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South Korea

SOUTH KOREA

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The test of practice: the
National Security Law and
human rights

(1994년 11월 11일 - 1994년 11월 31일)

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June 1993

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1R 4BH, UNITED KINGDOM

대한국제민주연대

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amnesty international

SOUTH KOREA

**The test of practice: the
National Security Law and
human rights**



June 1993
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INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

SOUTH KOREA

The test of practice: the National Security Law and human rights

1. Introduction

Three years ago, South Korea acceded to the International Covenant on Civil and Political Rights (ICCPR). In December 1992, Kim Young-sam was elected president after promising major improvements in the protection of human rights. But as this report goes to press, undertakings by South Korea to safeguard human rights remain unfulfilled in some areas of major importance and the main obstacle to better safeguards, the National Security Law (NSL), remains unamended.

South Korea has made repeated clear commitments to reinforce safeguards for human rights. Following the election of President Kim Young-sam, an amnesty was promulgated on 6 March 1993, resulting in the release of several prisoners of conscience. Another amnesty was announced in late May 1993. There have also been indications that legislation would be tabled before the National Assembly at its next session to amend the NSL.

However, the South Korean Government has given no firm commitment that it will amend the provisions of the NSL which Amnesty International believes have been used to detain prisoners of conscience. Indeed, the government's commitment to amend the NSL at all appears to be uncertain, as indicated by statements made in recent weeks by senior South Korean officials.

In July 1992, the United Nations Human Rights Committee considered a report by the South Korean Government on its implementation of the ICCPR. The Committee praised South Korea for submitting a "well-documented report" containing "detailed information about the laws and regulations relating to the implementation" of the ICCPR and for providing "clear and comprehensive oral replies". However, the Committee noted that:

"[South Korea's] report does not include sufficient information about the implementation of the Covenant in practice and about factors and difficulties which might impede the application of the Covenant."

The Committee recommended that South Korea should:

"intensify its efforts to bring its legislation more in line with the provisions of the Covenant. To that end, a serious attempt ought to be made to phase out the National Security Law which the Committee perceives as a major obstacle to the full realization of the rights enshrined in the Covenant . . ."

The text of a UN press release concerning the Human Rights Committee's examination of South Korea's report is reproduced in the appendix to this document. The present document describes Amnesty International's concern about the use of the NSL, recent official statements and why Amnesty International believes the NSL should be amended as a matter of urgency.¹

2. Will the National Security Law be amended?

In November 1992, two months before he was elected president, Kim Young-sam stated that he was opposed to revising the NSL because "North Korea is still intent on toppling our [political] system". More recently, conflicting signals have come from senior officials concerning revision of the NSL.

On 15 March, Deputy Prime Minister and National Unification Minister Han Wan-sang, speaking before the National Assembly's Foreign Affairs and Unification Committee, expressed willingness to "examine the possible replacement of the [National] Security Law with a law on democratic order". According to Han Wan-sang, several provisions of the NSL run counter to the existing agreement between North and South Korea: this, rather than the curbs on basic human rights included in the NSL, was given by Han as the motive for possible revision of the law.

On 2 May, it was reported that members of the ruling Democratic Liberal Party and of the opposition Democratic Party would meet later that month to discuss the formation of a special parliamentary committee to revise a number of laws, including the NSL. However, subsequent press reports indicated that the committee would focus first

¹ Amnesty International has published several documents over the past year detailing human rights violations in South Korea, including the use of the NSL. The laws and practices mentioned in these documents are still largely in place and are among those criticized by the UN Human Rights Committee. These should be referred to for further information. These documents include: ♦ *South Korea: Amnesty International's Concerns*, 23 pages, AI Index: ASA 25/14/92, June 1992; ♦ *"Unconverted" Political Prisoners*, 3 pages, AI Index: ASA 25/15/92, July 1992; ♦ *Reported Illegalities and Ill-Treatment in the Latest "Spy" Case*, 9 pages, AI Index: ASA 25/31/92, December 1992; ♦ *South Korea: Open Letter to all Presidential Candidates*, 5 pages, AI Index: ASA 25/33/92, December 1992; ♦ *Prisoner of Conscience Kang Ki-hun*, 5 pages, AI Index: ASA 25/04/93, January 1993; ♦ *Prisoner of Conscience Chang Ki-pyo*, 3 pages, AI Index: ASA 25/11/93, April 1993.

on reforming laws other than the NSL, such as laws on political parties and public servants.

On 3 May, Prime Minister Hwang In-sung stated in the National Assembly that the government had no intention of repealing or revising the NSL. He reportedly indicated that the NSL would remain unchanged as long as the "security situation" on the Korea peninsula remained the same.

Amnesty International is deeply concerned that amendments to the NSL to protect the rights of freedom of expression and association do not appear to be part of the South Korean Government's legislative reform agenda at this time. Amnesty International is aware of the particular situation caused by the division of the Korean peninsula and takes no position of principle on the existence of national security legislation. It is also aware that the ICCPR authorizes restrictions on the exercise of some rights, such as liberty of movement, freedom of expression, peaceful assembly and freedom of association. The ICCPR states that any such restrictions may only be those provided by law and may generally be only those necessary for the protection of national security and public order. Some rights, such as the right to life and the right to freedom of thought, conscience and religion, may never be restricted by State Parties to the ICCPR.

Amnesty International believes that the restrictions to freedom of association and expression included in the NSL are not consistent with the ICCPR. It believes that the restrictions to freedom of expression and association go far beyond those necessitated by the preservation of national security, the maintenance of public order or other legitimate motives specified in the ICCPR and have led to imprisonment of prisoners of conscience.

3. Provisions of the National Security Law used to restrict freedom of expression and association

The NSL provides the death penalty or life imprisonment for those convicted of being "ring leaders" of "anti-state organizations". It provides for the imprisonment of other members and supporters of such organizations. Over the years the NSL has been widely used to imprison people who visited North Korea without government authorization, people who met North Koreans or alleged North Korean agents abroad and people who expressed support for North Korea or whose views were similar to those of the North.

Provisions of the NSL which are of particular concern and have been used to restrict the rights of freedom of expression and association are described briefly below:

Article 2 defines an "anti-state organization" as a group or organization which has been established "for the purpose of assuming a title of the government or disturbing the state". This definition includes the North Korean Government and has also been applied to socialist and dissident groups in South Korea.

Article 3 provides imprisonment of between two years and the death penalty for those who establish or support an "anti-state" organization and has been used to punish any contact with a group or organization deemed to be "anti-state".

Article 4 imposes lengthy prison sentences and the death penalty for acts of treason, espionage or sabotage under instructions from an "anti-state" organization. The vague definition of state secret has been interpreted widely by the courts and people have been convicted under this article of the NSL merely for meeting North Koreans or alleged supporters of North Korea and/or passing information which was not actually classified as state secrets by the government.

Article 6 prohibits unauthorized travel to North Korea and re-entry into South Korea and has been used to imprison people who made unauthorized visits to North Korea, often in a public manner for the purpose of discussing peaceful reunification.

Article 7 punishes those who "praised", "encouraged" or "sided with" North Korea and has been used widely against people who merely expressed socialist views, who criticised government policy and/or whose opinions were considered to be similar to those of the North Korean Government.

Article 8 prohibits meetings and communication with an "anti-state" organization.

Article 10 punishes those who fail to report "anti-state" activities. It has been used, for example, against people who failed to report a colleague's meeting with members of an "anti-state" organization.

The NSL was last amended in May 1991 but not significantly. The definition of "anti-state" organization was altered to require that it be "equipped with a command and control system" and contacts with communist organizations in countries other than North Korea were decriminalized. The clause "with the knowledge that he might endanger the existence, security of the State or the basic order of free democracy" was added to several provisions of the law and the amended law also distinguished between state secrets which involved facts only known to a limited number of people and other state secrets. Amnesty International considered that these amendments were insufficient to prevent abuse of the rights of freedom of expression and association.

4. Prisoners of conscience held under the National Security Law

During 1992 some 270 people were detained under the NSL and over 200 others arrested in previous years remained in prison. On 13 May 1993 the Ministry of Justice reported to the National Assembly that 120 people were wanted for violation of the NSL.

Prisoners of conscience held under the NSL include **Hwang Suk-yong** who was arrested on 27 April 1993 at Seoul Airport solely on account of his unauthorized visit to North Korea in 1989 (he had lived in self-imposed exile abroad since then). He faces a lengthy prison sentence for contacting an "anti-state" organization. Several other prisoners who made similar unauthorized visits have been convicted under the NSL. They include parliamentarian **Suh Kyung-won** who visited North Korea in 1988 and discussed reunification issues with North Korean officials. When delivering its verdict in his case the court found that "the content of Suh Kyung-won's conversation with the North Korean leader Kim Il Sung does not appear to have contained what could be called top secrets vital to national security". Nevertheless, he was found guilty and is now serving a 10-year prison sentence.

Chang Ki-pyo is also a prisoner of conscience. He was sentenced to one year's imprisonment following his arrest in September 1992 for failing to report to the authorities his meetings with an alleged North Korean agent. There was no evidence to suggest that he knowingly met an agent or disclosed state secrets. Another prisoner of conscience **Kim Nak-jung** was arrested for association with the same alleged agent and was given a life sentence in February 1993, although the content of his discussions with North Koreans concerned reunification issues and was not proved to have been harmful to state security.

Several members of socialist groups are serving sentences of up to life imprisonment under the NSL for forming or belonging to "anti-state" organizations. One recent prisoner of conscience case is that of **Choi Il-bung** who belonged to a group called International Socialists. He was sentenced to two years' imprisonment in January 1993 solely for publishing socialist books and articles and for expressing his socialist ("anti-state") views.

5. Conclusion and recommendation

Amnesty International takes no position of principle on the existence of national security legislation, but calls for such legislation to be brought fully into line with international standards. In July 1992 the Human Rights Committee found that some provisions of the

current NSL contravene the ICCPR and prevent its full implementation in South Korea. Amnesty International has documented a clear pattern of imprisonment of prisoners of conscience under the NSL, merely for the non-violent exercise of their rights of freedom of expression and association. In spite of President Kim Young-sam's stated commitment to greater freedom and democracy, prisoners continue to be held under provisions of the NSL which violate their fundamental rights.

Amnesty International believes the NSL should be amended immediately in order to bring it fully into line with the ICCPR and other international human rights standards and to prevent the arrest and imprisonment of prisoners of conscience. It is therefore urging the South Korean Government to draft amendments to the NSL as a matter of priority, to make the draft amendments public and to submit them for discussion at the next National Assembly session.



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Press Release HR/3106
15 July 1992 (Afternoon)

HUMAN RIGHTS COMMITTEE CONCLUDES EXAMINATION OF REPUBLIC OF KOREA REPORT

Expresses Concern over National Security Law

The definition of political prisoners, the different approach of North Korea to unification, the working of the National Security Law and the rights of those detained under it were some of the issues explained by the delegation of the Republic of Korea in response to questions posed by the Human Rights Committee this afternoon.

Park Soo Gil, head of the delegation, told the 18-member Committee that in order to understand the improved situation in Korea, one had to grasp the historical importance the Korean people attached to the June 29 Declaration for Democracy. The Republic of Korea had to retain temporarily the National Security Law, said another member of the delegation, because terrorism was the instrument of the North's external policy. The National Security Law would remain in place until this policy of the North changed.

Following this intervention, members of the Committee offered their final comments on the initial report of the Republic of Korea on what it was doing to give effect to the International Covenant on Civil and Political Rights.

While acknowledging the positive changes which had occurred in Korea since 1988, the members of the Committee in their final comments strongly criticized the persistence of the National Security Law, which some termed as unacceptable and others as totally incompatible with the International Covenant. Lengthy periods of pre-trial detention, the excessive use of force by the police and the long list of crimes punishable by the death penalty were also deemed as excessive and requiring reform measures.

The Korean delegation was composed of Park Soo Gil, Ambassador and Permanent Representative, Moon Bong Joo, Counsellor in the Permanent Mission, Chung Dal Ho, Director, United Nations Division II, Ministry of Foreign Affairs, and Yoo Kook Hyun, Director, Human Rights Division, Ministry of Justice.

(more)

The Committee will meet again Thursday morning, 16 July, at 10.00 a.m. to take up the third periodic report of Mongolia.

Intervention by Korean Delegation

Responding to questions posed by members of the Committee, PARK SOO GIL (Republic of Korea) said that some important misconceptions had been generated by the discussion in the Committee about the real human rights situation in the country. In order to understand the improved situation in Korea, one had to grasp the historical importance which the Korean people attached to the June 29 Declaration for democracy.

Mr. Park said he sharply disagreed with the concept of "so-called" political prisoners as was often used in some quarters. Those who served prison sentences for injuring policemen or destroying State property with firebombs could never be considered political prisoners in the Korean legal system, he declared.

YOO KOOK HYUN, replying to a question from the Committee about the South-North dialogue and unification, explained the unification formula. He stated that North Korea had a different approach to unification and it was difficult to predict the future of the current dialogue. The Republic of Korea had to retain temporarily the National Security Law because terrorism was the instrument of the North's external policy. Until such time as this policy changed the National Security Law would remain in force.

Under this Law, a person would not be punished simply because he harboured or expressed Communist ideas, as long as the ideas were not translated into illegal acts, such as violent attempts to overthrow the Government. In general, National Security Law convictions resulted from an act by the accused to overthrow the Government. In every case, the accused received full Constitutional safeguards, including the right to counsel, presumption of innocence, the right to present evidence in defence, a public trial and the right to appeal.

With regard to other questions, "reasonable cultural discrimination" was explained as differentiation based on a person's educational accomplishment. Fifteen crimes were subject to the death penalty, apart from crimes committed under the National Security Law. Violation of that Law was punishable by hanging. The maximum period of pre-trial detention could not, he said, exceed six months and when detention occurred, the family had to be notified. All inmates were free to meet relatives and friends, receive and send correspondence and read papers.

Turning to freedom of movement, he said that some restrictions were placed on travel to North Korea, for reasons of national security. Concerning freedom of expression, Mr. Yoo stressed that the Republic of Korea did not practise censorship; there simply was no list of banned books.

(more)

Concluding Comments by Committee Members

Members of the Committee, in their final comments, expressed the view that noticeable progress and positive changes had occurred in the Republic of Korea since 1988. They felt, however, that the persistence of the National Security Law was unnecessary and that the crimes punishable under it could be sufficiently dealt with by the Penal Code. One expert said the law was not only unacceptable, it was totally incompatible with the Covenant.

Most members also expressed concern about the unacceptable and excessive use of force by the police, the potentially abusable concept of State secret, over-lengthy periods of detention for purposes of interrogation, and the powers of the National Security Agency, which did not come under democratic controls. In the view of the members, the number of crimes punishable by the death penalty was too high and the spectrum of police activities which ran contrary to human rights provisions were too broad. They appealed to the delegation to consider curbing both.

As to the incorporation of civil and political rights in Korea's legislation, some members expressed concern about the absence of explicit reference to the freedoms of opinion and expression. One expert suggested that existing and pending laws be systematically checked against both constitutionality and the International Covenant on Civil and Political Rights.

One expert said he could understand why a State would be afraid of the use of force by a totalitarian State but could not understand the reasons for fearing the ideas coming from a totalitarian State. He expressed concern about the fact that visits to North Korea could take place only upon obtaining permission. Another expert said that the continuing political tension between North and South Korea created an atmosphere which hindered the full implementation of the Covenant's civil and political rights.

The feeling of danger by the Korean Government seemed to be translated into a type of logic which was incompatible with the Covenant, according to one expert. He felt that the ideas surrounding the National Security Law failed to orient Korean society or to convey correctly which type of behaviour was acceptable and which type was sanctioned and why. He suggested that Korea put behind its past and, from now on, rely on democracy and the rule of law to set standards of behaviour for its citizens.

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SOUTH KOREA

Over 41 Years in Prison

Two of the World's Longest-Serving Prisoners of Conscience

인권 자료실	
하-유기호	자료번호
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DECEMBER 1994

AI INDEX: ASA 25/31/94

DISTR: SC/CO/GR

One year ago, in December 1993, Amnesty International published a report about Kim Sun-myung and Ahn Hak-sop, prisoners of conscience who have been imprisoned in the Republic of Korea (South Korea) for over 40 years (*ASA 25/41/93, Prisoners of Conscience held for over 40 years*). One year later the two men are still held in Taejon Prison with no apparent prospect of early release, except on the grounds of old age. During 1994 a lawyer wishing to act on their behalf was denied access to the prisoners who continue to be held in solitary confinement, isolated from the outside world.

Kim Sun-myung is now aged 69 and has been in prison for 43 years. Ahn Hak-sop is now aged 64 and has been in prison for 41-and-a-half years. The two men were arrested during the Korean War (1950-53) and sentenced to life imprisonment on charges of espionage on behalf of the Democratic People's Republic of Korea (DPRK). According to available information they were tortured and convicted unfairly. Amnesty International believes that they continue to be held solely because of their refusal to sign a statement of "conversion" to anti-communism.

Throughout 1994 human rights groups in South Korea and Amnesty International groups worldwide campaigned for the release of Kim Sun-myung and Ahn Hak-sop. Lawyers in South Korea have been attempting to represent them in legal proceedings. However, their efforts have been hampered because of the lack of available information about the cases and by apparent obstruction from the authorities. They have been unable to obtain copies of trial documents, in spite of requests made to the Ministry of Justice. Access to the two prisoners is generally limited to family members.

On 16 May a lawyer belonging to the organization *Minbyun* (Lawyers for a Democratic Society) went to Taejon Prison to visit the two prisoners but after waiting for some four hours he was told that access was denied on the grounds that he did not have a "power of attorney" signed by the two prisoners. He returned to Seoul and

prepared the required documents for signature by the prisoners. The documents were taken to Taejon prison in June by a representative of *Minkahyop* (human rights groups) but the prison refused to accept them. Since then lawyers have filed a complaint of administrative malpractice against the authorities. Pending the outcome of this complaint, all avenues of legal redress on behalf of the two prisoners are effectively blocked.

Ahn Hak-sop and Kim Sun-myung are currently held in Taejon Prison. Their families have suffered a great deal through being branded as families of "spies". Kim Sun-myung's family no longer visit him and he has only had six visits throughout his 43-year imprisonment. Ahn Hak-sop's family were unable to visit in the earlier years of his imprisonment and they now go about once each year. Both men are said to be in poor physical and mental health as a result of torture, prolonged imprisonment in poor conditions and lack of contact with other people.

The two prisoners have consistently refused to sign a statement of "conversion" renouncing their alleged communist beliefs. This means that they are denied the possibility of early release on parole and generally receive poorer treatment than other prisoners. For example, they have been held in solitary confinement for most of their 40-year imprisonment and are not permitted any contact with other prisoners. They are generally allowed visits from family members only and their mail is restricted. During the 1970s and 1980s such prisoners were tortured in order to force them to "convert". At present there are some 30 "unconverted" political prisoners in South Korea, of whom Ahn Hak-sop and Kim Sun-myung are the longest-serving.

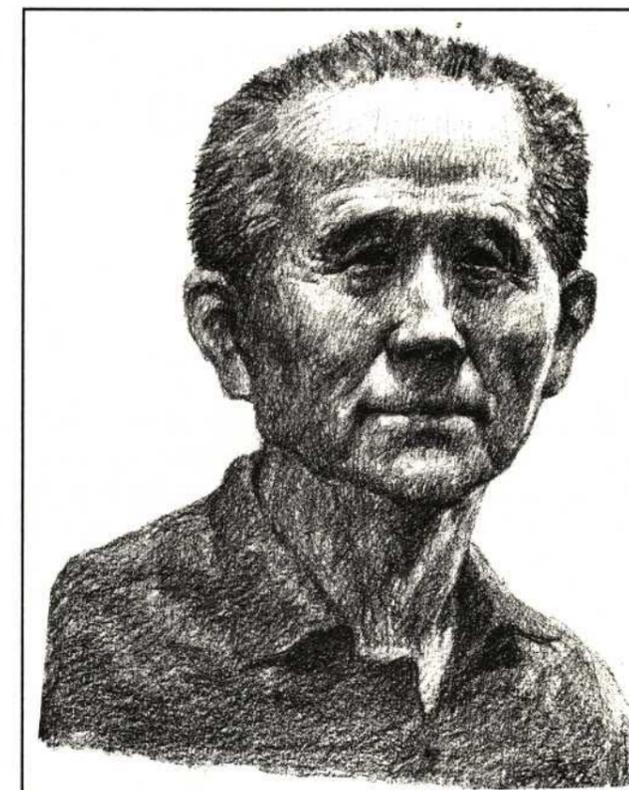
No other political prisoners in South Korea have been held in such conditions for so long. In spite of their old age, ill-health and lack of contact with the modern world, the South Korean Government appears to regard these two prisoners as a threat solely because they may still have communist views. Amnesty International believes that the prolonged imprisonment of these two men for their political views is in clear contravention of both domestic and international standards safeguarding the rights to freedom of thought and freedom of expression.

The case of Ahn Hak-sop

Ahn Hak-sop, aged 64, was born and educated in Kanghwa-do island. This is situated close to the Demilitarized Zone which has separated North and South Korea since the Korean War ended in an armistice in 1953. During the Korean War Ahn Hak-sop fought as a soldier in the North Korean army. He was captured by the South Korean armed forces in Kanghwa province on 26 April 1953 when his whole unit was reportedly destroyed and he was apparently the lone survivor. After interrogation by a special police unit, Ahn Hak-sop was moved to Taegu Prison. There he says that he was badly beaten and accused of being a North Korean spy, a charge which he denies. In 1953 Ahn Hak-sop was sentenced to life imprisonment by a military court. His family believe that this charge was based on the fact that he was captured alone, close to the border, and that his family did not come forward to identify him. In fact, the family were living on Kanghwa-do island at the time and were unable to obtain permits to cross to the mainland and visit him. A member of his family only managed to reach Taegu one week after the trial and alleged that she was told that if she had come one week earlier and bribed officials she could have secured his release. To Amnesty International's knowledge no photograph of Ahn Hak-sop exists.

The case of Kim Sun-myung

Kim Sun-myung, aged 69, was born in Kyonggi province and left school before completing his education. In 1940 he came to Seoul where he worked in the textile and steel manufacturing industries. During the Korean War he also served as an ordinary soldier in the North Korean army. He was arrested on 15 October 1951 by the UN forces as he was trying to cross to the south. Kim Sun-myung was originally tried in a military court and sentenced to 15 years' imprisonment on charges of espionage. Had he served this sentence he would have been released many years ago. However he was tried again in March 1953 on a more serious espionage charge, which he denies. At this time he says that he was severely beaten. He believes that he was charged because when he crossed to the South he saw some military installations which the authorities apparently suspected he might have reported to the North Korean army, had he been released. He was tried by a military court and sentenced to death. The sentence was commuted to life imprisonment the following year.



Drawing of Kim Sun-myung, aged 69, imprisoned for 43 years

KEYWORDS: PRISONERS OF CONSCIENCE1 / LONG-TERM IMPRISONMENT1 / SOLITARY CONFINEMENT1 / AGED / ILL-HEALTH / MENTAL HEALTH / PRISON CONDITIONS / TORTURE/ILL-TREATMENT / ESPIONAGE / MILITARY AS VICTIMS / PHOTOGRAPHS /

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SOUTH KOREA

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Two of the World's Longest-Serving Prisoners of Conscience

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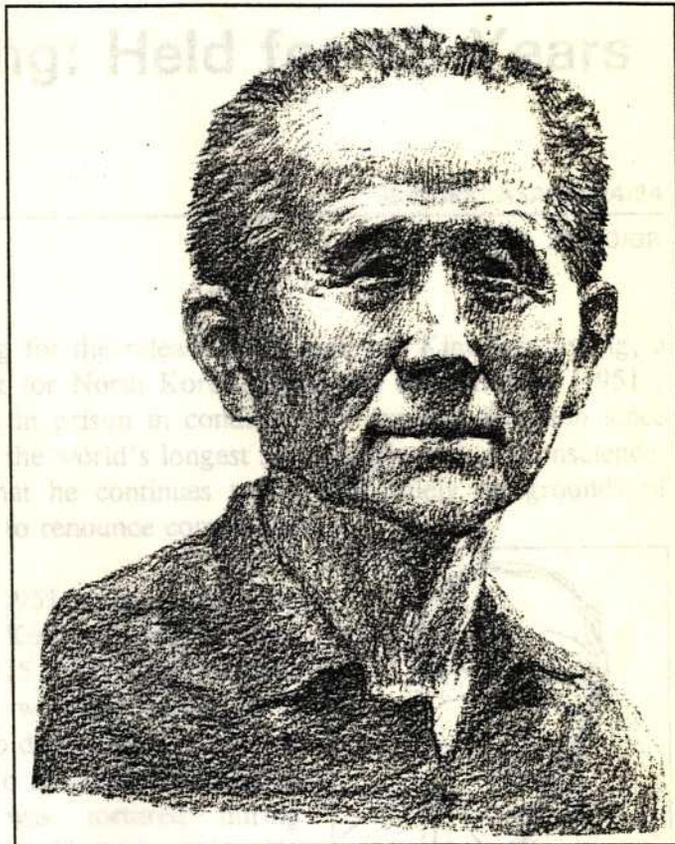
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The case of Ahn Hak-sop

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SOUTH KOREA

Appeal for the Release of Kim Sun-myung: Held for 42 Years

JULY 1994

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Amnesty International is appealing for the release of 69-year-old Kim Sun-myung, a former textile worker who fought for North Korea during the Korean War (1951 - 1953). Kim Sun-myung has been in prison in conditions of extreme isolation since October 1951, making him one of the world's longest serving prisoners of conscience. Amnesty International believes that he continues to be held solely on grounds of conscience, because of his refusal to renounce communism.

Kim Sun-myung was arrested in 1951 as he crossed the border separating North and South Korea. He was accused of espionage and was sentenced to 15 years' imprisonment by a military court. In 1953 he was tried again by a military court and was sentenced to death, later commuted to life imprisonment. According to available information about Kim Sun-myung, he was tortured during interrogation and convicted unfairly. He has consistently refused to sign a statement of "conversion" renouncing his alleged communist views. Amnesty International believes this is the reason why he has been refused the possibility of release on parole and also accounts for the poor conditions in which he is held.



For most of his 42-year imprisonment in Taejon Prison Kim Sun-myung has been held in isolation from other prisoners and has received no visitors. His family stopped visiting him many years ago and human rights groups have been denied access. In May and June 1994 human rights lawyers who are trying to secure Kim Sun-myung's release were refused access. As a result of his isolation, prolonged imprisonment and old age, Kim Sun-myung is said to be in poor physical and mental health.

No other political prisoner in South Korea has been held in such conditions for so long. In spite of his old age, ill-health and lack of contact with the outside world, the South Korean Government appears to regard Kim Sun-myung as an ideological threat because of his alleged communist views. Amnesty International believes that the prolonged imprisonment of Kim Sun-myung for his political views amounts to cruel, inhuman and degrading treatment. It calls for his immediate and unconditional release.

RECOMMENDED ACTION:

Please send letters and faxes to the South Korean Government:

- ◆ *expressing concern that the prolonged imprisonment of Kim Sun-myung, a prisoner of conscience, amounts to cruel, inhuman and degrading treatment;*
- ◆ *calling for the immediate and unconditional release of Kim Sun-myung;*
- ◆ *urging the authorities to allow human rights groups and lawyers to visit Kim Sun-myung in prison.*

Appeals to:

◆ President Kim Young-sam

The Blue House

1 Sejong-no

Chongno-gu, Seoul

Republic of Korea

Fax: +822 770 0253

◆ Mr Kim Doo-hee, Minister of Justice

Ministry of Justice

1 Chungang-dong

Kwachon-myon, Shihung-gun

Kyonggi Province

Republic of Korea

Fax: +822 504 3337

- ◆ *and to diplomatic representatives of South Korea in your country.*

KEYWORDS: PRISONERS OF CONSCIENCE1 / LONG-TERM IMPRISONMENT1 / AGED / ILL-HEALTH / MENTAL HEALTH / SOLITARY CONFINEMENT / CONFESSIONS / TORTURE/ILL-TREATMENT / ESPIONAGE / PHOTOGRAPHS /

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

The case of Kim Sun-myung



Kim Sun-myung, aged 68, was born in Kyonggi province and left school before completing his education. In 1940 he came to Seoul where he worked in the textile and steel manufacturing industries. During the Korean War he also served as an ordinary soldier in the North Korean army. He was arrested on 15 October 1951 by the UN forces as he was trying to cross to the south. Kim Sun-myung was originally tried in a military court and sentenced to 15 years' imprisonment on charges of espionage. Had he served this sentence he would have been released many years ago. However he was tried again in March 1953 on a more serious espionage charge, which he denies. At this time he says that he was severely beaten. He believes that he was charged because when he crossed to the south he saw some military installations which the authorities apparently suspected he might have reported to the North Korean army, had he been released. He was tried by a military court and sentenced to death. The sentence was commuted to life imprisonment the following year.

The two prisoners have consistently refused to sign a statement of "conversion" to anti-communism. This means that they are denied the possibility of early release on parole and generally receive poorer treatment than other prisoners. For example, they have been held in solitary confinement for most of their 40-year imprisonment and are not permitted any contact with other prisoners. They are generally allowed visits from family members only and their mail is restricted. During the 1970s and 1980s such prisoners were tortured in order to force them to "convert". At present there are some 30 "unconverted" political prisoners in South Korea, of whom Ahn Hak-sop and Kim Sun-myung are the longest-serving.

Ahn Hak-sop and Kim Sun-myung are currently held in Taejon Prison. Their families have suffered a great deal through being branded as families of "spies". Kim Sun-myung's family no longer visit him and he has only had six visits throughout his 43-year imprisonment. Ahn Hak-sop's family were unable to visit in the earlier years of his imprisonment and they now go about once each year. Both men are said to be in poor physical and mental health as a result of torture, prolonged imprisonment in poor conditions and lack of contact with other people.

No other political prisoners in South Korea have been held in such conditions for so long. In spite of their old age, ill-health and lack of contact with the modern world, the South Korean Government appears to regard these two elderly prisoners as a threat

solely because they may still have communist views. Amnesty International believes that the prolonged imprisonment of these two men for their political views is in clear contravention of both domestic and international standards safeguarding the right to freedom of thought and freedom of expression.

Lee Chong-whan's experience

Former long-term prisoner Lee Chong-whan was arrested in similar circumstances in 1951 and was released in an amnesty in March 1993, after spending 43 years in prison. He had also refused to "convert" but was released after 43 years in prison because he had reached the age of 70. He told Amnesty International that during the Korean War he had fought in the North Korean army. In 1951 he came to the south to visit his family and was arrested and accused of spying. He was tried and sentenced along with 20 or 30 other people by a military court. He said that in court the prisoners were grouped together and that each group of prisoners was given a different sentence, in an apparently arbitrary manner. They were not permitted to deny the charges against them. In 1953 he was tried again on a more serious charge of espionage and sentenced to death, later commuted to life imprisonment. He believes that the basis for this charge was that he had seen some South Korean military installations when he crossed to the south, which the authorities apparently suspected he might have reported to the North Korean army, had he been released.



From the 1960s until 1993 Lee Chong-whan was in solitary confinement and throughout his imprisonment he received no visits from the outside and no letters. During the 1970s he was severely tortured to force him to "convert" but he refused to do so because he believed that he had the right to hold his own opinions. Now, aged 71, he is free but his release is not unconditional. He is still under surveillance and is required to make a regular report of his activities to his local police station, in conformity with the Social Surveillance Law. Amnesty International believes these conditions are a violation of his right to freedom of association and should be lifted immediately.

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amnesty international

SOUTH KOREA

Summary of Amnesty International's Concerns

인권 자료실		
등록일	유기호	자료번호
	03	24

DECEMBER 1994

SUMMARY

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The Republic of Korea (South Korea) is a democracy with an elected civilian government. Its citizens have better human rights protection than they did in past decades, under military rule. However, the South Korean Government continues to allow the arrest of citizens for exercising their rights to freedom of expression and association and it continues to hold some of the world's longest serving prisoners of conscience.

On the basis of information gathered throughout the year from a variety of sources, including the government, and following a visit to South Korea by representatives of the International Secretariat in October, Amnesty International has concluded that the human rights situation deteriorated in 1994 due to the extensive use of the National Security Law to detain prisoners of conscience. The organization has information about dozens of such people who were arrested, charged and convicted for the peaceful exercise of their rights to freedom of expression and association. Key reforms needed to improve human rights, such as amendment of the National Security Law, were not carried out. Amnesty International knows of at least 30 prisoners whose trials under previous governments appear to have been seriously flawed, and who continue to be held with no prospect of a review. Dozens of workers were imprisoned during a series of strikes. Some, who had not used or advocated violence, were prisoners of conscience. Executions were carried out for the first time in almost two years.

In October 1994 Amnesty International sent a three-person delegation to South Korea to assess the current human rights situation. This report summarizes some of Amnesty International's findings from the visit; it also incorporates information gathered by the organization throughout 1994. This report does not cover all issues of concern to Amnesty International. Instead, it highlights some of the most serious violations of civil and political rights, falling with Amnesty International's mandate.

SOUTH KOREA

Summary of Amnesty International's Concerns

1) Amnesty International's Research on South Korea

Amnesty International visits South Korea regularly to investigate human rights concerns which fall within its mandate. It also monitors the human rights situation in South Korea throughout the year from its International Secretariat in London. Amnesty International bases its reports on a variety of materials it collects through its research. These include written and verbal testimony; legal texts, including court documents; interviews with human rights workers, legal scholars and other experts; and meetings with government officials. The organization also uses its experience and knowledge about human rights in South Korea, accumulated over a number of years.

In October 1994 Amnesty International sent a three-person delegation to South Korea to assess the current human rights situation. This report summarizes some of Amnesty International's findings from the visit, and also incorporates information gathered by the organization throughout 1994.

This report does not cover all issues of concern to Amnesty International. Instead, it highlights some of the most serious violations of civil and political rights, falling within Amnesty International's mandate.

2) An Overview of the human rights situation

South Korea is a democracy with an elected civilian government. Its citizens have better human rights protection than they did in past decades, under military rule. However, the South Korean Government continues to allow the arrest of citizens for exercising their rights to freedom of expression and association and it continues to hold some of the world's longest serving prisoners of conscience.

Amnesty International concludes that the human rights situation deteriorated throughout 1994 due to the extensive use of the National Security Law to detain prisoners of conscience. The organization has information about dozens of such people who were arrested, charged and convicted for the peaceful exercise of their rights to freedom of expression and association. In October 1994 there were reported to be some 500 political prisoners, around 70% of whom were held under the National Security Law.

Korea. This organization has some 75 members, works openly and focuses some of its work on political education for workers. One other person associated with this group, Professor Yu Cho-ha, was forced into hiding to avoid arrest.

◆ Four members of a dissident pro-reunification group *Pomminnyon* were arrested for alleged pro-North Korean activities. They include 70-year-old Reverend Kang Hui-chol who made a largely symbolic and public attempt to visit North Korea to offer his condolences following the death of Kim Il Sung.

◆ Nine members of a youth group called *SAM* were arrested in September and accused of attempting to indoctrinate high school students with North Korea's *Juche* philosophy. In October three remained in prison, awaiting trial. The group consists of young, former high school students who set up a forum to discuss and alleviate academic pressure on students.

◆ Dissident leaders Hwang In-sung and Lee Chang-bok were arrested in August under the National Security Law. They were accused of supporting North Korea's ideas on reunification and of expressing sympathy for the death of DPRK President Kim Il Sung. Supporters believe that the real reason for their arrest was to prevent them organizing a mass rally in favour of Korean reunification.

The Korean Bar Association has called for the abolition of the National Security Law, arguing that national security could be safeguarded by adding provisions to other criminal legislation and that the National Security Law could be abolished without any damage to state security. Others in South Korea calling for its abolition or revision include the Democratic Party (main opposition party), a number of legal scholars and many human rights organizations.

The Ministry of Justice has told Amnesty International that retention of the National Security Law in its current form is necessary because of the perceived threat from North Korea. Amnesty International is concerned that the government has used this threat to imprison people who posed no risk to state security. It is concerned that the government appears to be using the National Security Law as a bargaining chip in its negotiations with North Korea, refusing to revise the law until relations between the two countries are drastically improved. Amnesty International believes that the government has failed to meet the commitment it made when it ratified the International Covenant on Civil and Political Rights (ICCPR), a treaty which specifically safeguards the rights to freedom of expression and association.

In July 1992 the United Nations Human Rights Committee considered a report by the South Korean Government on its implementation of the International Covenant on

5) Flaws in arrest and interrogation procedures / ill-treatment of suspects

South Korea's arrest and interrogation procedures violate international human rights standards in several respects, some of which are described below. Amnesty International is concerned that flawed procedures have led to unfair convictions. Political prisoners are often arrested without a court-issued warrant, ill-treated during long periods of questioning and effectively presumed guilty before charge or trial.

In practice many political suspects are detained by use of an emergency arrest warrant, issued by a prosecutor without reference to a court of law. In such cases suspects may be held for up to 48 hours before a court-issued warrant is obtained. Amnesty International believes that the police and Agency for National Security Planning have sometimes used this 48 hour period to obtain "confessions" from detainees as grounds for obtaining a court warrant.

Judges are currently not entitled to question suspects when they issue arrest warrants. Under a revised Code of Criminal Procedure, the draft of which is currently before the National Assembly, a judge would be permitted in some cases to question selected suspects. Amnesty International is calling for this important safeguard to be made mandatory, so that all suspects appear before a judge.

National Security Law suspects may be questioned for up to 50 days before charge, an unreasonably long period. Amnesty International believes the police and the Agency for National Security Planning have used this long period of questioning to put excessive pressure on detainees in an attempt to extract "confessions" which may be used against them during their trial.

Amnesty International is disturbed by the widespread use of sleep deprivation during the questioning of suspects. In fact, the organization is not aware of any recent political suspect who was not deprived of sleep. In typical cases, suspects report that they were denied sleep for the first 48 hours of questioning and thereafter only allowed to sleep for two or three hours each night for up to 20 days. Some recent detainees (particularly those held and questioned by the Agency for National Security Planning) reported being beaten and threatened during questioning.

6) Illegal activities of the Agency for National Security Planning

The Agency for National Security Planning (ANSP) is empowered to arrest and investigate National Security Law suspects. In December 1993 new legislative provisions gave the National Assembly (parliament) powers of scrutiny over the ANSP's budget and

Amnesty International opposes the death penalty in all cases, considering it to be the ultimate form of cruel and inhuman punishment. The death penalty is irreversible, may be inflicted on the innocent and is often imposed on the poorest members of society who are least well-equipped to defend themselves. The families of some prisoners currently under sentence of death in South Korea could not afford to hire a lawyer to defend the prisoner. The death penalty also denies the possibility that prisoners may be rehabilitated. One of the prisoners executed in October, Suh Chae-taek, is said to have become a model prisoner since his arrest in 1987.

The latest executions were carried out in the wake of sensational media coverage about a series of murders and appear to have been inflicted both as a warning and as a means of appeasing public opinion. In October Ministry of Justice officials told Amnesty International that executions were necessary as a means of reducing the rate of violent crime in South Korea. They did not know, however, whether the government had carried out a survey into effect of the death penalty on the crime rate. To Amnesty International's knowledge, none of the surveys carried out in other countries have shown that use of the death penalty has a uniquely deterrent effect on violent crime.

8) Workers' human rights

During 1994 over 100 workers were arrested during disputes at seven different workplaces. Most were charged under labour legislation with taking illegal strike action, violence during confrontation with riot policemen and disruption of company business. Amnesty International is concerned that some of those currently held are prisoners of conscience. In one dispute concerning the Korean National Railroad, eight union officials, including Suh Son-won, were arrested in September during a peaceful sit-in protest at a temple. The eight railway workers and dozens of others belonged to the trade union *Chongihyop* which is illegal because current legislation does not allow more than one trade union at a workplace. They were deemed to have taken illegal strike action because current legislation does not allow public employees to go on strike. Amnesty International believes that a charge of violence levelled at Suh Son-won is unfounded and is concerned that he faces conviction and imprisonment as a prisoner of conscience. It is also concerned that his wife and two small children have been evicted from public housing as a consequence of his arrest and subsequent dismissal from the Korean National Railroad.

South Korean labour legislation violates international standards in several respects. A ban on "third party intervention" in labour disputes effectively prevents umbrella trade unions from giving advice to affiliate unions; government employees and teachers are not permitted to belong to a trade union; only one trade union is permitted in each

Summary of Amnesty International's Concerns

◆ Ensure that procedures for arrest and interrogation comply with international human rights standards

Some current procedures for arrest and interrogation should be amended to comply with international human rights standards. All those detained must be brought promptly before a judge. Suspects should not be subjected to sleep deprivation or other ill-treatment during questioning and the period of questioning before charge of suspects held under the National Security Law (currently up to 50 days) should be reduced drastically. Arrest and interrogation procedures should be brought into line with provisions of the International Covenant on Civil and Political Rights, The Convention Against Torture, the Standard Minimum Rules for the Treatment of Prisoners, the Code of Conduct for Law Enforcement Officials and other relevant international standards.

◆ Abolish the death penalty and commute all death sentences

The government should take steps towards abolition of the death penalty. Pending abolition it should reduce the number of crimes subject to the death penalty, cease carrying out executions and commute all death sentences.

◆ Respect workers' rights to freedom of expression and association

Workers should not be arrested and imprisoned for peacefully exercising their rights to freedom of expression and association. Current labour legislation should be amended to comply with international standards, including removal of the prohibition on "third party intervention" in labour disputes.

미국무부 한국인신변조사 (94.1A)

참여연대 인권 자료실		
등록일	분류기호	자료번호
94.1	03	18

REPUBLIC OF KOREA

The Republic of Korea is governed by a directly elected President and a unicameral National Assembly that is selected by both direct and proportional election. In February, Kim Young Sam of the Democratic Liberal Party was inaugurated as the country's first chief executive who is not an ex-general in nearly three decades. In his first year in office, President Kim, a former opposition leader, implemented sweeping political and economic reforms, including an anticorruption drive, which signified a fundamental policy break from the previous administration, and resulted in an end to the political careers of a number of key officials from that administration.

Responsibility for maintaining internal security lies with the National Security Planning Agency (NSP), the police, and the Defense Security Command (DSC). The Government made personnel and organizational changes in the powerful NSP and other security services for the announced purpose of curtailing the security services' involvement in domestic politics, stopping surveillance of civilians, preventing human rights abuses, and increasing efforts to collect foreign intelligence. The National Assembly reformed the law regulating the NSP and passed an antiwiretapping law to curb Government monitoring of communications. The Government also took a number of steps to institutionalize further, and guarantee, civilian control of the military, including replacing the Defense Security Chief and choosing a Chairman of the Joint Chiefs of Staff from outside of the small circle of military elite which had dominated the services under previous regimes. North Korea's temporary withdrawal from the Nuclear Nonproliferation Treaty, suspicions about its nuclear program, and the lack of progress in talks between North and South Korea heightened concerns about the threat posed by North Korea. Also, the long-standing conventional military threat posed by North Korea's arms buildup and the offensive deployment of its troops and weaponry remained a cause of concern. The ROK has become a major industrial power and world class exporter. An industrious and literate populace drives economic growth despite a lack of natural resources, especially oil. After several years of strong growth, the economy has slowed down. The gross national product as well as the Consumer Price Index increased by approximately 4.8 percent in 1993. Continued high levels of rural migration to the cities, shortages of skilled labor, unbalanced regional development, an inefficient agricultural sector, and inadequate infrastructure remain problems.

In 1993 the overall human rights situation improved significantly, a result of the fundamental shift in attitude and policy of the Kim Young Sam administration. President Kim achieved two democratic, institutional reforms of an historic nature: the abolition of false-name bank accounts and the enactment of a government ethics law. The requirement that bank accounts be registered in the real names of depositors has forced a large, hidden source of funds for political corruption into the open and thereby improved the transparency of government and politics. The ethics law requires officials for the first time to disclose their financial assets. Resignations and a reshuffle of judges, prosecutors, and police strengthened judicial independence and heightened sensitivity to individual rights within both the executive and judicial branches. Nonetheless, the Government, insisting that the National Security Law (NSL) is designed to thwart subversion by pro-North Korean forces, continued to use it to violate the freedoms of expression, association, and travel. The Government invoked the NSL less, however, and NSL arrests declined by over half. Although basic labor laws, which fall short of international standards, were not reformed, the Government, in a fundamental shift, assumed a much more neutral stance between labor and management during labor disputes.

The Government also decreed several amnesties that released, reduced the prison sentences of, or erased the criminal records of, hundreds of persons arrested for politically motivated acts. Police treatment of, and access to legal counsel for, suspects improved, although sleep deprivation continues to be used during

questioning. Despite marginal progress, women continued to suffer from discrimination and violence. Nonetheless, the administration's reforms overall had a liberalizing effect on the society.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reported cases of political or extrajudicial killings. In June, however, a riot policeman died shortly after being beaten by students during a street demonstration (see Section 2.b.).

b. Disappearance

There were no accusations of disappearances during 1993.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

President Kim directed authorities to protect the human rights of suspects. For the first time in several years, allegations of abuse by authorities of those in custody for questioning declined. Nonetheless, authorities continued to place much emphasis on extracting confessions from suspects. Although it is government policy not to torture or mistreat suspects, police use of sleep deprivation during questioning is widespread. In both political and nonpolitical cases, police routinely question suspects through the night and early morning. There were also unsubstantiated reports of verbal abuse during questioning.

In a nonpolitical case, a judge ruled for the first time that prosecutors abused and beat a person during questioning in 1989. The judge ordered that the Government pay the plaintiff, a taxi driver, nearly \$100,000 in compensation.

In two political cases from the mid-1980s, the courts found policemen guilty of committing and covering up acts of torture. In March the Seoul high court reaffirmed a lower court's ruling that gave three former national police officials--a vice director and two officials of the anti-Communist division--suspended prison sentences for attempting to cover up the 1987 death of university student Park Chong Chol, who died in police custody after being tortured during questioning about alleged antigovernment activities. A police lieutenant's testimony about the coverup was the main evidence which helped convict the three officers. In August a Seoul District Criminal Court judge ordered the rearrest of four former policemen for the 1985 torture of prominent dissident Kim Keun Tae and sentenced them to from 1 1/2 to 3 years in prison. Despite progress, however, it remained relatively rare for officials accused of abuse or harassment of suspects to be prosecuted.

Conditions in Korean prisons remained Spartan, although a dissident released from prison in 1993 stated that conditions, including nutrition and access to reading materials, have improved significantly in recent years.

Prisoners regularly exercised outdoors, and prison authorities provided vocational training. The most frequent complaint was that cells were not heated during the winter or cooled during the summer.

Although the authorities generally put prisoners convicted of politically motivated acts in cells by themselves, they had frequent contact with other inmates, and conditions were otherwise similar to those for other prisoners. After arrest and questioning, prisoners of all types had access to family members, relatives and others, unless prison authorities deemed it

"inappropriate" for rehabilitation, which was rare. A few months after the new administration took office, the Justice Ministry liberalized regulations to permit greater access to prisoners.

There is little independent monitoring of prison conditions, although human rights monitors can see certain prisoners if approved by the prison warden. Most accusations of mistreatment involved persons being questioned by the authorities after their arrest and before indictment, rather than those who were already convicted and serving their sentences in jail.

d. Arbitrary Arrest, Detention, or Exile

In general, Korean law is vague with respect to detentions and prosecutors have wide latitude to interpret the law. The NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supportive of North Korea and therefore dangerous to the Republic of Korea. Authorities arrested not only persons spying on behalf of North Korea but also those who exercised their freedom of speech to call for the downfall of the Government or to praise North Korea, its leader Kim Il Sung, or Kim Il Sung's "self-reliance" ("juche") political philosophy.

Article 7 of the NSL permits the imprisonment for up to 7 years of persons who "with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised or encouraged or propagandized for, or sided with the activities of an antistate organization." North Korea has been defined as an "antistate organization." Other restrictive laws still in effect are the Law on Assembly and Demonstration, the Social Surveillance Law (SSL), labor laws, and election laws.

The Government rationale for the NSL continued to be that the Korean peninsula is a special case because the 1950-53 Korean war ended with the signing of an armistice, not a peace treaty, and because Cold War tensions remain on the peninsula. North Korea remains a formidable military threat.

In light of heightened concern about the North Korean threat, the opposition Democratic Party dropped its demand for immediate reform of the NSL in 1993, but it still called for reform of the law regulating the NSP and passage of an antiwiretapping bill. In December the ruling and opposition parties approved the two bills in a National Assembly vote. The new NSP law restricts the agency from interfering in domestic politics; limits the Agency's authority to cases involving terrorism, espionage, and international crime organizations. The law also provides for prison sentences for NSP employees who violate the law, guarantees that detainees have access to legal counsel during an NSP investigation, and mandates the creation of a National Assembly Committee to oversee the agency. The antiwiretapping bill lays out broad conditions under which the monitoring of telephone calls, mail, and other forms of communication are legal; requires government officials to secure a judge's permission before placing wiretaps or, in the event of an emergency, after the fact; and provides for jail terms for those who violate this law.

The South Korean Justice Ministry stated that arrests for politically motivated acts declined because the number of antigovernment protests, including acts of violence, dropped significantly.

The Kim Administration issued several general amnesties, which included prisoners convicted of politically motivated acts; the amnesties cut by more than half the number of people in jail for politically motivated acts, including espionage and violence, from approximately 675 to under 300. In March, shortly after his inauguration, President Kim declared a wide-scale presidential amnesty which pardoned, paroled, restored the civil rights of, or commuted or reduced the sentences of about 5,800 persons charged under security-related laws. The presidential decree gave amnesty to 144 security-related prisoners, including

prominent dissident Rev. Moon Ik Hwan, who in 1989 had traveled to North Korea without permission from the South Korean Government, and seven other political prisoners. Six long-term, elderly prisoners convicted of espionage were also released. In May, in celebration of Buddha's birthday, the Government released about 80 convicts in jail for politically related acts, including student activist Im Chong Suk, who in 1989 helped fellow student Im Su Kyong go to Pyongyang. In a Christmas amnesty, the ROK released on parole 44 prisoners convicted of politically motivated acts, including 20 unionists as well as Choi Il Bung, who was arrested in 1992 for publishing antistate materials.

The Government also did not interfere in peaceful events sponsored by a South Korean dissident coalition led by Rev. Moon Ik Hwan to commemorate Korean Liberation Day. It is noteworthy that these events were carried out on behalf of an organization the Government considered antistate, the "Pan-National Committee for Reunification" ("Pomminnyon").

In an appeals case concerning the sale of pro-North Korean materials, the Supreme Court reaffirmed past rulings that it is legal under the NSL to possess antistate publications for purely academic use, profit, or curiosity, but not with the intent of aiding North Korea.

Arrests and prosecutions under the NSL continued, but their numbers declined significantly. NSL arrests numbered around 80, compared with 305 arrests in 1992. Korean human rights groups estimated that warrants remained for the arrest of about 300 people for violating the NSL or committing other politically motivated acts. The authorities publicly promised to be lenient to the maximum extent possible under the law if such persons turned themselves in.

Lower courts rejected the prosecution's death penalty requests for several suspects charged as leaders in what the Government announced in 1992 was a major North Korean spy ring. The courts instead sentenced them to life in prison or less. The most prominent spy suspect, unification and labor activist Kim Nack Joong, was sentenced to life in prison and fined nearly \$1 million. Another suspect, long-time activist Kwon Tu Yong, committed suicide after learning that prosecutors would ask for the death penalty. The courts sentenced deputy spokesman for the opposition Democratic Party Kim Bu Kyom to 1 year in prison and a 1-year suspension of civil liberties, with a 2-year stay of execution, for his involvement in the spy case. National Assembly Defense Committee staffer Lee Kun Hee of the opposition Democratic Party received a 3-year prison sentence and a 3-year suspension of civil liberties.

In February, before President Kim's inauguration, a lower court sentenced Tae Jae Jun, chairman of Korea's General Student Association, to a 4-year prison term under the NSL and the Law on Assembly and Demonstrations. Charges included waving the North Korean flag, which the authorities considered an antistate act. The NSP arrested Hwang Sok Young, a South Korean novelist and ex-spokesman for "Pomminnyon" overseas, when he returned to Korea after 4 years in self-exile. Among the charges against Hwang are his activities for "Pomminnyon" and visits to North Korea. The authorities also indicted Noh Tae Hun, an ex-official of the Korean human rights group "Mingahyop," for possession of an antistate newsletter published by former long-term prisoners convicted of espionage.

The authorities continued to arrest and indict under the NSL members of the Socialist Workers Alliance ("Sanomaeng"), which the Government considered a pro-North Korea organization and therefore antistate. Nonetheless, Sanomaeng arrests declined to about 10, compared with over 65 arrests in 1992. Courts also gave lighter sentences to NSL violators. When prosecutors appealed a lower court's sentence of life in prison for Sanomaeng leader Paek Tae Woong and requested the death penalty, the Supreme Court instead reduced the sentence to 15 years in prison. The NSP arrested university instructor Cho Guk in June partly for publishing antistate materials, but the court gave him a suspended sentence in December.

Warrants issued by judges are required by law in cases of arrest, detention, seizure, or search. The law does not require the authorities to seek warrants if the person is apprehended while committing a criminal act or if a judge is not available and the authorities think that the suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after apprehension, or, if a court is not located in the same county, 72 hours. Police can detain suspects who voluntarily come in for questioning for up to 6 hours but must notify the suspects' families.

Upon issuance of an arrest warrant, the security services can hold suspects during the investigation phase for up to 30 days before an indictment is made. Article 19 of the NSL gives judges the power to approve requests to extend the detention period an additional 20 days, making detention legal for up to 50 days. The Constitutional Court, however, ruled that while the authorities can extend detention beyond the legal limit of 30 days for those suspected of "serious" violations such as spying or organizing an antistate group, they cannot do so in cases where the suspects are charged only with praising North Korea or failing to report NSL violations.

The Constitution specifically provides the right to representation by an attorney. However, prosecutors prohibit attorneys from accompanying their clients during any stage of interrogation. There are often no facilities for private meetings between suspects and their attorneys. In late April, the Presidential spokesman quoted President Kim as directing his aides to protect the human rights of suspects and guarantee access to legal counsel. Suspects' access to legal counsel during the investigation phase improved noticeably during the year. In October the Government began to permit suspects during the investigation phase to consult with "duty lawyers," a new system set up by a nongovernmental association of lawyers.

There is a functioning system of bail.

e. Denial of Fair Public Trial

The Constitution provides defendants a number of rights in criminal trials, including presumption of innocence, protection against self-incrimination, freedom from retroactive laws and double jeopardy, the right to a speedy trial, and the right of appeal. When a person is physically detained, his initial trial must be completed within 6 months of arrest. These rights are generally observed. Trials are open to the public, but the judge may restrict attendance if he believes the spectators may seek to disrupt the proceedings.

The President, with the consent of the National Assembly, appoints the Chief Justice and the other justices of the Supreme Court for a term of 6 years. Lower court justices are appointed by the Chief Justice with the consent of the other justices. The President also appoints the justices of the Constitutional Court.

Judges generally allowed considerable scope for examination of witnesses by both the prosecution and defense. Political and criminal cases are tried by the same courts; military courts do not try civilians. Although convictions are rarely overturned, appeals often result in reduced sentences. Death sentences are automatically appealed. In recent years the judiciary has shown increasing independence, and that trend accelerated in 1993. In a statement released to the public in late June, junior judges from the Seoul civil court criticized past political intervention in judicial decisions and called for reform of the judicial personnel system.

The Government mandated disclosure of financial and real estate assets by government officials, first in March, and then in June, the latter of which led to the resignation of many judicial officials, including the Supreme Court Chief Justice, Prosecutor General, and national police chief in September. In a personnel reshuffle, judicial officials generally considered committed to the

independence and integrity of the judiciary were appointed, including Chief Justice Yoon Kwan, who promised further reforms. In a series of cases, the courts continued to rule against the Government by awarding compensation to suspects abused by the authorities, punishing those responsible for such mistreatment, and issuing lighter sentences for politically motivated crimes.

The Constitutional Court, which began operation in 1988, continued to grow in its role of interpreting the Constitution. For example, it has upheld the confidentiality of attorney-client discussions, ruling unconstitutional government tape recording of such talks.

It is difficult to estimate the number of political prisoners, i.e., those jailed for exercising their political rights unaccompanied by violence, because it is not clear whether particular persons were arrested for merely exercising the right of free association or were detained for committing or planning acts of violence or espionage. At year's end, Korean human rights groups claimed that political prisoners, i.e., any person arrested for politically motivated acts in opposition to the Government, including espionage and violence, numbered less than 300. It appeared that the number of political prisoners and detainees as defined by international human rights standards numbered well under 100.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

In general the Government honors the integrity of the home and family. In the past, the security services conducted varying degrees of surveillance, including wiretaps, of political dissidents. In January released student activist Im Su Kyong charged that her home was under surveillance by the NSP. The Government stated, however, that one of its aims in reforming the security services such as the NSP was to protect human rights. The new antiwiretapping law and reformed NSP law, passed by the National Assembly in December, were designed to curb government surveillance of civilians.

The Government and the courts have taken a few tentative steps to limit encroachments on the individual's right to privacy and to make public government documents. For the first time, President Kim ordered government agencies to assist the opposition Democratic Party in releasing information about the 1973 kidnaping of prominent opposition leader Kim Dae Jung. To make government functioning more open to the public, the Foreign Ministry began to implement new regulations to declassify and publicly release government documents.

Government informants are known to be posted on and around university campuses. In May a student told reporters that police paid him to supply information about student activists. Persons thought to have backgrounds as political or labor activists are still denied some forms of employment and advancement, particularly in the fields of government, broadcast media, and education.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Almost all political discourse is unrestricted. Limits remained under the NSL on the expression of ideas that the Government considered Communist or pro-North Korean.

Direct control over the print media virtually has disappeared. Nonetheless, the Government's indirect influence on the media remained considerable. Many journalists and editors practiced some degree of self-censorship to advance their careers. Many former journalists become public officials. Due to President Kim's anticorruption campaign, government payments of money to reporters, known as "chongji," have been curtailed but not halted completely.

In June Defense Minister Kwon Young Hae lodged a libel suit against the Joong-Ang Ilbo newspaper for a story that the Government had banned him and 21 other current and former defense officials from leaving the country due to their suspected involvement in corruption in the purchase of certain military weapons systems. The Government stated that the story was false, and the newspaper dropped the story from later editions and published a retraction the next day. In response to the libel suit, prosecutors arrested the reporter who wrote the article and also questioned the daily's president-publisher, editor in chief, and managing and city editors. After Joong-Ang Ilbo officials met with the Defense and Information Ministers to apologize personally, Defense Minister Kwon dropped the suit and authorities released the reporter.

Prosecutors continued to indict, albeit less frequently than in the past, some dissidents for producing, selling, or distributing pro-North Korean or pro-Communist materials. A former human rights activist, Noh Tae Hun, was indicted under the NSL for having copies of a newsletter published by former, elderly prisoners who had served sentences for spying on behalf of North Korea. In November the authorities investigated a private group for using an electronic bulletin board service to post antistate messages advocating a Socialist revolution and supporting the "Socialist Workers Alliance" group.

Among the charges against student activist Chun Tae Jae was his involvement in protests in which students waved the North Korean flag. The authorities did not protect student activists from holding a 2-hour telephone conference in May with North Korean students, but they did issue warrants for their arrest under the NSL. Listening to North Korean radio is illegal if the authorities judge it is for the purpose of helping North Korea or an antistate organization. In March the Supreme Court reaffirmed that it was legal under the NSL to possess publications "benefiting the enemy" for purely academic use, profit, or curiosity, but not with the intent of aiding "the enemy." The ruling came in the case of Kim Hyong Kun, who was indicted under the NSL for selling pro-North Korean books.

The Government continued to allow, within its guidelines, an increase in media coverage of North Korea. Television networks presented edited versions of North Korean television programs on a weekly basis. The media extensively reported on U.S. and South Korean talks with North Korean officials, sending reporters to cover U.S.-North Korean talks in New York and Geneva. In February, however, the state broadcasting company KBS decided not to broadcast an interview with former student activist Im Su Kyong, who was jailed for visiting Pyongyang in 1989 without the approval of the South Korean Government and was amnestied in 1992. KBS reportedly decided that, if broadcast, the interview would encourage others to travel to North Korea without government permission.

The Government also allowed somewhat wider public access to selected North Korean publications. The December 1991 landmark agreements between South and North Korea included provisions--long advocated by South Korea--for exchanges and cooperation in publishing, journalism, radio, and television. Nonetheless, North Korea's lack of progress in clearing up the nuclear issue has stymied implementation of the North-South Korean agreements.

There is a continued threat to academic freedom from leftist students who intimidate professors whose lectures or writings contradict the students' ideology. In September, 10 students were seriously injured when student activists attempted to storm the office of the Kyonggi University president to demand his resignation, but instead they clashed with members of the school's judo club and threw firebombs and rocks.

b. Freedom of Peaceful Assembly and Association

The Law on Assembly and Demonstrations prohibits assemblies considered likely to undermine public order it forbids outside interference in peaceful assemblies

approved by the authorities. The law requires that the police be notified in advance of demonstrations of all types, including political rallies. Police must notify organizers if they consider the event not permissible under this law. Although the Government did not amend the law, in practice it applied it with restraint, permitting practically all assemblies and demonstrations to be held. Dissidents reported that in contrast to previous practice the Government this year approved most applications to hold public assemblies and protests. Police adopted a low-key approach to peaceful protests held without police approval. Police either allowed the demonstration to continue or transported protesters to the outskirts of the city and left them there to find their way back to the city. In general, police showed restraint and discipline in the face of severe provocation during violent demonstrations. In June students beat severely a riot policeman, who was pronounced dead an hour later.

For the first time, the authorities permitted dissident and independent unionists to hold a May Day march through the city. In another first, the Government cooperated with the citizens of the southwestern city of Kwangju in peacefully commemorating the May 1980 uprising there. Up to 35,000 people attended the ceremony, much of which was antigovernment in content. The Government supported the "South-North Human Chain for Peace and Reunification" organized by the dissident National Council of Churches in Korea (KNCC) to commemorate Korea's Liberation Day. The Government also did not block peaceful Liberation Day rallies held by a dissident coalition representing "Pomminnyon."

Demonstrations by university students declined again in 1993, and student use of firebombs practically ceased. The most violent occurred in Kwangju, particularly at the American Center, ruling party headquarters, police stations and the provincial capitol. Contrary to the nationwide trend, violent student demonstrations in Kwangju increased relative to protests in 1992. In March several hundred students, armed with steel pipes and rocks, blocked President Kim from visiting Kwangju cemetery, where he planned to pay his respects to victims of the 1980 uprising there in order to alleviate regional tensions. Police did not attempt to remove the students by force.

c. Freedom of Religion

There is no state religion. Full freedom prevails for proselytizing, doctrinal teaching, and conversion. Korea both sends and receives missionaries of various faiths, and many religious groups in Korea maintain active links with members of similar faiths in other countries. The Government and the public do not discriminate against minority sects. Adherence to a particular faith confers neither advantages nor disadvantages in civil, military, or official life.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

There is universal freedom of movement within the country. Foreign travel is generally unrestricted, but travel to North Korea is allowed only with government approval. One of the conditions is that the trip must not have a political purpose, i.e., to praise North Korea or criticize the South Korean Government. Between August 1989 and August 1992, 539 South Koreans in 18 different groups visited North Korea, and another 2,247 contacted North Koreans with government approval. In 1993, however, the two sides had few exchanges and no meetings at the prime minister level because of renewed tensions caused by North Korea's refusal to allow complete International Atomic Energy Agency inspections of nuclear facilities and to set up a North-South Korean nuclear inspection regime. The NSP arrested two labor activists on charges of violating the NSL for trying to visit North Korea.

Following a spate of incidents in 1991 in which prosecutors used exit bans to apply pressure on foreign citizens in commercial disputes, the Government issued in January 1992 new guidelines on the imposition of exit bans on foreigners under

the Exit and Entry Control Act. The act gives immigration authorities discretionary powers to block the departure of both foreigners and Koreans from Korea. The new guidelines provide procedures where previously there had been none but still leave a considerable amount of discretion to the authorities. There were no further reports of exit bans involving foreign citizens, although the threat of imposition of an exit ban remained credible.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Korean people have the right to elect their own government. The Constitution, as amended in 1987, provides for the direct election of the President and for a mixed system of direct and proportional election of legislators to the unicameral National Assembly. The President serves a single 5-year term and may not be reelected. The National Assembly's term is 4 years. There is universal suffrage for all citizens aged 20 or above, and elections are held by secret ballot.

In a February 25 inaugural ceremony, the reins of government were peacefully transferred from Roh Tae Woo to Kim Young Sam, who became Korea's first democratically elected, genuinely civilian chief executive in nearly 30 years. This was Korea's second, peaceful transfer of power in less than a decade.

President Kim instituted sweeping political reforms to reduce corruption, further institutionalize democracy, and improve human rights. In June President Kim won National Assembly approval of a public servants ethics law which required financial disclosures for members of the three top civil service ranks and the Assembly. In August President Kim instituted a real-name financial system to reduce corruption. President Kim reformed the security services and reinvigorated the Board of Audit and Inspection, which launched wideranging inquiries into government corruption.

For reasons of culture and discrimination, women occupy few positions in government and the professions. There are currently 3 women in the 299-seat National Assembly, all of whom were appointed to proportional representation seats based on their parties' showing in the 1992 elections. The only woman in the Cabinet has traditionally been the Second Minister for Political Affairs, whose portfolio is women's affairs. President Kim appointed three women to cabinet positions. For the first time, women became the Ministers of Health and Social Affairs and of Environmental Affairs.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Several nongovernmental private organizations are active in promoting human rights and operate freely. Chief among these groups are the Lawyers for a Democratic Society, the Human Rights Committee of the National Council of Churches in Korea, the Korean Bar Association, and "Mingahyop," an association of the families of political prisoners. These groups publish reports on the human rights situation in Korea and make their views known both inside and outside the country. There were no credible reports of government harassment. The National Assembly and the major political parties all have committees concerned with various aspects of human rights.

Government and ruling party officials have generally been willing to meet with international human rights groups.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Women

Korea's conservative Confucian tradition has left women subordinate to men socially, economically, and legally. Most married women do not work outside the home. In large companies women are often expected to resign upon marriage or no later than the birth of their first child. Judicial decisions in cases involving women petitioners or defendants are often heavily influenced by the Korean Confucian ethos, which does not accord women equal status with men. There has been a gradual improvement, however, in social mores and values affecting women. Women have full access to education, become government officials, and hold elected office.

The National Assembly enacted an Equal Employment Opportunity (EEO) law in 1988 and, in early 1991, the Government issued "Guidelines to Eliminate Sexual Discrimination in Employment." So far, however, the law and guidelines have had only limited effect. There are very few women who work as company executives, officials in government ministries, or lawyers.

While women account for just over 40 percent of the economically active population, the average female worker's wage remained a little over half that of the average male worker, and starting wages for female university graduates were 40 percent lower than those of their male counterparts.

The traditional preference for male children continues in Korea today. It is estimated that when today's children reach marrying age there will be 400,000 "surplus bachelors." Korean law bans sex testing and abortions except when the woman's life is in danger, a hereditary disease would be passed along, or in case of rape or incest. Fetal sex testing and abortion of female fetuses, however, are still performed.

Korea's amended Family Law, which went into effect in January 1991, permits women to head a household, recognizes a wife's right to a portion of the couple's property, and allows a woman to maintain greater contact with her offspring after a divorce. Although the revisions helped abused women, divorce still remains a social taboo. Most Koreans remained unaware of the revised law, and there is little government or private assistance for divorced women. These factors, plus the fact that employment opportunities for women are limited and that divorced women have difficulty remarrying, leads some women to stay in abusive situations.

According to a survey conducted by the Health and Social Affairs Ministry, about 60 percent of 7,500 married women nationwide responded that their spouses had mistreated them. Close to half the women who reported mistreatment said that it had occurred once or twice, and about 5 percent stated they were subject to habitual mistreatment. Among respondents who claimed they were physically mistreated, about half said that their husbands had thrown objects at them, about a quarter were pushed or thrown about, and about 20 percent were kicked or punched. A quarter of mistreated respondents attributed the mistreatment to their spouse's drinking. About 60 percent of 7,500 women said that they had heard about government-run shelters for abused women. The Ministry reported that 245 women and 122 children used two government-run shelters. Private groups have also set up a hotline and a few shelters for abused women.

A 1992 report by the National Police Agency estimated that 9.8 women per 1,000 are raped in South Korea. Credible sources indicated a significant rise in the number of cases reported in 1993. Whether this rise is attributable to increased violence or increased reporting of violence or both is uncertain. In any case, the National Assembly did not pass stronger bills against rape, as proposed by the ruling and opposition parties in 1992.

Children

Children's human rights and welfare have not been prominent social policy issues.

The Government continued to devote an increasing share of the overall budget to social expenditures, which includes those related to the welfare of children. A United Nations Children's Fund report rated Korea excellent in child welfare, particularly in child nutrition, health, education, and family planning. Although government expenditures on education are low compared with other industrialized countries, Korea is notable for its very strong, Confucian commitment to education, which government, society, and parents support at all levels.

Child abuse has not been studied extensively, and statistics on child abuse are limited. Reports to the authorities, however, of child abuse nationwide numbered less than 50 in recent years. According to official statistics, the number of runaway children each year has dropped from about 7,000 in the past to approximately 1,000. Seoul Metropolitan Government runs a children's counseling center, which investigates reports of abuse, counsels families, and cares for runaway children. Because Korea does not have a specific law against child abuse, however, it is difficult to prosecute and punish child abusers unless they commit a crime punishable under a separate law.

National/Racial/Ethnic Minorities

The Republic of Korea is a racially homogeneous country with no ethnic minorities of significant size. Nonetheless, regional rivalries exist. Persons from the southwestern region (North and South Cholla Provinces) have traditionally faced discrimination. Many Koreans believe that successive governments led by figures from the southeastern region (North and South Kyongsang Provinces) have deliberately neglected the economic development of the Cholla Provinces for political reasons. President Kim attempted to alleviate longstanding regional grievances, such as the brutal suppression of the May 1980 Kwangju uprising, through more evenhanded government spending and appointments, naming natives of the Cholla Provinces to be Prime Minister and Supreme Court Chief Justice.

Centuries of isolation and a history of foreign invasion and occupation engendered a tradition of xenophobia in Korea. Citizenship in Korea is based on blood, not location of birth, and Koreans must show as proof their family genealogy. Thus, Korea-born Chinese residents cannot obtain Korean citizenship or become public servants and are unlikely to be hired by major corporations. Due to legal as well as social discrimination, many Chinese residents in Korea have emigrated to other countries since the 1970's, with the number of Chinese residents decreasing from 40,000 to 18,000 over the past several years. Amerasian children are usually able to obtain Korean citizenship. No formal discrimination exists. Informal discrimination, however, is prevalent. Although a few Amerasians have achieved fame in sports or entertainment, an Amerasian is unlikely to become prominent in academia, business or government.

People with Disabilities

As Korea continues to develop economically, socially, and politically, community and social organizations have started to focus attention on the issue of the rights and treatment of handicapped and mentally ill or retarded people. Although there are public displays of concern for the mentally and physically disabled, such as the Special Olympics and television documentaries, public facilities for their everyday care and use remained inadequate and their general treatment by society discriminatory. The Government lacked adequate educational programs and schools for severely disabled people. The Government did not discriminate officially against the disabled who were capable of attending regular schools, but societal pressures and cultural biases have a strong negative impact on that access. The Government has not enacted legislation or otherwise mandated accessibility for the disabled.

Section 6. Worker Rights

a. The Right of Association

The Constitution gives workers, with the exception of most public service employees and teachers, the right to free association. There are, however, blue-collar public sector unions in railways, telecommunications, postal workers, and the national medical center. The Trade Union Law specifies that only one union is permitted at each place of work, and all unions are required to notify the authorities when formed or dissolved.

In the past, the Government did not formally recognize labor federations which were not part of or affiliated with the country's two legally recognized labor groupings--the Federation of Korean Trade Unions (FKTU) and the independent Korean Federation of Clerical and Financial Workers. In 1993, however, the Labor Ministry officially recognized four independent white-collar federations, representing hospital workers, journalists, office workers at construction firms, and government research institutes. These decisions followed rulings in the courts in 1992 that affiliation to the FKTU is not required in order to be registered as a legal labor federation. In practice, labor federations not formally recognized by the Labor Ministry existed and worked without government interference, except if the authorities considered their involvement in labor disputes harmful to the nation.

The Government, however, did arrest unionists it viewed as acting as third parties in instigating or prolonging labor disputes, as in the summer strikes at a number of firms associated with the Hyundai business group. As a result of the fundamental shift made by President Kim's administration in labor policy and government amnesties (20 trade unionists were amnestied in December), the number of jailed workers plummeted from approximately 176 in 1992 to about 20 by the end of 1993.

President Kim appointed National Assemblyman Rhee In Je, a progressive, as Labor Minister. Unlike his predecessors, Rhee said that he was labor's advocate in the Government and took a tough stand against an insurance company accused of forcing employees to resign from the union. He largely succeeded in amending labor regulations to comply with recent court decisions. Minister Rhee ended the Government's hardline policy against dissident or radical labor federations such as the Korea Trade Union Congress (KTUC or "Chonnohyup") and affiliates of the Korean Congress of Independent Industrial Federations (KCIIF). The Government met for the first time with dissident and independent labor federations it did not officially recognize, including the banned Teachers' Union. Moreover, the Government did not interfere in the work of the "National Labor Union Representatives Conference," which was formed in March by labor federations not recognized by the Government, such as KTUC, KCIIF, and labor federations representing Hyundai and Daewoo unions. In December the President reshuffled the Cabinet and replaced Minister Rhee, who had been criticized heavily by the business community for his policies, with former National Assemblyman Nam Jae Hee.

Government nonrecognition of a labor federation did not disable a union unless the union's intervention in a labor dispute was considered by the Government as a hindrance to the dispute's resolution or seriously threatened the national economy. The KTUC assisted the Hyundai Group Labor Union Association in holding coordinated collective actions, including strikes, at Hyundai companies. Mediation efforts by the Government, including visits by the Labor Minister, failed to resolve the strikes. In July the Government issued warrants to arrest KTUC President Dan Byung Ho and seven other unionists for illegal third-party intervention. Police searched the groups' offices and arrested the Hyundai Group Labor Union Association chairman and several other unionists. Arrest warrants remained valid for Dan Byung Ho and three others.

For the first time, leaders of the banned teachers' union (Chonkyojo) met with the Education Minister as well as other government officials. The Government,

however, did not lift the ban on labor activities by both public and private schoolteachers. Korean law mandates the ban, which the Constitutional Court has upheld twice in recent years. The Government instead offered to reinstate nearly 1,500 fired teachers if they resigned from Chonkyojo. The Government began to reinstate teachers who submitted their resignations from Chonkyojo. Under the Christmas amnesty, the ROKG amnestied, restored the civil rights of, or made eligible for rehiring, 170 teachers who had previously been fired for joining the teachers' union.

There is no minimum number of members required to form a union, and unions may be formed without a vote of the full, prospective membership. Korea's election and labor laws forbid unions from donating money to political parties or participating in election campaigns. However, trade unionists have circumvented the ban by temporarily resigning their union posts and running for office on the ticket of a political party or as an independent.

Strikes are prohibited in government agencies, state-run enterprises, and defense industries. By law enterprises in public interest sectors such as public transportation, utilities, public health, banking, broadcasting, and communications must submit to government-ordered arbitration in lieu of striking. The Labor Dispute Adjustment Act requires unions to notify the Ministry of Labor of their intention to strike and mandates a 10-day "cooling-off period" before a strike may legally begin. (This period is 15 days in public interest sectors.) Overall membership in Korean labor unions has been declining over the last several years, largely because the explosion in labor organizing in 1987-89 left the movement divided but well compensated and worker rights significantly improved.

The FKTU is affiliated with the International Confederation of Free Trade Unions (ICFTU). Most of the FKTU's 20 constituent federations maintain affiliations with international trade secretariats, as do KCIIF white collar federations and the KTUC Metalworkers Council. In March the ICFTU held a conference in Seoul to discuss labor law reform, which brought together mainstream, independent, and dissident Korean trade unionists, as well as Korean and foreign experts. In November the Friedrich Ebert Institute organized a similar conference in Seoul under the sponsorship of eight international trade union secretariats.

In response to freedom of association complaints lodged by Korean dissident and independent unions, the International Labor Organization (ILO) Committee on Freedom of Association (CFA) issued an interim report in March which recommended that the Government bring Korean labor law and policy up to international worker rights standards. In November the CFA again recommended that the Government reform labor laws in accordance "with the principles of freedom of association."

The Government under President Kim adopted a policy of persuasion and mediation to settle strikes. To settle strikes and work stoppages at 10 Hyundai companies, President Kim, for only the second time in Korea's history, ordered binding government arbitration to resolve the strike at Hyundai's auto factory. Police intervention in labor disputes dropped dramatically, and the number of labor disputes again declined in 1993. In the summer, the Government deployed riot police during strikes and work stoppages at Hyundai companies. There were only two reported incidents of police breaking up strikes, at Hyundai Precision and Apollo Auto Parts. There were no reports of employer-hired squads assaulting workers in 1993.

Since July 1991 South Korea has been suspended from the U.S. Overseas Private Investment Corporation insurance programs because of a lack of significant progress in worker rights.

b. The Right to Organize and Bargain Collectively

The Constitution and the Trade Union Law guarantee the autonomous right of

workers to enjoy collective bargaining and collective action. Although the Trade Union Law is ambiguous, the authorities, backed by the courts, have ruled that union members cannot reject collective bargaining agreements signed by management and labor negotiators. This situation has in the past led to repudiation of contracts and wildcat strikes. Extensive collective bargaining is practiced. Korea's labor laws do not extend the right to bargain collectively to government employees, including employees of state or public-run enterprises, and defense industries. The Government's wage guidelines in 1993 matched the wage targets negotiated between and agreed upon by the FKTU and the employers association.

Companies operating in Korea's two export processing zones (EPZ's) have been considered public-interest enterprises whose employees' rights to organize and bargain collectively face restrictions. In practice, however, unions at EPZ companies have been formed, and workers in the two EPZ's exercise the right to organize and bargain collectively like other private sector unions.

Korea has no independent system of labor courts. The central and local labor commissions form a semiautonomous agency of the Ministry of Labor that adjudicates disputes in accordance with the Labor Dispute Adjustment Law. Each labor commission is composed of equal representation from labor (represented by the FKTU), management, and "the public interest." Local labor commissions are empowered to decide on remedial measures in cases involving unfair labor practices and to mediate and, in some situations, arbitrate labor disputes. The Labor Law authorizes labor commissions to start conciliation and mediation of labor disputes after, not before, negotiations break down and the two sides are locked into their positions. The Trade Union Law (article 39) prohibits antiunion discrimination.

The Trade Union Law and Labor Dispute Adjustment Law forbid third-party intervention in unions and labor disputes by federations not recognized by the Government, (such as Chonnohyup and KCIIF) but allow recognized labor federations, principally the FKTU, its affiliates, and five independent white-collar federations, to assist member unions. The ban on third-party intervention also exempts mediation efforts by lawyers, experts, and others who have the consent of both labor and management. The Government continued to enforce the laws against third-party intervention. Mutual labor-management antagonism remains a serious problem, and some major employers remain strongly antiunion.

c. Prohibition of Forced or Compulsory Labor

The Constitution provides that no person shall be punished, placed under preventive restrictions, or subjected to involuntary labor, except as provided by law and through lawful procedures. Forced or compulsory labor is not condoned by the Government and is generally not practiced. There were credible reports, however, of illegal foreign workers who were not paid back wages by their employers but who continued to work for, or live in dilapidated housing provided by, their employers. Credible reports exist of illegal foreign workers who were not compensated for injuries suffered on the job, and of others who lacked the funds to return to their home countries. There is little government assistance for illegal foreign workers in such circumstances.

d. Minimum Age for Employment of Children

The Labor Standards Law prohibits the employment of persons under the age of 13 without a special employment certificate from the Ministry of Labor. Because there is compulsory education until the age of 13, few special employment certificates are issued for full-time employment. Some children are allowed to do part-time jobs such as selling newspapers. In order to gain employment, children under 18 must have written approval from their parents or guardians. Employers may require minors to work only a reduced number of overtime hours and are prohibited from employing them at night without special permission from the

Ministry of Labor. Child labor laws and regulations are clear and usually enforced when violations are found, but a shortage of inspectors precludes regular inspections. Child labor has not been identified in any export industries.

e. Acceptable Conditions of Work

The Government implemented a minimum wage law in 1988. The minimum wage level is reviewed annually. In 1993 it was about \$10 per day (8,041 won). Companies with fewer than 10 employees are exempt from this law, and some still pay below minimum wages. Due to Korea's tight labor market, however, most firms pay wages well above the minimum wage in order to attract and retain workers. The FKTU and other unions continue to claim that the current minimum wage does not meet the minimum requirements of urban workers. The Government notes that the money an average Korean blue-collar worker takes home in overtime and bonuses significantly raises the total compensation package. According to the Ministry of Health and Social Affairs, 5.2 percent of the population lived below the poverty level in 1992.

Discrimination occurs against foreign workers, most of whom come from China, the Philippines, Bangladesh, Nepal, and Pakistan to work, often illegally. The Government and labor movement were largely unresponsive to protecting fundamental labor rights of foreign workers illegally at work in Korea, estimated by the Government to number about 60,000. There were credible reports of Korean employers not paying illegal foreign workers or providing substandard living accommodations. There is no government channel whereby illegal foreign workers to seek relief concerning loss of pay or unsatisfactory living and working conditions. A handful of individual Korean churches and ministers provided some assistance to illegal foreign workers.

The Labor Standards and Industrial Safety and Health Laws provide for a maximum 56-hour workweek and a 24-hour rest period each week. Amendments to the Labor Standards Law passed in March 1989 brought the maximum regular workweek down to 44 hours. According to the Ministry of Labor, the average Korean worker worked 47.5 hours per week, including overtime, in 1992.

The Government sets health and safety standards, but South Korea suffers from unusually high accident rates. The Ministry of Labor employs few inspectors, and its standards are not effectively enforced. The number of workers who suffered work-related accidents in 1992 declined by about 16 percent, from 128,169 to 107,435 accidents. The Labor Ministry attributes industrial accidents to a focus on rapid, export-based industrialization, worn out or old equipment, increased use of hazardous chemicals, lack of research and manpower, and, in the case of construction, firms in a manpower-short sector employing unskilled workers without proper training. The Industrial Safety and Health Law does not guarantee that workers who remove themselves from dangerous work environments would not jeopardize their continued employment.

외국인 자료
미국무부 한국인권보고서 (94.1A)

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REPUBLIC OF KOREA

The Republic of Korea is governed by a directly elected President and a unicameral National Assembly that is selected by both direct and proportional election. In February, Kim Young Sam of the Democratic Liberal Party was inaugurated as the country's first chief executive who is not an ex-general in nearly three decades. In his first year in office, President Kim, a former opposition leader, implemented sweeping political and economic reforms, including an anticorruption drive, which signified a fundamental policy break from the previous administration, and resulted in an end to the political careers of a number of key officials from that administration.

Responsibility for maintaining internal security lies with the National Security Planning Agency (NSP), the police, and the Defense Security Command (DSC). The Government made personnel and organizational changes in the powerful NSP and other security services for the announced purpose of curtailing the security services' involvement in domestic politics, stopping surveillance of civilians, preventing human rights abuses, and increasing efforts to collect foreign intelligence. The National Assembly reformed the law regulating the NSP and passed an antiwiretapping law to curb Government monitoring of communications. The Government also took a number of steps to institutionalize further, and guarantee, civilian control of the military, including replacing the Defense Security Chief and choosing a Chairman of the Joint Chiefs of Staff from outside of the small circle of military elite which had dominated the services under previous regimes. North Korea's temporary withdrawal from the Nuclear Nonproliferation Treaty, suspicions about its nuclear program, and the lack of progress in talks between North and South Korea heightened concerns about the threat posed by North Korea. Also, the long-standing conventional military threat posed by North Korea's arms buildup and the offensive deployment of its troops and weaponry remained a cause of concern. The ROK has become a major industrial power and world class exporter. An industrious and literate populace drives economic growth despite a lack of natural resources, especially oil. After several years of strong growth, the economy has slowed down. The gross national product as well as the Consumer Price Index increased by approximately 4.8 percent in 1993. Continued high levels of rural migration to the cities, shortages of skilled labor, unbalanced regional development, an inefficient agricultural sector, and inadequate infrastructure remain problems.

In 1993 the overall human rights situation improved significantly, a result of the fundamental shift in attitude and policy of the Kim Young Sam administration. President Kim achieved two democratic, institutional reforms of an historic nature: the abolition of false-name bank accounts and the enactment of a government ethics law. The requirement that bank accounts be registered in the real names of depositors has forced a large, hidden source of funds for political corruption into the open and thereby improved the transparency of government and politics. The ethics law requires officials for the first time to disclose their financial assets. Resignations and a reshuffle of judges, prosecutors, and police strengthened judicial independence and heightened sensitivity to individual rights within both the executive and judicial branches. Nonetheless, the Government, insisting that the National Security Law (NSL) is designed to thwart subversion by pro-North Korean forces, continued to use it to violate the freedoms of expression, association, and travel. The Government invoked the NSL less, however, and NSL arrests declined by over half. Although basic labor laws, which fall short of international standards, were not reformed, the Government, in a fundamental shift, assumed a much more neutral stance between labor and management during labor disputes.

The Government also decreed several amnesties that released, reduced the prison sentences of, or erased the criminal records of, hundreds of persons arrested for politically motivated acts. Police treatment of, and access to legal counsel for, suspects improved, although sleep deprivation continues to be used during

questioning. Despite marginal progress, women continued to suffer from discrimination and violence. Nonetheless, the administration's reforms overall had a liberalizing effect on the society.

RESPECT FOR HUMAN RIGHTS

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no reported cases of political or extrajudicial killings. In June, however, a riot policeman died shortly after being beaten by students during a street demonstration (see Section 2.b.).

b. Disappearance

There were no accusations of disappearances during 1993.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

President Kim directed authorities to protect the human rights of suspects. For the first time in several years, allegations of abuse by authorities of those in custody for questioning declined. Nonetheless, authorities continued to place much emphasis on extracting confessions from suspects. Although it is government policy not to torture or mistreat suspects, police use of sleep deprivation during questioning is widespread. In both political and nonpolitical cases, police routinely question suspects through the night and early morning. There were also unsubstantiated reports of verbal abuse during questioning.

In a nonpolitical case, a judge ruled for the first time that prosecutors abused and beat a person during questioning in 1989. The judge ordered that the Government pay the plaintiff, a taxi driver, nearly \$100,000 in compensation.

In two political cases from the mid-1980s, the courts found policemen guilty of committing and covering up acts of torture. In March the Seoul high court reaffirmed a lower court's ruling that gave three former national police officials--a vice director and two officials of the anti-Communist division--suspended prison sentences for attempting to cover up the 1987 death of university student Park Chong Chol, who died in police custody after being tortured during questioning about alleged antigovernment activities. A police lieutenant's testimony about the coverup was the main evidence which helped convict the three officers. In August a Seoul District Criminal Court judge ordered the rearrest of four former policemen for the 1985 torture of prominent dissident Kim Keun Tae and sentenced them to from 1 1/2 to 3 years in prison. Despite progress, however, it remained relatively rare for officials accused of abuse or harassment of suspects to be prosecuted.

Conditions in Korean prisons remained Spartan, although a dissident released from prison in 1993 stated that conditions, including nutrition and access to reading materials, have improved significantly in recent years.

Prisoners regularly exercised outdoors, and prison authorities provided vocational training. The most frequent complaint was that cells were not heated during the winter or cooled during the summer.

Although the authorities generally put prisoners convicted of politically motivated acts in cells by themselves, they had frequent contact with other inmates, and conditions were otherwise similar to those for other prisoners. After arrest and questioning, prisoners of all types had access to family members, relatives and others, unless prison authorities deemed it

"inappropriate" for rehabilitation, which was rare. A few months after the new administration took office, the Justice Ministry liberalized regulations to permit greater access to prisoners.

There is little independent monitoring of prison conditions, although human rights monitors can see certain prisoners if approved by the prison warden. Most accusations of mistreatment involved persons being questioned by the authorities after their arrest and before indictment, rather than those who were already convicted and serving their sentences in jail.

d. Arbitrary Arrest, Detention, or Exile

In general, Korean law is vague with respect to detentions and prosecutors have wide latitude to interpret the law. The NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supportive of North Korea and therefore dangerous to the Republic of Korea. Authorities arrested not only persons spying on behalf of North Korea but also those who exercised their freedom of speech to call for the downfall of the Government or to praise North Korea, its leader Kim Il Sung, or Kim Il Sung's "self-reliance" ("juche") political philosophy.

Article 7 of the NSL permits the imprisonment for up to 7 years of persons who "with the knowledge that he might endanger the existence or security of the State or the basic order of free democracy, praised or encouraged or propagandized for, or sided with the activities of an antistate organization." North Korea has been defined as an "antistate organization." Other restrictive laws still in effect are the Law on Assembly and Demonstration, the Social Surveillance Law (SSL), labor laws, and election laws.

The Government rationale for the NSL continued to be that the Korean peninsula is a special case because the 1950-53 Korean war ended with the signing of an armistice, not a peace treaty, and because Cold War tensions remain on the peninsula. North Korea remains a formidable military threat.

In light of heightened concern about the North Korean threat, the opposition Democratic Party dropped its demand for immediate reform of the NSL in 1993, but it still called for reform of the law regulating the NSP and passage of an antiwiretapping bill. In December the ruling and opposition parties approved the two bills in a National Assembly vote. The new NSP law restricts the agency from interfering in domestic politics; limits the Agency's authority to cases involving terrorism, espionage, and international crime organizations. The law also provides for prison sentences for NSP employees who violate the law, guarantees that detainees have access to legal counsel during an NSP investigation, and mandates the creation of a National Assembly Committee to oversee the agency. The antiwiretapping bill lays out broad conditions under which the monitoring of telephone calls, mail, and other forms of communication are legal; requires government officials to secure a judge's permission before placing wiretaps or, in the event of an emergency, after the fact; and provides for jail terms for those who violate this law.

The South Korean Justice Ministry stated that arrests for politically motivated acts declined because the number of antigovernment protests, including acts of violence, dropped significantly.

The Kim Administration issued several general amnesties, which included prisoners convicted of politically motivated acts; the amnesties cut by more than half the number of people in jail for politically motivated acts, including espionage and violence, from approximately 675 to under 300. In March, shortly after his inauguration, President Kim declared a wide-scale presidential amnesty which pardoned, paroled, restored the civil rights of, or commuted or reduced the sentences of about 5,800 persons charged under security-related laws. The presidential decree gave amnesty to 144 security-related prisoners, including