyber war

The Cyber Command, also known as Unit 530, was created in 2010 to counter cyber threats from the DPRK.[168] According to media reports, it has about 400 personnel engaged in cyber warfare activities, including countermeasures against DPRK hacking attempts.[169] About 200 of them are assigned to the psychological operations ("psy-ops" or "military information support operations") team that monitors and responds to the DPRK's presence and activities against the ROK in cyberspace.[170]

As the command became embroiled in the 2012 presidential election cyber scandal in late 2013, it appeared to follow the familiar pattern of leaking or disclosing plans or activities apparently to impress the domestic audience, in so doing raising concerns about the consequences on national security. On 19 February 2014, the Cyber Command submitted a plan to the National Assembly's National Defence Committee detailing efforts to create cyber war tools similar to the Stuxnet computer worm in order to attack North Korea's weapons of mass destruction and military infrastructure.[171]

Some commentators criticised the plans as being illegal or dangerous, claiming that cyber attacks against the DPRK could justify a counter-attack with conventional weapons. Others asserted that such computer viruses, once unleashed, could cause unintended consequences and damage third targets or facilities in the ROK.[172] While

[165] Crisis Group interview.
[166] Crisis Group interviews.
[167] Crisis Group interview.
[168] For a short theoretical and policy background on cyber warfare, cyber security and the South Korean context, see Hyeong-Wook Boo and Kang-Kyu Lee, "Cyber War and Policy Suggestions for South Korean Planners", *International Journal of Korean Unification Studies*, vol. 21, no. 2 (2012), pp. 85-106. For a more general overview of cyber threats and cyber instability, see James C. Mulvenon and Gregory J. Rattray (eds.), "Addressing Cyber Instability", Cyber Conflict Studies Association (2012). For brief legal perspectives, see Pauline C. Reich, Stuart Weinstein, Charles Wild & Allan S. Cabanlong, "Cyber Warfare: A Review of Theories, Law, Policies, Actual Incidents - and the Dilemma of Anonymity", *European Journal of Law and Technology*, vol. 1, issue 2 (2010).
[169] "(LEAD) Defense ministry probes cyber command's alleged online smear campaign", Yonhap News Agency, 15 October 2013.
[170] "Another state agency found interfering in elections", *The Hankyoreh*, 15 October 2013; "(LEAD) Cyber command headquarters raided over alleged smear campaign", Yonhap News Agency, 22 October 2013.
[171] "S. Korea pushes to develop offensive cyberwarfare tools", Yonhap News Agency, 19 February 2014. For a brief background on the development of the Stuxnet worm, see "Israeli test on worm called crucial in Iran nuclear delay", *The New York Times*, 15 January 2011.
[172] "South Korea to develop Stuxnet-like cyberweapons", BBC, 21 February 2014; "South Korea's strange cyberwar admission", BBC, 2 March 2014.

the legality or danger of creating such computer viruses and engaging in cyber warfare activities is beyond the scope of this report, this episode again raises concerns as to a potential tendency within the ROK intelligence community to develop strategies at least in part based on a desire to deflect attention away from controversy rather than driven by operation need and effectiveness.

4. Intelligence leaks, domestic politics and intelligence sharing

Before democratisation, the state and intelligence services censored media, violated human rights and employed extrajudicial means in the name of national security. The legacy of secrecy still resonates with some citizens campaigning there is no reason to protect any information at all.[173]

Public suspicion, misunderstanding and the failure to appreciate the role of intelligence services are met with scorn and contempt by many in the intelligence community. They view many citizens as incapable of appreciating or understanding the importance of an intelligence service, so the NIS can project a "know-it-all" attitude that exacerbates public suspicions in a vicious cycle.[174]

The relations between lawmakers, bureaucrats and intelligence officials are not much better. The general attitude is that the National Assembly and many officials in the executive branch do not understand the intelligence process and its connection to policymaking. An official told Crisis Group, "They know absolutely nothing about it", which certainly is an exaggeration, but others have described the relationship as suboptimal at best or dysfunctional at worst.[175]

National Assembly members who need sensitive and accurate intelligence to draft and decide budgets for weapons procurement and to formulate national security policies are allegedly often denied relevant intelligence by the NIS because the NIS knows it will be leaked.[176] Serious and responsible calls for needed and appropriate intelligence reform fall on deaf ears because the public and its elected representatives are considered too uninformed to contribute to the process.[177] Hence, the Park government delegated the reform process to former NIS Director Nam Jae-jun who promised "self-reform". When opposition politicians were calling for Nam's resignation in mid-2013, the Park government and Nam claimed he could not resign because he was leading the internal NIS process for reform.[178] He resigned in May 2014 following the April sinking of the *Sewŏl* ferry causing the deaths of about 300 high school students.

[173] During the frequent and large protests against the NIS during 2013, many simply called for the complete abolition of the NIS.
[174] Crisis Group interviews.
[175] Crisis Group interviews.
[176] Crisis Group interviews.
[177] Crisis Group interviews.
[178] "남재준에 '셀프개혁' 주문…해임론 귀막았다", *한겨레*, 2013년 7월 9일 ["Nam Jae-jun being asked to conduct 'self-reform'…closes his ears to requests for dismissal", *The Hankyoreh*, 9 July 2013]; "DP demands Park apologies over spy agency", *The Korea Times*, 16 September 2013; "사퇴요구 거부 남재준 "국정원 국내파트 대폭 보강할 것", *헤럴드경제*, 2013년 10월 9일 ["Nam Jae-jun refuses to resign, says that 'NIS domestic section will be significantly strengthened'", *Herald Kyŏngje*, 9 October 2013].

When Nam revealed his reform proposal in December 2013, he claimed no new legislation was needed and that only internal adjustments would be required.[179] The reforms are outlined in a one-and-a-half-page document that stresses four main points: terminating the NIS practice of infiltrating or monitoring the National Assembly, political parties and the media during ordinary peacetime; more strict and hierarchical oversight and non-interference in domestic politics; establishing an inspector general's office and a legal office to ensure that all NIS staff comply with the law; establishing and enforcing rules to ensure that information support operations (such as those used in the 2012 election scandal) are focused on North Korea and subversive anti-ROK elements in the South.[180]

It remains to be seen whether Nam's replacement will endorse his recommendations, and if so, whether the proposal will be sufficient to establish trust between South Korean citizens, government officials and the NIS.

There is also the risk that this trust deficit will extend to NIS relations with international partners. Many countries have intelligence sharing agreements, but ROK domestic politics have become an obstacle to the National Assembly's ratification of a "General Security of Military Information Agreement (GSOMIA)" with Japan. The agreement was to be signed in June 2012, but the ROK cancelled at the last moment.[181] Japan is willing to ratify the agreement and has been mentioning the issue in most bilateral meetings over the last two years.[182]

Domestic dysfunction also can affect U.S. perceptions and willingness to cooperate on intelligence matters. According to Han Ch'ŏl-yong, the ROK military under the Kim Dae-jung government reduced the amount of SIGINT data it provided to the U.S. military. After ROK military intelligence was less than forthcoming in sharing its SIGINT data and reporting with the U.S., Washington began to withhold satellite imagery from Seoul.[183]

[179] "[전문] 국가정보원자체개혁안", News 1, 2013년12월 12일 ["NIS proposal for self-reform", News 1, 12 December 2013].
[180] Ibid.
[181] "(LEAD) S. Korea postpones signing controversial military pact with Japan", Yonhap News Agency, 29 June 2012.
[182] Without the agreement, diplomats and military officials are bound by rules that make simple information sharing awkward and more difficult. Crisis Group interview.
[183] Those problems apparently have been patched up now, but Nam Jae-jun, former deputy CFC commander who has been accused of withholding intelligence from the U.S. commander, until late May 2014 was NIS director. If Han's accusations are true, the U.S. military and the U.S. intelligence community certainly knew about and remember Nam's actions. Crisis Group interview, Han Ch'ŏl-yong, Cheju City, ROK, 17 March 2014; "눈치 보는 군수뇌부 겨냥한 한철용의 '쿠데타'", *신동아*, 2002년11월 ["Han Ch'ŏl-yong's 'coup' aimed at diffident military leaders", *Shindonga*, November 2002]; 한철용, *진실은 하나: 제2연평해전의 실체적 진실*(서울, 2010), 81-82 쪽 [Han Ch'ŏl-yong, op. cit., pp. 81-82].

V. Reform – Addressing Intelligence Weaknesses

A. *Reform Proposals*

Korea's history of national division, the Korean War and the peninsula's geopolitical position during the Cold War played important roles in shaping the ROK's contemporary intelligence community and its role in ROK politics and society. Individual leadership in the early 1960s and subsequent democratisation in the 1980s also were critical elements that structured the intelligence institutions.

Seoul benefited from Washington's tutelage in 1948 when the new nation needed to establish intelligence institutions. National division and the war skewed the form of these institutions toward a heavy military and counter-espionage focus. The security environment on the peninsula led the ROK to deviate from the U.S. model that demanded separate institutions for foreign intelligence (the CIA) and domestic security and counter-espionage (the FBI). These functions along with strong investigative powers were fused together with the establishment of the KCIA under the revolutionary Park Chŏng-hŭi regime that sought state security against the North Korean threat, and regime security against internal subversion.

The KCIA's institutional design and extraordinary powers often led to extrajudicial measures and human rights abuses. Democratisation has led to reforms such as the establishment of the National Assembly's Intelligence Committee in 1994. Great strides have been made. It is virtually unimaginable that the NIS could even contemplate a repetition of the KCIA's 1974 operation to kidnap opposition leader Kim Dae-jung. The NIS's freedom of action – even if it were to have the intent – to intervene in domestic politics is becoming more constrained than ever.

Nevertheless, serious questions have been raised regarding the legality or propriety of the ROK intelligence community's online activities during the 2012 presidential campaign. Regardless of the final court judgments, many South Korean citizens have lost trust in the intelligence community[184] and some in the main opposition New Politics Alliance for Democracy (formerly called the Democratic Party) still question the legitimacy of President Park's electoral victory. The lingering discord has paralysed the National Assembly for long periods and partly as a result the Park administration has achieved very little in terms of its domestic agenda.[185]

The opposition party, feeling aggrieved by the 2012 election results, published in August 2013 a report on suspected illegalities and malfeasance during the presidential campaign.[186] The report provided recommendations for NIS reform, but the proposals have gone nowhere given the National Assembly's antagonistic atmosphere.

[184] Crisis Group interviews. Former NIS Director Nam Jae-jun recognised this lack of trust when he issued his reform proposal. "[전문] 국가정보원 자체 개혁안", News 1, 2013년12월 12일 ["NIS proposal for self-reform", op. cit.].

[185] "Park Geun-Hye's Troubled Year", *The Diplomat*, 1 January 2014; "[President Park Geun-hye's First Year] 'Her' principles over campaign pledges, far from public opinion and an obstacle to state affairs", *The Kyunghyang Shinmun*, 24 February 2014; "Park instructs aides to not push for unviable election pledges", *Donga Ilbo*, 23 December 2013; "(2nd LD) Park apologizes over scaled-back pension plan", Yonhap News Agency, 26 September 2013.

[186] 민주당국정원국정조사특위, "18대 대선은 경찰 허위 수사 발표로 12월 16일 밤11시 결판났다!!!", 2013년 8월 ["The 18th presidential election was decided by the announcement of a police department's false investigation at 11pm on 16 December!!!", Democratic Party NIS National Assembly Special Inspection Committee, 8 August 2013].

The then-Democratic Party criticised the right of witnesses to refuse to take an oath or to testify before the National Assembly ad hoc committee on the NIS during the summer of 2013.[187]

The opposition report recommended a special prosecutor to investigate Kim Musŏng and Kwŏn Yŏng-se, two of Park's top presidential campaign advisers, to determine whether they were involved in the online campaign against Moon Jae-in. The report cites a public opinion poll by the *Joongang Ilbo* published on 21 August 2013 according to which 50.1 per cent of South Koreans polled believed the NIS intervened in the 2012 presidential election; 27.1 per cent disagreed and 22.8 per cent were not sure. The report also cited a *Munhwa Ilbo* poll published on 22 August that found that almost six out of ten Koreans polled agreed that a special prosecutor should be appointed to investigate suspicions Kim Mu-sŏng and Kwŏn Yŏng-se knew about the NIS internet text scandal and the allegations that Kim Yong-p'an obstructed the initial investigation of the scandal. The DP concluded that public opinion justified DP lawmakers and their supporters leading street protests to achieve the appointment of a special prosecutor.[188]

The opposition's proposal focused on addressing concerns regarding perceived NIS intervention in domestic politics, but it did not address intelligence failures. The report proposed changing the name of the NIS to the "Unification and Foreign Intelligence Service" [UFIS, 統一海外情報院] and demanded that criminal investigation powers be stripped from the renamed intelligence service. The proposal also called for stiffer legal penalties for intelligence officials who illegally intervene in domestic politics, and for greater protection of whistle-blowers who report on illegal or unconstitutional activities within the intelligence community. In addition, the opposition party called for the abolition of the NIS practice of sending "liaison officers" or "intelligence officers" to monitor government agencies, politicians, media and regular citizens.[189]

The report further insists that the legislature must have greater oversight on intelligence matters including budgets, facilities and operations. The proposal also includes lifting the right of NIS officials to refuse to provide testimony when subpoenaed by the National Assembly.[190] However, the report offers no new thinking on how to rein in the perennial problem of classified intelligence leaks.

Nam's "self-reform" proposal pays lip service to the opposition's complaints regarding past interventions into domestic politics.[191] However, it overlooks the problems of intelligence failure and the politicisation of intelligence analysis as appeared to have occurred regarding the June 2002 naval battle (of which Nam was at the centre).

[187] During hearings, former NIS Director Wŏn Se-hun and former Seoul Metropolitan Police Chief Kim Yong-p'an made a mockery of the committee by refusing to testify under oath. "Ex-NIS, Seoul police chiefs grilled at parliamentary hearing", *The Korea Herald*, 16 August 2013.

[188] Ibid.

[189] Ibid. "[Special reportage-NIS part I] Intel gathering, political interference and surveillance", *The Hankyoreh*, 1 July 2013. In the National Assembly's case, a reliable source told Crisis Group that the NIS maintains an office there and that on average one NIS officer is assigned to about five lawmakers to monitor them and their staffs. But the ratio is reduced for those lawmakers who are suspected of being sympathetic to the DPRK. Crisis Group interview.

[190] The opposition also called for more transparency in the NIS along with greater cooperation between the NIS, the president and the National Assembly. 민주당국정원국정조사특위, "18대 대선은 경찰 허위 수사 발표로 12월 16일 밤11시 결판났다!!!" 2013년 8월 [Democratic Party NIS National Assembly Special Inspection Committee, op. cit.].

[191] "[전문] 국가정보원 자체 개혁안", News 1, 2013년12월 12일 ["NIS proposal for self-reform", op. cit.].

Granted, Nam's proposal includes termination of the NIS practice of sending intelligence officers to monitor the National Assembly, political parties and private mass media firms. The proposal also includes the establishment of a type of "inspector general's office" [不當命令審查請求센터],[192] and a "lawful inspection committee" [適法性審查委員會] within the legal adviser's office [法律補佐官室]. Nam suggested the NIS should implement a system that requires intelligence officers to sign an oath declaring they will not engage in illegal operations to intervene in domestic politics, and that they should be prohibited from joining political parties and participating in political activities for three years after leaving the NIS.

Nam also recommended that "defensive psy-ops (information support operations)" materials and online operations focus on: propaganda and agitation from North Korea; those who disavow the ROK's form of government, history and traditions; and those who violate the ROK constitution and insist on aligning with North Korea. Furthermore, he suggested that cyber information support operations emphasise the collection of information from pro-DPRK websites while being prohibited from mentioning any specific ROK political party or politician by name.[193] To ensure compliance with his internet-related recommendations, Nam called for the establishment of a "psy-ops (ISO) deliberative committee" ["心理戰審議會"].[194]

The proposals by the opposition party and former NIS Director Nam converge in some important areas. They both agree that:

- the practice of NIS intelligence officers being embedded and monitoring political parties, National Assembly lawmakers, mass media and other institutions should be terminated;
- greater oversight should be exercised over intelligence officers to ensure they do not engage in illegal practices to intervene in domestic politics;
- an "inspector general" or complaint/compliance centre should be established with whistle-blower protections;
- special military information support operations (MISO, or "psy-ops") in cyberspace should, broadly speaking, stay clear of ROK domestic politics but focus on the DPRK while protecting the identity and privacy of ROK citizens and institutions.
- neither the opposition party nor Nam addressed problems that could lead to intelligence failures or the politicisation of intelligence, as may have been the case, for example, in the run-up to the 29 June 2002 second battle of Yŏnp'yŏng Island.

The remedies for three intelligence pathologies – intelligence failure, politicisation of intelligence and intervention in domestic politics by intelligence agencies – span legal, institutional and cognitive realms.

[192] Literally, an "inspection claims centre for wrongful orders".
[193] "[전문] 국가정보원 자체 개혁안", News 1, 2013년12월 12일 ["NIS proposal for self-reform" op. cit.].
[194] Nam closed his proposal by remarking that "the NIS legally and systematically has established a strict apolitical foundation as an institution to protect national security, but upon reflection I realise that the public's trust [in the NIS] is still insufficient". His final conclusion was that "there is no legal issue regarding the political neutrality of the NIS". Ibid.

B. *Legislative Remedies*

Despite Nam's assertions that new legislation is not necessary, his "self-reform" measures could easily be reversed. Codifying the principles through an executive (presidential) order or, ideally, legal revisions would make them more credible and enforceable and less vulnerable to being rolled back. Lawmakers and legal scholars should review the NIS Act and other relevant statutes to decide whether the current legal framework is sufficient to minimise the risk of intervention by intelligence services in domestic politics. Furthermore, measures should be taken to ensure there is sufficient oversight and that appropriate legal instruments are in place to alleviate the ROK's notorious leak problem, while ensuring adequate whistle-blower protections. This would require expert review, which would need to be conducted transparently allowing for full public debate to ensure that the resulting framework has sufficient support.

C. *Changes in Institutional Design*

Changes in the institutional design of the ROK intelligence community are needed to improve the intelligence process and to reduce the risks of intelligence pathologies. Since democratisation, every new president has come into office with a reform agenda for government, including for the intelligence services. While many of the reforms have been appropriate, sometimes changes have only been pro forma without serious consideration of intelligence requirements and how it all fits into policymaking.[195]

Given the extraordinary security conditions on the peninsula, maintaining internal security and foreign intelligence functions within one institution (the NIS) may well be justified. Complex and multidimensional threats from state and non-state actors do not conform to discrete international political boundaries. However, the integration of domestic intelligence or law enforcement with foreign intelligence operations is not without costs or potential side effects, particularly for civil liberties.

To mitigate such risks, the NIS's authority to conduct criminal investigations should be terminated and transferred to the Supreme Prosecutors' Office (SPO). This may require the establishment of a special division, subject to sufficient checks and balances, to deal with national security issues or cases that require the handling of classified information. The NIS should relay to the SPO any intelligence it collects related to criminal cases such as narcotics trafficking or organised crime.

Given the sensitive nature of intelligence-related cases and the need to protect both national security and civil liberties, the ROK should consider the establishment of a special national security court which would permit judges to issue warrants and provide oversight to ensure that classified information is protected but also allowing for due process and civil liberties to be upheld.

Under the current structure, the NIS has a vested interest in maintaining its dominant position with minimal oversight. As the rest of the ROK intelligence community acquires greater technical capabilities for collection and more resources for processing and analysis, the need to integrate all sources of intelligence into final comprehensive products will grow. The NIS carries out that function now, but revised legislation should formally prescribe the NIS director's responsibility to integrate all-source intelligence so that stove-piping and bureaucratic rivalries are less likely to obstruct the collection, processing, analysis, and dissemination of intelligence. To

[195] Crisis Group email correspondence, Yŏm Don-jae, 28 April 2014.

ensure a broad consensus, NIS director nominees should be confirmed either by the full National Assembly or its Intelligence Committee.[196]

D. *Training and Organisational Culture*

Some intelligence failures are due to cognitive issues such as rigid mind-sets or faulty assumptions that lead to poor analysis. No institutional or structural reform can address these problems; they can only be rectified through education and training. Neo-Confucian traditions prescribe steep hierarchies and respect for elders. Some express concern about excessive top-down authority and the tendency for "group-think".[197] Better training and accountability could also alleviate the so-called "drinking buddy culture".[198] Training and education is a never-ending process, and all intelligence agencies have room for improvement. The NIS and other agencies do conduct internal reviews of problems or failures but they rarely exploit external resources such as think-tanks and university professors for this purpose.[199]

E. *Hardware Acquisition and International Cooperation*

As the DPRK remains motivated to develop and deploy asymmetric capabilities including nuclear weapons, the ROK will continue to expand its deterrent and counter-strike capabilities.[200] Future political decisions have not yet been made concerning the details and scope of the ROK's intelligence, surveillance and reconnaissance (ISR) hardware, but more hardware surely will be deployed and capabilities will likely grow.

The ROK space program is at an inflection point as the country is beginning to develop its second space launch vehicle, an indigenous rocket that is designed to place a 1.5-tonne satellite into low-earth orbit by around 2020.[201] This space launch capability along with greater unmanned aerial vehicle (UAV) capabilities and other ISR collection platforms will greatly improve South Korea's intelligence collection.[202] However, expensive ISR hardware is not sufficient. The Korean military and its senior generals are known for wanting the most modern and expensive hardware

[196] In Crisis Group interviews, the National Assembly confirmation of NIS director nominations generally received broad support, but views were not unanimous. Crisis Group interviews.
[197] Crisis Group interviews.
[198] Crisis Group interview. However, Yŏm Don-jae asserts that social relationships are changing and there are indications that younger analysts are becoming more assertive to challenge rigidities of their seniors. Crisis Group email correspondence, Yŏm Don-jae, 28 April 2014.
[199] Ibid.; Crisis Group interview.
[200] For example, in October 2012, the ROK issued new guidelines extending the range of its ballistic missiles to 800km with a 500kg payload (about 500km with a 1,000kg payload). The new guidelines also increased the payload of UAVs from 500kg to 2,500kg. Daniel Pinkston, "The New South Korean Missile Guidelines and Future Prospects for Regional Stability", Crisis Group Blog, 25 October 2012, http://bit.ly/1lG1cEK.
[201] "Korea aims to land on moon by 2020", *The Korea Herald*, 26 November 2013.
[202] The ROK expressed an interest in acquiring Global Hawk UAVs as early as 2005. In December 2012, the U.S. announced that the ROK requested four Global Hawk UAVs equipped with Raytheon's Enhanced Integrated Sensor Suite (EISS) mission kit. The EISS consists of an electro-optical/infrared sensor, synthetic aperture radar, and ground-moving target indicator elements, permitting around the clock, all-weather coverage of North Korea. Kelvin Wong, "DAPA pursues HALE UAV technology", *Jane's International Defense Review*, 1 February 2014; Marina Malenic, "South Korea ramping up capabilities as US prepares to hand over operational lead", *Jane's International Defense Review*, 1 October 2011.

whether it is surface ships or fighter aircraft.[203] This is not a flaw or fault per se, but procurements should be based upon needs.[204]

Finally, these systems directly impact resources allocated to the bilateral U.S.-ROK alliance, so Seoul's decisions also affect Washington's planning. In general, the ROK could better manage its intelligence sharing with friends and allies. In particular, Seoul pays a price for its inability to address its leak problem. Seoul also pays a price for failing to ratify the General Security of Military Information Agreement (GSOMIA) with Japan.[205] Seoul reportedly has been discussing a trilateral defence information-sharing agreement with Tokyo and Washington, which could serve as a substitute.[206]

In sum, the ROK government should plan, structure and fund its intelligence community based upon realistic and practical threat assessments. Given the DPRK's growing nuclear and missile threats, this means acquiring advanced ISR platforms along with the human resources to operate them. These resources are expensive and come with opportunity costs, so coordination with allies and maximising collaborative synergies can reduce costs and enhance intelligence capacity.

[203] Crisis Group interview.

[204] For example, the Roh Moo-hyun administration was criticised by some for what was perceived to be excessive military expenditures as part of an effort to placate the military.

[205] For example, in the case of military conflict between the two Koreas, particularly maritime conflict or DPRK missile attacks, Tokyo could have tactical intelligence that would be very valuable to Seoul. However, the absence of a formal, institutionalised channel to deliver the intelligence could be detrimental to ROK national security.

[206] "S. Korea, US and Japan discussing sharing military information", *The Hankyoreh*, 12 April 2014.

VI. Conclusion

All intelligence agencies fail at one time or another; they are not fortune tellers. However, efforts are needed to reduce the likelihood of the three types of pathologies outlined in this report: intelligence failure, the politicisation of intelligence and the direct intervention in domestic politics. All three have occurred with a frequency that generates actual and potential high costs in terms of policy outcomes.

In recent times, the ROK intelligence community more often has been rocked by scandals of politicisation and direct intervention in domestic politics rather than intelligence failure. The public response generally has been to support a reduction in the capacity of intelligence agencies with the aim of reducing the ability to intervene in policymaking. However, little attention has been paid to intelligence failure, which could cause catastrophic results in the context of the DPRK's growing asymmetric threats. Adequate intelligence requires greater resource and capacity – not less. Such recommendations generally are unpopular with the public but will certainly be even more difficult to sell domestically amid a climate in which the propriety of the intelligence community's behaviour at home is so severely questioned.

Enhanced intelligence capabilities can lead to abuse and malfeasance if proper checks and balances as well as legislative oversight are not in place. Modern democracies, not always successfully, are in a perpetual quest to balance civil liberties, the right to privacy, and the needs of the state to obtain intelligence required for national security. In the ROK case, national security threats are real and worsening in many ways. However, civil liberties should be protected and extensive measures are needed to mitigate the risks of policy distortions through politicisation and intervention in domestic politics by the intelligence services. Lawmakers, bureaucrats and the intelligence services should uphold their legal and moral responsibility to protect classified information. Leaks of sensitive intelligence for short-term domestic political gain can damage national security by compromising sources and methods. This practice also is an obstacle to intelligence sharing among allies. The recommendations in this report, if implemented, would be a good start in resolving flawed intelligence processes that distort South Korea's policymaking.

Seoul/Brussels, 5 August 2014

Appendix A: Map of the Korean Peninsula

Appendix B: List of Acronyms

AHIB	Army Headquarters Intelligence Bureau
C3I	Command, control, communications and intelligence
CCRAK	Combined Command for Reconnaissance Activities Korea
CFC	Combined Forces Command
CIA	Central Intelligence Agency
CIC	Counter-intelligence Corps
COMINT	Communications intelligence
DAPA	Defence Acquisition Program Administration
DIC	Defence Intelligence Command
DP	Democratic Party
DPRK	Democratic People's Republic of Korea
DSC	Defence Security Command
DSCA	Defence Security Cooperation Agency
DUP	Democratic United Party
EADS	European Aeronautic Defence and Space Company
EISS	Enhanced Integrated Sensor Suite
ELINT	Electronic intelligence
FBI	Federal Bureau of Investigation
FISINT	Foreign signal instrumentation intelligence
GSOMIA	General Security of Military Information Agreement
HID	Higher Intelligence Division
HUMINT	Human intelligence
IAB	Intelligence and Analysis Bureau
IC	Intelligence community
IMINT	Imagery intelligence
ISR	Intelligence, surveillance and reconnaissance
JCS	Joint Chiefs of Staff
JIC	Joint Interrogation Centre
KAERI	Korea Atomic Energy Research Institute
KARI	Korean Aerospace Research Institute
KCIA	Korean Central Intelligence Agency
KDIA	Korean Defence Intelligence Agency
KLO	Korean Liaison Office
KMAG	Korea Military Advisory Group
KPA	Korean People's Army
MASINT	Measurement and signature intelligence
MTCR	Missile Technology Control Regime
NGA	National Geospatial-Intelligence Agency (U.S.)
NGIA	National Geospatial Intelligence Agency
NGO	Non-governmental organisation
NIS	National Intelligence Service

NLL	Northern Limit Line
NMOA	National Military Organisation Act
NSC	National Security Council
OPCON	Operational control
OSINT	Open source intelligence
psy-ops	Psychological operations
RCSS	Remote Control Surveillance System
ROK	Republic of Korea
ROKAF	Republic of Korea Air Force
SAR	Synthetic Aperture Radar
Satrec	Satellite Technology Research Centre
SIGINT	Signal intelligence
SIS	Special Intelligence Section
SMPA	Seoul Metropolitan Police Agency
SNP	Saenuri Party
SPO	Supreme Prosecutor's Office
UAV	Unmanned aerial vehicle
UFIS	Unification and Foreign Intelligence Service
UNC	United Nations Command
UPP	United Progressive Party
USAFSS	United States Air Force Security Services
USFK	United States Forces Korea
WMD	Weapons of mass destruction

Appendix C: Overview of ROK Intelligence Capabilities

1. Open Source Intelligence (OSINT)

In the ROK, analysts at the unification ministry, primarily in the Intelligence and Analysis Bureau, review open source materials from the DPRK. Their role is to identify trends in North Korea's economics, politics and society that can support or direct ROK intelligence efforts.[207] However, the Intelligence and Analysis Bureau's work is not limited to open source materials.[208]

2. Human Intelligence (HUMINT)

The NIS utilises defector contacts and Koreans in the China-DPRK border region to infiltrate the North, but a reliable source told Crisis Group that HUMINT agents being compromised in China is probably the greatest cause of intelligence failure for the NIS.[209] On the ROK military side, the Defence Intelligence Command [情報司令部] under the Korea Defence Intelligence Agency [KDIA, 國防情報本部] is responsible for HUMINT collection and analysis (see below). Even some South Korean NGOs and print and broadcast media have covert North Korean contacts that provide a wide range of information from the North.[210]

3. Signals Intelligence (SIGINT)

The ROK possesses and currently is upgrading various SIGINT collection assets. These platforms provide the capability to observe and collect data on both conventional and asymmetric threats from the North. The ROK's RC-800SIG (also known as the Paektu) is a tactical reconnaissance aircraft that provides the ROK Air Force (ROKAF) day, night, and all-weather SIGINT gathering capabilities with its "E-Systems Remote Control Surveillance System (RCSS)".[211]

The ROK has recently discussed replacing more outdated versions of the RC-800 with the Dassault Falcon-2000, which carries a larger payload, features more technologically advanced sensors, and has a significantly longer range. Seoul expects the Falcons to provide "enhanced capabilities to intercept radio signals in the North and to deliver a marked improvement in detecting missile launches".[212] The procurement of the French-made Falcon 2000s now is scheduled to occur in 2016 with deployment by 2017.[213]

[207] 국가정보포럼, *국가정보학* (서울, 2006), 265쪽 [State Intelligence Forum, op. cit., p. 265].
[208] Of course, other ROK agencies also exploit open source intelligence. Crisis Group interview.
[209] Crisis Group interview.
[210] Examples include the Citizens' Coalition for Human Rights of Abductees and North Korean Refugees (www.chnk21.org), DailyNK (www.dailyNK.com), Good Friends (www.goodfriends.or.kr), North Korea Intellectuals Solidarity (www.nkis.kr), North Korean People's Liberation Front (www.plfnk.com), North Korea Strategy Centre (www.nksc.co.kr), Open Radio for North Korea (www.nkradio.org) and Radio Free Chosun (www.rfchosun.org).
[211] "ROK bolsters airborne recce", *Jane's International Defense Review*, 1 September 1996; 안승범, 오동룡, *2012-2013 한국군무기연감* (서울, 2012년9월), 290-291쪽 [An Sŭng-Bŏm and O Dong-nyong, *2012-2013 ROK Military Weapons Systems* (Seoul, September 2012), pp. 290-291].
[212] Richard Dudley, "South Korea buy two Dassault surveillance jets", *Defense Update*, 6 January 2012.
[213] Ibid.; Greg Waldronsi, "Seoul selects Falcon 2000S for ISR mission", *Flightglobal*, 17 January 2012.

SIGINT collection platforms are the responsibility of the 777 Command under the KDIA.[214] The 777 Command units have numbers but no names.[215] In addition to the Paektu SIGINT collection aircraft, the 777 Command operates ground-based and sea-based collection platforms, but their locations and capabilities are classified.

4. Imagery Intelligence (IMINT)

IMINT is the "technical, geographic, and intelligence information derived via the interpretation or analysis of imagery and collateral materials".[216] The aforementioned RC-800 is one of South Korea's IMINT collection platforms, in particular the RC-800RA (Kŭmgang). This militarised version of the Raytheon Hawker 800XP went into service in April 2001 and flies roughly 40 sorties per month. The Kŭmgang is equipped with a 0.3m resolution Synthetic Aperture Radar (SAR),[217] which can detect and distinguish objects as far north as Pyongyang from ROK airspace. However, the intelligence data collected by the Kŭmgang is becoming obsolete as commercial satellite imagery becomes more advanced and available for use.[218]

Arirang-3 (KOMPSAT-3) is the ROK's first advanced earth observations satellite, equipped with a high-resolution Electro-Optical (EO) camera that provides continuous high-resolution imagery of the Korean Peninsula.[219] Both *Arirang-3* and *Arirang-5* fit into the ROK 2012 Defence White Paper's discussion of "enhancing defence information systems and guaranteeing interoperability".[220]

The ROK Defence Intelligence Command [情報司令部] under the KDIA is responsible for the collection and analysis of IMINT. The National Geospatial-Intelligence Agency [NGIA, 國防地形情報團] integrates IMINT with other data to prepare and maintain geospatial intelligence on the Korean peninsula for the military.[221] The NGIA was established in July 2011 as a joint service agency in Taejŏn, which is the location of a science and research complex housing several hi-tech ventures and state-

[214] Executive Order on the Korea Defence Intelligence Agency [國防情報本部令].
[215] For example, in 2002, there was a SIGINT unit called "Unit 5679", which was called "Unit 9125" before that, and "Unit 7235" even before. The numbers change but the four digits add up to a number ending in "7" to indicate the unit is under the 777 Command. "눈치 보는 군수뇌부 겨냥한 한철용의 '쿠데타'", *신동아*, 2002년 11월 ["Han Ch'ŏl-yong's 'coup' aimed at diffident military leaders'", op. cit.].
[216] Imagery is defined as "a likeness or presentation of any natural or man-made feature or related object or activity … including products produced by space-based intelligence reconnaissance systems; and likeness and presentations produced by satellites, airborne platforms, unmanned aerial vehicles, or other similar means; except for handheld or clandestine photography taken by or on behalf of human intelligence collection organizations". "Department of Defense Dictionary of Military and Associated Terms", U.S. Department of Defense, Joint Chiefs of Staff, Directorate for Joint Force Development, Joint Publication 1-02, 8 November 2010.
[217] For background on SAR, see Mark Hewish, "The sensor of choice: Synthetic Aperture Radar | Applications abound as SAR technology evolves", *Jane's International Defense Review*, 1 May 1997.
[218] 안승범, 오동룡, *2012-2013 한국군무기연감* (서울, 2012년9월) [An Sŭng-Bŏm and O Dong-nyong, op. cit.].
[219] The *Arirang-3,* launched on 18 May 2012, was jointly produced by KARI, Satrec Initiative, EADS Astrium, and the German Aerospace Industry. *Arirang-5* (KOMPSAT-5), launched in August 2013, provides the ROK armed forces with SAR-capable "day-and-night, all weather imaging for targeting, reconnaissance and surveillance". Michael J. Gething and Alex Chitty, "Space-based sensors take a look at the bigger picture", *Jane's International Defense Review*, 1 October 2012.
[220] "2012 Defense White Paper", ROK Ministry of National Defense, December 2012, pp. 170-171.
[221] "The Ministry of National Defense to use spatial data of the Ministry of Land", *Korea IT News*, 10 April 2013.

supported research centres including the Korea Atomic Energy Research Institute (KAERI) and the Korea Aerospace Research Institute (KARI).[222]

The Army also deploys unmanned aerial vehicles (UAV) for surveillance of front-line areas in the DPRK. The Remoeye-006 payload includes cameras with a ten-times magnifying capacity and infrared cameras for night-time missions. This UAV can relay IMINT in real time and can stay airborne for twelve hours. The RQ-101 (송골매; *Songgolmae*)[223] conducts similar missions but is larger, faster and carries a heavier payload.

5. Measurement and Signature Intelligence (MASINT)

MASINT "includes information that is generated by quantitative and qualitative analysis of physical attributes of targets and events to characterise, locate, and identify targets and events, and derived from specialised, technically derived measurements of physical phenomenon inherent to an object or event".[224] Little is known about MASINT capabilities, but apparently the NIS in coordination with national laboratories and technical institutes conducts this type of analysis.[225] According to the Executive Order on the Defence Intelligence Agency [國防情報本部令], the Defence Intelligence Command [情報司令部] is responsible for military-related MASINT collection and analysis, but little is known about its capabilities or activities.[226]

[222] The NGIA was established with 156 personnel and is led by a colonel. The agency, modeled after the U.S. National Geospatial-Intelligence Agency (NGA), maintains databases for precision-guided weapons in case South Korea were to execute a military attack against the North. The database must be updated constantly because the situation on the ground is always changing. The NGIA uses commercial satellite imagery as well as imagery obtained from South Korea's *Arirang* series earth observation satellites. "최첨단 지형정보로 전승 보장", *국방일보*, 2013년 4월 10일 ["Cutting-edge geospatial intelligence guarantees victory", *Kukpang Ilbo*, 10 April 2013]; "軍, 북한지역 3차원 영상으로 본다", 연합뉴스, 2011년 6월 30일 ["Military can see North Korea in three-dimensional images", Yonhap News Agency, 30 June 2011].

[223] *Songgolmae* means "Siberian peregrine falcon" in Korean.

[224] *Department of Defense Dictionary of Military and Associated Terms*, U.S. Department of Defense, Joint Chiefs of Staff, Joint Publication 1-02, 15 March 2014.

[225] Crisis Group interview.

[226] Crisis Group interviews.

Appendix D: About the International Crisis Group

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 125 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord Mark Malloch-Brown, and Dean of Paris School of International Affairs (Sciences Po), Ghassan Salamé. Mr Salamé also serves as the organisation's Acting President from 1 July-31 August 2014.

Crisis Group's incoming President & CEO, Jean-Marie Guéhenno, assumes his role from 1 September. Mr. Guéhenno served as the United Nations Under-Secretary-General for Peacekeeping Operations from 2000-2008, and in 2012, as Deputy Joint Special Envoy of the United Nations and the League of Arab States on Syria. He left his post as Deputy Joint Special Envoy to chair the commission that prepared the white paper on French defence and national security in 2013. He is currently a professor and Director of the Center for International Conflict Resolution at Columbia University.

Crisis Group's international headquarters is in Brussels, and the organisation has offices or representation in 26 locations: Baghdad/Suleimaniya, Bangkok, Beijing, Beirut, Bishkek, Bogotá, Cairo, Dakar, Dubai, Gaza City, Islamabad, Istanbul, Jerusalem, Johannesburg, Kabul, London, Mexico City, Moscow, Nairobi, New York, Seoul, Toronto, Tripoli, Tunis, Washington DC. Crisis Group currently covers some 70 areas of actual or potential conflict across four continents. In Africa, this includes, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Sierra Leone, Somalia, South Sudan, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Malaysia, Myanmar, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Macedonia, North Caucasus, Serbia and Turkey; in the Middle East and North Africa, Algeria, Bahrain, Egypt, Iran, Iraq, Israel-Palestine, Jordan, Lebanon, Libya, Morocco, Syria, Tunisia, Western Sahara and Yemen; and in Latin America and the Caribbean, Colombia, Guatemala, Mexico and Venezuela.

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August 2014

Appendix E: Reports and Briefings on Asia since 2011

As of 1 October 2013, Central Asia publications are listed under the Europe and Central Asia program.

North East Asia

China and Inter-Korean Clashes in the Yellow Sea, Asia Report N°200, 27 January 2011 (also available in Chinese).

Strangers at Home: North Koreans in the South, Asia Report N°208, 14 July 2011 (also available in Korean).

South Korea: The Shifting Sands of Security Policy, Asia Briefing N°130, 1 December 2011.

Stirring up the South China Sea (I), Asia Report N°223, 23 April 2012 (also available in Chinese).

Stirring up the South China Sea (II): Regional Responses, Asia Report N°229, 24 July 2012 (also available in Chinese).

North Korean Succession and the Risks of Instability, Asia Report N°230, 25 July 2012 (also available in Chinese and Korean).

China's Central Asia Problem, Asia Report N°244, 27 February 2013 (also available in Chinese).

Dangerous Waters: China-Japan Relations on the Rocks, Asia Report N°245, 8 April 2013 (also available in Chinese).

Fire on the City Gate: Why China Keeps North Korea Close, Asia Report N°254, 9 December 2013 (also available in Chinese).

Old Scores and New Grudges: Evolving Sino-Japanese Tensions, Asia Report N°258, 24 July 2014.

South Asia

Nepal: Identity Politics and Federalism, Asia Report N°199, 13 January 2011 (also available in Nepali).

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