

1998

South Korea

## REPUBLIC OF KOREA (SOUTH KOREA)

### long-term prisoners still held under the National Security Law

May 1998

SUMMARY

AMNESTY INTERNATIONAL  
SOUTH KOREA

This document highlights the cases of some long-term political prisoners held under South Korea's National Security Law. They include 17 prisoners who have been held in poor conditions for over 28 years, including one who has been in prison for 49 years. At least 15 others were convicted after unfair trials during the 1970s and 1980s. Twelve were given long prison sentences in the early 1990s for involvement in an alleged "spy case" and three others for establishing a socialist organization.

Amnesty International is publishing this report now because a large-scale prisoner amnesty is expected to be announced in August, to mark the 53rd anniversary of Korea's liberation from Japanese rule. It hopes that many of the prisoners mentioned in this report will be considered for inclusion in the amnesty.

Amnesty International is urging the new government in Seoul to order a thorough review of the cases of political prisoners. The organization is calling for the release of National Security Law prisoners who are held on account of their non-violent political views and activities and those who have been held for a very long time after an unfair trial. It is calling for a thorough review of the many cases in which political prisoners were reportedly tortured during interrogation by investigative bodies including the police and the Agency for National Security Planning (ANSIP, South Korea's intelligence agency).

President Kim Dae-jung, who took office on 25 February 1998, is a long-time human rights advocate who was himself the victim of severe human rights violations in past decades. Amnesty International believes Kim Dae-jung's Presidency can mark a new departure for human rights protection and promotion in South Korea, provided he is willing and able to take immediate steps to implement human rights reforms.

인권 자료실		
등록		
	B9	107

# amnesty international

## REPUBLIC OF KOREA (SOUTH KOREA) long-term prisoners still held under the National Security Law

May 1998

SUMMARY

AI INDEX: ASA 25/15/98

DISTR: SC/CO/GR

This document highlights the cases of some long-term political prisoners held under South Korea's National Security Law. They include 17 prisoners who have been held in poor conditions for over 28 years, including one who has been in prison for 40 years. At least 15 others were convicted after unfair trials during the 1970s and 1980s. Thirteen were given long prison sentences in the early 1990s for involvement in an alleged "spy case" and three others for establishing a socialist organization.

Amnesty International is publishing this report now because a large-scale prisoner amnesty is expected to be announced in August, to mark the 15 August anniversary of Korea's liberation from Japanese rule. It hopes that many of the prisoners mentioned in this report will be considered for inclusion in the amnesty.

Amnesty International is urging the new government in South Korea to order a thorough review of the cases of political prisoners. The organization is calling for the release of National Security Law prisoners who are held on account of their non-violent political views and activities and those who have been held for a very long time after an unfair trial. It is calling for a thorough review of the many cases in which political prisoners were reportedly tortured during interrogation by investigative bodies, including the police and the Agency for National Security Planning (ANSP, South Korea's intelligence agency).

President Kim Dae-jung, who took office on 25 February 1998, is a long-time human rights advocate who was himself the victim of severe human rights violations in past decades. Amnesty International believes Kim Dae-jung's Presidency can mark a new departure for human rights protection and promotion in South Korea, provided he is willing and able to take immediate steps to implement human rights reforms.

Amnesty International has welcomed President Kim Dae-jung's initial statements about the need for human rights reforms. But the human rights organization was dismayed that President Kim Dae-Jung's first prisoner amnesty on 13 March 1998 fell short of expectations. It welcomed the release of 74 political prisoners, particularly the prisoners for whom the organization had campaigned. But many National Security Law prisoners were overlooked, some of whom are clearly the victims of serious human rights violations.

Amnesty International is also calling for legal reforms to prevent further human rights violations in South Korea. It calls for the swift amendment of the National Security Law and for a thorough investigation into reported violations committed by the police, the ANSP and the military.

Amnesty International is well aware of the many difficulties facing the new President and his government including the current economic crisis which is understandably a major priority for the new administration. It will be important to ensure that economic and social rights are protected in the coming months. But it will also be an important time to press for other human rights reforms, including amendment of the National Security Law and the release or review of the cases of political prisoners. Amnesty International is convinced that a strong human rights program will be a good foundation on which to build the country's economic recovery and further development.

**KEYWORDS:** LONG-TERM IMPRISONMENT / POLITICAL PRISONERS / LEGISLATION / AMNESTIES / TORTURE-ILL TREATMENT / AGED / MEDICAL TREATMENT / TRIALS / STUDENTS / INCOMMUNICADO DETENTION / CONFESSIONS / NON-GOVERNMENTAL ORGANIZATIONS / ESPIONAGE / ACADEMICS / TRADE UNIONISTS / NORTH KOREA

This report summarizes a 17-page document (7,200 words), : Republic of Korea (South Korea) South Korea: Long-term prisoners still held under the National Security Law (AI Index: ASA 25/15/98) issued by Amnesty International in May 1998. Anyone wishing further details or to take action on this issue should consult the full document.

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

**amnesty international**

## REPUBLIC OF KOREA (SOUTH KOREA)

### Long-term Prisoners still held under the National Security Law



May 1998  
AI Index: ASA 25/15/98  
Distr: SC/CO/GR

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

### Background information about the Republic of Korea (South Korea)

After World War II the Korean peninsula was divided along Soviet and United States occupation lines, north and south of the 38th parallel. The communist North was backed by the former Soviet Union and the capitalist South was supported by the USA. In 1950 the Korean War broke out. The North was backed by China and the South by a US-led United Nations force. The war ended in 1953 with an armistice agreement. To this day there is no formal peace treaty between the Republic of Korea (South Korea) and the Democratic People's Republic of Korea (North Korea). The demilitarized zone separating the two countries is one of the most heavily fortified in the world. Since the end of the Korean War millions of family members and friends in both countries have been cut off from each other.

Until the early 1990s South Korea was run by authoritarian military governments and human rights violations were widespread. From 1961 until his assassination in 1979 General Park Chung-hee was President. In 1979 martial law was declared and power was seized by General Chun Doo-hwan who cracked down on pro-democracy protesters, culminating in the Kwangju massacre in May 1980 in which at least 200 people were killed. Chun Doo-hwan became President in August 1980 and held this position until 1987 when mass public protests led him to amend the Constitution and call a direct Presidential election.

Under Presidents Park Chung-hee and Chun Doo-hwan thousands of people were arrested and imprisoned under the National Security Law and other security legislation for non-violent political activities, political prisoners were often held for weeks or months without access to lawyers or relatives and torture was used frequently as a means of intimidation or to obtain a "confession".

A former army general, Roh Tae-woo, was elected as President and held office from 1988 to 1993. In 1993 a former dissident, Kim Young-sam, was elected and widely acclaimed as the first "civilian" President in South Korea's modern history. President Kim Young-sam carried out some economic reforms and took steps to eradicate corruption but the later years of his Presidency were marred by corruption scandals and the economy slowed down. His authoritarian style of leadership and wavering policy towards North Korea added to his unpopularity.

Since 1988 democracy in South Korea has allowed greater freedom for the media, human rights groups, trade unions, lawyers and others seeking to protect and enhance human rights. During this period human rights protection improved but problems remain. For example, in recent years there have been fewer reports of torture, but sleep deprivation, threats and beatings are still used to elicit "confessions" from suspects. Political prisoners have benefitted from better legal protection, but the National Security Law continues to be used to detain people for non-violent political offences. Sentences for national security offences are generally shorter than they were in the past, but South Korea remains one of the few countries in Asia which allows the arrest of hundreds of political prisoners each year, many of whom are held for their peaceful political views or activities.

Former political prisoner and human rights advocate Kim Dae-jung took office as President in February 1998. Amnesty International has welcomed his initial proposals for human rights reforms and hopes they will be fully implemented. The organization has called on President Kim Dae-jung to review the cases of all political prisoners and release those who are held in violation of international human rights standards.

## SOUTH KOREA

### Long-term prisoners still held under the National Security Law

This document highlights the cases of some long-term political prisoners held under South Korea's National Security Law. They include 17 prisoners who have been held in poor conditions for over 28 years, including one who has been in prison for 40 years. At least 15 others were convicted after unfair trials during the 1970s and 1980s. Thirteen were given long prison sentences in the early 1990s for involvement in an alleged "spy case" and three others for establishing a socialist organization.

Amnesty International is publishing this report now because a large-scale prisoner amnesty is expected to be announced in August, to mark the 15 August anniversary of Korea's liberation from Japanese rule. It hopes that many of the prisoners mentioned in this report will be considered for inclusion in the amnesty.

Amnesty International is urging the new government in South Korea to order a thorough review of the cases of long-term political prisoners held under the National Security Law. It is calling for the release of prisoners who are held on account of their non-violent political views and activities and prisoners who have been held for a very long time after an unfair trial. It is calling for an investigation of the many cases in which political prisoners were reportedly tortured during interrogation by investigative bodies, including the police and the Agency for National Security Planning (ANSP, South Korea's intelligence agency).

President Kim Dae-jung, who took office on 25 February 1998, is a former political prisoner and long-time human rights advocate who was himself the victim of severe human rights violations in past decades. Amnesty International believes Kim Dae-jung's Presidency can mark a new departure for human rights protection and promotion in South Korea, provided he takes immediate steps to implement human rights reforms.

Amnesty International welcomed President Kim Dae-jung's initial statements about the need for human rights reform. His many positive proposals include the establishment of a national human rights commission, a commitment to bring law and practice into line with international human rights standards, the promotion of women's rights, greater freedom of association for trade unionists and reform of the Agency for National Security Planning (ANSP, South Korea's intelligence agency). Amnesty International urges the new President to ensure that human reform remains close to the top of his reform agenda in the coming months.

Amnesty International was dismayed that President Kim Dae-jung's first prisoner amnesty on 13 March 1998 fell short of expectations. It welcomed the release of 74 political prisoners, particularly those prisoners for whom the organization had campaigned.

However, many National Security Law prisoners were excluded, some of whom are clearly the victims of serious human rights violations.

Amnesty International calls for the immediate and unconditional release of people who are detained for their beliefs or because of their origin, sex, colour, language, or other status, provided they have not used or advocated violence. It also calls for the release of some political prisoners who have been held for a very long time after an unfair trial. More generally, it calls for all political prisoners to be given a fair trial and for all prisoners to be protected from torture and cruel or inhuman treatment.

Given the high number of arrests and lack of data about some prisoners, it is not possible for Amnesty International to document and campaign upon the case of every political prisoner in South Korea. What the organization does do is to campaign on behalf of individual prisoners whose cases demonstrate a pattern of human rights violations. It also calls for legal and procedural changes which will avoid such human rights violations in future.

Amnesty International has long-standing concerns about political prisoners in South Korea and this has enabled the organization to establish patterns of human rights violations and to measure progress. After the March prisoner amnesty, South Korean human rights groups reported that over 250 people were still held under the National Security Law. At least 50 of these prisoners were serving long prison sentences. The others had either been sentenced to fairly short prison terms or were awaiting trial. Although there has been a recent trend towards shorter sentences, it is still of considerable concern that so many political prisoners continue to be imprisoned.

The National Security Law should be amended in accordance with international human rights standards. Since most political prisoners in South Korea are held under this law, people will continue to face arrest and imprisonment for non-violent political activities unless the law is swiftly amended. At least 20 arrests took place in the first two months of 1998. They included eight labour activists arrested on 18 February and charged with forming the Kwanak Youth Workers Group, a group alleged to "benefit" North Korea. This group's main purpose had been to provide political and cultural education for young workers and since they had not used or advocated violence it is difficult to see how their activities posed a threat to state security. This case is typical of current National Security Law arrests.

Most long-term political prisoners in South Korea were arrested and interrogated by the ANSP and many claim to be victims of illegal arrest, torture and fabricated charges. Since early 1998 the ANSP has been widely discredited amidst reports that several top officials intervened to try and denounce Kim Dae-jung as a communist sympathiser in the

run-up to the December 1997 Presidential election. Soon after his inauguration, President Kim Dae-jung said the government would order an inquiry into the affair and make its findings public and that the agency would be downsized. A number of top ANSP officials were dismissed. Amnesty International urges the government to look further than this one political scandal and to investigate the many human rights violations inflicted on prisoners by the ANSP, past and present. It is calling for the ANSP to be thoroughly reformed and for procedures to be introduced to prevent illegal arrest and torture by the ANSP.

Amnesty International is well aware of the many difficulties facing the new President and his government, including the current economic crisis which is obviously a major priority for the new administration. It will be important to ensure that economic and social rights are protected during the coming months. But it will also be an important time to press for other human rights reforms, including amendment of the National Security Law and the release or review of the cases of political prisoners. Amnesty International is convinced that a strong human rights program will be a good foundation on which to build the country's economic recovery and further development.

#### What is the National Security Law?

The National Security Law was first enacted in 1948 and has been revised several times since then. Articles 3 and 4 of the National Security Law provide long prison sentences and the death penalty for crimes such as "espionage" and "anti-state" activities, but these terms are not clearly defined in the law and have often been used to imprison people for the non-violent exercise of their rights to freedom of expression and association. Under the National Security Law an "anti-state" organization is defined as "an association or group within or outside the Republic of Korea which has a structure of command and control, as organized for the purpose of assuming a title of government or disturbing the state". Under the National Security Law North Korea is defined as an "anti-state" organization, rather than a country. The definition of "state secret" is so vague that in many cases it has included information which is publicly available in South Korea.

Most of political prisoners with long sentences have been punished under Articles 3 and 4 of the National Security Law. Some are charged under Article 6 of the law which prohibits unauthorized travel to North Korea. Article 7 punishes the act of "praising" or "benefitting" the enemy (generally meaning North Korea) and today this is the most widely used and abused article of the law.

South Korean Governments have consistently linked discussion about the National Security Law with inter-Korean relations, refusing to amend the law because of the threat from communist North Korea.

**Amnesty International understands the government's need to maintain national security, but simply calls for the law to be amended in accordance with international human rights standards so that basic rights such as freedom of expression and freedom of association are protected.**

### 1) Political prisoners held since the 1950s and 1960s

Amnesty International knows of at least 11 political prisoners who have been held in virtual isolation for over 30 years. They are: Woo Yong-gak (aged 68<sup>1</sup>), Choi Son-muk (aged 69), Hong Myong-ki (aged 69), Ahn Young-ki (aged 68), Jang Byong-rak (aged 63), Yang Hee-chol (aged 65), Ri Kyong-chan (aged 62), Choi Soo-il (aged 59), Kim Dong-ki (aged 65), Park Won-kyu (aged 68), Lee Kong-sun (aged 63).

Six more prisoners have been held for over 28 years. They are: Kim Ik-jin (aged 67), Oh Hyong-sik (aged 68), Kim Eun-hwan (aged 67) and Yang Chong-ho (aged 67), Kim Chang-won (aged 64) and Lee Jae-ryong (aged 53).

Amnesty International urges the government to release these very long-term political prisoners for several reasons. Firstly, because their continued imprisonment appears to be solely because of their alleged communist views. Secondly, because of reports that some were tortured and did not have a fair trial in accordance with international standards. Thirdly, on humanitarian grounds due to old age, poor health, long imprisonment and decades of inhumane treatment in prison.

These prisoners were convicted of spying for North Korea during the late 1950s and 1960s and sentenced to life imprisonment under the National Security Law. In ordinary criminal cases, prisoners sentenced to life imprisonment will be considered for parole after around 16-18 years' imprisonment. These political prisoners, however, have been refused the possibility of release on parole because they have refused to "convert", meaning to renounce communism. They are generally referred to as "unconverted" political prisoners. In the past, most "unconverted" political prisoners serving life sentences have only been released on humanitarian grounds when they reached the age of 70.

These prisoners came from North Korea and most were arrested as they crossed the border into South Korea. Some claim to have been merely visiting their families, from whom they had been separated since the end of the Korean War in 1953. Some of these prisoners claim to have been tortured during interrogation which lasted for many months and forced to make a confession.

In past decades the "unconverted" prisoners were often tortured by prison officials in order to force them to change their political views. Today, torture is no

<sup>1</sup>In Korea ages are calculated according to the Lunar calendar and may differ slightly from those given in this report.

longer used but such prisoners are denied the possibility of release on parole. They are also prohibited from working and are often denied contacts with other prisoners. They are only allowed visits from and correspondence with family members. As a result, many of the long-term "unconverted" prisoners have been held for three decades with almost no human contact. Lawyers and human rights activists have been unable to obtain detailed information about the prisoners. What little information there is has been gathered mostly from family members (where they exist) and released prisoners.



Kim Sun-myung and Ahn Hak-sop, two former prisoners who spent over 40 years in prison and were released in 1995, told Amnesty International that throughout the years they had sometimes managed to communicate with each other by tapping on the walls of their cells and by exchanging occasional words on their way to the exercise yard. In the later years of their imprisonment, it became easier for them to communicate and pass their stories on to other prisoners.

Fifteen of these very long-term prisoners are over the age of 60 and many are reported to be in poor health. They are isolated in small cells with limited access to medical care. Some suffer from digestive ailments, rheumatism, high blood pressure and other illnesses. Medical facilities in South Korean prisons are generally poor and most prisons have only one part-time doctor. Prison cells are unheated in winter.

Woo Yong-gak has been in prison since July 1958 (almost 40 years) and suffers from muscular paralysis resulting from a stroke. He claims to have been tortured in an underground facility after his arrest and forced to make a confession. Hong Myong-ki, who has been in prison for 36 years, is reported to be suffering from heart disease. A former North Korean soldier, he said he was arrested as he was crossing from North Korea to South Korea to visit his family in April 1962. He claims to have been subjected to electric shock torture for some 18 hours after his arrest and that he was interrogated for a further eight months before he was formally charged. He was sentenced to death, later commuted to life imprisonment.

Other examples are Lee Kong-sun who also fought for North Korea during the Korean War and was arrested in December 1967 when he said he was entering South Korea to visit his family. He was sentenced to life imprisonment and has now spent 30 years in prison. During the 1970s Lee Kong-sun said he was beaten and forced to sleep without his clothes in freezing temperatures in an attempt to force him to "convert". He is now reported to be suffering from arthritis and neuralgia. Ahn Young-ki was arrested in 1962 as he entered South Korea. During the 1970s he said he was beaten repeatedly to

force him to change his political views. He is now reported to be suffering from neuralgia and arthritis.



Families of long-term political prisoners demonstrate in Seoul

Amnesty International is concerned that the continued imprisonment of this group of political prisoners appears to be solely on account of their alleged communist views and is not based on any real security threat.

Many of the prisoners are in poor health and Amnesty International believes that their continued imprisonment in poor conditions is likely to pose a serious threat to their health.

Amnesty International does not know whether the prisoners were guilty of espionage, but the information available on several of the cases suggests that they were forced to confess under torture and that they did not receive a fair trial. The authorities have failed to release information about these cases or to review them, in spite of the concerns raised by human rights activists and lawyers in South Korea. All of these prisoners have already served far more than an ordinary life sentence.

In view of these concerns, Amnesty International urges the government to release these prisoners. It is also calling on the government to release full documentation on the prisoners relating to their arrest, interrogation, trial process and their treatment in prison and to conduct a full investigation where there are reports that the prisoners were tortured and did not have a fair trial.

## 2) Political prisoners convicted unfairly during the 1970s and 1980s

Amnesty International knows of at least 15 long-term political prisoners whom it believes were convicted unfairly and on politically motivated and trumped-up charges during the 1970s and 1980s. These prisoners were arrested under the National Security Law and convicted of spying for North Korea. Their cases follow a consistent pattern of illegal arrest, incommunicado detention, torture and coerced confessions. Eleven of these prisoners claim to have been tortured by the ANSP, three by the police and one by the military. Amnesty International is calling for their release.

With only one exception these prisoners are all serving sentences of life or 20 years' imprisonment. They have all been in prison for at least 12 years and the longest serving has been held for 20 years.

Many of these long-term prisoners were students and businessmen at the time of their arrest. Some had travelled abroad and had been in contact with North Koreans; some had lived in Japan or had relatives in Japan and had thereby had contacts with [North] Korean residents in Japan. These contacts made them vulnerable to arrest on fabricated charges under the National Security Law. The prisoners were accused of passing "state secrets" to North Korean agents in Japan or other countries and of engaging in other espionage activities, but in many cases the alleged "state secrets" consisted of information which was publicly available in South Korea and the main evidence of espionage was the prisoners' own confessions. The prisoners were arrested illegally, held incommunicado for a long period of time and forced to confess under torture.

In nine of these cases Amnesty International is convinced that the charges against the prisoners are unfounded and therefore calls for the prisoners to be released. These prisoners are: Ham Ju-myong (aged 64, sentenced to life imprisonment), Kang Hui-chol (aged 39, life imprisonment), Kang Yong-ju (aged 35, life imprisonment), Kim Song-man (aged 40, 20 years' imprisonment), Lee Jang-hyong (aged 65, 20 years' imprisonment), Park Dong-oon (aged 52, 20 years' imprisonment), Sok Tal-yun (aged 66, 20 years' imprisonment), Yang dong-hwa (aged 39, 20 years' imprisonment and Hwang Tae-kwon (aged 42, remaining sentence of four years' imprisonment<sup>2</sup>).

In six other cases Amnesty International has received insufficient information to judge whether or not the charges are unfounded but the organization is also calling for these prisoners to be released on the basis of consistent and convincing reports that the prisoners were tried unfairly and convicted largely on the basis of confessions extracted under torture. These prisoners have all been held for a very long time after a reported unfair trial and past governments have failed to order a review of the cases. The prisoners are: Chong Yong (aged 56, sentenced to life imprisonment), Cho Sang-nok (aged 51, life imprisonment), Kim Chong-muk (aged 63, 20 years' imprisonment), Kim Chang-ho (aged 57, 20 years' imprisonment), Kim Tae-ryong (aged 50, life imprisonment) and Lee Sang-chul (aged 49, 17 years' imprisonment).

<sup>2</sup>Hwang Tae-kwon was sentenced to life imprisonment in 1986. His sentence was reduced to 20 years' imprisonment in 1988 and his remaining prison term was reduced by half in the March 1998 prisoner amnesty.

The prisoners are currently held in different prisons throughout the country. Some appear to be in good health and are allowed to associate with other prisoners. Others are held in solitary confinement and are not allowed to mix. Some are reported to be suffering from psychological problems as a result of long-term isolation while others are suffering from digestive ailments, rheumatism, high blood pressure and other illnesses.

Some of these prisoners are also under constant pressure from the prison authorities to "convert" or to express repentance for their actions. But in several cases the prisoners have refused to do so, considering that this would amount to an admission of guilt. Their refusal to "convert" or to express remorse means that they are not considered for release on parole and generally have fewer rights and privileges than other prisoners. For example, visits and reading material may be restricted.

For many years human rights lawyers and activists in South Korea have sought retrials for some long-term political prisoners, as a means of obtaining redress. Under South Korea's Code of Criminal Procedure a retrial may be granted if it is proved that evidence was forged, testimony was false and when new "clear evidence" is discovered. But the requirements for a retrial have proved to be extremely difficult to meet and as far as Amnesty International is aware, no long-term political prisoner has secured one. This means that the prisoners have been left without any effective legal redress.



Kim Song-man was arrested in June 1985 by the ANSP and interrogated without access to a lawyer or his family for two months. During this period he claims to have been severely tortured. Kim Song-man had studied political science at Western Illinois University in the USA where he met a publisher whom the South Korean authorities considered to be pro-North Korean. He had also met North Korean officials in Europe. Based on this and his student activism, he was accused of having engaged in subversive activities under instructions from North Korea and of passing "state secrets" to North Korean officials in Europe. Together with three other prisoners - Hwang Tae-kwon, Yang Dong-hwa and Kang Yong-ju - he was accused of belong to a spy ring known as "Western Illinois

spy ring". Amnesty International believes the charges are unfounded and the main evidence was the prisoners' own confessions, extracted under torture. In this case "state secrets" consisted of pamphlets Kim Song-man had written about the political situation in South Korea. Kim Song-man spent almost three years under sentence of death, until his sentence was commuted to life imprisonment. It was further reduced to 20 years'

imprisonment in the March 1998 prisoner amnesty. Amnesty International believes he should now be released.

It is also calling for the release of Kang Yong-ju, one of the other prisoners arrested with Kim Song-man in the "Western Illinois Spy Ring". A former medical student and student activist, he was arrested by the ANSP in July 1985 and held incommunicado for a two-month period. During this time he says he was beaten, deprived of sleep and forced to make a confession. Kang Yong-ju was charged with passing information on the student movement to North Korean agents and spreading North Korean propaganda among the student movement. He is serving a 20-year prison term.



Park Dong-oon was arrested in March 1981 by the Agency for National Security Planning along with several other members of his family. They were held incommunicado for around 60 days and subjected to beatings, threats, sleep deprivation and water torture. The family were accused of belonging to the "Chin-do spy ring", operating on behalf of North Korea. Park Dong-oon was sentenced to death, later commuted to life imprisonment. The family were believed to have been targeted because of Park Dong-oon's father who had been missing since the end of the Korean War and was said by the authorities to be a North Korean spy. Amnesty International believes that Park Dong-oon was convicted on the basis of confessions extracted from him and his family under torture.



Cho Sang-nok, arrested in January 1978 by the ANSP, was held for 17 days without access to a lawyer or his family. During this time he says he was subjected to electric shock and water torture and beatings in order to force him to confess to charges of espionage. Cho Sang-nok had close relatives living in Japan and had lived there himself for a few years. This became the basis of charges that he had passed "state secrets" to North Korean agents in Japan, but Amnesty International believes the main evidence used to convict him was his own confession, extracted under torture. Cho Sang-nok is believed to be in poor mental and physical health related to the after effects of torture, poor conditions of imprisonment and long isolation.



*Cases from the early 1990s : the Sanomaeng case*

Four leaders of *Sanomaeng* (Socialist Workers League) arrested in 1991 and 1992 are serving long sentences under the National Security Law on charges of forming and belonging to an "anti-state" organization with the aim of overthrowing the state. They are Park No-hae (aged 40, sentenced to life imprisonment), Baik Tae-ung (aged 36, 15 years' imprisonment), Nam Chin-hyon (aged 35, remaining sentence of 10 years' imprisonment<sup>3</sup>) and Hyon Jong-dok (aged 35, eight years' imprisonment). Amnesty International is calling for their immediate and unconditional release.

*Sanomaeng* was established in 1989 and in the early 1990s it is reported to have had several thousand members. Since 1990 hundreds of *Sanomaeng* members have been arrested on charges of belonging to an "anti-state" organization which planned a violent uprising to overthrow the government. The leaders and members of the organization who were arrested in the early 1990s were given long prison sentences, but those arrested more recently have received much shorter sentences or have been released after trial.

*Sanomaeng* advocated a socialist form of government but did not appear to have any links with North Korea. Amnesty International does not believe there was any evidence that it had planned an armed uprising to overthrow the government. Some of the organization's leaders called for peaceful political change. Baik Tae-ung's statement at his first trial included the following words:



*"I aspire to build a country of true equality and peace in which the oppressed earn freedom and the deprived earn joy. I want to build a society in which labour ceases to be mechanical physical wringing of tears and sighs and instead becomes a creative process for self-realization. . . As long as legal and institutional improvement provides us with the legal right to engage ourselves in socialist activities, we will promote our socialism by expressing our ideas peacefully through legally-sanctioned democratic channels such as laws, institutions, parliament and social associations. . ."*

Baik Tae-ung, a former law student, was a leader of *Sanomaeng* at the time of his arrest in April 1992. He was arrested by the ANSP. During 22 days' interrogation he said he was deprived of sleep for long periods, beaten and injected with drugs in an attempt to force him to confess. Baik Tae-ung was charged under the National Security Law with forming and belonging to an "anti-state" organization.

<sup>3</sup>Nam Chin-hyon was sentenced to 13 years' imprisonment in 1991 and his remaining prison term was reduced by half in the March 1998 prisoner amnesty.



*Sanomaeng*'s other main leader, Park No-hae, was arrested in March 1991 by the ANSP and interrogated for over 30 days. During this time he said he was severely beaten and was only allowed to sleep for a few hours each night for the first 10 days of interrogation. He was charged under the National Security Law with establishing and belonging to an "anti-state" organization and sentenced to life imprisonment. Park No-hae is a well-known poet who has published several books of poetry. His latest work: *Human Beings, The Only Hope*, has sold over 100,000 copies. The government are reported to have said that Park No-hae was excluded from the March 1998 prisoner amnesty because he had not repented.

Park No-hae's supporters believe he has received harsh treatment from the authorities because he is a worker and a socialist whose ideas have inspired thousand of students and workers. In recent months, many well-known literary and religious figures have appealed for his release.

*Cases from the early 1990s: the "South Korea Workers Party" case*

In late 1992 and just before the last Presidential election, over 60 people were arrested for their alleged involvement in a case which became known as the "South Korea Workers' Party" case. The arrests and investigation were carried out by the ANSP and the main suspects were denied access to their lawyers and families for several weeks after their arrest. Some were reported to have been tortured. Of those arrested, several dozen were convicted under the National Security Law with belonging to an "anti-state" organization, with having illegal contacts with North Koreans and, in some cases, with espionage. The ANSP appeared to have deliberately timed these arrests to coincide with the run-up to the 1992 Presidential election which was won by Kim Young-sam of the [then] ruling Democratic Liberal Party.

Since 1992 Amnesty International has called for an investigation into this whole case, in view of the reported illegalities committed by the ANSP and concern that many of the prisoners may have been convicted unfairly. Since 1992 some of the prisoners have been released from prison as their sentences expired but 13 people remain in prison today.

In March 1998 President Kim Dae-jung announced an investigation into reports that the ANSP had taken action to influence the outcome of the 1997 Presidential election. Amnesty International now urges the government to extend this investigation

to the ANSP's activities in connection with the previous Presidential election and alleged human rights violations committed by the Agency. This should include the arrests of people in the "South Korea Workers Party" case.

Thirteen people arrested in this case remain in prison today. These prisoners are: Kim Nak-jung (aged 66, sentenced to life imprisonment), Son Pyong-son (aged 57, life imprisonment), Hwang In-oh (aged 42, 20 years' imprisonment), Hwang In-uk (aged 32, remaining sentence of 10 years' imprisonment<sup>4</sup>), Choi Ho-kyong (aged 41, life imprisonment), Shim Keum-sop (aged 63, remaining sentence of 10 years' imprisonment<sup>5</sup>), Yang Hong-kwan (aged 38, 12 years' imprisonment), Ham Jung-hee (aged 33, 7 years' imprisonment), Byon Ui-sook (aged 31, 10 years' imprisonment), Jang Chang-ho (12 Years' imprisonment), Lee Kyong-sop (10 years' imprisonment), Cho Duk-won (8 years' imprisonment), Eun Jae-hyong (6 years' imprisonment).

Amnesty International is calling for the release of Kim Nak-jung and Son Pyong-son. It believes the charges in these two cases are unfounded and that the prisoners were not convicted fairly, in accordance with international standards. In the other cases, Amnesty International has insufficient information to judge whether the prisoners should be released. However, the many reports of illegal arrest, incommunicado detention and use of forced confessions in these cases have reinforced Amnesty International's concern that the prisoners may not have been convicted in accordance with international standards.

A brief summary of this case is as follows. On 6 October 1992 the ANSP announced that it had uncovered the largest communist organization in South Korea since the late 1940s. It was allegedly led by a high-ranking North Korean official who, with the help of more than ten other undercover North Korean agents, had organized a southern chapter of the Workers Party of [North] Korea (WPK) and infiltrated various sectors of society. The North Korean agents were not found or arrested. The ANSP said the operation's objectives was to support the election of an opposition candidate in the December presidential elections, to establish a coalition government with the communists in 1993 and to achieve the communization of the Korean peninsula during 1995. The ANSP said that the "spy ring" was made up of three sections and published a complex chart showing how various individuals and organizations had been involved. Although some of the main suspects appeared to have visited North Korea or to have

<sup>4</sup>Hwang In-uk was sentenced to 13 years' imprisonment in 1993. His remaining prison term was reduced by half in the March 1998 prisoner amnesty.

<sup>5</sup>Shim Keum-sop was sentenced to 15 years' imprisonment in 1993. His remaining prison sentence was reduced by half in the March 1998 prisoner amnesty.

met North Koreans, they denied committing espionage. Among those arrested were three leading members of the *Minjung* Party (People's Party, now disbanded), and workers and students believed to belong to groups that align themselves politically with North Korea.

Many of the suspects were arrested illegally without warrants of arrest and in many cases this amounted to abduction by unidentified agents of the ANSP. In most cases the prisoners were denied visits by their families for over 22 days, and the main suspects were also denied the right to see a lawyer for 22 days or longer. Many of the suspects said they had been tortured or ill-treated during interrogation by the ANSP.



Kim Nak-jung, 61, a political writer and former co-president of the *Minjung* Party, was held by the ANSP from 25 August to 15 September 1992. Later he said that he had been beaten all over his body and on his fingers by a group of ANSP agents using clubs. He had been deprived of sleep for long periods and had fainted during interrogation. Visitors saw a scar on his head and bruises on his arms. He told relatives that he had gone through "what no human being should be made to suffer". Kim Nak-jung was accused of having met four North Korean agents between 1990 and 1992. He admitted this but denied all accusations of espionage and said he had acted out of a desire to bring about reunification.

During the first hearing of his trial in November 1992, he said "I thought it would be all right so far as I did not betray South Korea and did not cooperate with the activities which aimed at the destruction and overthrow of the South Korean government. In reality, through contacts with the North Korean people, I held fast to such a position"

The evidence did not suggest that he had passed secret information to North Korea. When delivering his verdict the trial judge said that Kim Nak-jung had not posed a serious danger to the state but he had imposed a heavy sentence because the defendant had broken the [National Security] law and caused widespread concern to the general public.

Kim Nak-jung has already spent many years in prison - in both North and South Korea - for his work to bring about reunification. In 1955 he devised a reunification plan called "Proposal for the Establishment of a Unified Independent Youth Community of Korea". He submitted his reunification plan to the South Korean President for which he was arrested and interrogated for 20 days. He then visited North Korea to submit his reunification plan to the North Korean leader Kim Il Sung

but was arrested by the North Korean authorities and imprisoned for one year on suspicion of spying for the South. When he returned to South Korea in 1956 he was arrested by the authorities on charges of spying for the North. He was arrested again in 1963 and in 1973. During the 1970s and 1980s he worked as an economics lecturer and joined a number of citizens' groups supporting reunification, including the National Centre for the Promotion of Korean Reunification and the Citizens Coalition for Economic Justice. He also wrote numerous books and articles on the subject of reunification, the labour movement, economic policy and his own autobiography. In 1990 he joined and became co-president of the *Minjung* (People's) Party. In September 1991 he and several friends founded the Research Group for Peaceful Reunification, a private forum for academic discussion and analysis of reunification issues.



Son Pyong-son, a *Minjung* Party candidate in the March 1992 parliamentary elections, was arrested by the ANSP on 26 September at his family home in southern Seoul. He later told his family that he had been beaten continually for three days by a group of 13 men. On the fourth day he was forced to do repeated physical exercises, such as squatting with his arms stretched out and standing on his head and hands while he was told to confess to the charges against him. He was only permitted to sleep for a few hours each day. On several occasions during this interrogation period a doctor treated him and this included massage and the administering of injections. Son Pyong-son was accusing of being a member of the KWP and of having

received instructions from North Korea, by radio and letters, on various aspects of activities and policies of the *Minjung* Party, including an instruction to set up an underground leadership of the party loyal to North Korea. But the main evidence to support the accusations was his own forced confession.

Prior to his arrest Son Pyong-son was actively involved in peace and reunification work. From 1981 he was a standing member of the [Presidential] Advisory Committee on Peaceful Reunification and in 1989 he became chair of the Reunification Committee of the *Minjung* Party.

One of the main suspects in this case was Hwang In-oh, a former miner and a trade union activist. He was accused of having visited North Korea in October 1990 and joining the Workers Party of Korea and receiving instructions on setting up a branch of it in the South. Upon his return he allegedly enlisted the help of his brother, Hwang In-uk, a former student activist, and of Choi Ho-kyong, a labour activist and *Minjung* Party supporter. He was accused of recruiting 12 people into a Central

Regional Chapter of the party in July 1991, to which a number of workers or student groups which support North Korea were allegedly affiliated. The ANSP accused the Hwang brothers of having received instructions from North Korea and of having sent reports to them, by radio communication or messages conveyed by visitors to Japan.

Hwang In-oh was arrested by the ANSP in September 1992 and held for 28 days without access to his lawyer. He admitted that he had visited North Korea but said he had done so in order to help bring about reunification. He denied espionage but said he had signed a confession under pressure from the ANSP. He had been concerned about other members of his family who were also under arrest, including his mother and his wife who were repeatedly threatened by ANSP investigators.

Hwang In-uk was arrested on 10 September and was denied all access to a lawyer for at least six weeks after his arrest. Choi Ho-kyong did not see a lawyer until 22 days after his arrest and said that he had been forced to make a confession. He is currently reported to be suffering from a back injury and broken teeth after he was recently beaten by prison guards because he went on hunger strike.

Dozens of students and activists were arrested and charged for having a connection to the Hwang brothers through membership of other student/worker discussion groups. But most said that they were not aware that the discussion groups they belonged to at university or in their workplaces were part of the Central Regional Chapter of the KWP or that they did not know that it had links with North Korea.

Activist Ham Jung-hee(f) was denied access to her family and lawyer for 20 days after her arrest by the ANSP in September 1992, during which time she claims to have been tortured. She was sentenced to seven years' imprisonment for belonging to an "anti-state" organization (the Patriotic Alliance) and passing "state secrets" to North Korea. According to her lawyers, these state secrets consisted of information which was publicly available in South Korea. Yang Hong-kwan was also denied access to a lawyer for 20 days after his arrest by the ANSP in September 1992. During this time he said that he was stripped, beaten, forced to do repeated physical exercises and deprived of sleep. Later he said "After five or six days of torture I gave everything up and admitted whatever they wanted me to say. There is nothing that could alleviate the pain and suffering that I underwent".

*Cases from the mid-1990s: the Kukukchonui case*

Three people are serving long prison terms for establishing and joining an "anti-state" organization called *Kukukchonui* in 1994 which the authorities said had been established by Ahn Jae-ku to spy for North Korea. A total of 23 people were arrested in this case by the police, the ANSP and the Military Security Command (MSC) and accused of being members of *Kukukchonui*.

Amnesty International is calling for the release of three prisoners who are still held in this case, as it believes they are held for their non-violent political views and activities. They are: Ahn Jae-ku (aged 64, sentenced to life imprisonment), Yu Rak-jin (aged 70, eight years' imprisonment), Jong Hwa-ryo (aged 33, 10 years' imprisonment). Amnesty International does not have details of five other prisoners held in this case, but understands that all will be released during 1998 when their prison sentences expire.



Ahn Jae-ku was arrested by the ANSP on 14 June and was questioned in the afternoon and evening each day for 20 consecutive days. He suffers from neuralgia and rheumatism and he said that the long periods of interrogation without sleep were difficult to withstand. At some points, he said he became confused by the questioning and was upset by threats and intimidation during interrogation by the ANSP and the Prosecution. For example, during one session of questioning he said he was tricked into admitting that the manifesto and working rules of *Kukukchonui* contained reference to the Workers' Party of [North] Korea. He and his lawyers were also concerned that a computer diskette containing the organization's rules and manifesto appeared to have been altered by investigators and that the diskette used in court as evidence was an incorrect version.

Ahn Jae-ku was accused of establishing *Kukukchonui* in order to spy for North Korea. The authorities said that he had recruited other people to work for this organization, including his son Ahn Young-min (now released), and that he had received money from North Korea. They also said that Ahn Jae-ku had joined the North Korea's ruling Korean Workers' Party (KWP) while he was in prison in the 1980s.

At his trial, Ahn Jae-ku admitted that since 1991 he had been in contact with an allegedly pro-North Korean organization in Japan called *Kwang Myung* and that this group had persuaded him to establish a study group in South Korea to study North

Korea's *Juche* (self reliance) ideology. Ahn Jae-ku said was interested in learning more about North Korea and its political ideology but denied committing espionage or attempting to overthrow the South Korean Government. He said that *Kukukchonui*, was "an organization for independence, democracy and reunification, but not one designed to violently or unlawfully change or undermine the republic of Korea". At his trial, Ahn Jae-ku said:

*I am totally against the idea that the socio-political systems in South Korea should be overthrown. Nor do I agree with the idea that the socialist system in North Korea should be dismantled and replaced with capitalism. We should recognize that two different political systems exist in the South and North and that the two sides constitute a community destined to jointly embody national independence. This means that we are in a community where we seek what we have in common and respect differences. How to create such a community is our task."*

Amnesty International believes there was no evidence that Ahn Jae-ku had committed espionage or sought to overthrow the state using violence.

In 1971 Ahn Jae-ku was appointed professor of mathematics at Kyongbuk University and achieved renown as a mathematician. He lost his position in 1976 when he refused to report student activities to the authorities. He then became actively involved in opposition to the then military government of President Park Chong-hee and in 1979 was arrested on charges of "anti-state" activities. Sentenced to life imprisonment, he was released in 1988 under a presidential amnesty and took up a position as lecturer of mathematics at Kyunghee University in Seoul.

Yu Rak-jin is a former long-term political prisoner who had already spent 19 years in prison on political charges before his release in 1990 in a presidential amnesty. He was also arrested in June 1994 and accused of belonging to *Kukukchonui* and of "reporting" to Ahn Jae-ku. Yu Rak-jin said that during questioning by the ANSP was only allowed to sleep for one or two hours each night for 14 consecutive nights. He was also threatened and shown confessions by the other defendants in an effort to force him to sign a similar confession. Yu Rak-jin, aged 70, suffers from angina and his family claim that he is not receiving adequate medical care.



## AMNESTY INTERNATIONAL NEWS RELEASE

13 March 1998

### South Korea: Prisoner amnesty does not go far enough

Today's prisoner amnesty in South Korea - however welcome - does not go far enough, Amnesty International said. The organization called for further releases of prisoners and institutional human rights reforms to prevent further arrests.

"Obviously the release of some political prisoners is welcome, but we are dismayed that so many other prisoners were excluded; the continued imprisonment of so many people for their political views is unacceptable in an open and democratic society," said Amnesty International.

"We hope this is the beginning of a systematic review of other political prisoners' cases. This issue is an important test of President Kim Dae-jung's credibility as a human rights reformer".

The human rights organization expressed dismay that many political prisoners serving long prison terms were excluded, apparently because of their alleged left-wing views. President Kim Dae-jung had earlier said that "communists" would be excluded from the amnesty, although this term has been widely misused in South Korea.

Earlier today, the Ministry of Justice announced that 22 out of 41 prisoners on a representative list of cases presented by Amnesty International had either been released or had their sentences reduced. In fact, only 10 people on the list were released and the list itself was only a sample of cases. Several dozen long-term political prisoners remain in prison. Many of those released were coming to the end of their prison sentences. Only one woman was released.

In February Amnesty International representatives visited Seoul to call for the release of prisoners held for non-violent political offences and long-term political prisoners who were tried unfairly. They also called for an investigation into past human rights violations, including killings, unfair trial and torture.

Since his election, President Kim Dae-jung has committed his government to a series of human rights reforms and has already taken steps to reform the Agency for National Security Planning (ANSP) - held responsible for political interference and torture of political detainees. Amnesty International has urged the government to ensure that the ANSP is thoroughly reformed so that it cannot inflict any further human rights violations.

But this week the President was reported to have said his government would not amend the National Security Law in the near future and called on North Korea to make corresponding changes to its Criminal Law.

"It is vital that President Kim Dae-jung amends the National Security Law as soon as possible and in accordance with international standards. Until the law is changed peaceful activists will continue to risk arrest and imprisonment," Amnesty International said. "At least 20 people have been arrested under this law since President Kim Dae-jung's election."

#106502		인권 카루상	PAGE: 1/2
등록일	분류기호	자료번호	
	B8	M7	

## AMNESTY INTERNATIONAL NEWS RELEASE (157/98)

13 AUGUST 1998

AI INDEX: ASA 25/28/98

### South Korea: Prisoners should be released unconditionally on 15 August freedom anniversary

As the South Korean Government prepares to free political prisoners, Amnesty International is calling on President Kim Dae-jung not to make their release conditional on signing an "oath" to respect the law.

The oath requires prisoners to respect the National Security Law -- a law which is used frequently to jail people for exercising their freedom of expression.

The amnesty should include 17 sick and elderly long-term prisoners who have been held in solitary confinement for between 28 and 40 years, refused release on parole for many years simply because of their imputed communist views. In past decades they were tortured in order to force them to sign a "conversion" statement.

"These elderly political prisoners pose no threat to state security. If the government really cares about human rights it will release them without attaching conditions," Amnesty International said.

The human rights organization is also calling for the release of at least 15 other long-term prisoners convicted unfairly on trumped up spying charges during the 1970s and 1980s, including prisoners such as Kang Yong-ju and Kim Song-man. It urges the government to free all other political prisoners who have been held under the National Security Law and other legislation for non-violent activities, including students, trade unionists, and activists.

Reports that at least 100 political prisoners will be released were welcomed by Amnesty International but the organization pointed out that several hundred people are currently held under the National Security Law and if current arrest rates continue, those released will quickly be replaced.

More than 100 prisoners have been arrested under the National Security Law since the new government took office, almost all held for trivial offences such as publishing a "pro-North Korean book", belonging to a small group with left-wing ideas or uploading socialist material on the Internet.

"Maintaining state security does not mean locking people up for having left-wing views or keeping them locked up because they refuse to accept a law which violates fundamental human rights," Amnesty International said. "All we are asking is that South Korea respects the rights to freedom of expression and association which are enshrined in international human rights treaties."

Amnesty International is also urging the authorities to allow students and others to demonstrate peacefully on the 15 August anniversary following reports that some 6000 riot police have been deployed to block a student demonstration at Seoul National University and that 12,000 police will be deployed to prevent a march to Panmunjom.

"The students should be given a chance to demonstrate peacefully," Amnesty International said. "We are concerned that this huge contingent of riot policemen, and the government's outright

**AMNESTY INTERNATIONAL NEWS RELEASE (157/98)**

13 AUGUST 1998

AI INDEX: ASA 25/28/98

**South Korea: Prisoners should be released unconditionally on 15 August freedom anniversary**

As the South Korean Government prepares to free political prisoners, Amnesty International is calling on President Kim Dae-jung not to make their release conditional on signing an "oath" to respect the law.

The oath requires prisoners to respect the National Security Law -- a law which is used frequently to jail people for exercising their freedom of expression.

The amnesty should include 17 sick and elderly long-term prisoners who have been held in solitary confinement for between 28 and 40 years, refused release on parole for many years simply because of their imputed communist views. In past decades they were tortured in order to force them to sign a "conversion" statement.

"These elderly political prisoners pose no threat to state security. If the government really cares about human rights it will release them without attaching conditions," Amnesty International said.

The human rights organization is also calling for the release of at least 15 other long-term prisoners convicted unfairly on trumped up spying charges during the 1970s and 1980s, including prisoners such as Kang Yong-ju and Kim Song-man. It urges the government to free all other political prisoners who have been held under the National Security Law and other legislation for non-violent activities, including students, trade unionists, and activists.

Reports that at least 100 political prisoners will be released were welcomed by Amnesty International but the organization pointed out that several hundred people are currently held under the National Security Law and if current arrest rates continue, those released will quickly be replaced.

More than 100 prisoners have been arrested under the National Security Law since the new government took office, almost all held for trivial offences such as publishing a "pro-North Korean book", belonging to a small group with left-wing ideas or uploading socialist material on the Internet.

"Maintaining state security does not mean locking people up for having left-wing views or keeping them locked up because they refuse to accept a law which violates fundamental human rights," Amnesty International said. "All we are asking is that South Korea respects the rights to freedom of expression and association which are enshrined in international human rights treaties."

Amnesty International is also urging the authorities to allow students and others to demonstrate peacefully on the 15 August anniversary following reports that some 6000 riot police have been deployed to block a student demonstration at Seoul National University and that 12,000 police will be deployed to prevent a march to Panmunjom.

"The students should be given a chance to demonstrate peacefully," Amnesty International said. "We are concerned that this huge contingent of riot policemen, and the government's outright

refusal to allow the students to demonstrate or take part in a march, may provoke rather than prevent violence."

ENDS.../

**For further information, please contact the Press Office, Amnesty International, at the address below.**

**AMNESTY INTERNATIONAL  
INTERNATIONAL SECRETARIAT**

1 Easton Street, London WC1X 8DJ, United Kingdom

Tel: (44) (171) 413 5500. Fax: (44) (171) 956 1157

E-Mail: [amnestyis@amnesty.org](mailto:amnestyis@amnesty.org) Web: <http://www.amnesty.org>





AMNESTY INTERNATIONAL

NEWS RELEASE

13 March 1998

South Korea: Prisoner amnesty does not go far enough

Today's prisoner amnesty in South Korea - however welcome - does not go far enough, Amnesty International said. The organization called for further releases of prisoners and institutional human rights reforms to prevent further arrests.

"Obviously the release of some political prisoners is welcome, but we are dismayed that so many other prisoners were excluded; the continued imprisonment of so many people for their political views is unacceptable in an open and democratic society," said Amnesty International.

"We hope this is the beginning of a systematic review of other political prisoners' cases. This issue is an important test of President Kim Dae-jung's credibility as a human rights reformer".

The human rights organization expressed dismay that many political prisoners serving long prison terms were excluded, apparently because of their alleged left-wing views. President Kim Dae-jung had earlier said that "communists" would be excluded from the amnesty, although this term has been widely misused in South Korea.

Earlier today, the Ministry of Justice announced that 22 out of 41 prisoners on a representative list of cases presented by Amnesty International had either been released or had their sentences reduced. In fact, only 10 people on the list were released and the list itself was only a sample of cases. Several dozen long-term political prisoners remain in prison. Many of those released were coming to the end of their prison sentences. Only one woman was released.

In February Amnesty International representatives visited Seoul to call for the release of prisoners held for non-violent political offences and long-term political prisoners who were tried unfairly. They also called for an investigation into past human rights violations, including killings, unfair trial and torture.

Since his election, President Kim Dae-jung has committed his government to a series of human rights reforms and has already taken steps to reform the Agency for National Security Planning (ANSP) - held responsible for political interference and torture of political detainees. Amnesty International has urged the government to ensure that the ANSP is thoroughly reformed so that it cannot inflict any further human rights violations.

But this week the President was reported to have said his government would not amend the National Security Law in the near future and called on North Korea to make corresponding changes to its Criminal Law.

"It is vital that President Kim Dae-jung amends the National Security Law as soon as possible and in accordance with international standards. Until the law is changed peaceful activists will continue to risk arrest and imprisonment," Amnesty International said. "At least 20 people have been arrested under this law since President Kim Dae-jung's election."

The organization also believes that human rights improvements in South Korea should not be dependent on corresponding reforms in North Korea. "South Korea stands to gain from



인권 자료	
등록일	번호
	B7 74

# amnesty international

## REPUBLIC OF KOREA (SOUTH KOREA)

### On trial for defending his rights: the case of human rights activist Suh Jun-sik

May 1998

SUMMARY

AI INDEX: ASA 25/18/98

DISTR: SC/CO/GR

Human rights activist Suh Jun-sik is currently on trial in Seoul in connection with a human rights film festival. Currently free on bail, he faces a prison term for the non-violent exercise of his right to freedom of expression. His case illustrates a pattern of human rights violations in South Korea today and the urgent need for reform of South Korea's National Security Law. Amnesty International is calling for the charges against Suh Jun-sik to be dropped and for the National Security Law to be amended in accordance with international standards.

President Kim Dae-jung took office in February 1998 with a new commitment to uphold human rights. Amnesty International has been encouraged by the President's early statements on human rights reforms but remains concerned that National Security Law arrests are continuing and that few political prisoners have been released since he took office. Amnesty International believes that the case of Suh Jun-sik is an important test of the new government's willingness and ability to safeguard fundamental rights. His case illustrates some of the human rights problems which need to be addressed by the new government in South Korea.

**KEYWORDS:** CENSORSHIP / PRISONERS OF CONSCIENCE / HUMAN RIGHTS ACTIVISTS / STUDENTS / LEGISLATION / CONDITIONAL RELEASE

This report summarizes a 5-page document (2,073 words), *Republic of Korea (South Korea), On trial for defending his rights: the case of human rights activist Suh Jun-sik* (AI Index: ASA 25/18/98) issued by Amnesty International in May 1998. Anyone wishing further details or to take action on this issue should consult the full document.

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

# REPUBLIC OF KOREA (SOUTH KOREA)

## On trial for defending his rights: the case of human rights activist Suh Jun-sik

Human rights activist Suh Jun-sik is currently on trial in Seoul in connection with a human rights film festival. Currently free on bail, he faces a prison term for the non-violent exercise of his right to freedom of expression. His case illustrates a pattern of human rights violations in South Korea today and the urgent need for reform of South Korea's National Security Law. Amnesty International is calling for the charges against Suh Jun-sik to be dropped.

Suh Jun-sik, aged 49, has already spent 17-and-a-half years in prison. From 1971 to 1988 he was held under the National Security Law and the Public Security Law (now repealed). He was arrested again in 1991 and released after six months. Since 1993 he has headed *Sarangbang*, a small human rights organization which publishes a daily human rights bulletin, works on human rights education projects and runs a documentation centre. In 1996 and again in 1997 *Sarangbang* held a human rights film festival, in order to raise public awareness about human rights and as a means of challenging film censorship policies.

Suh Jun-sik is being tried for peacefully exercising his right to freedom of expression and opinion, in violation of international human rights standards.



Suh Jun-sik, before his arrest

*"Everyone has the right to freedom of opinion and expression; this right includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."* (Article 19, Universal Declaration of Human Rights)

*"Everyone has the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, of through any other media of his choice"* (International Covenant on Civil and Political Rights, ratified by South Korea in 1990).

The real reason for Suh Jun-sik's arrest and prosecution appears to have been his determination to challenge government policy on issues such as film censorship and student activism. During *Sarangbang's* annual human rights film festival he refused to allow government censorship of the films shown. Earlier in the year he had upset the authorities by expressing support for student activism, encouraging students to engage in non-violent civil disobedience.

#### The Human rights film festival

*Sarangbang's* second human rights film festival was held at Hong-ik University in Seoul from 27 September to 3 October 1997 and was scheduled to tour nine other cities. The festival featured 24 films from 13 different countries, including Guatemala, Taiwan and South Korea. Suh Jun-sik did not submit the films for prior government censorship. He argued that film censorship had been used in South Korea to violate freedom of artistic expression and he feared that certain films and passages of the films he intended to show might be cut for political reasons. In October 1996 South Korea's Constitutional Court had recognized the problems with film censorship and ruled that systematic film censorship by the Korea Public Performance Ethics Committee, a government body, was unconstitutional. Despite this ruling, government censorship has continued and the relevant legislation has not yet been changed.

Shortly before the festival was due to open, Hong-ik University suddenly withdrew permission for the organizers to use university premises. This unexpected decision is widely believed to have been taken under pressure from the police and prosecution authorities. The festival went ahead but several student volunteers were arrested and briefly detained and large numbers of police tried to stop members of the public from entering the university to view the films.

#### Arrest of Suh Jun-sik

Suh Jun-sik was detained on the evening of 4 November 1997 by around 15 police officers who searched his office and home. The police search warrant listed as items to be confiscated "video tapes of ideological material and any evidence linked to the subjects' violation of the National Security Law". The police took 20 video tapes of films which had been shown at the festival; several of Suh Jun-sik's personal notebooks; his laptop computer together with 48 computer disks; one binder containing copies of *Sarangbang's* daily human rights bulletin; books of poetry by the imprisoned poet Park No-hae and Suh Jun-sik's own works, including a book of his letters from prison. An arrest warrant against Suh Jun-sik was issued the following day. He was later charged under the National Security Law, the Social Surveillance Law and other several other laws.

#### National Security Law charges

Article 7 of the National Security Law provides up to seven years' imprisonment for the act of "praising" or "benefitting" an "anti-state" organization "with the knowledge that s/he might endanger the existence, security of the State or the basic order of free democracy". (North Korea is defined as an "anti-state" organization) This vague provision is the most commonly used and abused clause of the National Security Law. It is used arbitrarily since people considered to have left-wing views, students and dissident figures are most at risk of arrest. Amnesty International believes that Article 7 of the National Security Law is used to violate the right to freedom of expression. It is calling for the National Security Law to be amended in accordance with international standards.

Suh Jun-sik was charged under Article 7 of the National Security Law on two counts. The first of these was the screening of the South Korean film *Red Hunt*, an act considered by the authorities to "benefit" North Korea. *Red Hunt* is a documentary film about events which occurred in 1948 on Cheju Island, a small island off the southern coast of South Korea and now a popular holiday resort. On 3 April 1948 an alleged communist uprising on Cheju Island was violently suppressed and tens of thousands of islanders were massacred on the grounds that they were communists or communist sympathisers. The documentary contains the testimony of survivors and comment by historians. The film had been screened earlier in the year at the Pusan International Film Festival without any of those involved being detained. The film maker himself was detained briefly after the arrest of Suh Jun-sik and was subsequently released without charge.

Suh Jun-sik was also accused of "benefitting" North Korea through his possession of *True Beginning*, a collection of poetry by the well-known socialist poet and political prisoner Park No-hae. Thousands of copies of this popular book have been sold to the public. This second charge appears to have been added on as a means of strengthening the case against Suh Jun-sik.

These two accusations illustrate the arbitrary way in which the National Security Law is used. While Suh Jun-sik was charged with aiding North Korea through screening the film *Red Hunt*, others who screened the film and the film maker were not charged. Thousands of ordinary people have books of poetry by Park No-hae, but only Suh Jun-sik was accused of possessing the book with the aim of benefitting North Korea.

#### Charges under the Social Surveillance Law

Suh Jun-sik has also been charged with violating the Social Surveillance Law. The Social Surveillance Law is used to track the activities of certain prisoners after their release. Political prisoners who have refused to "convert" (to renounce communism) or to admit their "crimes" may be subject to this law. The Ministry of Justice decides which former prisoners will be subject to this law and information about such decisions is not public.

Under the terms of the Social Surveillance Law, released prisoners are required to report their activities regularly to the police and also to report on all travel. They may be barred from participating in certain events or meeting certain people. Many former prisoners have refused to comply with these requirements, and some have subsequently been prosecuted and fined. Amnesty International is concerned that the law is applied arbitrarily and in order to curtail the legitimate activities of former political prisoners.

Suh Jun-sik had been subject to the Social Surveillance Law since his release from prison in 1988, but had consistently ignored the reporting requirements. He had been told to report to the police about his activities every three months and also to write a report on several overseas trips, including his attendance at the UN World Conference on Human Rights in 1993 and a visit to Amnesty International in 1997. On one occasion the police told him not attend a demonstration against the National Security Law, and another time he was ordered not to attend a party to welcome the release of a long-term political prisoner. When he was chairman of the National Alliance for Democracy and Unification of Korea (a coalition of mainly human rights, pro-democracy and workers' organizations) he was told by the police to resign from this post.

Although he had ignored these requirements for ten years, he was only arrested and charged in this connection once, in 1991. Former political prisoners such as Suh Jun-sik live with the constant threat of prosecution for violating the Social Surveillance Law, a law which he saw as a curb on his activities as a human rights activist. In February 1998 Suh Jun-sik told Amnesty International "I would not have been able to carry out my human rights work if I had complied with this law". Charges under the Social Surveillance Law appear to have been added to those under the National Security Law in order to strengthen the case against Suh Jun-sik.

#### Other charges

Suh Jun-sik was also charged under the Law on Records and Video Tapes for failing to submit films for prior government censorship and for entering Hong-ik University without permission (a charge of "trespass"). In addition he was accused of raising funds for the film festival illegally and without government permission. Legislation on fundraising, currently under review by the Constitutional Court, has been used arbitrarily over the years against selected opposition groups. *Sarangbang* had collected funds from members of the public who donated about SK won 10,000 (approximately US\$6) each and received in return a newsletter and festival pamphlets. The organization had made a prior decision not to accept large donations from business or other organizations and had collected funds in a public and transparent manner. Other organizations raising money in a similar fashion have not been prosecuted.

#### Imprisonment and release on bail

Suh Jun-sik was questioned by the security division of the Seoul Police Administration from 4 to 12 November 1997 and was then transferred to Youngdungpo Detention Centre in Seoul. During this time his reading material was censored - he was not allowed, for example, to read copies of *Sarangbang's* daily human rights bulletin. During his time in prison, he experienced the extremely cold conditions (cells are unheated in winter) and claims to have seen several prisoners being ill-treated by prison guards.

Suh Jun-sik's trial opened before Seoul District Court on 30 January 1998 and it is expected that there will be a series of separate hearings over a period of months. On 5 February 1998 Suh Jun-sik was released on bail, upon payment of SK won 10,000,000 (approximately US\$ 6,500). Since his release Suh Jun-sik has made several complaints to the Constitutional Court regarding aspects of his treatment in prison, including censorship of prisoners' newspapers, the handcuffing of prisoners and the fact that unconvicted prisoners have to wear prison uniforms.



#### ACTION: WHAT YOU CAN DO

Send letters/faxes/e-mails/petitions to President Kim Dae-jung:

- expressing concern that Suh Jun-sik is on trial for the non-violent exercise of his right to freedom of expression and calling for charges against him to be dropped;
- Expressing concern that Article 7 of the National Security Law is often used to imprison people for the non-violent exercise of their rights to freedom of expression and association and calling for the release of those held for non-violent activities;
- Calling for the National Security Law to be amended in accordance with international standards, including Article 19 of the Universal Declaration of Human Rights.
- *Send appeals to:*

President Kim Dae-jung  
The Blue House  
1 Sejong-no, Chongno-gu  
Seoul, Republic of Korea  
Fax: (82 2) 770 0253

사본 / 개정 헌법  
1870

헌법 기록실		
등록일	등록번호	서열번호
98 3/16	B16	18

# THE CONSTITUTION

- Established on Jul. 12, 1948
- Promulgated on Jul. 17, 1948
- Amended on Jul. 7, 1952
- Amended on Nov. 29, 1954
- Amended on Jun. 15, 1960
- Amended on Nov. 29, 1960
- Wholly Amended on Dec. 26, 1962
- Amended on Oct. 21, 1969
- Wholly Amended on Dec. 27, 1972
- Wholly Amended on Oct. 27, 1980
- Wholly Amended on Oct. 29, 1987

## PREAMBLE

We, the people of Korea, proud of a glorious history and traditions from time immemorial, succeeding the orthodoxy of the Provisional Republic of Korea Government founded throughout March First Independence Movement of 1919 and the democratic ideal of April Nineteenth Noble Uprising of 1960 having protested against injustice, being based on the mission of democratic reformation and peaceful unification of homeland, have pledged:

- To consolidate national unity with justice, humanity and brotherhood;
- To destroy all social evils and injustice;

To afford equal opportunities to every person and provide the fullest development of the capabilities of each individual in all fields, including political, economic, social and cultural life by further strengthening the basic order of free democracy with the autonomy and consonance;

To help each person discharge those duties and responsibilities concomitant to freedoms and rights; and

To promote the welfare of the people, strive for a lasting world peace, promote international prosperity and, thereby to ensure security, liberty and happiness for ourselves and our descendants forever.

We do hereby amend, through referendum after passing in the National Assembly, the Constitution, ordained and established on the Twelfth Day of July in the year of Nineteenth Hundred and Forty-Eight A.D., and amended eight times.

Oct. 29, 1987

## CHAPTER I. GENERAL PROVISIONS

Article 1 (1) The Republic of Korea shall be a democratic republic.

THE CONSTITUTION

(2) The sovereignty of the Republic of Korea shall reside in the people, and all state authority shall emanate from the people.

**Article 2** (1) The citizenship of the Republic of Korea shall be determined by law.

(2) The State shall have the duty to protect citizens residing abroad in accordance with the provisions of law.

**Article 3** The territory of the Republic of Korea shall consist of the Korean peninsula and its adjacent islands.

**Article 4** The Republic of Korea shall seek unification and shall formulate and carry out a policy of peaceful unification based on the basic order of free democracy.

**Article 5** (1) The Republic of Korea shall endeavor to maintain international peace and shall renounce all aggressive wars.

(2) The Armed Forces shall be charged with the sacred mission of national security and the defense of the land, and their political neutrality shall be observed.

**Article 6** (1) Treaties duly concluded and promulgated in accordance with the Constitution and the generally recognized rules of international law shall have the same effect as that of the domestic laws of the Republic of Korea.

(2) The status of aliens shall be guaranteed in accordance with international law and treaties.

**Article 7** (1) All public officials shall be servants of the whole people and shall be responsible to the people.

(2) The status and political impartiality of public officials shall be guaranteed in accordance with the provisions of law.

**Article 8** (1) The establishment of political parties shall be free and the plural party system shall be guaranteed.

(2) Political parties shall be democratic in their purposes, organization and activities, and shall have the necessary organizational arrangements for the people to participate in the formation of the political will.

(3) Political parties shall enjoy the protection of the State and may be provided with operational funds by the State in accordance with the provisions of law.

(4) If the purposes or activities of a political party are contrary to the basic democratic order, the Government may bring action against it in the Constitution Court for its dissolution, and the political party shall be dissolved in accordance with the adjudication of the Constitution Court.

**Article 9** The State shall strive to sustain and develop the cultural heritage and to enhance national culture.

## CHAPTER II. RIGHTS AND DUTIES OF CITIZENS

**Article 10** All citizens shall be assured dignity and value of human beings and have the right to pursue happiness. It shall be the duty of the State to confirm and guarantee the fundamental and inviolable human rights of individuals.

**Article 11** (1) All citizens shall be equal before the law, and there shall be no discrimination in all fields of political, economic, social or cultural life on account of sex, religion or social status.

(2) No privileged caste shall be recognized or ever established in any form



(3) The awarding of decorations or distinctions of honor in any form shall be effective only for recipients, and no privileged status shall be created thereby.

**Article 12** (1) All citizens shall enjoy personal liberty. No person shall be arrested, detained, seized, searched, interrogated except as provided by law, and be subject to punishment, preventive restriction and involuntary labor except by law and due process of law.

(2) No citizen shall be tortured or to be compelled to testify against himself in criminal cases.

(3) Warrants issued by a judge upon the request of a prosecutor in accordance with the due process of law shall be presented in case of arrest, detention, seizure or search. However, in case a criminal suspect is apprehended *flagrante delicto*, or where there is danger that a person suspected of committing a crime punishable by imprisonment of three years or more may escape or destroy evidence, investigating authorities may request an *ex post facto* warrant.

(4) All persons who are arrested or detained shall have the right to prompt assistance of counsel. When a criminal defendant is unable to secure counsel by his own efforts, the State shall assign counsel for the defendant as provided by law.

(5) No one shall be arrested or detained without being noticed about the reason therefor and the right to be assisted by a counsel. The reason for and time and place of arrest or detention shall be noticed without delay to the family etc., as designated by law, of a person arrested or detained.

(6) All persons who are arrested or detained shall have the right to request the court to review the legality of the arrest or detention.

(7) In case a confession is determined to have been made against a defendant's will by means of torture, violence, intimidation, unduly prolonged arrest, deceit or etc., or in case a confession is the only evidence against a defendant, such a confession shall not be admitted as evidence toward a conviction nor shall punishment be meted out on the basis of such a confession.

**Article 13** (1) No citizen shall be prosecuted for an act which does not constitute a crime under the law effective at the time it was committed, nor shall he be subject for the same crime to be twice put in jeopardy of punishment.

(2) No restrictions shall be imposed upon the political rights of any citizen, nor shall any person be deprived of property rights by means of retroactive legislation.

(3) No citizen shall suffer unfavorable treatment on account of an act not of his own doing but committed by a relative.

**Article 14** All citizens shall enjoy freedom of residence and moving.

**Article 15** All citizens shall enjoy freedom of choice of occupation.

**Article 16** No citizen shall be subject to violation of freedom of residence. In case of seizure or search in a residence, a warrant issued by a judge upon request of a prosecutor shall be presented.

**Article 17** No citizen shall be subject to violation of the secrecy and freedom of privacy.

**Article 18** No citizen shall not be subject to violation of the secrecy of any means of communication.

**Article 19** All citizens shall enjoy freedom of conscience.

**Article 20** (1) All citizens shall enjoy freedom of religion.

THE CONSTITUTION

(2) No State religion shall be recognized, and religion and politics shall be separated.

**Article 21** (1) All citizens shall enjoy freedom of speech and the press, and freedom of assembly and association.

(2) Licencing or censorship of speech and the press, and licencing of assembly and association shall not be allowed.

(3) The equipment standard of communication and broadcasting and the necessary matters for the guarantee of the function of newspapers shall be provided by law.

(4) Neither speech nor the press shall violate the honor or rights of other persons, or undermine public morals or social ethics. Should speech or the press violate the honor or rights of other persons, claims may be made for the damage resulting therefrom.

**Article 22** (1) All citizens shall enjoy freedom of learning and the arts.

(2) The rights of authors, inventors, scientists, technical experts and artists shall be protected by law.

**Article 23** (1) The right of property of all citizens shall be guaranteed. The contents and limitations thereof shall be determined by law.

(2) The exercise of property rights shall conform to the public welfare.

(3) Expropriation, use or restriction of private property for public necessity and the compensation thereof shall fit the law, and the just compensation shall be paid.

**Article 24** All citizens shall have the right to vote in accordance with the provisions of law.

**Article 25** All citizens shall have the right to hold public office in accordance with the provisions of law.

**Article 26** (1) All citizens shall have the right to petition in writing any State organization in accordance with the provisions of law.

(2) The State shall be obligated to examine all such petitions.

**Article 27** (1) All citizens shall have the right to be tried in conformity with the law by judges qualified under the Constitution and the law.

(2) Citizens who are not on active military service or employees of the military forces shall not be tried by a court martial in the territory of the Republic of Korea, except in case of crimes involving important classified military information, sentinels, sentry-posts, the supply of harmful food, prisoners of war, and military articles as defined by law; and except when extraordinary martial law has been declared.

(3) All citizens shall have the right to a speedy trial. A criminal defendant shall have the right to a public trial without delay in the absence of justifiable reasons to the contrary.

(4) The criminal defendant shall be presumed innocent until a determination of guilt has been confirmed.

(5) The criminal victim shall be entitled to state in the trial process for the concerned case in accordance with the provisions of law.

**Article 28** In case the criminal suspect or defendant under detention is non-prosecuted or acquitted as provided by law, he shall be entitled to claim against the State for just compensation in accordance with the provisions of law.

**Article 29** (1) In case a person has sustained damages by unlawful acts of public officials done in the course of their official duties, he may make a claim against the State or public agency for just compensation in accordance with the provisions of law. In this case, the public officials concerned shall not be immune from liabilities.

(2) In case a person on active military service, an employee of the military forces, a

police official or others as defined by law sustains damages in connection with the performance of official duties such as combat action, drill and so forth, he shall not be entitled to a claim against the State or public agency on the grounds of unlawful acts of public officials done in the course of official duties, except for compensation as provided by law.

**Article 30** (1) Any person aggrieved in life or body by others' criminal act may be relieved by State in accordance with the provisions of law.

**Article 31** (1) All citizens shall have the right to receive an equal education corresponding to their abilities.

(2) All citizens who have children to support shall be responsible at least for their elementary education and other education as provided by law.

(3) Compulsory education shall be free.

(4) Independence, professionalism or political impartiality of education and academic autonomy shall be guaranteed in accordance with the provisions of law.

(5) The State shall promote lifelong education.

(6) Fundamental matters pertaining to the educational system, including in-school and lifelong education, administration, finance, and the status of teachers shall be determined by law.

**Article 32** (1) All citizens shall have the right to work. The State shall endeavor to promote the employment of workers and to guarantee optimum wages through social and economic means, and put in force the minimum wage system in accordance with the provisions of law.

(2) All citizens shall have the duty to work. The State shall determine the contents and conditions of the duty to work by law in conformity with democratic principles.

(3) Standards of working conditions shall be determined by law in such a way as to guarantee human dignity.

(4) Special protection shall be given to labor of women, and women shall not be discriminated in employment, wage and labor conditions.

(5) Labor of youth shall be specially protected.

(6) The opportunity to work shall be accorded preferentially to members of the bereaved families of those who have given distinguished service to the State, wounded veterans and policemen, and military servicemen and policemen killed in action in accordance with the provisions of law.

**Article 33** (1) To enhance working conditions, workers shall have the right to independent association, collective bargaining and collective action.

(2) Workers, who are public officials, shall have the right to association, collective bargaining and collective action only when designated by law.

(3) The right to collective action of the workers who are engaged in important defense industry designated by law may be restricted or denied as provided by law.

**Article 34** (1) All citizens shall have the right to a life worthy of human beings.

(2) The State shall have the duty to endeavor at promotion of social security and social welfare.

(3) The State shall endeavor to promote the welfare and rights of women.

(4) The State shall have duty to put in force the policy for promotion of welfare for the youth and the old.

(5) The disabled and citizens who are incapable of earning a livelihood for illness or old age shall be protected by the State as provided by law.

## THE CONSTITUTION

(6) The State shall endeavor to prevent calamities and to protect citizens from the danger thereof.

**Article 35** (1) All citizens shall have right to live in a healthy and comfortable environment, and both the State and citizens shall endeavor to preserve environment.

(2) Contents and exercise of environment right shall be provided by law.

(3) The State shall endeavor to have citizens lead a comfortable residence throughout housing projects etc.

**Article 36** (1) Marriage and family life shall be entered into and sustained on the basis of individual dignity and equality of the sexes, and the State shall guarantee it.

(2) The State shall endeavor to protect maternity.

(3) The health of all citizens shall be protected by the State.

**Article 37** (1) Freedoms and rights of citizens shall not be neglected on the grounds that they are not enumerated in the Constitution.

(2) The freedoms and rights of citizens may be restricted by law only when necessary for national security, the maintenance of public order or public welfare. Even when such restriction is imposed, no essentials of the freedom or right shall be violated.

**Article 38** All citizens shall have the duty to pay taxes in accordance with the provisions of law.

**Article 39** (1) All citizens shall have the duty of national defense in accordance with the provisions of law.

(2) No citizen shall be discriminated against on account of the fulfillment of his obligation of military service.

## CHAPTER III. THE NATIONAL ASSEMBLY

**Article 40** Legislative power shall be vested in the National Assembly.

**Article 41** (1) The National Assembly shall be composed of members elected by universal, equal, direct and secret ballot by the citizens.

(2) The number of members of the National Assembly shall be determined by law, but the number shall be more than 200.

(3) The electoral districts of members of the National Assembly, proportional representation and other matters pertaining to National Assembly elections shall be determined by law.

**Article 42** The term of office of members of the National Assembly shall be four years.

**Article 43** Members of the National Assembly shall not concurrently hold any other office prescribed by law.

**Article 44** (1) During the sessions of the National Assembly, no member of the National Assembly shall be arrested or detained without the consent of the National Assembly except in case of *flagrante delicto*.

(2) In case of apprehension or detention of a member of the National Assembly prior to the opening of a session, such member shall be released during the session upon the request of the National Assembly, except in case of *flagrante delicto*.

**Article 45** No member of the National Assembly shall be held responsible outside the National Assembly for opinions officially expressed or votes cast in the Assembly.

**Article 46** (1) Members of the National Assembly shall maintain high standards of integrity.

(2) Members of the National Assembly shall give preference to national interests and shall perform their duties in accordance with conscience.

(3) Members of the National Assembly shall not, through abuse of their positions, acquire rights and interests in property or position, or cause other persons to acquire the same, by means of contracts with or dispositions by the State, public agencies or industries.

**Article 47** (1) A regular session of the National Assembly shall be convened once every year in accordance with the provisions of law, and extraordinary sessions of the National Assembly shall be convened upon the request of the President or one-fourth or more of the members on the register.

(2) The period of regular sessions shall not exceed one hundred days and of extraordinary sessions thirty days.

(3) If the President requests the convening of an extraordinary session, the period of the session and the reasons for the request shall be clearly specified.

**Article 48** The National Assembly shall elect one Speaker and two Vice-Speakers.

**Article 49** Unless otherwise provided for in the Constitution or in law, the attendance of a majority of the members on the register, and the concurrence of a majority of the members present, shall be necessary for decisions of the National Assembly. In case of a tie vote, the matter shall be regarded as rejected by the National Assembly.

**Article 50** (1) Sessions of the National Assembly shall be open to the public. However, they may be closed to the public when so decided by a majority of the members present, or when the Speaker deems it necessary to do so for the sake of national security.

(2) Publication of contents of sessions which are not open to the public shall follow the provisions of law.

**Article 51** Bills and other matters submitted to the National Assembly for deliberation shall not be abandoned on the ground that they were not acted upon during the session in which they were introduced. However, it shall be otherwise in case the term of the members of the National Assembly has expired.

**Article 52** Bills may be introduced by members of the National Assembly or by the Executive.

**Article 53** (1) Each bill passed by the National Assembly shall be sent to the Executive and the President shall promulgate it within fifteen days.

(2) In case of objection to the bill, the President may, within the period referred to in Paragraph 1, return it to the National Assembly with written explanation of his objection, and request it be reconsidered. The President may do the same during adjournment of the National Assembly.

(3) The President shall not request the National Assembly to reconsider the bill in part, or with proposed amendments.

(4) In case there is a request for reconsideration of a bill, the National Assembly shall reconsider it, and if the National Assembly repasses the bill in the original form with the attendance of more than one-half of the members on the register, and with concurrence of two-thirds or more of the members present, the bill shall become law.

(5) If the President does not promulgate the bill, or does not request the National Assembly to reconsider it within the period referred to in Paragraph 1, the bill shall become law.

THE CONSTITUTION

(6) The President shall without delay promulgate the law as determined in accordance with the foregoing Paragraphs 4 and 5. If the President does not promulgate a law within five days after law has been determined under Paragraph 5, or after law determined has been returned to the Executive under Paragraph 4, the Speaker shall promulgate it.

(7) A law shall take effect twenty days after the date of promulgation unless otherwise provided.

**Article 54** (1) The National Assembly shall deliberate and decide upon the national budget bill.

(2) The Executive shall formulate the budget bill for each fiscal year and submit it to the National Assembly within ninety days before the beginning of a fiscal year. The National Assembly shall decide upon it within thirty days before the beginning of the fiscal year.

(3) If the budget bill is not passed by the beginning of the new fiscal year, the Executive may, in conformity with the budget of the previous fiscal year, disburse funds for the following purposes until the budget bill is passed by the National Assembly:

1. The maintenance and operation of agencies and institutions established by the Constitution or law;
2. Execution of the obligatory expenditures provided by law; and
3. Continuation of projects previously approved in the budget.

**Article 55** (1) In case it shall be necessary to make continuing disbursements for a period longer than one fiscal year, the Executive shall determine the length of the period for such continuing disbursements and obtain the approval of the National Assembly for the continuing disbursements.

(2) A reserve fund shall be approved by the National Assembly in total. The disbursement of the reserve fund shall be approved during the subsequent session of the National Assembly.

**Article 56** When it is necessary to amend the budget, the Executive may formulate a supplementary revised budget bill and submit it to the National Assembly.

**Article 57** The National Assembly shall, without the consent of the Executive, neither increase the sum of any item of expenditure nor create any new items in the budget submitted by the Executive.

**Article 58** When the Executive plans to issue national bonds or to conclude contracts which may incur financial obligations on the State outside the budget, it shall have the prior concurrence of the National Assembly.

**Article 59** Items and rates of taxes shall be determined by law.

**Article 60** (1) The National Assembly shall have power to consent to the conclusion and ratification of treaties pertaining to mutual assistance or mutual security; treaties concerning important international organizations; treaties of friendship, trade and navigation; treaties pertaining to any restriction in sovereignty; peace treaties; treaties which will burden the State or people with an important financial obligation; or treaties related to legislative affairs.

(2) The National Assembly shall have power to consent to the declaration of war, the dispatch of armed forces to foreign states, or the stationing of alien forces in the territory of the Republic of Korea.

**Article 61** (1) The National Assembly may inspect affairs of state or investigate specific matters of state affairs, and may demand the production of documents, the atten-

dance of a witness and the statement of testimony or opinions necessary thereto.

(2) The procedure and other necessary matters for the parliamentary inspection and investigation shall be provided by law.

**Article 62** (1) The Prime Minister, members of the State Council or government delegates may attend meetings of the National Assembly or its committees and report on the state of administration or deliver opinions and answer questions.

(2) When requested by the National Assembly or its committees, the Prime Minister, members of the State Council or government delegates shall attend any meeting of the National Assembly and answer questions. If the Prime Minister or State Council members are requested to attend, the Prime Minister or State Council members may have State Council members or government delegates attend any meeting of the National Assembly and answer questions.

**Article 63** (1) The National Assembly may recommend the President the removal of the Prime Minister or a State Council member.

(2) A recommendation for removal prescribed in Paragraph 1 may be proposed by one-third or more of the members on the register of the National Assembly, and shall be passed with the concurrence of a majority of the members on the register of the National Assembly.

**Article 64** (1) The National Assembly may establish the rules of its proceedings and internal regulations, provided that they are not in conflict with law.

(2) The National Assembly may review the qualifications of its members and may take disciplinary actions against its members.

(3) The concurrence of two-thirds or more of the members on the register of the National Assembly shall be required for the expulsion of any member.

(4) No action shall be brought to court with regard to decisions taken under Paragraphs 2 and 3.

**Article 65** (1) In case the President, the Prime Minister, members of the State Council, Heads of Executive Ministries, judges of the Constitution Court, judges, members of the Central Election Management Committee, The Chairman and commissioners of the Board of Audit and Inspection, and other public officials designated by law have violated the Constitution or other laws in the performance of their duties, the National Assembly may pass motions for their impeachment.

(2) A motion for impeachment prescribed in Paragraph 1 shall be proposed by one-third or more of the members on the register of the National Assembly, and shall require concurrence of a majority of the members on the register of the National Assembly for passage. However, a motion for the impeachment of the President shall be proposed by a majority of the members on the register of the National Assembly, and shall require the concurrence of two-thirds or more of the members on the register of the National Assembly.

(3) Any person against whom a motion for impeachment has been passed shall be suspended from exercising his power until the impeachment has been adjudicated.

(4) A decision on impeachment shall not extend further than removal from office. However, it shall not exempt the person impeached from civil or criminal liability.

## CHAPTER III. THE EXECUTIVE

### Section 1. The President

**Article 66** (1) The President shall be the head of State and represent the State in relations with foreign states.

(2) The President shall have the responsibility and duty to safeguard the independence, territorial integrity and continuity of the State and the Constitution.

(3) The President shall have the duty to pursue sincerely the peaceful unification of the homeland.

(4) The executive power shall be vested in the Executive Branch headed by the President.

**Article 67** (1) The President shall be elected by universal, equal, direct and secret ballot by the citizens.

(2) In case the candidates who have gained the largest numbers of votes in the ballot prescribed in Paragraph 1 are two or more, the person who polls a majority in open session attended by more than half of the members on the register of the National Assembly shall be elected.

(3) In case the candidate for the President is single, he shall not be elected as President unless he obtains one-third or more of the votes of the whole electorates.

(4) Citizens who are eligible for election to the National Assembly and who, as of the day of the presidential election, shall have reached the age of forty years or more, shall be eligible to be elected to the presidency.

(5) Matters pertaining to presidential election shall be determined by law.

**Article 68** (1) At the expiration of the term of office of the President, a successor shall be elected between forty and seventy days before the term of office of the incumbent President expires.

(2) In case of vacancy in the office of the President, death of the elected or disqualification due to judgement and other causes, a successor shall be elected within sixty days.

**Article 69** The President, at the time of his inauguration, shall take the following oath: "I do solemnly swear before the people that, by observing the Constitution, defending the State, and endeavoring to unify the homeland peacefully and to promote the freedom and welfare of the people, and national culture, I will faithfully execute the duties of the President."

**Article 70** The term of office of the President shall be five years, and no person shall be elected to the office of the President more than once.

**Article 71** In case of a vacancy in the office of the President, or of his inability to discharge the powers and duties of the presidency, the Prime Minister or the members of the State Council in the order of priority as determined by law shall act as the President.

**Article 72** The President may submit important policies relating to diplomacy, national defense, unification and other matters relating to the national destiny to a national referendum if he deems it necessary.

**Article 73** The President shall conclude and ratify treaties; accredit, receive or dispatch diplomatic envoys; and declare war and conclude peace.

**Article 74** (1) The President shall be Commander-in-Chief of the National Armed Forces in accordance with the provisions of the Constitution and law.



(2) The organization and formation of the National Armed Forces shall be provided by law.

**Article 75** The President may issue presidential decrees concerning matters which are within the scope specially delegated by law and which are deemed necessary to enforce the law.

**Article 76** (1) In case only that prompt measures are needed for national security or maintenance of public order in troubles both at home and abroad, natural calamities or financial and economic crises, and there is no time to wait for the gathering of the National Assembly, the President may take necessary financial or economic measures within the minimum extent or issue decrees thereon having the full force and effect of a law.

(2) In case only that prompt measures are needed for national defense in serious state of war relating to the destiny of the State, and the gathering of the National Assembly is impossible, the President may issue decrees having the full force and effect of a law.

(3) In case the decrees are issued or the measures taken as prescribed by Paragraphs 1 and 2, the President shall notify the National Assembly thereof without delay and shall obtain the concurrence of the National Assembly.

(4) In case the decree and measure fail to obtain the concurrence of the National Assembly, as prescribed by Paragraph 3, the decrees and measures shall lose effect forthwith. In this case, the law amended or abrogated by the decree shall recover the effect naturally from the time the decree fails to obtain the concurrence.

(5) The President shall publish the reason of Paragraphs 3 and 4 without delay.

**Article 77** (1) When there is a military necessity or a necessity to maintain the public safety and order by mobilization of the military forces in time of war, armed conflict or similar national emergency, the President may proclaim martial law in accordance with the provisions of law.

(2) Martial law shall be of two types, extraordinary martial law and precautionary martial law.

(3) Under extraordinary martial law, special measures may be taken, as provided by law, with respect to the warrant system, freedom of speech, press, assembly and association, and with respect to the powers of the Executive and the Judiciary.

(4) When martial law is proclaimed, the President shall notify the National Assembly thereof without delay.

(5) The President shall lift martial law when the National Assembly so requests with the concurrence of a majority of the members on the register of the National Assembly.

**Article 78** The President shall appoint and remove public officials in accordance with the provisions of the Constitution and law.

**Article 79** (1) The President may grant amnesty, commutation and restoration of rights in accordance with the provisions of law.

(2) The President shall receive the consent of the National Assembly in granting a general amnesty

(3) Matters pertaining to amnesty, commutation and restoration of rights shall be determined by law.

**Article 80** The President shall award decorations and other honors in accordance with the provisions of law.

**Article 81** The President may attend and address the National Assembly or express his views by written message.