

NSL2.5

**THE NATIONAL SECURITY LAW**  
*Instrument of Political Repression  
in South Korea*

by  
**Won Soon Park**



**Translated and Published by**

Korea Human Rights Network(KOHRNET)  
International Korea Alliance for Peace and Democracy  
International Committee for Peace & Self-Determination of Korea

The National Security Law(NSL) has cast a dark shadow of oppression on countless people since its enactment on December 1, 1948. Through seven revisions, the history of NSL symbolizes the tumultuous modern history of Korea in the context of the country's division, dictatorships, and the democracy movement. Since its beginning, the NSL has played the most critical role in the maintenance of dictatorial regimes in South Korea by casting a pervasive net of fear and oppression. The concerns expressed by those legislators who opposed the original enactment of the NSL became too painfully materialized, and too many innocent people have been sacrificed on the altar of national security. Countless activists have courageously challenged the NSL, and, due to their struggle, the NSL has lost some of its hard edge. However, despite the much talked-about reforms in the recent days and the government's claim of clean human rights record, the NSL continues its fearful presence by limiting and violating very basic human rights of the Korean people.

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**ABOUT THE AUTHOR**

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**Won Soon Park** is a South Korean human rights lawyer and a leading expert on the National Security Law. Mr. Park is the author of a three-volume book, *A Study on the National Security Law*. He is a member of Lawyers for a Democratic Society in South Korea. He was the Secretary of the Human Rights Committee of the Korean Lawyers Association, and a columnist for *Han-Gyuh-Reh* Newspaper. He has written numerous articles on human rights issues in South Korea.

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*This publication is dedicated to countless  
men and women whose courage and sacrifice  
in their struggle for human rights  
in South Korea have paved  
a way for a brighter future for us all.*



## ACKNOWLEDGEMENT

This booklet is the updated condensed version of A study on the National Security Law, a three-volume book by Won Soon Park, a renowned human rights attorney and a leading expert on the NSL. Mr.Park has written this booklet in order to publicize the state of human rights in south Korea at the World Conference on Human Rights in Vienna, Austria in June 1993. An additional chapter on the human rights situation under the present Kim Young Sam government has been added. It is hoped that this booklet will be useful to people who are concerned about human rights and democracy around the world. This booklet should also serve as a source for scholars and lawyers who are engaged in the study of comparative legal systems.

The original text of this booklet was written in Korean. Undoubtedly, the impact and sensitivity of the original text have been diminished through translation. The publishers and the translation team take sole responsibility for any inconsistency or abrupt transitions in style.

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Korea Human Rights Network  
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Korea

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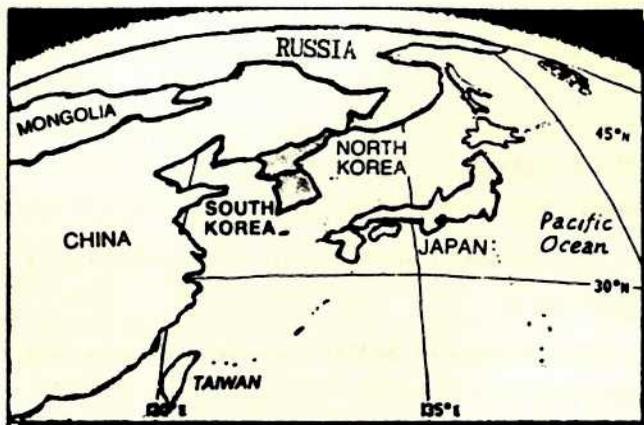
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## CHAPTER 1

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### INTRODUCTION

The very existence of the National Security Law (NSL) symbolizes the continued suffering of human rights in South Korea. The NSL has been used to suppress the fundamental rights of the Korean people and to perpetuate the iron-clad rule of South Korea's military-supported dictatorial regimes. The NSL has been such an integral part of South Korea's repressive governments for so long, it is hard to imagine any single dictatorial regime without the NSL. So great has been the scope of abuses, the number of people imprisoned under the NSL is too numerous to determine. The uncontrollable number of human rights violations under the NSL has resulted in an absurd situation where, immediately before the inauguration of Kim Young Sam, among the existing 1,000 political prisoners, about half were incarcerated in violation of the NSL.<sup>1</sup> This figure

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<sup>1</sup> With the exception of 1949, one year after the NSL was enacted, and in the case of other national emergencies, the ratio of political prisoners incarcerated for violating the NSL has increased. Under the presidency of

reveals the relative importance and role of the NSL as it relates to human rights situation in Korea.

The evolution of the NSL parallels the events of modern Korean political history. In the early 20th century, Korea was invaded and colonized by Japanese imperialists. As soon as Korea was liberated from Japan in 1945, Korea was again tragically occupied and divided into north and south and occupied by the United States and the Soviet Union. Accordingly, the NSL originates from the legacy of Japanese imperialism and the North-South Korean conflict. During the 36 years of colonial occupation, the Japanese implemented a legal and political system to exercise control over Koreans.<sup>2</sup> Among these, *Chian-yuji-bop*, a body of law ostensibly established for the maintenance of public order, was used to thoroughly suppress the Korean Independence Movement. *Chian-yuji-bop* became the model for the NSL. In addition, the division of the Korean peninsula caused the two governments of South and North Korea to dispute the legitimacy of each other. The subsequent hostility between two governments created a fertile ground for the establishment and continuance of the subsequent series of dictatorships. The threat and possibility of invasion from the North became the South's official justification for withholding basic human rights. The existence of the NSL and the ongoing Cold War conflict in Korea reflect the continuing tragedy of the Korean people.

The following chapters identify the conditions under which the NSL was enacted and examine the problems with its legitimacy, and how the NSL has been applied to violate

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Roh Tae Woo, the percentage of NSL violations has increased approximately 25% to 50%, beginning in 1989, and this surpassed the 10% to 20% increase under Chun Doo Hwan's presidency of the Fifth Republic.

<sup>2</sup> The following analysis by William Shaw clearly shows the reality of the Japanese imperial rule:

But Japanese rule contributed little to the growth of individual political and civil rights. And, as Norman Jacobs has aptly suggested, the period of Japanese colonial rule (1910-1945) left much of the Korean population with fear of and disrespect for modern law by using it for repression and control. The Japanese also left behind a model for political control through law that postwar Korean leaders were frequently to emulate (*Human Rights in Korea: Historical and Policy Perspective*, William Shaw, ed., Harvard Press, Cambridge, 1991, pp. 7).

fundamental human rights. Furthermore, discrepancies between the NSL and the South Korean Constitution shall be reviewed to discuss in detail the particular components of this law. We shall also examine whether South Korea's perceived threat from North Korea actually justifies its continued application of the NSL. Finally, we shall examine how the NSL violates with the minimum standards of international human rights and principles. It will be quite obvious that the NSL is not a law representative of a country that asserts itself as being democratic.

It is difficult to imagine how the condition of South Korean human rights can be systematically and fundamentally improved without the abolition of the NSL. President Kim Young Sam's government, which came to power in February, 1993, gave an unprecedented degree of political freedom to Koreans. This led some observers, both within and outside Korea, to conclude that democracy has been finally established. However, Kim's governmental policies must be viewed with caution since the policies have not brought reforms in the legal or social structures. Accordingly, the current restraint on the application of the NSL may be temporary and it is uncertain as to when it will be used again as a lethal weapon to violate basic human rights. Without the abolition of the NSL, the policies of Kim Young Sam's government can only be described as superficial.

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## CHAPTER 2

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### THE EVOLUTION OF THE NATIONAL SECURITY LAW

#### THE ENACTMENT OF THE NSL

##### (1) Background of the Enactment

On August 15, 1945, following Japan's defeat in World War II, Korea, gained its independence after forty years of Japanese colonial rule. This liberation, however, brought other political developments which would keep the Korean Peninsula divided to this day. Korea was forcibly divided at the 38th parallel as U.S. forces occupied the South and the Russian forces occupied the North in 1945. This division of the peninsula cast a shadow over a country that had a long and unified history.

During the next three years a movement to reunify Korea

became very active. This movement, however, could not prevent forces under the tutelage of the U.S. and the Soviet Union from establishing separate governments in the North and the South.

Thus, on August 15, 1948, southern Korea, supported by the United States, became the Republic of Korea (ROK), which followed the capitalist path. On August 25, 1948, northern Korea, supported by the Soviet Union, became the Democratic People's Republic of Korea (DPRK), which established a communist system. Thus, the division of Korea became formalized. The two governments argued over which one was the legitimate government and, from this time on, competition and conflicts between the two intensified.

As the South-North division became a reality, many communists within South Korea began a movement of armed struggle to dismantle the government of South Korea.

On October 19, 1948, an intra-military revolt broke out in the southern part of the peninsula in the cities of Yosu and Sunchon and spread to outlying areas. This rebellion greatly alarmed the nascent and highly unpopular South Korean government.

This rebellion was suppressed on October 27 of the same year. Nevertheless, other rebellions occurred. For example, the Sixth Brigade stationed near Taegu in North Kyongsang Province revolted and North Korean infiltrators engaged in an armed struggle in the Odae Mountain area. The rebellions caused panic among the general public and brought chaos in South Korean politics.

Accordingly, the South Korean government and the National Assembly demanded a legal code that would ostensibly prevent and punish rebellion and subversive activities.

##### (2) The Legislative History of the NSL

On September 20, 1948, just before the aforementioned Yosu-Sunchon Rebellion, the National Security Law was first

proposed. It was initially proposed under the Special Anti-Treason Act by Kim In-Sik and thirty-three other members of the National Assembly. The proponents of the Act stated that the law was necessary to safeguard the policies of the new government. After the Yosu-Sunchon Rebellion, however, the objectives of this legislation broadened from punishing specific acts of treason to include any acts perceived to have treasonous objectives, including the act of joining or forming an organization perceived to have treasonous objectives. This change indicates that the aim of NSL's legislation was not only to punish actual acts of treason, but also to eliminate leftist organizations and their members who might commit acts of treason or have treasonous beliefs.

Several members of the National Assembly opposed the legislation on the following grounds.

First, this legislation would indict not only communists, but also innocent citizens and patriots. The following argument expresses the potential for political abuse:

Just as in the proverb that "a cat can't catch a mouse but can catch a hen," if this law goes into effect any individual can be indicted.... As in the Japanese occupation period, regardless of his/her innocence, any individual would eventually confess under the duress of torture. Therefore, anybody can be prosecuted under this law. We must carefully consider the legislation of this law because of the danger that any politically active person may be implicated. Just as an overdose of medicine would make a patient ill rather than well, this legislation is an excessive remedy for the Korean political situation.<sup>1</sup>

Second, the NSL is anti-democratic and will severely limit the freedom of citizens in the same manner as the *Chian-yuji-bop* limited freedom during Japanese colonial rule. The

<sup>1</sup> Questioning by Assemblyman, Cho Hun Young, *The Annals of the 1st National Assembly of Republic of Korea*, Record No. 99, pp. 847.

following statement by a National Assemblyman provides the basis for this argument against the NSL:

If the fighting force of the left is like a tidal wave that comes to overthrow us, a law standing for democracy must be legislated to prevent the onslaught of the left, as well as to preserve the national spirit whereupon our country can then be developed. Is this legislation any different from Hitler's law that sanctioned atrocities, China's Emperor Chin's decree for book burning, or the *Chian-yuji-bop* of the Japanese colonial period?<sup>2</sup>

Third, the critics of the legislation argued that an ideology must be fought with an ideology since it cannot be obstructed by the law and the use of the law to obstruct an ideology originates from a lack of political influence.

I believe that an ideology must be fought with an ideology and that physical strength can not change people's beliefs.<sup>3</sup>

Can the legislation of this law democratize South Korea and suppress the left? If anyone here thinks that is possible, then the politicians have a poor political judgment.<sup>4</sup>

Fourth, the potential for abuse as well as arbitrary enforcement on the part of law enforcement agencies was a basis of further criticism:

Whether the law will be administered as intended upon its implementation at a national level is very doubtful.... A law that incriminates one person unjustly will be the

<sup>2</sup> Questioning by Assemblyman Roh Il Hwan, *Ibid*, Record No. 105, pp. 948.

<sup>3</sup> Questioning by Assemblyman Park Hae Jung, *Ibid*, Record No. 105, pp. 951.

<sup>4</sup> Questioning by Assemblyman Roh Il Hwan, *Ibid*, Record No. 105, pp. 948.

law resented by the millions... (omit) ... the law may not necessarily bring national stability, but it will surely cause destabilizing situations.

Finally, the critics argued the availability of alternate laws rendered the new law unnecessary. The government of the Republic of Korea had failed to enact its own Criminal Codes at the time of the NSL's enactment, because the Criminal Code of Japanese colonial government was still in effect.<sup>5</sup> Therefore, activities such as subversion, murder, arson, sabotage, etc. were already punishable under the Japanese legal code in place in Korea at that time.

The opponents of the NSL based their arguments on the above reasons, yet their influence was minimal due to their small number. On December 1, 1948, the National Assembly approved the NSL. The NSL, which would immensely scar the modern history of Korea and its human rights record, was thus born.

### (3) The Unique Traits of the NSL

The original NSL can be summarized as follows.

First, the NSL had inherited the essential characteristics of the *Chian-yuji-bop* of the Japanese colonial period.<sup>6</sup> The *Chian-yuji-bop* had suppressed liberty of thought and the independence movement in Korea. Post-war Japan abolished it on grounds of its anti-democratic nature. Despite this development in Japan, the law was reincarnated into the NSL and continued its deprivation of basic civil rights. For example,

<sup>5</sup> The Criminal Code of Republic of Korea at this time was in effect Section 100 of the Constitution of the constituent Assembly, an amendment to the Military Decree Article 21 proclaimed by the occupying U.S. military forces. The basic structure of this legislation originates from Colonial Decree Section 11 of Cho-Sun Hyung Sa Ryung (Criminal Code of Cho-Sun), an application of Japan's Criminal Code to occupied Korea.

<sup>6</sup> Cho Kuk, *Legislation for Control of Ideology in Modern Korean History*, Yok Sa Bi Pyong, Summer 1988.

Article 1 of the *Chian-yuji-bop*, which included the language "the person organizing for the purpose of overthrowing the national body," was, in essence, no different than Article 1 of the NSL, which included the language "the person organizing for the purpose of overthrowing the State or assuming title of the government against the national constitution." This similarity in language clearly demonstrates that the NSL was modeled after the *Chian-yuji-bop*. Their similarity further signifies that the new rulers of South Korea needed the *Chian-yuji-bop's* legacy in the national political arena dominated by pro-Japanese and anti-nationalist individuals. One must note that the South Korean government and the National Assembly excluded participation by the independence fighters who were victims of the *Chian-yuji-bop*.

Second, despite subsequent amendments, the legal structure of the NSL remain unchanged from the *Chian-yuji-bop*. As such, the legal structure of the original NSL remains intact. For example, the legal concepts such as "assuming the title of government" and "overthrowing the State" remain conserved as those of "Anti-State Organization."

Third, the newly enacted NSL could punish a person on the grounds of organizing or participating in an organization. No specific act of crime had to be committed. The law was written specifically in this fashion so as to eradicate the very existence of leftist organizations regardless of its actual actions. This is clearly a violation of the freedom of association, a fundamental component of democracy. In addition, since the law was intended to incriminate communists, the accused would be labeled as a communist follower, and, as such, the law violated freedom of ideology and thought. This process subjected many individuals or organizations critical of the government to punishment and to be labeled as communists.

Fourth, the law codified and systematized the national division.<sup>7</sup> The newly founded governments of the South and the North did not recognize each other's existence. The NSL had

<sup>7</sup> Park Se Gil, *Rewriting Modern Korean History I. Dol-be-gae*, Seoul, 1988, p.127

declared the North Korean government, as well as any organization sympathetic to the North Korean government, an Anti-State Organization, and, therefore, illegal. Accordingly, any negotiation and dialogue with the North Korean government for any purpose, including peaceful reunification, violated the terms of the NSL. Many peaceful reunification activists have been punished under this law and, hence, the NSL is often called an "anti-reunification" law.

### REVISIONS OF THE NATIONAL SECURITY LAW

As the South Korean regimes changed, the NSL went through 7 revisions; each revision resulting in a more harsh and oppressive body of law. Initially, the NSL was legislated to address political turmoil and insurrections during the formative stages of South Korea. Even when such conditions dissipated, the NSL became more oppressive, rather than being repealed. This illogical development can be explained by examining the dictatorial regimes in South Korea.

#### (1) First Revision (December 19, 1949, Legal Code No. 85)

As intended, the initial body of law passed as the NSL was applied as a means of political oppression. During 1949, first full year after the enactment, 188,621 people were arrested or imprisoned. During September and October of 1949, 132 political parties and social organizations were disbanded. Similarly, 8,000 to 9,000 soldiers were arrested, indicted, or purged by the military investigative commission. This massive crackdown caused an overflow in the nation's 18 national prisons and 1 provincial prison maintained by 3,372 personnel.<sup>8</sup> To contain this overflow, additional penitentiaries were built in

<sup>8</sup> *History of the Ministry of Justice*, Ministry of Justice, Seoul, 1988, pp. 53-57.

Buchon and Yong-Doong-Po following the revised prison facility regulations passed on October 27, 1949. Moreover, the number of prosecutors and judges steadily increased. In an attempt to address the surge of the case-load and shortage of prosecutors and judges, the government cleverly incorporated the system of execution, one-trial and correctional programs into the penal system.

First, when the NSL was first legislated, the maximum sentence was life imprisonment; however, the revision of the NSL replaced this term with the death penalty. Specifically, the maximum penalty of death could be sentenced to the leaders, officers, or individuals who organize or advance the goals of organizations which claim the title of the government or falsely defame the State (Article 1), or individuals who support, organize or advance the goals of organizations rendering support to the organizations stipulated in Article 1 (Article 2).

These acts of organizing, advancing organizational goals, or joining and participating in subversive organizations were originally viewed as common crimes of conspiracy for insurrection and not subject to punishment harsher than life imprisonment under the constitutional national security law.<sup>9</sup> But the proponents of the death penalty argued that "it is contradictory not to apply the death penalty to those who commit a great crime of destruction against the State, when the death penalty is imposed on those who commit murder and arson."<sup>10</sup> The acts of murder, arson, or riot committed in the course of overthrowing the State are acts of insurrection and the ensuing punishment could be execution. But, imposing the death penalty for the mere act of organizing and promoting organizational activities was extremely cruel and opened the possibility of gross infringement on the fundamental freedom of

<sup>9</sup> The position of excluding the death penalty in the enactment the NSL was maintained by Baek Kwan Soo, a legal expert and former Chair of the National Assembly's Legislation-Judiciary Committee. Meeting record of the Constitutional National Assembly, 1st session, 99th meeting, pp. 830.

<sup>10</sup> An explanation by Kwon Seung Kyur, former Minister of Justice, in proposing the 1st revision of the NSL. Meeting record of the Constitutional National Assembly, 5th session, 56th meeting, pp. 1382.

expression, assembly, and thought.

Second, the three-tier trial system was replaced by the one-trial system in the first revision of the NSL. When the NSL was enacted, it followed the guidelines of the standard criminal code of guaranteeing three-tier trials for the defendant. However, in the course of condensing the litigation process in the aftermath of a surge in the number NSL cases and to compensate for a distinct shortage of prosecutors, an inhumane and undemocratic one-trial system, without appeal, was implemented. The rationale behind this system was truly astounding:

When a litigation protracts, the nation suffers and the prisons overcrowd.... Of course, from the standpoint of human rights, the one-trial system is a problem. But, in the case of our country, we cannot rely on the two-tier trial or three-tier trial system, when the country needs to be rid of leftist elements and accelerate national reconstruction efforts.... The National Security Law is the gun and the bullet. This law must be used as the gun-and-sword to confront the enemy.<sup>11</sup>

Third, a system of detention for "correction" and building of such correctional facilities were allowed in the revised NSL. Defendants who demonstrated likelihood of thought (or ideology) conversion could defer their verdict and receive a conversion education at correctional facilities. Upon their release, they were registered into a correction-union and remained under constant surveillance. In other words, the idea that "political offenders must receive a stern penal servitude as well as conversion education to recant their ideology," and that they "...must convert from their heart to become honest and contributing citizens"<sup>12</sup> was the purported goal of the first

<sup>11</sup> An explanation by Kwon Seung Kyur, former Minister of Justice. Meeting record of the Constitutional National Assembly, 6th session, 31st meeting, pp. 1389.

<sup>12</sup> *Implementation Guideline for the National Security Law*, Oh Jae Doe, Seoul, 1949, pp. 39-40.

revision. This system of "correction," among others, originated from the system of preventive incarceration under the public security law, political offender control and surveillance law, ideology conversion system, which were applied during the Japanese colonial era. While thought conversion appeared to be more humane than imprisonment or execution, it was in actuality very oppressive and deprived the inalienable right to independent ideology or conscience.

(2) Second Revision (April 21, 1950, Legal Code No. 128)

Less than two months after the first revision, the government proposed the second revision of the NSL before the National Assembly. Because of a widespread public criticism about the potential misjudgment and abuse under the one-trial system, the government was pressured into revising the first revision. Thus, the government submitted a proposal which allowed exceptions to those individuals sentenced to execution by granting them the right of an appeal. Although this revision seemed to mitigate gross human rights violations, it embodied essentially the same foibles of the previous revision.

As soon as the second revision was introduced in the National Assembly, the members of the Legislation-Judiciary Committee caused a sensation by insisting a complete negation of the one-trial system and by proposing their own revision of the NSL. Their assertion that the oppressive nature of the first revision "would cause a sensation in the international legal community"<sup>13</sup> won support in the National Assembly and resulted in the passage of the Legislation-Judiciary Committee's revision on April 8, 1950. The presidential veto efforts were

<sup>13</sup> An explanation by Yi In, former Chair of the National Assembly's Legislation-Judiciary Committee. Meeting record of the Constitutional National Assembly, 6th session, 31st meeting, pp. 673. As an attorney and a legal expert who on occasions defended Korean independence activists during the Japanese colonial period, Yi In was well aware of the problems and origins of the NSL's 1st revision.

defeated. The momentum behind this reform was the opposition party, which was formed in February 1949.<sup>14</sup>

(3) Third Revision (December 26, 1958, Legal Code No. 500)

The third revision occurred in 1958, as the incumbent Liberal Party's rule was coming to an end. On December 24th, members of the opposition party were arrested or assaulted by three hundred special police, trained with deadly martial arts, for opposing the third revision of the NSL. This day left a legacy in South Korean political history as the "2.4 Upheaval" or "the NSL Crisis." Unlike previous revisions, the new version contained more provisions<sup>15</sup> and targeted not only spies from North Korea and the South Korean Labor Party, but also journalists, members of the opposition party and ordinary citizens. Consequently, the public launched massive protests during and after the revision process.<sup>16</sup> The political aim of the authoritarian Liberal Party was to solidify its dictatorial one-

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<sup>14</sup> The opposition party began as the Korean Democratic Party, composed of wealthy landlords and bureaucrats from the Japanese colonial period. The Party supported Syngman Rhee in his seizure of political power. It, however, waged vigorous opposition activities as the new Democratic People's Party, after it experienced discontentment from being excluded by the Syngman Rhee regime in the process of reallocating power and after it witnessed the regime's fall-out from public popularity.

<sup>15</sup> The enacted National Security Law (NSL) consisted of 6 articles and 1 supplementary article. 1st and 2nd revisions contained 18 articles and 7 supplementary articles. The 3rd revision, however, broadened to 40 articles, and 1 supplementary article.

<sup>16</sup> At the time, Syngman Rhee and the ruling Liberal Party's motives for proposing such a problematic revision lay in their interest to silence the media and the opposition party from criticizing the presidential and vice-presidential elections of 1960. Despite widespread election rigging, the ruling Liberal Party failed to secure majority of the seats in the 4th National Assembly elections on May 2, 1958. The Liberal Party, therefore, attempted to forcibly pass the proposal into law, after it determined that it would be impossible to win the elections without first suppressing the media and opposition party with a clever legislation.

party rule through legislation that provoked vehement protests from the opposition party and social organizations.

The third revision expanded the definitions of State secrets, crime of inciting social disorder (also known as "media provision"), defamation of agencies, and other provisions which infringe on the rights of citizens.

First, the scope of State secret was expanded from military to political, economic, social, and cultural information (Articles 4, 11, 12). Moreover, crimes relating to State secrets were not limited to divulging or exchanging information with the enemy, but also included collecting information, possessing inaccurate information (Article 14), and publication of the secret information (Article 12, Section 3). The apparent effect was a choke-hold on the freedom of press. And many dissented as follows:

Under this concept, it is obvious that we cannot live a single day without committing a crime. Since retrieving information on government agencies, political parties, and individuals is a crime, for those involved in politics and media, it is impossible to exert any social influence without the information on the identity of principle figures, development in government agencies, and movement in political parties and social organizations.<sup>17</sup>

Second, under the third revision, the crime of inciting social disorder was punishable by "less than 5 years of imprisonment for those who knowingly disseminate false information or who distort facts and disseminate such facts to benefit the enemy" (Article 17, Section 5). This provision, like others, was derived from Japanese codes of the colonial era, notably, Article 105 of the War-time Criminal Code. Because the provision placed media agencies and journalistic investigation under terrible suspicion, it roused a concerted protest from the press.

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<sup>17</sup> Remark by attorney Yi Byung Lin at the hearing by the Legislation-Judiciary Committee of the National Assembly. Hearing record, pp. 9.

Third, the act of slander against a constitutional body, which included the President, Speaker of the National Assembly, and Justices of the Supreme Court, was punishable by less than 10 years of imprisonment (Article 2). The government argued that this article was aimed to "criminalize slander and libel of the head of our State, the President, or other constitutional body by the North Korean regime." However, it merely shielded the State and the President from public criticism and condemnation of incompetence and corruption.

(4) Fourth Revision (May 10, 1980, Legal Code No. 549)

The corrupt and authoritarian Syngman Rhee regime was eventually toppled by a massive public uprising. This event began as a student demonstration against the Liberal Party's blatant rigging of elections to maintain its political dominance. When the Party resorted to violent repression, the demonstration exploded into a nationwide uprising, which compelled the demise of the regime. The succeeding Democratic Party, therefore, could not ignore the ideas and demands publicized during the "April 19th Uprising." Its immediate tasks were to mete punishment to those responsible for fraudulent electioneering, to purge those who obstructed democracy, and to reform the previous regime's undemocratic government structure and its oppressive laws.

Consequently, on May 10, 1960, another NSL reform was legislated in order to abolish certain oppressive provisions. The principle targets of the protests during the aforementioned "2.4 Upheaval," such as the crime of gathering information and the crime of inciting social disorder, were mostly eliminated. The reform, however, amounted to a return to the second revision of the NSL. Moreover, it is noteworthy that new provisions for the crime of traveling to and from unlawful areas (Article 6) and the crime of failure to report to authorities (Article 9) were included. The former article indicted those who travel to-and-from North Korea, and the latter indicted family

members, friends, and neighbors who fail to report violations of the NSL. These amendments, in essence, not only infringed on the right to mobility and travel, but also prevented the reunion of family members in the North and South who were separated during the Korean War. Moreover, parents had to inform the authorities against their children, children against their parents, spouses against spouses under this vicious and inhumane law. Such "reform," unfounded in any period, was enacted by the Democratic Party regime.

When the repressive under the Syngman Rhee regime ended, progressive organizations found rigor in their campaigns, particularly around diplomatic exchanges between North and South Korea. This gave a reason for the new regime to strengthen the enforcement of the NSL and to explore other avenues of suppression, such as considering a passage of the Anti-Communist Law. Thus, the Democratic Party, having developed an amnesia about its experiences of bearing the brutal weight of the NSL when it, as the opposition party, fought against the dictatorial regime of Syngman Rhee, sought to apply the same mechanism of repression against the progressive forces and the new opposition party. But its reign halted abruptly when a military coup-d'etat reshaped the political landscape.

(5) Fifth Revision (September 24, 1962, Legal Code No. 1151) and the Enactment of the Anti-Communist Law (July 3, 1961, Legal Code No. 634)

(a) Characteristics of the May 16th Military Coup and the Military Regime

On May 16, 1961, a small group of soldiers in charge of the national defense crossed the Han river and took power by overthrowing the civilian government. This was the so-called "May 16th Military Coup" that radically altered the modern Korean history. This coup began a line of repressive military regimes to rule the South Korean society.

The South Korean military leadership on the whole were made up of anti-nationalist, ultra-rightist, and anti-communist officers. The leader of the May 16th Military Coup, Park Chung Hee, had spent time as an officer in the Imperial Japanese Army during the Japanese colonial period. Through the purge of the leftist soldiers, who made up a significant number within the Korean military, the members and supporters of the South Korean Workers' Party was completely removed from the military, and those affiliated with the rightist organizations were mobilized into the military.

Therefore it is natural that the military government of Park Jung Hee announced the policy of anti-communism as its top priority. It put forth as its first official slogan that "anti-communism is the national policy." A few days after the coup, on May 19th, the interim Military Revolution Committee issued Decree No. 18 and declared a complete prohibition on leftist activities:

We affirm that the principles and activities of communism corrupt the national constitution and pose a clear and constant danger to the national security. In order to maintain national security and order and the freedom of citizens by thoroughly restricting the activities of communism, we proclaim that (communist activities) will be punished according to the evidence of the crime.<sup>18</sup>

Such attitude of the military government led to the arrests and punishment of many people who advocated exchange and peaceful reunification with North Korea or engaged in progressive political activities. From the members of the National Assembly to students, 833 were arrested for alleged

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<sup>18</sup> The content of this decree was very similar to the Anti-Communist Control Law under the Democratic Party government. The decree served as a model that later became the Anti-Communist Law.

pro-communist activities. Of the 101 indicted, 16 were executed.<sup>19</sup>

#### (b) Enactment of the Anti-Communist Law

The military government began its rule by establishing the Anti-Communist Law that was broader in scope than the existing NSL. This Anti-Communist Law was introduced on June 22, 1961 by the Supreme Committee for National Reconstruction, a military junta, and, without much parliamentary debate it was formally adopted as Legislation No. 643 on July 3rd that year.

This Anti-Communist Law, had a extremely high potential for abuse of the basic rights of the citizens. First, not only North Korea and the Anti-State Organizations associated with it, but all socialist<sup>20</sup> countries were defined as enemy states. Second, whereas the punishment under the NSL was limited to activities advancing the objectives of Anti-State Organizations, now, unrelated activities such as simple encouragement, praise, and sympathy--the so-called "pro-communist" activities--became punishable as well. For example, the Article 4 of the Anti-Communist Law makes a crime for "any person who praises or encourages the activities of an Anti-State Organization or its members or, through other methods, engages in activities helpful to an Anti-State

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<sup>19</sup> Korean Revolution Trial History Compilation Committee, Korean Revolution Trial History Vol. 5, 1962, p. 788.

<sup>20</sup> Here communist affiliation is explained as follows:

To be called a communist group does not require that the name or the activity of the group be identical to that of the communist party. The goal of the organization must contribute to the implementation of the goal of the communist party. As long as there is such contribution it can be considered a communist organization whether or it is completely or partly corresponding to the communist political line or has only part of the communist goal. For example, goal of socialization of private property or the struggle between capitalist and workers are considered communist affiliated. (Yi, Soo-Yup, South Korean Security Criminal Law, Moonwang Publishing, 1969, pp. 218-221).

crime for "any person who praises or encourages the activities of an Anti-State Organization or its members or, through other methods, engages in activities helpful to an Anti-State Organization" (Section 1) and "any person who produces, imports, copies, possesses, transports, distributes, sells, or reads writings, pictures and other publications for the purpose of engaging in activities mentioned in the previous Section" (Section 2). The requirements that make up a crime are very abstract and unclear and create opportunities for extreme and arbitrary prosecution by the investigating agency. Although the Anti-Communist Law was abolished in 1980 in order to promote economic exchanges with the socialist bloc countries, its abolition was in name only as the essential provisions of the law were incorporated into a revised NSL.

(c) The Fifth Revision of the NSL

The new military government was not satisfied although it had acquired a strong weapon of political control in the Anti-Communist Law. It not only preserved the existing NSL but made it stronger. Since the Anti-Communist Law overlapped with much of the NSL, for all practical purposes, there was no need for the preservation of the NSL.

However, a NSL revision that contained more repressive provisions was proposed by the chairman of the Legislation-Judiciary Committee on September 4, 1962 and passed without a debate on the 12th of the same month. It was officially declared as Legislation No. 1151 on the 24th of the same month.

(6) Sixth Revision (December 31, 1980, Legal Code No. 3316)

In October 1979, the dictator Park Chung Hee who ruled South Korea for 17 years was assassinated by Kim Jae Kyu, Park's protégé and head of the Korean Central Intelligence

Agency (KCIA). With the fall of Park, South Korea envisioned an era of democracy where the people can choose the government and end the long, dark period of dictatorship. However, yet another military coup turned back the clock of history and shattered all such hopes and dreams. This was the so-called May 17th Incident that took place under the leadership of General Chun Doo Hwan on May 17, 1980.

The Chun Doo Hwan regime failed to achieve legitimacy as a government because it ignored the peoples' demand for direct election and was chosen by a questionable electoral college. It was inevitable that peoples' mistrust and opposition to this would rise like a wild fire. The May 1980 peoples' uprising in the city of Kwangju in southern Korean peninsula and the massacre of hundreds of civilians in the ensuing government crackdown were the inevitable results of Chun's unlawful taking of power and the people's resistance against it.

It was impossible to hope for the new military regime facing such situation to repeal the laws of oppression. The government knew better than any one else that these terrible laws were necessary to repress the resistance of the people. The NSL was most appropriate in meeting such needs.

It has been already mentioned that one of the reasons behind the revision of the NSL was to avoid unnecessary misunderstanding the name "Anti-Communist Law" may create for Eastern Bloc countries and China with whom the South Korean government was seeking trade. However, aside from such superfluous reason, it is reasonable to see that the government wanted to propagandize that the Anti-Communist Law has been repealed by merging the Anti-Communist Law and the NSL.<sup>21</sup> Therefore, the core of the Anti-Communist Law which so effectively repressed human rights was kept in the

<sup>21</sup> Some interpret the abolition of the old National Security Law at the time as "certainly not a weakening of the will of anti-communism but as an expression of a national policy that internally strengthened national security while displaying flexibility on a superficial level." (Jung Kyung Shik, Yi Weh Soo, *The New National Security Law*, Bakyong Publishing, 1987. p.35)

NSL, and more crimes were added.

The sixth revision of the NSL with the substantial additions as mentioned above were passed by the military junta after the Chun Doo Hwan military regime unlawfully dismissed the National Assembly.<sup>22</sup> The bill of revision of the NSL was introduced on December 26, 1980 and passed on the 30th of the same month. In the process, there was no debate or discussion over the bill. Under the oppressive circumstances of the time, no one could oppose the bill.<sup>23</sup>

#### (7) Seventh Revision

June 1987 was a time when the South Korean people broke the long chains of hardship and suffering and won some freedom and human rights. After years of struggle, students, workers, and citizens succeeded in obtaining many concessions such as direct Presidential elections from the government. This led to a major government concession come to be called the "June 29th Declaration."

The consequent direct Presidential election of December 1987 was the first election by direct vote and thus a significant historical event. The opposition led by Kim Dae Jung and Kim Young Sam was divided and, as a result, Roh Tae Woo of the ruling party won the election. However, Roh was bound by the "June 29th Declaration." The Declaration meant respect for

<sup>22</sup> Legislative Committee for National Security and Order was meant to succeed the Emergency Planning Committee for National Security and Order created after the dissolution of the National Assembly by the coup, and function in place of the National Assembly until it was reassembled. But there is no doubt this was an unconstitutional political instrument formed by subverting the constitution.

<sup>23</sup> The Legislative Committee for National Security and Order, during 154 days of its existence--from its first meeting on October 29, 1980 and its last meeting on March 31, 1981--passed a total of 215 bills, including 189 legislative bills, 16 motions, 3 resolutions, and 2 budget bills, that became the legislative pillars of Chun Doo Whan's rule. On the average, one bill was passed every three minutes. (Han Dong Hyuk, *Rule and Rebellion*, Him Publishing, 1988, p.179)

democratic reforms and human rights.

But once Roh came to power, the promised democratic reforms ran into obstacles. In reality, Roh and the ruling power's promise of reforms and democracy were weak at best. Roh Tae Woo himself was a military general like his predecessor Chun Doo Hwan and was one of the core leader of the military during the May 17th Kwangju Massacre. Furthermore, many personalities and apparatus that were directly involved in the oppression of the basic human rights of citizens remained intact. For example, the Agency for National Security Planning,<sup>24</sup> the nucleus of past regimes that became the target of the people's wrath, remained safe and sound within the umbrella of the government power. Under such circumstances, the 1989 visit to North Korea by Reverend Moon Ik Hwan became a starting point for renewed repression of the opposition. The arrests of workers became especially pronounced.

At the time, the opposition parties had the majority in the National Assembly and thus it was an opportune time to repeal oppressive laws such as the NSL. But each opposition group had different opinions on the question of repealing the NSL. Furthermore, the "Three Party Merger" removed any hope of legislative reforms. The "Three Party merger" refers to the merger of two opposition parties, led respectively by Kim Young Sam and Kim Jong Pil, with the ruling party to create a

<sup>24</sup> The Agency for National Security Planning (ANSP) is the successor to the notorious Korean Central Intelligence Agency (KCIA) formed in the beginning of Park Chung Hee regime. Chun Doo Hwan regime changed the name of KCIA to ANSP in 1980 in an effort to rehabilitate its reputation. Arguing that it deals with national security matters, the Chun regime established ANSP as a political instrument directly subordinate to the President. Information concerning its budget and staff are undisclosed and it lies outside the control of the National Assembly. Furthermore, under the name of "coordination," the ANSP de facto commanded the Public Prosecutors Office and the National Police and ruled over other administrative agencies. It also had right of direct investigation over NSL violators and dealt with the important NSL violations cases. During the investigative procedures, a great number of illegal acts such as torture and unpermitted interview were committed.

bigger ruling party that secured a majority in the National Assembly.

The seventh revision of the NSL took place under these circumstances in May 1991. With only the Peace and Democracy Party as the opposition, the ruling party with an absolute majority passed the bill of revision in matter of few seconds without any debate. The ruling party began to propagandize that democratization has begun with the passage of the revised NSL. But in fact the substance of the revision amounted to a superficial improvement of the NSL. For example, the new proviso under the revised NSL which contain the language "with the knowledge that [such acts] will endanger national security or the basic liberal democratic order" is very abstract and not sufficient to prevent abuses.<sup>25</sup>

#### THE SPECIAL CHARACTERISTICS OF THE REVISION PROCESS OF THE NSL

Through 7 revisions of the NSL, one can note special characteristics of the revision process.

First, the NSL has been revised by the ruling power driven by political motives. The revisions took place not because of deterioration of or danger to the national security, but as a means to oppress the people who rebelled against the ruling power. The revisions were frequently used by those who came into power through an illegal coup to crackdown on those who challenged the legitimacy of their rule. Therefore, the purpose of the NSL revisions lay not in the North Korean threat but in the political desire to stabilize and solidify the dictatorial

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<sup>25</sup> Lawyers for a Democratic Society and National Council of Churches in Korea, *Human Rights in South Korea: Counter Report to the Human Rights Committee on the Initial Report Submitted by the Republic of Korea Under Article 40 of the International Covenant on Civil and Political Rights*, May, 1992, pp. 37.

regimes.

Second, through successive revisions the NSL became more oppressive. Aside from the post April 19, 1960 revision and the seventh revision, the NSL became bloated with new articles and more penalties. The initial 6 provisions of the original NSL became 40. The maximum sentence in the first revised NSL was life sentence, but now there are 40 provisions which carry maximum penalty of death. This shows that the NSL is one of the most cruel laws that has been enacted.

Third, the process of revising the NSL has been unconstitutional, unlawful, and undemocratic. The fifth revision of the NSL and the enactment of the Anti-Communist Law, and the sixth revision of the NSL were carried out by the military juntas created after the National Assembly was dismissed. The fourth revision was passed by the ruling party while the opposition National Assembly members were under house arrest by the police. The most recent seventh revision was also passed by the Chairman of the National Assembly in a matter of seconds while the ruling party members physically surrounded and immobilized the protesting opposition members. Almost all of the revisions excluded any participation by the citizenry to debate and discuss the issue.

It follows that the NSL, from its enactment and through all of its revisions, does not possess legitimacy or legality either procedurally or in substance. The NSL was not enacted and revised according to democratic process and its provisions were not intended to truthfully guarantee the security of the nation and the basic rights of the people.

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## CHAPTER 3

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### APPLICATION OF THE NATIONAL SECURITY LAW

As previously mentioned, the National Security Law (NSL) has been enacted and revised not for "national security" in the genuine sense of the phrase, but for an illegal and illegitimate government to suppress its dissidents. Hence, it is only natural that the NSL has been applied for the purpose of oppression; and countless number of students, citizens, workers, and artists have endured persecution in the process.

It is impossible to count the precise number of the NSL-related cases. In 1949, one year after the NSL was enacted, 80 per cent of the 118,621 criminal arrests involved NSL violations. This fact alone attests to the enormous number of people abused under the NSL. Much of the information about the NSL is missing, and a statistical analysis of the NSL cases prior to 1964 remains unfeasible.

The NSL encompasses every aspect of political, social, and even artistic life of the Korean people. Control over the press occurs without saying, and targets of the NSL extend to poetry, paintings, professors' lecture notes, plays, and films.

The "clients" of the NSL include not only politicians and human rights activists, but also artists who should be guaranteed the freedom of creative expression. Also, workers have been subject to the NSL for demanding peaceful reunification of their divided country, making critical comments about the United States, or desiring a new social order.<sup>1</sup>

Such excessive use of the NSL has been made possible with the support of the regular as well as the secret police--the latter includes the notorious Agency for National Security Planning, formerly known as the Korean Central Intelligence Agency. They routinely conducted illegal and criminal torture, involving interrogation methods tacitly approved by the judicial system. In other words, an independent judiciary and an impartial prosecution--essential functions of any lawful society--do not exist in South Korea, and, therefore, those indicted for the NSL violations are deprived of the legal due process afforded elsewhere.

### CATEGORICAL ENFORCEMENT OF THE NSL

The sheer volume of cases precludes any case by case attempt to analyze the impact of the NSL. This section therefore analyzes only a few cases deemed relevant for selected categories.

- (1) Freedom of Thought and the NSL
  - (a) The Relationship Between the NSL and Freedom

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<sup>1</sup> Due to limited space, I omit discussion on the NSL cases related to reunification activism, anti-American activities, espionage cases, educational activities, and student activism. Instead, I focus on the cases related to freedom of thought, freedom of expression, religious activities, and labor activism.

## of Thought

To begin with, the NSL denies the fundamental human right to thought and conscience, in that people are punished for their thoughts and ideas not even expressed publicly. Freedom of thought generally refers to the right to freely form and maintain one's thoughts and philosophy, which equals in importance with freedom of education and religion. To nurture one's thought one should be allowed accesses to other political and economic thoughts expressed in books and other printed materials; one should be guaranteed accesses to read and keep materials on different subjects, free of censorship. Furthermore, freedom of thought entails the right to keep one's thoughts to oneself and not be forced to change them. In numerous NSL cases, people were interrogated about their philosophies and were punished when they did declare them. The following dialogue is an excerpt from a prosecutor's interrogation of a student arrested for an NSL violation:<sup>2</sup>

- Q. Define "anti-foreign" activities.  
A. It means opposing foreign forces, and I understand that the United States is the target of current "anti-foreign" student activism.
- Q. Describe who the imperialists are.  
A. In the past, they were the Japanese and Germans. Now they are the Americans.
- Q. Define "Minjung."  
A. It embodies most classes and social strata. More specifically, it can be said to include the middle class and the economically disadvantaged--namely, the urban poor, farmers, etc.
- Q. Define the "people's liberation."  
A. Once we have a welfare state, I don't think the term will be used anymore. Sweden would be an example of welfare state.

<sup>2</sup> Seoul Regional Prosecutor's Office, Form 89, Item 45949, 1980's.

The prosecutor is not the only one who interrogates on one's philosophy. The police and the judge repeat the questioning, and the pressure to change one's philosophy to please the interrogators continues well after the verdict and often into the prison term. Under the "conversion" system, all kinds of institutionalized harassment await those who stand by their principles.

### (b) Suppression of Freedom of Thought by NSL Mechanisms

#### i) "Conscientization"

The term "Conscientization" first came into use in the early 1980's as echoed in the following official statement:

A 1980 analysis of fliers published and distributed around Seoul National University showed that while they contain demands for solutions to society's ills, the basic value system and propaganda tone of the fliers were clearly borrowed from communist and other militant revolutionary ideologies. Henceforth, to distinguish them from North Korean spies, we have decided to use the label "leftist-conscientized students."<sup>3</sup>

Note the synonymous usage between "the conscientized" and the leftist ideologues.

However, seminars and study groups conducted for "conscientization" were products of nothing more than the natural human tendency to gain knowledge and thus improve oneself. Even if the subject of these studies was socialism, as the prosecutors charged, students should be fully protected

<sup>3</sup> Counter-Communism Official Training Institute, *The Reality of Leftist Movements*, Seoul, pp. 96.

under the freedom of individual thought, and the government has no business interfering with that freedom.

The South Korean government has criminalized "conscientization" by declaring possession of books and materials used for such studies as being "beneficial to the enemy," and study group discussions as activities of "praising, encouraging, and abetting" the anti-state organization, namely, the North Korean government. These charges were often directed at workers on strike or student demonstrators, who were indicted for possessing banned "ideological" books and "pro-communist" fliers. With few exceptions, the defendants were inevitably declared guilty, as shown by the following verdict:

This book may be found in general bookstore. But it contains sections which praise, encourage, and abet the activities of the anti-state organization, i.e., sections about the withdrawal of U.S. troops from South Korea. So far as Defendant participated in "conscientization" sessions that used those excerpts for presentation or discussion, barring no special circumstances, it is only appropriate to conclude that Defendant's such activities reflect the intent to praise, encourage, and abet the anti-state organization.<sup>4</sup>

Under the NSL, a person can be arrested for accidentally listening to North Korean radio broadcast. The following verdict, although reversed upon appeal, is one such example:

Defendant...was sitting in a cafe and listening to music from a radio placed on top of the cafe counter. He was listening initially under the impression that it was South Korean broadcast. However, when the following program began to

<sup>4</sup> Supreme Court Verdict: Year 83, Case 2528, rendered November 22, 1983.

denounce the Republic of Korea, by claiming that "a certain Mr. Park of the Blue House [South Korea's Presidential House -ed.] raised the train fare for private gains," Defendant was fully aware that he was listening to North Korean propaganda, and yet he told the waitress who was about to turn it off not to do so, and insisted on hearing what was being said. By doing so, Defendant benefited the enemy....<sup>5</sup>

ii) Diaries, Memos, and Manuscripts

Private inner thoughts are not exempt from the scrutiny of the NSL. Although judged not guilty at the end, the following case, which deals with the content of a diary, is a fine example of how the South Korean judicial system operates:

A diary records the individual's private feelings, observations, and life experiences. It is therefore for private use only, and not for public display. Therefore, barring those special circumstances in which the diary was written for others to read, was read by other, was left in places where other could have read it, or had any other outside contact, the author of the diary cannot be punished, even if its content may be in violation under Article 4, Section 1 of the Anti-Communist Law.<sup>6</sup>

In addition to diaries, academic notes and literary manuscripts can bring problems to the authors:

Defendant, while acting as the Planning Director for

<sup>5</sup> Supreme Court NSL Violation Verdict: Year 68, Case 1118, rendered October 22, 1968.

<sup>6</sup> Supreme Court NSL Violation Verdict: Year 75, Case 3392, rendered December 9, 1975.

the "National Artists Council," ....has arduously sought to visualize the daily struggle of the working masses in an effort to better familiarize himself with the worker's life and enhance the understanding of labor activism.... He has made five college notebook worth of notes under the heading, "History of Labor Movement under Japanese Colonialism," thus producing and keeping in possession material beneficial to the enemy.<sup>7</sup>

In the case of Paek Jin Ki of July 1989, a leader of a literary circle was arrested based on the content of manuscripts:

Many pages are thrown away in the writing process, and it is a shame that a product that did come out of such laborious process should be subject to ban and declared "benefiting the enemy" even before it is submitted for publication.<sup>8</sup>

### iii) Ideology of a Stamp

Oppression of free thought was not limited to mental activities but extended to material objects as well. Next, I introduce an interesting debate surrounding the "ideology of a stamp."

*Statement of Appeal:* It is extremely dubious that the said Stamp had any political and ideological content or purpose. Stamps are distributed for the purpose of facilitating the mailing process and increasing government revenue through sales to stamp collectors, and from the esthetics standpoint. Stamps can be also seen as expression of a nation's

<sup>7</sup> Seoul Regional Prosecutor's Office, Indictment for NSL Violations Form 89 Case 95511.

<sup>8</sup> *Han-Gyuh-Reh* Newspaper, July 15, 1989.

Stamps can be also seen as expression of a nation's cultural criteria. Academic expertise is necessary to further discuss this issue.... There is no precedent by which even warring countries have banned the collection of stamps from the enemy state. For instance, Taiwan allows collection of stamps made in mainland China.

*Supreme Court Verdict:* Although Defendants might have been professional philatelists with strong anti-communist backgrounds, Defendants did purchase North Korean stamps, and the acquisition must have been carried out under the full knowledge that such activity contributed to the retail and distribution of North Korean stamps, and thus benefit the interests of North Koreans.<sup>9</sup>

### (c) "Leftist/Pro-Communist" Label and the NSL

Socialists were not tolerated in any manner under successive regimes of South Korea--and this went without saying for communists and pro-North sympathizers. Even people of milder progressive persuasion became targets of constant government persecution. The ax of the NSL was wielded against anyone who highlighted the structural ills of the South Korean society and worked toward reform. The trap the government used to arrest such activists was the "leftist/pro-communist" labeling. The following is official definition of the term:

Leftist/pro-communist ideology refers to a world view or ideology with radical, socialist, anarchist, or communist inclinations.<sup>10</sup>

<sup>9</sup> Supreme Court NSL Violation Verdict Year 78 Case 2243, rendered December 13, 1978.

<sup>10</sup> Korea Policy Planning Institute, *A Critique of Radicalism in*

Leftist/pro-communist ideology is any theoretical and practical tendency that is grounded on distorted social and historical perspectives, and subscribes to social reform in line with socialist or communist theories.<sup>11</sup>

Thus, the term has a very broad and ambiguous definition, which can implicate however minor an attempt at social reform. More fundamentally, the government scheme in making the "left vs. right" distinction runs counter to democratic principles. When such distinction is drawn to suppress the dissidents, the State's definition of "left" and "right" is intentionally vague and arbitrary. The pro-democracy activists provide the following line argument defense against government charges:

Contrary to our appeal to otherwise, the fabrication and punishment of students and democracy activists under the leftist/pro-communist label have now fallen into dogmatic practice [among government prosecutors]. However, we stand by the conviction that our demands for our nation's sovereignty, a democratic demand to end the current dictatorship, and the right of the workers, farmers and the urban poor to live as decent human beings are morally right, and by no means leftist or pro-communist.<sup>12</sup>

(d) "Minjung Democracy" and the NSL

In the late 1970's, the philosophical and social outlooks of

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Korea, Shinwon, 1985, pp. 18.

<sup>11</sup> Cultural Relations Agency, *Annihilate Student Leftization!: Facts about the Revolutionary Militants*, 1985, pp. 8-9.

<sup>12</sup> Korean Catholic Committee for Peace and Justice, "The Fifth Annual Human Rights Sunday Message", December 7, 1986.

the pro-democracy forces began to be organized into a coherent social-scientific framework under the heading of "Minjung," which literally means "people."<sup>13</sup> However, it was not until the mid-1980's that the concept of Minjung came to provide a definitive theoretical unity in the pro-democracy movement's philosophy, politics, and social outlooks. Meanwhile, an intense confrontation was taking place between the government and the democracy activists. For the latter, the idea of "Minjung Democracy" was a viable, alternative political vision, against which the government immediately retaliated by labeling it as a "leftist/pro-communist" ideology.

Minjung philosophy is by no means monolithic. For instance, much debate has ensued among scholars as to who or which class represents the principal agent of social change. Such differences in opinion underlie the fact that diverse views exist within the pro-democracy camp, and that the Minjung thought does not come dictated from one leadership source, but is a product of long arduous struggle to improve the South Korean society. Unfortunately, however, the government utterly distorted the philosophy, by publicizing it as a monolithic ideology that is identical to the North Korean version of people's democracy.

Indeed, despite the entirely spontaneous origin of the Minjung thought, the government suppressed it through the scare tactic of linking it up with North Korean political philosophies. The logic was that by advocating the interests of the downtrodden and demanding social reform, the Minjung philosophy abetted North Korean propaganda about people's democracy. And as a result, many grassroots groups that began to be organized in the late 1980's became prey to the NSL witch-hunt simply because their organizational names included the word "Minjung."

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<sup>13</sup> For instance, "Minjung Theology" has come into general acceptance among the theologians in the late 1970's. Hyon Yong-hak, *Minjung, The Bell of Suffering, Hope*, Introduction to Korean Minjung Theology in the 1980's.

(e) Socialism, Communism, and the NSL

Amidst such development, even a mention of communism and socialism is a taboo in South Korea. Numerous books, including Karl Marx's *Das Kapital* and its interpretive essays, became subject to NSL ban, and many professors and students found possessing such books all ended up in jail. Simply put, socialism and communism were forever forbidden taboos and targets of intense abhorrence. Under these circumstances, any attempt to organize a communist party or profess communism was synonymous with a long prison term.

Despite these persecutions, a few openly professed their socialist philosophies. Yoon Chul-ho, arrested for the Inchon Workers for Democracy Alliance incident, protested the government policy by saying, "Why should I go to prison for being socialist," and even went as far as stating that socialism is the natural by-product of social reforms.<sup>14</sup>

Thus, South Korea contrasts markedly with the liberal democracies in Western Europe, Japan and the United States, where socialist and communist parties are legally allowed to exist. South Korea simply lacks both the will and experience to accommodate these parties into the political mainstream for the sake of reform and social stability.

(2) Freedom of Expression

(a) Freedom of Press

The freedom of press is often called the freedom that frees all the other freedoms. It not only represents freedom of thought on the individual level, but also encourages political participation that is fundamental to the democratic process.

<sup>14</sup> Yoon Chul-ho and Oh Dong-ryul, *Yes, We Are Socialists*, Ilbit, 1990, pp. 39.

The South Korean Constitution does not stipulate freedom of press as an absolute right. To the contrary, it contains several legal loopholes that severely limit the exercise of that freedom.<sup>15</sup> The National Security Law is the most notorious evidence, but examples are also found in the Military Secret Protection Law, Military Penal Code, Naval Base Law, Agency of National Security Planning Law, National Security Emergency Law, etc. But the NSL is the oldest instrument used for suppressing freedom of press. The thrice amended NSL of 1958 made specific provisions regarding the press, to literal suffocation of media activities. And the NSL under the Fifth Republic--under which the post-1960 Anti-Communist Law was subsumed--contained the "praise, encourage, abet" clause which substantially curtailed the freedom of media.

For the South Korean media, things were only uphill from the start. Under the Third and Fourth Republics of Park Chung Hee, who described the media as "bribed, corrupt, and plagued with communists," the media was subject to constant persecution. And it never recovered even with the collapse of Park's government. Under Chun Doo Hwan's government, reporters who made public the secret government directives to the news agencies specifying which and how the news articles were to be published were punished under the NSL. Similarly, Lee Yong Hee, columnist for *Han-Gyuh-Reh* newspaper, was arrested during Roh's reign for planning to do a coverage on North Korea. The following is an excerpt from the "media guideline" the Roh administration issued to every news agency.

*Purpose:* this guideline sets forth promotion of national interest as its objective, and establishes criteria for press coverage and release with respect to North Korea and other communist countries.

*General Criteria:* 1) When covering North Korea

<sup>15</sup> Even in this case, however, the Constitution stipulates that the form of constraint should follow legal procedures, and its extent should not infringe upon the essential tenets of freedom of press.

and other communist countries, the news agency is to regard national interest and security as its highest priority, and should provide maximum cooperation to the government policies regarding those countries. 2) Press coverage on North Korea should be geared toward establishing appropriate public perception, and should accord with the goals of fostering reunification under liberal democracy.

*Sanctions:* 1) News agencies or individuals that fail to meet this Guideline shall face administrative sanctions from the government. 2) Failure to meet the Guideline shall be penalized under separate legal proceedings so far as such failure violates the NSL and other criminal codes.

The NSL was also applied to grassroots publications as well. These are what one calls the "people's direct expressive medium built with their very own hands,"<sup>16</sup> and generally lack the equipment and manpower enjoyed by the mainstream news agencies. However, the "people's press" expanded rapidly in the late 1970's to represent the voice of the silenced masses, when all the mainstream media agencies were busy taking the side of the administration. Posters, fliers and underground newsletters became the most popular forms of the grassroots groups, although in the early days people just printed publications at home, went out to the street, and ran away after quickly dispersing them.<sup>17</sup> Fliers of the underground media soon came to flood virtually every campus and work place, and the number of NSL applications related to these fliers is simply beyond count.

Next, let us examine the "Rice Wine NSL" cases, so called because jokes or utterances made during fits of anger or

16 *Mal*, Special Edition: Press Directives, September 6, 1986.

17 For example, there is the 1973 "Hamsungji" case involving Kim Nam Joo and eight others, the March 1977 case of Chang Ki Pyo's "Voice of the People," and the May 1981 "Satgat" case of Hwang Gil-bong.

under the influence of alcohol also became target of the NSL enforcement.<sup>18</sup> Needless to say, many were indicted under these circumstances. The frequency with which the NSL was invoked for such cases attests to the reality of close surveillance kept on the South Korean people, "turning the entire society into literally a living prison."<sup>19</sup> These cases constitute the most egregious violation of human rights with respect to freedom of expression, as people were forced into a constant watch of each other, lest they be punished for even casual conversation. Here are two examples:

It is true that forcible eviction placed Defendant in an anguished mental state when Defendant made the incriminating comments. However, the Republic of Korea is a lawful country and Defendant should have taken the legal recourse to argue his case. Defendant's comment before a gathered crowd that the evictors were "even worse than Kim Il Sung" suggests that the North Korean enemies are leading a better life than in the South, and implies an unspoken desire that Defendant prefers life in the North. Defendant's such utterances benefit the anti-state organization.<sup>20</sup>

In a lecture titled "Public and Private" before an audience of 200, Defendant said that Ho Chi Minh, leader of the Viet Cong, deserves the respect of the Vietnamese for his altruistic struggle on their behalf. Such comments on Ho construe a praise of a member of a communist party and benefit the

18 Since the survival of democracy rides on freedom of press, many countries have developed the "principle of clear and present danger" with respect to that freedom. However, in cases like the "Rice Wine NSL," there is no such clear-cut guideline.

19 Cho Kook, "The Legal of Code of Conscientization in Modern Korean History," *History and Criticism*, founding issue, 1988. pp. 336.

20 Supreme Court Verdict: Year 70, Case 1486, rendered on August 31, 1970. Statement of reason for the prosecutor's appeal.

communist alignment abroad.<sup>21</sup>

(b) Freedom of Publication

Freedom of publication did not escape the scrutiny of the NSL. Books on communism and socialism, not to mention books from North Korea, were constantly on the NSL target list, although many of the books were legally published in other countries including the United States and Japan. The following is a partial list of books banned under the NSL:

1. Chung Sung-ki, owner of the publishing company Jin Hung Cultural Center, was arrested for publishing and retailing English versions of Lukacs' *History and Class Consciousness* and Kautsky's *Class Struggle*.<sup>22</sup>
2. Kim Chung-kang was arrested for buying and keeping in possession the complete set of *Das Kapital* and one volume of *Marx-Engels* and also for encouraging others to read Lenin's *Imperialism and State and Revolution*. The charges against were "obtaining and distributing material benefiting the anti-state organization or the communist alignment abroad."<sup>23</sup>
3. Yi Tae-bok, representative of Kwangmin Publishing Company, was arrested for publishing Maglaya's *The Organization*, Takahashi's *History of the Capitalist Development*, Maurice Dobb's *Studies in the Development of Capitalism*, and Francois's *History of People and Labor*.<sup>24</sup>
4. In September 1981, Kim Tae-kyung, representative of the pirate publishing shop Ji-chung, was arrested for publishing and retailing English versions of

21 Supreme Court Verdict: Year 78, Case 880, rendered on June 27, 1978.

22 Seoul District Criminal Court, Case Number 80-GoDan-6174.

23 Seoul District Criminal Court, Case Number 80-GoDan-2365.

24 The National Students for Democracy Alliance case, 1981.

Amin's *Uneven Development and International Capital Accumulation*.

Repression of this kind continued with great intensity. The following is a list of 29 people arrested for violating the NSL in the period from August, 1985 to April, 1987; they include publishing company heads, editors, authors, translators, and bookstore owners.<sup>25</sup>

[*Heads of Publishing Companies/Editors*]

- |       |  |
|-------|--|
| 8/85  | Song Gi Won (Practical Literature), <i>People's Education</i> published  |
| 3/86  | Lee Bom (Head of Baek-san School), Publication Planning Office Dasan-Bo-im Case  |
| 5/86  | Park Yoon Bae (Head of Guh-reum), published <i>The Bolsheviks and the Russian Revolution I, II, III</i>  |
| 7/86  | Chung Dong Ik (Head of Ah-chim), Park Tae Ho (Planning Committee), We Sung Bu (Editor-in-Chief), Kang Sung Mo (Member of editing committee, Dong-nyuk), possession of original text of the outline of the history of communism |
| 10/86 | Ko Kyu Tae (Editor in Chief, Kwang-ju), edited and published <i>Interpretation of Marx's Das Kapital</i>   |
| 12/86 | Shin Heung Bum (Head of Doo-rae), Produced <i>Bodo Jichim</i>  |
| 12/86 | Lee Min Sup (Editor of Guh-reum), possession of translation of <i>People's Democracy</i>   |
| 2/87  | Na Byung Shik (Head of Pul-bit), published <i>Korean People's History I, II</i>  |

25 Korean Literary Movement Association, "Paper on the Oppression on Literary Publications," June 1987, pp. 133-143.

- 3/87 Kim Joon Mook (Head of Mi-rae-sa),  
published *Russian Farmers' Movement*
- 3/87 Chung Byung Kuk (Head of Yeh-rim  
Planning), published reproduction of *Beyond  
the Division*
- 3/87 Chung Sung Hyun (Head of Chung-yun-sa),  
attempted to publish *Philosophy Made easy*
- 4/87 Kang Kyung Chul (Editor in Chief, Guh-  
reum), edited and published *The Worker's  
Philosophy I, II* and *Comintern and World  
Revolution I,II*
- 4/87 Kim Young Jong (Head of Four Seasons),  
published *The Laborer's Philosophy*
- 4/87 Kim Young Ho (Head of Nok-du), Shin  
Hyung Shik (Editor in Chief), published  
*History of World Philosophy, Political  
Economy, Nok Du Book Review*
- 4/87 Kim Heung Bum (Head of In-gan-sa), Lee  
Man Keun (Editor in Chief), attempted to  
publish *The Origin of Marxist Philosophy*
- 4/87 Yoon Hu Duk (Head of World), published  
*Lectures on Philosophy, Study of Economic  
History*
- 4/87 Lee Gun Bok (Head of Dong-nyuk),  
published *Clara Jentkin Anthology*

[Authors]

- 8/85 Kim Jin Kyung, Yoon Jae Chul, wrote *People's  
Education*

[Bookstore Owners]

- 8/12/86 Kim Hyun Do, Yi -uh-do Book Store  
8/12/86 Kim Tae Moon, Upper Room Book Store

- 8/12/86 Lee Sang Ho, Gyuh-reh-tuh Book Store  
1/5/87 Kim Won Pyo, Han-madang Book Store  
5/29/87 Jang Chang Ho, Han-madang Book Store

These cases cover only a short period of time, but arrests continued well beyond the time period indicated above. On October 19, 1987, a decision was made to lift a ban on 431 books. But 181 others were only promised a judicial review, in effect being held under the ban indefinitely.<sup>26</sup> Among the latter are titles written by world renowned scholars and writers, a partial list of which is given below:

Gramsci	<i>Letters from Prison</i>
Tokyo Univ. Publisher	<i>The Examination of China's Revolution</i>
Eimach	<i>Russia in the 1880's</i>
Wada Haruki	<i>Russian Revolution and Lenin</i>
Nym Wales	<i>Song of Arirang</i>
E.H. Carr	<i>The History of Bolshevik Revolution</i>
Bruce Cumings	<i>The Origins of the Korean War</i>
Franz Fanon	<i>The Wretched of the Earth</i>
Paulo Freire	<i>Pedagogy of the Oppressed</i>
Maurice Dobb	<i>Debates on Capitalism; Political Economy and Capitalism</i>
Marcuse	<i>Five Essays on Liberation</i>
Lukacs	<i>The Meaning of Contemporary Realism</i>

<sup>26</sup> Criteria for Judicial Review are as follows: 1) Content that praises, encourages, or abets communist ideology, domestic communist forces, or the anti-state organization; 2) Content that negates the capitalist system or advocates violent revolution as the means to solve the structural problem of the system; 3) Content that incites class warfare for social revolution; 4) Content that critiques Korean reality from the perspectives of radicalism, dependency, or neo-imperialism and advocates socialist measures to resolve social problems; 5) Contents that analyzes the Korean history from the materialist perspective and justifies socialism.

These circumstances didn't change much. On April 9, 1989, raids were conducted on 11 publishing houses and 269 bookstores nationwide, during which 10,191 books of 51 titles were confiscated. In January to July of 1989, 26 publication-related employees were arrested while 93 confiscation raids were conducted, of which 21 raids were on book stores.<sup>27</sup> In 1990, additional 14 publication-related arrests were made. The precise number of books thus affected cannot be determined to this date.

(c) Literature, Academic Papers, Films, Fine Arts and the NSL

i) Literature

The NSL also left an indelible scar in South Korean literature, including novels, poetry and literary critiques. A few cases are mentioned below:

1. Kim Ji-ha, a famous dissident poet, was arrested for the poem "Five Enemies," a biting satire on South Korea's corrupt elite circle, published in *World of Thoughts*, in May 1970. According to the verdict rendered on December 20, 1972 at Seoul District Criminal Court, "while [Kim] argues that the poem was written primarily to expose the levels of corruption within the privileged class, its actual content not only is exaggerated and factually incorrect, but also promotes false class division, thereby allowing itself to be manipulated as North Korean propaganda."<sup>28</sup>
2. Park Yong-Chang, a Yonsei University student and

<sup>27</sup> *Central Daily*, April 10, 1989.

<sup>28</sup> Han Seung-hun, *Law and Human Protest*, (Hanil, 1972), pp. 332-334.

part-time martial-arts fiction writer, was arrested on September 12, 1981 on the charge that sections of his work *The Emperor of the Martial World* advocated socialism.

3. Poet Yi Ki Hyong and publisher Chung Dong-ik were arrested in relation to the poetic anthology *Chiri Mountain*. Intended to recapture guerrilla activities in modern Korean history, the work ran into problems with the NSL for supposedly "euphemizing" such activities.<sup>29</sup>

Some of the literary figures arrested under the NSL during the Roh administration are listed below:<sup>30</sup>

Name	Occupation	Date of Arrest	Reason for Arrest
Koh, Kyu-tae	Poet	2/17/91	Publication of North Korean books
Kang, Tae-Hyung	Poet	3/27/91	same as above
Shin, Kyong-rim	Poet	3/27/89	Preparation for the North-South Korean Artists Conference
Hyon, Ki-young	Novelist	3/27/89	same as above
Kim, Jin-Kyong	Poet	3/27/89	same as above
Ko, Eun	Poet	3/27/89	same as above
Paek, Nak-chung	Critic	3/27/89	same as above
Kim, Kyu-dong	Poet	3/1/89	Pan-Korean Conference
Hwang, Suk-yong	Novelist	4/89	Visit to North Korea
Moon, Ik Hwan	Poet	4/89	Same as above
Kim, Sa-in	Poet	5/26/89	Publication of

<sup>29</sup> *Han-Gyuh-Reh* Newspaper, October 13, 1989.

<sup>30</sup> Park Won Soon, *A Study on the National Security Laws: II*, 1992, pp. 194.

			Labor Liberation Literature
Im, Kyu-chan	Critic	1/15/90	same as above
Do, Chong-whan	Poet	6/26/89	National Teachers Union
Yoon, Chae-gul	Poet	6/26/89	Incident of Assemblyman Suh
Yi, Seung-chul	Poet	7/6/89	Publication of North Korean books
Kim, Yi-ku	Novelist	12/4/90	Publication of Hwang's North Korean travel essay
Kim, Myong-sik	Poet	7/1/90	Publication of Poem <i>Yoke of Imperialism</i>
Sohn, Ji-tae	Critic		Publication of Labor Liberation Literature
Park, No-hae	Poet	3/10/91	Socialist Workers Alliance

(ii) Academic Papers

In preceding paragraphs, we examined how the NSL places severe constraints on freedom of thought and publication, the essential elements to academic freedom. Now we discuss how the application of the NSL has been extended to academic presentations and papers made by scholars, students and researchers.

Professor Yi Yong-hee's *A Dialogue with 800 Million*

People case

<Summary of Prosecution> Whereas in September [Defendant] translated 22 research papers presented by European, American and Japanese scholars on the People's Republic of China and published them as an edited volume under the title *A Dialogue with 800 Million People* at a company run by another Defendant, Paek Nak-chung; whereas the said articles contained sections that acknowledged the necessity or legitimacy of communist revolution in China, or praised, encouraged, abetted the activities of Communist China; whereas Defendant should have either deleted the said sections or added a translator's note that such interpretations of China are false; whereas Defendant has failed to do either, Defendant's such decision in effect praised the Chinese economic performance, to the benefit of Communist China.<sup>31</sup>

<Statement of Appeal> *The Dialogue...* was intended to expand public understanding of the world outside [of Korea] and also to provide a forum for mature, intellectual discussion.... Unfortunately, I have found that the stance on anti-communism the prosecutors and the judges (who rendered me a guilty verdict) demonstrated during my proceedings was more of an absurd hysteria rather than a reasoned philosophy. It was also my impression that, for them, "well-informed citizenry" was something to be desperately feared than as a pillar with which to defeat communism.<sup>32</sup>

<sup>31</sup> Seoul Regional Criminal Court, NSL Violation Prosecution Statement, Year 77, Case 65795.

<sup>32</sup> Yi Yong-hee, *Dialectics of Contradiction*, 1987, pp. 383. Professor Yi received a two-year sentence for this case.

The *Korean People's History* case<sup>33</sup>

The following sections of the book entitled *Korean People's History* were deemed in violation of the NSL:<sup>34</sup>

The U.S. aid has forced the South Korean economy into an aid-dependent economy, weakening its self-sufficiency and reinforcing the problematic legacy of colonial economy.

Modern Korean history can be characterized as the restructuring of South Korean society by neo-colonialist forces, with much of the legacy under earlier colonialism left intact.

(iii) Films

The NSL made no exception of film directors and critics. On December 18, 1964, Seoul District Criminal Court arraigned producer Yi Chong-soon and director Yi Man-hee of Hap-Dong Film Company under the charge that their film *Seven Female P.O.W.* "made a naively nationalistic portrait of South Korean army as being incapacitated, while praising the North Korean army and exaggerating the ordeals of Korean prostitutes in American bases, in effect disseminating an anti-American sentiment and promoting the withdrawal of the U.S. troops stationed in Korea."<sup>35</sup>

The March 1965 arraignment of director Yoo Hyun-mok was based on his presentation "Freedom of the Silver Screen" at

<sup>33</sup> This book was written by a team of young historians. Nah Byong Sik, representative of Pulbit Company that published this book, was arrested.

<sup>34</sup> *Dong-A Daily*, August 20, 1987.

<sup>35</sup> *Dong-A Daily*, December 18, 1964.

the International Cultural Freedom Alliance seminar held in South Korea. In it, Yoo had said:

An artist's inner world is something no government law can control or regulate.... If the government's anti-communist policy were to forever dictate North Koreans as lifeless puppet, how can one create the emotive-rational conflict, produce dramas, and advance the artistic level of film-making?<sup>36</sup>

There are several other cases in which films were found to be in violation of the NSL. For instance, in 1990, students were arrested for planning a viewing of a North Korean film at a college campus.

(iv) Fine Arts

Painters also became victims of the NSL, especially since 1980. In May 1984, Choi Min-hwa was arrested for attempting to publish a cartoon collection titled "Three Foreign Barbarians," which "caricatured in the folk Korean epic theater format the problems of foreign exploitation and dependent economy as well as General Chun's military coup."<sup>37</sup> Yi Eun-hong was arrested in May 1986 for submitting "Female Thug" a four-panel cartoon featured in *Labor News*. In September 1987, the 3 meter by 6 meter painting titled "To the Dawn at the Foot of Mount Paekdu" was confiscated for "depicting North Korea's reunification strategy via a popular revolt in the South, namely the scene in which workers and farmers tear and burn American flags with the azalea-covered Mount Paekdu at the background." In April 1989, Hong Sung-dam was arrested for having sent a large painting on modern Korean history to the

<sup>36</sup> Seoul Regional Criminal Court, Verdict Year 66, Case 89, rendered on March 19, 1967.

<sup>37</sup> National Artists Council, *A Case Study on Oppression of Art Under Military Dictatorship*, 1988, pp. 33.

Pyongyang Festival. On August 17, 1989, Shin Hak-chul was arrested for "Planting Rice," which allegedly "depicted the birthplace of Kim Il Sung and abetted, therefore, the revolution in North Korea." The names of other painters arrested for NSL violations are given below:

Choi Yeol, Chung Sun-hee, Oh Jin-hee, Yim Jin-sook, Yi Sung-kang, Kim Won-joo, Yoo Jin-hee, Park Mi-kyung, Cho Chung-Hyon, Choi Ae-kyng, Choi Min-chul.

### (3) Religion and the NSL

It is most tragic that the NSL--the most heinous expression of state power--should be applied to faith and religion, the apolitical guardians of innermost human nature. But the South Korean government could not tolerate the fact that the church was increasingly becoming a "sanctuary" for the anti-dictatorship dissidents. Since 1970, the Christian church became the center of human rights activism, including urban mission works to improve basic human subsistence rights and fight against the suppression of labor activism. State repression and resistance by the Christian democratic movement led to the theoretical formulation of "Minjung Theology."<sup>38</sup> This development affected not only the Protestants, but also the Catholics, and by the late 1980's, the Buddhists as well, as evidenced by the increasing number of Buddhists monks arrested during the Sixth Republic for participation in the

<sup>38</sup> The Korean church takes pride in such development and provide the following explanation:

The Korean church of the 1970's assumed the task of the prophet, by recognizing as part of the mission words and action for democracy and people's survival rights. The fact that Christians were the vanguards against the most fearsome measures of Park Chung Hee's government makes us especially proud, enough to compensate the suffering we had to undergo. (Korean National Council of Churches Human Rights Division, *The Democracy Movements of the 1970's I*, 1987, pp. 21.

### "People's Buddhist Movement."

Among religion-related cases involving the NSL, the following few cases are cited:

#### *The Buddhist College Students Coalition case*

On January 18, 1982, the general secretary of the said organization Kim Ho-sung and two others were arrested for professing "Buddhist socialism" in one of the organization's retreats.

#### *The Christian Philosophy case*

The issues at hand were a lecture given by Kang Myong-soon at the "Women's Conference of the 100th Anniversary of Korean Christianity" on August 15, 1985 and the subsequent publication of the lecture reported by Yi Chong Ae in "Christian Philosophy." In the lecture, titled "Open the Door of Gospel to Poor Women" and about the Mokdong eviction story, Kang emphasized the plight of the urban poor and quoted a child at Mokdong as saying, "In the North, one is guaranteed rice and a house."<sup>39</sup>

#### *The Dispatch of Father Moon Kyu Hyon to North Korea by the Catholic Priests Association for Social Justice case*

Fathers Nam Kuk-hyon and Park Byong-joon of the Association were arrested in their part in helping Father Moon visit North Korea. Their feelings upon arrest are expressed in the following statement: "For the mission of reunification and thus saving our fellow people, I am most willing to pay any price,

<sup>39</sup> *Chosun Ilbo*, October 30, 1985.

even if that means the curse of separation from Christ. In Roman 9:3, Jesus sacrificed his body and blood on the cross to break the wall of division and achieve peace for the humankind. In remembrance of His holy life, we priests will humbly repeat our small efforts, agony and subsequent suffering to the peace of our people."<sup>40</sup>

#### (4) Labor activism and the NSL

The experience of workers' movements in South Korea has been vastly different from that of the West, in that, for the latter, the worker's movements took place early and gradually. In South Korea, progressive labor organizations were annihilated following the liberation from Japanese colonialism. Labor activism since then has been relatively mild,<sup>41</sup> despite the horrible working conditions during the industrialization process, mainly due to restrictive labor laws buttressed by brutal institutionalized violence.<sup>42</sup>

However, such repressive conditions began to change after Chun Tae-il's protest by self-immolation in November 1970. Workers slowly became organized. This process was expedited by the influx of student activists, seeking "labor-student alliance," into the work force during the 1980's. Consequently, workers and their organizations became intense targets of the NSL.

Under the Sixth Republic of Chun Doo Hwan, workers arrested for NSL violations came to comprise one-third of all the political prisoners. The following table lists the number of

<sup>40</sup> Cited from *The Priests' Message to the Faithful*, July 1989.

<sup>41</sup> Choi Jang-jip, *State and Labor Movements in Korea*, Yulum, 1988, pp. 11.

<sup>42</sup> Apart from the NSL, all kinds of devious ways were used to suppress labor activism. Examples are blacklisting, biographical investigation, interference with union formation, police brutality, tacit approval of the goon squad, and ban on third-party arbitration.

arrested workers according to the type of legal provisions under which they were indicted.<sup>43</sup> Considering that the "obstruction of business" or "labor disputes" is a natural component of any labor strikes, criminalizing these act reflect the heavy bias of the NSL against the workers. It is for this reason the NSL is considered among the workers as the worst of the "evil labor laws."

<i>Charges</i>	<i>Number of Cases</i>
Obstruction of Business	121
NSL	101
Violence	56
Third Party Arbitration	26
Labor Dispute Regulation	25
Assembly and Demonstration	44
Obstruction of Official Duties	20
Molotov Cocktails (firebombs)	14
Forgery	11
Others	19

#### (5) Political Activity and the NSL

From the standpoint of the ruling power, it is inevitable to develop an antagonism toward the opposition which attempts to confront, replace, or take away power. In the case of South Korea, the general public's freedom of political expression, let alone normal political activity of the opposition party, has been restricted by the NSL. The following observation explains the reason for calling the NSL the "Political Power Security Law":

In times of political change, this law was changed to

<sup>43</sup> The Preparation Committee for the Release of Chang Myong Kook and other Workers, "Fact Sheet on Labor Movements and the NSL", pp. 21.

implement policies of a severe punishment and increase the number of punishable crimes. Any regime can become a target of legitimate criticism and be politically threatened by rivals. Such is the organic process of democracy. Despite this, the problem lies in abusing this law to repress and eliminate political opponents.<sup>44</sup>

Accordingly, countless politicians and citizens who criticized or opposed the government were arrested under the NSL. Among them, the following individuals who campaigned in presidential elections against incumbents deserve notice:

\* Cho Bong-Ahm

Cho Bong-Ahm opposed President Syngman Rhee of the First Republic and founded the Progressive Party. Cho received almost half of President Rhee's votes when he ran as a candidate in the third presidential elections. Cho and the leaders of the Progressive Party were arrested for alleged crime of spying for North Korea. Cho received the death penalty and was executed. Before execution, he left the following words:

President Rhee is engaged in politics to allow a select few to live well, while my friends and I are engaged in a struggle for democracy to enable the majority of the people to live well. If I committed a crime, it is the crime of participating in a political movement to enable the people to live well. I fought against President Rhee and lost. The loser dying at the hands of the victor is not an uncommon thing. However, I only hope that my death is not in vain and will contribute to the development of democracy

<sup>44</sup> Han Sang-Bum, "Law and Era and the Korean Society", *Ideology and Policy*, 1989 Autumn Volume, Kyung-Hyang Daily Publisher, pp. 46.

in this nation.<sup>45</sup>

\* Suh Min-Ho

President Park Chung Hee's political opponent, Suh Min-Ho, was arrested twice under the NSL. The Park regime first arrested Suh Min-Ho just prior to the presidential election of June 3, 1966. The charge against Suh, who at the time was the chairman of the preparatory committee for founding of the Democratic Social Party, was that the resolution passed at the founding convention of the Democratic Social Party included demands for exchange of letters sports and press personnel between South and North Korea. Statements made during his presidential campaign speech on May 7, 1967, became a basis for Suh Min-Ho's second arrest. He said: "In order to military spending which has been a tremendous public burden, we should decrease the military in proportion to the population ratio of South and North Korea," and "Politics deals with reality and since North Korea sends representatives to the international Olympic games or to Panmunjom, we must realistically recognize North Korea as a country, although emotionally we don't want to recognize it." The government viewed his statements as recognizing North Korea as a legitimate nation and thus encouraging and siding with the North.<sup>46</sup>

\* Kim Chul

Seoul District Public Prosecutors Office arrested Kim Chul, the Reunification Social Party representative and a presidential candidate, on February 10, 1971. Kim was charged for benefiting North Korea with statements made during two interviews such as, "tentatively South and

<sup>45</sup> Yi, Young-Suk, *Jook-san Cho Bong-Ahm*, Won-Eum Publishing, 1983, pp. 283.

<sup>46</sup> *Dong-a Daily*, May 8, 1967.

North Korea must join the UN membership together," and "we must recognize the existence of North Korea's actual form of governing and use the term 'North Korean government' instead of 'North Korean puppet regime'."<sup>47</sup>

\* Kim Dae Jung

On May 17, 1980, with the proclamation to expand the martial law throughout the nation, the Martial Law Enforcement Headquarters arrested Kim Dae Jung who had been preparing to run as a presidential candidate. A few days later, the Martial Law Enforcement Headquarters announced through an "Interim Report of Investigation Results" that Kim Dae Jung had been arrested and booked for conspiracy for insurrection and violation of the National Security Law, the Anti-Communist Law, Foreign Currency Law, and the Martial Law Decree. The NSL charges against Kim were based on the claim that he "formed Hanmintong [a Japan-based Korean organization working for democracy] with personalities expelled from Min-dan [a pro-South Korean organization of Koreans in Japan] and assumed a position as its leader" and therefore sided with the viewpoint and political line of North Korea and engaged in anti-State activities.<sup>48</sup>

## AGENCIES AND PROCESS OF NSL ENFORCEMENT

### (1) NSL Enforcement Agencies

#### (a) Special Traits of the Enforcement Agencies

<sup>47</sup> *Han-Kook Daily*, February 11, 1971.

<sup>48</sup> Yi, Sang-Woo, *The Military and Kwangju and Anti-Americanism*, Chung-sa, 1988, pp. 149.

A violation of the NSL should not be handled any differently than a regular criminal investigation. Despite that, investigative and judicial agencies dealing with NSL are noted for their special procedures.

The first trait is anonymity. It is routine procedure that NSL cases are handled by special investigative agencies, which operate beyond the regular investigative jurisdiction of the police and the public prosecutors. The name, location, and affiliation of the special agencies are unknown to the public.<sup>49</sup> Those taken away for NSL violation have no idea where they were taken to and their families have no recourse to find out their whereabouts. Such "anonymity" of the investigative agencies created great fear and posed problems of legal control. This directly violated the fundamental principles of modern administrative law of promoting openness and legal accountability.

The second trait heteronomy. Between the investigative and judicial agencies which enforced the NSL, there were numerous attempts to self-regulate their authority. Interference and competition occurred between authorities and the investigative agencies, among investigative agencies themselves, and between investigative agencies and judicial departments. In the process, autonomy of judicial departments and proper working relationship between public prosecutors and judicial police officers were not strictly maintained. Such inter-agency

<sup>49</sup> The following excerpt well explains such situation:

Under the name of the so-called "special organ for counter-communist works," a countless number of investigative agencies specializing in counter-communist work sprouted under the aegis of the police, the Agency for National Security Planning, and the Army Security Headquarters. Legal specialists, let alone the general public, did not know the legal basis for the creation of these agencies nor even their official names. These countless investigative agencies for counter-communist works, in competition to net greatest number of cases, did not stop from engaging in abusive investigations. (Hong, Sung-Woo, "Condition of NSL Application and Abuse of Basic Human Rights," *Human Rights and Justice*, September, 1988, Korean Lawyers Association, pp. 26.)

interference and pressuring led to the establishment of the Planning Committee of Related Agencies or the Joint Investigation Headquarters for Public Security. On occasion, reports on agencies or secret investigations were used to expose problems among agencies. But the most long term and effective weapon for agency control was the power of appointment. Officers in the counter-communist or intelligence section of the police, prosecutors in charge of public security in the Public Prosecutors Office, and judges at the judicial department were directly affected or swayed by the appointment process. But, the fact that the power of appointment was concentrated in the President damaged the autonomy of the governmental branches and respective agencies.

The third trait is violence. The aforementioned "anonymity" and "heteronomy" inevitably bring about a totalitarian rule where power is concentrated in one individual or a group rather than in a democratic entity regulated by legal principles. It follows that inhumane and anti-human rights tendencies of the above agencies and the implementation process resulted from such traits. A government apparatus exceeding the boundary of law and social control cannot be an apparatus of a liberal democratic state and the implementation of such apparatus' power can only be in forms of violence.

(b) Agencies Enforcing the NSL

i) Police

Although the NSL is handled by the counter-communism and intelligence sections within each police department, most of the NSL cases have been handled by the "counter-communism offices" established separately by the National Police Headquarters, the Metropolitan Police, and the Provincial Police. It was after the torture-induced death of Park Jong-Chul in 1986 that the counter-communism police became a subject of public opinion. It had been expanding to "counter the increase

in the extremist leftist groups and anti-state criminals." Until then, various counter-communism police agencies were hidden from the public. In particular, the counter-communism office of the National Police Headquarters located at Nam-yong-dong was reputed for terror and mystery. The following list of cases shows activities of the National Police Headquarters' counter-communism office.<sup>50</sup>

Year	1980	81	82	83	84	85	86	87	88	Total
No.	40	21	14	2	6	45	159	99	9	395

For such reasons, the counter-communism office of the National Police Headquarters was associated with the following assessment:

The counter-communism investigative units 2 and 3 of the National Police Headquarters, known better as *Nam-yong-dong*, have become an object of fear for students and labor activists and all who have given themselves to the national democratic movement since the Yushin era. Frame-up of communist support activity and mental and physical torture struck great fear. The majority of the so-called communist support activity were investigated, fabricated, and announced from this place.<sup>51</sup>

ii) Army Security Headquarters

Because the Security Headquarters is an internal apparatus of the Army, it had no association with civilians. Since the founding of the Republic of Korea, the pattern of

<sup>50</sup> Ministry of Interior Government Audit Report, October 1988, pp. 436.

<sup>51</sup> The truth is covered up rather than revealed. Public Statement on June 22, 1987.

intervention in civilian affairs has been established due to the strong influence of the military. The Special Task Military Unit headed by Kim Chang-Ryong, a former lackey of the Japanese Military Police, was composed of thugs from the Syngman Rhee's dictatorial regime, the police, and the military police. Its relationship with the Korean Central Intelligence Agency (KCIA), which will be mentioned in the later sections, was one of competition and conflicts. But after October 10, 1980 when Chun Doo Hwan, the commander of the unit, came to power, the Special Task Military Unit wielded enormous power. Its investigation of civilians was notorious in the post-Yushin period:

Along with the Intelligence Agency, the Army Security Headquarters (ASH) became synonymous with torture. During Yushin dictatorship, this agency repressed the democracy movement by involving itself in every aspect of politics. Suh-bingo, where the Army Security Headquarters had its investigation unit, was known as "Bingo Hotel" and was well known for horrendous tortures. People feared being dragged to this place more than to the Intelligence Agency. Those who were taken to this place, for whatever reason, were treated as spies or communist sympathizers and therefore received tremendous psychological pressure.<sup>52</sup>

Civilian investigations by the ASH continued during the Sixth Republic (Roh Tae Woo regime). It was discovered that ASH set up a boiler company as a front and followed demonstrators to determine their place of residence, to monitor progressive churches, and to plant infiltrators among workers.<sup>53</sup>

<sup>52</sup> Minju-tongil-minjung-yonhap, *Minju-tongil*, Vol. 5, November 1988, pp. 54.

<sup>53</sup> Suwon-Kyo-Ku-Sa-Jae-Dan, *A Progressive Report on the Assault of Workers by Members of the 100th Security Unit Regiment of the Army*, July 9, 1987,

There was a reported case where a student was kidnapped and coerced into becoming an infiltrator.<sup>54</sup>

For these reasons, the opposition parties introduced a bill to ban ASH's intelligence operations directed at civilians, and the Ministry of Defense also declared plans to downsize the agency. On October 14, 1990, Corporal Yoon Seog Yang made a public disclosure that he was taken in custody by the ASH while on military duty and was forced to infiltrate in civilian activities. This undoubtedly confirmed that this military unit had continued monitoring civilians. Corporal Yoon even presented a concrete evidence on computer floppy disks that contained the names of politicians, academicians, the press, and religious figures, who were monitored by ASH.

### iii) Agency for National Security Planning

The history of the Agency for National Security Planning (ANSP) goes back to the KCIA which was created in the aftermath of Park Chung Hee's military coup of May 16, 1961. In accordance with the goals of its founding, the KCIA's loyalty extended to one person, the President. As the pillar of Park Chung Hee's military dictatorship, the KCIA dominated people and government agencies. Through this dominance, it grew into a powerful political apparatus that was unrestrained and uncontested even by the National Assembly. It engaged in countless political conspiracies and human rights abuses, and became an object of great fear. ANSP inherited this legacy and power of KCIA.

ANSP's right to investigate NSL violations has legal basis.<sup>55</sup> Its responsibilities include the "planning and coordinating of intelligence and security work" and subjects the

<sup>54</sup> Kim Jung Hwan's Statement of Conscience involving the so-called "Buried Alive Torture Incident" (Pyunghwa-minjudang Human Rights Committee, *1988-1989 Human Rights White Paper*, 1990, pp. 191).

<sup>55</sup> Agency for National Security Planning Law, Chapter 2, Article 1, Paragraph 1.

Ministry of Interior and the Ministry of Justice under the concept of "coordinating."<sup>56</sup> Under the pretext of "coordinating," the ANSP controlled the police and the Public Prosecutors Office which were respectively subordinated to Ministry of Interior and the Ministry of Justice. All NSL-related legal proceedings by design were influenced politically, because the Public Prosecutors Office fell under the control of the ANSP, which in turn was under direct Presidential command. This became the cause of the public mistrust and antagonism toward the Public Prosecutors Office and the ANSP. These sentiments led to demands for the abolition of ANSP.

## (2) Enforcement Process of the NSL

### (a) Illegal Arrest and Long-Term Detainment

According to the Criminal Code under the South Korean Constitution, no one is to be arrested or detained without proper warrant. However, for NSL cases, these stipulations serve little more than ornamental purposes; many are forcibly arrested without warrant, detained, and prosecuted under the NSL.

When arrests are made, no explanation is given to the person arrested or his family about where the arrest was made, where the arrested person was taken to, or why the arrest was made. The family then has to search for the missing kin to determine his whereabouts. As these incidents became all too common, the victims' families began to organize themselves to fight for visitation rights to their kin who are illegally detained.

Illegal arrest, however, marks the beginning of a long interrogation process which is riddled with illegalities. Torture in a secret chamber is often the next step. The NSL victims are afforded little protection and are totally cut off from the outside

<sup>56</sup> Agency for National Security and Planning Law, Chapter 2, and Regulations on Intelligence and Security Work Planning and Coordination (Presidential Order No. 10239).

world.

Once arrested, the victim is kept in long custody without a legal warrant. The length of custody runs anywhere from a few days to over three months. The longest illegal custody recorded thus far is 118 days, involving the "Song family" case. This was the standard procedure in Chun's Fifth Republic, though such practice has diminished over the years.

### (b) Torture and Fabrication

In cases involving the NSL, torture and fabrication are almost standard and institutionalized practices. Prosecutors emphasize confession more than material evidence, and torture is almost always used to wring out the confession. Defendants are often pitted against each other during interrogation, so that mutually incriminating confessions can be induced under torture. It goes without saying that torture breeds fabrication. The following excerpt is from the memoirs of Kim Keun-tae, who has suffered severe torture and who became internationally renown by exposing South Korea's system of torture to the world:

I became implicated in a case because Moon Yong-sik implicated Yi Eul-ho and Yi Eul-ho implicated me. Of course, whenever the case becomes this convoluted, atrocious torture is involved in every step of the process. In early September, Moon, Yi, and I were taken to Nam Yong Dong every other two or four days. There we were like fish placed on the cutting board, subject only to the mercy of the knife-wielders. They tortured and tortured us. Whenever any tiny bit of information came out during the torture sessions, it was magnified beyond recognition. Information extracted by force were analyzed by the interrogators, who then met repeatedly to fabricate them into a coherent story.

Insufficient and inconsistent parts were brought back to the torture chambers, where we were battered and beaten until we could come up with the matching pieces.... Lying on the torture device, I was forced to memorize and regurgitate what I was forced to learn.<sup>57</sup>

Thus, the NSL interrogation process is little more than a process to write up a crime fiction. The process is so often fraudulent that even the names of people are randomly created. Thus, it is not uncommon that stories stretching beyond common sense end up in indictment papers as a result of fabrication and torture. The following excerpt documents a case where the prosecution made up a false story about someone traveling to North Korea:

The core of this case is that, upon contact by Byon Hee Jae, Yoon Chung-hyon went to Nikata, Japan before sailing aboard Mankyung for Pyongyang, North Korea to receive [spy] training, and then returned to Japan. However, facts show that during the said time period, Yoon was taking driving lessons in Japan, he never left Japan; and the ship Mankyung also never departed from its Japanese port. Further, Byon Hee-jae, the supposed guide to Yoon, is known to have returned to North Korea prior to 1975.<sup>58</sup>

(c) Process of Prosecutor's Investigation and Indictment

<sup>57</sup> Kim Keun-tae, *Statement of Appeal*, pp. 99.

<sup>58</sup> From the Conference on Political Prisoners sponsored by the Lawyers' Assembly for A Democratic Society, held May 15 1985. Specifically, from the "Report on the Koreans in Japanese Espionage Case", presented by Atty. Hong Sung-woo. (Korea Bar Association, 1987, 1988 *Human Rights Report*, pp. 383.)

In South Korea, the Prosecutor's Office has the authority to command and oversee the police and other special investigation teams. Therefore, it is not surprising that the detainees, after a long torture session at the hands of the police, look upon the Office as their last hope and that the prosecutors would respect the law and human rights. On almost all occasions, such hope turn into despair. Contrary to lending a sympathetic ear to their pleas, the prosecutors often resort to verbal threat or sometimes direct physical abuse. While the threat normally takes the form of suggesting a return to the police or special teams headquarters, nothing probably scares the detainees more than a prospect of having to return to the torture chamber, when they have just left it with their lives barely intact.

Another line of duty for the prosecutors entails rewriting the falsified and torture-prompted investigative reports in legal terminology to be presented in the court of law. Often, political pressure plays a role in the indictment process, as demonstrated in the People's Revolutionary Party case of August, 1964. In that case, the Korean Central Intelligence Agency arrested 41 people charging them with violating the NSL, and sent them to the Prosecutor's Office for indictment. When the prosecutor on duty at the time resigned in protest of the whole arrest, citing that confessions were not made voluntarily, the high-ranking officials transferred the case to another prosecutor after the cajoling failed.

However, such cases of "protest" are rare. The hierarchical system within the Prosecutor's Office simply makes it impossible for personal convictions to win out in the event they conflict with the orders from atop. For these reasons, the Office has been often criticized as being biased and political, and the defense attorneys also cite instances where the prosecutorial power is grossly abused.

(d) Trial Process

Political compromise and the lack of human rights concerns within the judiciary provide a major explanation for the deterioration and political abuse of human rights in South Korea. The NSL cases provide no exception. When the case is based on alleged violation of the NSL, the final verdict is often a verbatim duplicate of the indictment statements. Protests of torture and illegal detention seldom receive attention; not-guilty verdicts rarely occur; sentencing is often the maximum, and no bail or parole is granted. Thus, the judiciary acts as little more than a rubber stamp for the prosecutors, because it is unable to check the abuse of human rights at the police headquarters and it legitimizes torture and other atrocities. It is not surprising that the court is often attacked as the "warrant printing shop for the police" and the "source of modern tragedy."<sup>59</sup> Compare the following account surrounding the torture death of Yi Jae Moon of the South People's War Front case with the court statement rejecting the appeal for a hearing:

Between October 3, 1979, the date of arrest, and the court hearing date in February, 1980, the families didn't even know whether the detainees were alive or not. Some of them even had to be carried to the courtroom on a cot. How can anyone fully describe the tortures carried out under the State Emergency? As the result of torture, Choi Suk-jin is now on a sick release and faces death any day now. Some have lost hearing despite their young age, and others carry scars seven years old.<sup>60</sup>

While the petition for appeal states that Defendant's confession was torture-induced and therefore involuntarily, the record shows no such indication. No illegal violation appears to have taken place, and

<sup>59</sup> Korean Catholic Commission on Peace and Justice, *The Fifth Annual Human Rights Sunday Message*, December 7, 1986.

<sup>60</sup> Park Suk-jo, *Letters to and from the Prison*, pp. 159.

the lower-court verdict is upheld [in accordance with the prosecutor's findings]....<sup>61</sup>

Prison sentences in excess of ten years are all too casually handed out in NSL-related cases. During the 25 years between 1964 and 1987, the death sentence was pronounced in 138 NSL cases, making up 24% of overall death penalties in the same period. This translates into 5.5 death sentences per year for the NSL violators.

#### (e) Problems in Sentence Enforcement and Prisoner Treatment

For defendants in NSL cases, the tortuous and troubled legal experience does not end with the court trial. After being sentenced with unfairly long sentences, they continue to face suffering in the form of "conversion pressure," discrimination, and humiliation. Listen to the following memoir of one NSL-related long-term prisoner:

When I arrived at Chonju Prison, I was depressed had to suffer all kinds of stale food and violence by the prison guards. Calling us unpatriotic pinkos, they inflicted every possible form of physical and psychological punishment. Sometimes, they would engage us in a war of nerves, pressuring us to "convert." By trapping us, who fought for our nation's autonomous and peaceful reunification, with the label of communists, they threatened and pressured us to change what we believed in.<sup>62</sup>

<sup>61</sup> Supreme Court Verdict, Year 80 Case 2570, rendered on December 31, 1980.

<sup>62</sup> Ahn Jae-ku, *The Songs We Sing Together*, Kwangya, 1989, pp. 316.

What constantly bothers the NSL prisoners is this "conversion" system. A truly pre-modern legacy, it was originally used by the Japanese to suppress socialists, but the practice was imported to Korea and remained even after Japan stopped using the practice after World War II. The NSL prisoners are categorized as "leftist criminals," placed into a separate prison; and assigned "a comprehensive treatment that would prevent the spread of leftist ideology to general society, encourage renunciation of such ideology by the prisoners, and rehabilitate them into fit citizens."<sup>63</sup> During the course of the conversion treatment involving all kinds of violence and threat, it is all too common to see the breakdown in every grain of human dignity and integrity.

The NSL violators are subjected to constant surveillance even after their release from the prison. The Social Stability Law of 1975 has made it legal to quarantine, limit the areas of residence for, and detain, at any time for security purposes, those who were once convicted of NSL violation. Pursuant to said law, preventive custody shadows the NSL violators indefinitely well into the old age, even after they serve out the full sentence. Although that law has been repealed in May 1989 along with the preventive custody practice, the limited residence and surveillance provisions still apply.

The suffering inflicted on the family members is also enormous. The moment their kin is charged with NSL violation, they face the dual ordeal of police surveillance and ostracizing by the neighbors:

Even close relatives reproach us for the troubles caused by us, and no longer communicate with us. Ever since our father was arrested, the whole family had to undergo a lot of problems. Neighbors throw curses at us, asking how a spy's son could dare work as a teacher for children. Some of them, who have lived with us for the last 40 years, say that

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<sup>63</sup> Yoo Nam-young, "Prison and Human Rights," *Human Rights Report*, Korean Bar Association, 1987 & 1989, pp. 78.

they can't possibly live next to spies and that we should immediately get out of town. They even spat at our door. As the result, we have practically become hermits, staying indoors all day and avoiding eye contact when we do have to go out. We have to live as if we are some grave sinners, which we definitely are not.<sup>64</sup>

Thus, the suffering caused by the NSL is handed down to the children of NSL violators, as they cannot work as public employees. Under what is called the "Crime Inheritance System," a tight net of persecution strangles even the innocent family members.

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<sup>64</sup> Song Jin-keum, "Falsely Charged, Now a Lonely Criminal", *Saegajung*, May 1990, pp. 30-31.