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REPUBLIC OF KOREA (SOUTH KOREA) Foreign Policy and Human Rights

September 1998

SUMMARY

AI INDEX: ASA 25/31/98

DISTR: SC/CO/GR

Since President Kim Dae-jung took office in February this year, the South Korean Government has made a number of positive steps to improve its human rights record at the national level. Despite concern that these initiatives have not yet gone far enough, Amnesty International is optimistic about the general direction of reform in South Korea.

However, human rights issues are not only a domestic concern. Far from being an internal affair, human rights issues engage the international interests and responsibilities of every state. The promotion of human rights should therefore be made a key part of every country's foreign policy. As a former political dissident and prisoner of conscience, President Kim understands at first hand the importance of human rights and holds the moral authority to influence the protection and promotion of human rights at both a regional and international level.

In this report, Amnesty International outlines its recommendations for the strengthening and development of an ethical dimension to South Korean foreign policy in line with President Kim's commitment to the promotion of human rights internationally.

KEYWORDS: AI AND GOVERNMENTS I / SECOND GOVERNMENTS / HUMAN RIGHTS INSTRUMENTS / ICC / RECRUITMENT OF CHILD SOLDIERS / DEATH PENALTY / INTERNATIONAL MEETINGS / INDONESIA / MYANMAR / VIETNAM / AFGHANISTAN

This report summarizes a 7-page document (2699 words): *REPUBLIC OF KOREA (SOUTH KOREA): Foreign Policy and Human Rights* (AI Index: ASA 25/31/98) issued by Amnesty International in September 1998. Anyone wishing further details or to take action on this issue should consult the full document.

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**REPUBLIC OF KOREA
(SOUTH KOREA)**

**Foreign Policy and Human
Rights**



September 1998
AI Index: ASA 25/31/98
Distr: SC/CO/GR

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

REPUBLIC OF KOREA (SOUTH KOREA)

Foreign Policy and Human Rights

Introduction

Since President Kim Dae-jung took office in February this year, the South Korean Government has made a number of positive steps to improve its human rights record at the national level. For example, proposals have been tabled to establish a national human rights commission and a number of political prisoners have been released. Despite concern that these initiatives have not yet gone far enough, Amnesty International is optimistic about the general direction of reform in South Korea.

However, human rights issues are not only a domestic concern. The Vienna Declaration and Programme of Action¹ reaffirmed that human rights are a concern of the international community. Far from being an internal affair, human rights issues engage the international interests and responsibilities of every state. The promotion of human rights should therefore be made a key part of every country's foreign policy. As a former political dissident and prisoner of conscience, President Kim understands at first hand the importance of human rights and holds the moral authority to influence the protection and promotion of human rights at both a regional and international level.

South Korea has ratified a number of important human rights conventions, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC). However, despite displaying a

"I and the Korean people will march firmly hand-in-hand with you, so this important principle of human rights will spread to every corner of the world....Actions infringing upon the dignity of human beings should not be tolerated. Regional or cultural characteristics should no longer serve as excuses for the violation of human rights. We must uphold what history has already proven, that human rights is a universal value"

¹ Excerpt from a speech made by South Korean President Kim Dae-jung at the International League for Human Rights, New York, USA, 6 June 1998

¹ Adopted at the World Conference on Human Rights, Vienna, Austria, June 1993

commitment to international human rights standards, South Korea has not played a very prominent role in intergovernmental organizations which deal with human rights issues.

Since his election, President Kim Dae-jung has made a number of statements which appear to signal a more positive approach towards human rights on the international stage. For example, in a statement made in Geneva on 1 April 1998 in celebration of the 50th Anniversary of the Universal Declaration of Human Rights (UDHR), President Kim said:

"I was persecuted for 40 years and I have fought for human rights undauntedly... From this day on for the rest of my life, I will devote myself to furthering human rights. I am grateful to all my friends around the world who are fighting in the defence of human rights."

In this report, Amnesty International outlines its recommendations for the strengthening and development of an ethical dimension to South Korean foreign policy in line with President Kim's commitment to the promotion of human rights internationally.

Human Rights at an international level

1. The International Criminal Court

Amnesty International welcomes the positive and constructive role that South Korea played in the deliberations over the statute of the International Criminal Court (ICC) in June/July this year. It was in part due to South Korea's committed and principled approach that the final Statute received the approval of as many as 121 states. This shows South Korea's capacity to demonstrate international leadership in strengthening the international human rights framework. Amnesty International hopes that the South Korean Government will follow through on this initiative by taking the following steps:

- South Korea should sign and ratify the ICC Statute as soon as possible and without reservation or declaration.
- South Korea should continue to play a leading role during the run-up to the establishment of the ICC, in particular through its participation in the ICC preparatory committee.
- As part of its foreign policy, South Korea should actively encourage other states to sign and ratify the Statute of the ICC as soon as possible and without reservation or declaration. In particular, states should be encouraged not to make a declaration invoking a "seven-year transitional phase" (during which prosecutions for war

crimes may not be brought against their own nationals or against other nationals found on their territory).

- South Korea should play a proactive role to ensure that the ICC is strong, effective and empowered. Once the Court is established, South Korea should actively oppose any attempts by members of the United Nations Security Council to defer investigations or prosecutions, and should work to ensure that the Court receives adequate funding to enable it to function properly.

2. Other International Initiatives

In addition to its role in the ICC deliberations, the South Korean Government could be doing more to promote the observance and protection of human rights in its dealings with other states. In particular, South Korea should be playing a constructive role in two major human rights initiatives that are currently being debated in the international arena: the *United Nations Declaration on Human Rights Defenders*, and the *Draft Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts*. With regard to the death penalty, South Korea should, at the very least, be refraining from international activities in support of the death penalty. Amnesty International recommends the South Korean Government to take the following measures which would enable it to play an effective role in promoting human rights at the international level:-

Universal Declaration of Human Rights

1998 is the 50th Anniversary of the Universal Declaration of Human Rights (UDHR). It also marks the 50th Anniversary of the Republic of Korea as a state. The coincidence of these anniversaries provides an ideal opportunity for the South Korean Government to demonstrate a clear and strong commitment to the universality and indivisibility of human rights. It should work to raise public awareness of the values enshrined in the UDHR at both a domestic and international level.

Declaration on Human Rights Defenders

The Declaration on Human Rights Defenders has been adopted by the United Nations Commission on Human Rights and is now awaiting approval from the General Assembly. As a former human rights defender himself, President Kim Dae-jung should ensure his government works to expedite this process. The South Korean Government is urged to push for the adoption of the Declaration on 10 December 1998 as a fitting culmination to the UDHR 50th Anniversary celebrations.

Recruitment of child soldiers

Children have been recruited into armed forces in a number of countries including Colombia, Sierra Leone, Sri Lanka and Uganda. It is estimated that around the world there are a quarter of a million children and young people under the age of 18 years in government armed forces or armed opposition groups². In response to growing international pressure to prevent the involvement of children in armed conflicts, the UN Commission on Human Rights established a Working Group in 1994 to draft an optional protocol to the Convention on the Rights of the Child. This bans the recruitment of child soldiers under the age of 18. South Korea is urged to take a leading role in promoting the adoption of this protocol at the international level.

Abolition of the death penalty

At its 54th session, the UN Commission on Human Rights passed a resolution calling upon states which still maintain the death penalty to establish a moratorium on executions with a view to completely abolishing the death penalty³. Amnesty International is dismayed that South Korea was one of a number of states that signed up to a joint statement disassociating themselves from this resolution and questioning the notion that the death penalty is a human rights issue⁴. This is particularly alarming since President Kim Dae-jung was once a death penalty prisoner himself, and therefore has firsthand experience of its cruelty as well as the arbitrary nature of its imposition. Amnesty International urges South Korea to abstain from any pro-death penalty initiatives within the international community. It should immediately commute all death sentences pending abolition of the death penalty and encourage other states to do the same.

Human Rights at a regional level

In general, international human rights instruments have not achieved a high level of ratification by states in the Asia-Pacific region. As a major Asian power that has made a swift transition from military rule to democratic government, South Korea should take a lead by making human rights a cornerstone of its regional foreign policy. In particular, representatives of the South Korean Government should make clear and unequivocal public statements promoting the universality and indivisibility of human rights. This is especially important in the Asia-Pacific region where a number of political leaders have attempted to excuse their violations of many of the rights in the UDHR by pointing to cultural difference or juxtaposing human rights with economic development. President Kim Dae-jung is to be

² See 'Old enough to kill but too young to vote': Draft optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts (AI Index: IOR 51/01/98)

³ Commission on Human Rights resolution 1988/8 on the Question of the Death Penalty

⁴ Joint Statement on the Question of the Death Penalty, ECOSOC document E/1998/1

commended for being one of the few Asian leaders to publicly state his commitment to universal human rights and Amnesty International hopes that he will use his new position of authority to promote this stance.

In order to encourage greater respect for human rights in the region, South Korea is urged to ensure that human rights issues are placed on the agenda of all regional groupings of which it is part. These include the Asia Pacific Economic Cooperation (APEC) Leaders' Meeting and the Asia Europe Meeting (ASEM).

As the hosts for the next ASEM in the year 2000, the South Korean authorities are in a strong position to ensure that the promotion of human rights issues is squarely on ASEM's agenda, both in terms of the leaders' meeting and other ASEM initiatives. Non-governmental organizations should be allowed to participate in ASEM initiatives such as programmes on law and governance.

South Korea should also make human rights an important component of its bilateral relations with other states. Its own historical experience and importance in the region as a trading partner and investor put it in a strong position to encourage other Asian states to show greater concern for the protection of human rights. Moreover, the personal status of President Kim Dae-jung as a former prisoner of conscience gives him the moral authority to seek assurances on human rights reforms from other regional leaders. For example:-

In its relations with **Indonesia**, South Korea should urge the new administration of President Habibie to release all prisoners of conscience in Indonesia and East Timor and press for the establishment of mechanisms which will bring about systematic accountability of the military. It should call for a thorough review of all convictions of political prisoners in Indonesia and independent investigations into all past human rights violations. South Korea should also voice public concern over continued human rights violations in East Timor and urge the Indonesian authorities to ensure immediate improvements in the human rights situation there as a step towards any permanent solution to the ongoing conflict.

In its relations with **Myanmar**, the South Korean Government should continue to show concern over the treatment of Daw Aung San Suu Kyi and the National League for Democracy (NLD). President Kim has declared a personal interest in Myanmar and his "Forum of Democratic Leaders" has made a number of statements calling for the Myanmar authorities to cease its oppression of democratic forces, enter into a constructive dialogue with the NLD, and release all political prisoners. It has also urged the Myanmar authorities to honour the right to freedom of assembly, speech and political participation. These recommendations should be translated into official government policy and placed at the heart of all bilateral relations with the Myanmar authorities and interactions between South Korea and Myanmar at the regional level.

In its relations with the **Socialist Republic of Viet Nam**, the South Korean Government should be encouraging efforts to revise the Vietnamese Criminal Code. In particular it should call for the Criminal Code to be brought into line with the ICCPR (to which Viet Nam is a party). South Korea should also be calling for the release of prisoners of conscience and respect for freedom of belief and worship in Viet Nam. Having released a large number of prisoners of conscience and political prisoners in a recent amnesty, President Kim Dae-jung holds the moral authority to encourage a similar initiative in Viet Nam. A number of prisoners of conscience in Viet Nam are held because of their adherence to religious organizations that have not been state-approved. The South Korean Government should urge the Vietnamese authorities to release all such prisoners immediately and unconditionally.

In its relations with **Afghanistan**, the South Korean Government should urge all warring factions to respect the human rights of all Afghan citizens, including minorities and those held in detention. It should strongly urge the Taleban authorities to respect and protect the human rights of women who currently have no access to education or employment. Taleban edicts have restricted tens of thousands of women to their homes. These women are, in effect, prisoners of conscience and the South Korean Government should be calling for these edicts to be revoked immediately and unconditionally. Amnesty International welcomes the positive role that the UN Special Rapporteur on Afghanistan, Professor Paik Choong-hyun from South Korea, has played in advancing these issues. The South Korean Government should follow his example and call for fundamental human rights improvements in Afghanistan.

Conclusion and Summary of Recommendations

This report highlights ways in which South Korea can have a positive impact on the protection of human rights beyond its borders. This can be achieved at both an international level under the auspices of the United Nations and at a regional level through bilateral contacts and participation in regional groupings. President Kim Dae-jung is urged to use his political and moral authority to call for lasting and effective improvements in human rights in international fora and throughout the region.

The following is a summary of Amnesty International's recommendations to the South Korean Government:

- South Korea should build on its positive interventions with regard to the proposed Statute of the ICC by playing a leading and constructive role in future deliberations during the run-up to the establishment of the Court. It should ratify the statute without delay or reservation and encourage other states to do the same.

- South Korea is urged to promote wider ratification of international human rights instruments, particularly among states in the Asia-Pacific region.
- South Korea should encourage the adoption of the Declaration on Human Rights Defenders at the end of this year as a fitting celebration of the 50th Anniversary of the UDHR.
- South Korea is urged to play a leading role in encouraging the adoption of the Optional Protocol to the CRC on the Involvement of Children in Armed Conflicts.
- South Korea should work more positively towards the worldwide abolition of the death penalty by taking a lead in commuting all death sentences and persuading other states which maintain the death penalty to do the same.
- South Korea is urged to make human rights a cornerstone of its bilateral relations with other states, particularly in Asia. Human rights issues should be raised and discussed in all regional groupings of which it is part and South Korea should urge such groupings to make frequent public statements on human rights issues arising in the region.
- President Kim and his ministers should raise human rights issues directly with their Asian counterparts, particularly in those countries with which South Korea has close links or shares historical experience.



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QUESTIONS AND ANSWERS ABOUT AMNESTY INTERNATIONAL'S WORK ON SOUTH KOREA

1) What are Amnesty International's main concerns on South Korea?

One of Amnesty International's (AI's) main concerns relates to the continued use of the National Security Law to imprison students, activists, trade unionists, publishers, and others for the non-violent exercise of their rights to freedom of expression and association. In particular, there have been a very high number of arrests under Article 7 of the National Security Law since the new government took office, on charges of "praising" or "benefitting" an "anti-state organization" (this usually refers to North Korea).

Since the new President took office in February over 180 people are reported to have been arrested under the National Security Law, almost all held under Article 7, and over 100 others have been arrested under labour and demonstration laws. (Figures correct as of mid-August). AI calls for the release of all prisoners held for the non-violent exercise of their rights to freedom of expression and association. It calls for the release of political prisoners held solely for their refusal to sign an oath agreeing to respect the National Security Law and other legislation which violates fundamental rights.

In the context of the economic crisis, AI has called for the release of trade union leaders arrested for calling two general strikes in May and July and has expressed its concern about a crackdown on workers and others protesting about job losses. It also urges the government to protect the rights of vulnerable groups who have been hit hard by the crisis, for example migrant workers and women.

AI has long-standing concerns about police ill-treatment, conditions of imprisonment which fall below minimum international standards and an ineffective complaints procedure. It calls on the government to commute death sentences and take steps to abolish the death penalty.

The organization calls for legal and institutional reforms to protect human rights. It calls on the government to improve human rights training for law enforcement personnel and to make human rights promotion a priority.

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2) What is Amnesty International's assessment of the human rights situation since President Kim Dae-jung took office?

Amnesty International (AI) respects President Kim Dae-jung for his long and distinguished record of human rights advocacy, for which he spent many years in prison, and his commitment to human rights reform.

There has been some progress in the past six months. For example, over 150 political prisoners were released in two amnesties in March and August. In July the government announced that "ideological conversion" (or forcing political prisoners to renounce leftist views) would be abolished. The government has taken steps to set up a national human rights commission. Internationally, South Korea played a constructive role in the establishment of the international criminal court.

But in many respects, the human rights situation remains unchanged and some rights have even been eroded as a result of the economic crisis. AI believes that legal and institutional reforms are urgently needed in order to transform further commitments into reality.

Over 180 people are reported to have been arrested under the National Security Law between February (when the new government took office) and mid-August, mostly for the non-violent exercise of their rights to freedom of expression and association.

By mid-August 57 trade unionists had been arrested for organizing strike action and demonstrations and 200 others had arrest warrants issued against them. Many are leading trade union officials, whose only "crime" was to organize strike action and demonstrations.

In spite of the two prisoner amnesties, large numbers of political prisoners continue to be held including some 240 held under the National Security Law. Many of these prisoners were denied release in the recent prisoner amnesty simply because they refused to sign an oath agreeing to respect the National Security Law, the very law which was used to imprison them unfairly.

Criminal suspects and prisoners have continued to face ill-treatment by law enforcement officials and further steps are needed to protect vulnerable groups such as migrant workers, asylum seekers and women. The lack of structural human rights reform is disappointing, although Amnesty International welcomes proposals to establish a national human rights commission.

3) How many prisoners of conscience / political prisoners are there in South Korea?

The high numbers of arrests and pattern of short-term detention make it difficult for Amnesty International (AI) to keep accurate and up-dated figures - domestic human rights groups are in a better position to give this information.

According to reliable information from South Korean human rights groups there were at least 360 political prisoners held after the August prisoner amnesty, of whom some 240 were held under the National Security Law. AI believes many of these prisoners are held for non-violent political and labour activities and that they should be released. Please refer also to point (2) above.

AI does not attempt to document every individual prisoner - particularly as so many are arrested these days and held for relatively short periods. Instead it uses the cases of some individual prisoners to highlight a pattern of human rights violations. It also works for legal and structural changes which will prevent future violations.

AI calls for the release of political prisoners held for the non-violent exercise of their rights to freedom of expression and association. As a matter of policy the organization does not call for the release of people who were detained for violent activities, but it does call for all such prisoners to be protected from torture and ill-treatment and to be tried fairly. While AI does not condone violence, it believes that students and workers are not always solely responsible for violence which occurs on demonstrations - on many occasions the organization has expressed its concern to the South Korean Government that the heavy police presence at demonstrations serves to provoke rather than prevent violence.

4) What specific cases are Amnesty International is working on?

Amnesty International (AI) calls for the release of all political prisoners held for the non-violent exercise of their rights to freedom of expression and association and those who were convicted after unfair trials in past decades. It calls for the release of political prisoners held solely for their refusal to sign an "oath" agreeing to respect the National Security Law and other legislation which violates fundamental rights.

Here are some examples of cases where AI is calling for the prisoner's release:

- Kang Yong-ju and Cho Sang-nok, long-term political prisoners who were convicted on espionage charges under the National Security Law in 1978 and 1985 respectively. AI believes they were convicted on the basis of confessions extracted under torture and that their trials fell short of international standards.

- Ahn Jae-ku and Yu Rak-jin, convicted in 1994 under the National Security Law on charges of establishing an "anti-state" organization. AI believes they are held for the peaceful exercise of their rights to freedom of expression and association.

- Members of the organization *Sanomaeng* (Socialist Workers League) who were not released in the recent prisoner amnesty.

- 17 long-term political prisoners who have been in prison for between 28 and 40 years on charges of espionage under the National Security Law. AI is concerned at reports that these prisoners may have been convicted unfairly and about their treatment in prison. Until the early 1980s they were tortured in an effort to force them to "convert" (to renounce communism,) and they have been consistently denied release on parole because of their refusal to do so. Some of these prisoners are elderly and in poor health.

- Dozens of prisoners arrested this year under Article 7 of the National Security Law. They include nine members of the Anyang Democratic Youth Federation, including its leader Kim Yong-bak, who were arrested in June and charged under the NSL with forming an organization which "benefits" North Korea. They are believed to be held on account of their left-wing political

ideas. AI has also called for the release of people detained for posting information on the Internet, for example student Ha Young-joon who was arrested in April.

- Reverend Kang Hee-nam, aged 78, and other members of *Pomminnyon* (Pan National Alliance for reunification of Korea), reportedly arrested on 20 August for leading a reunification rally.

- Father Moon Kyu-hyun, a Catholic priest who was arrested on 27 August after returning from a visit to North Korea. His visit had been authorised by the authorities but prosecutors stated that Father Moon had violated the National Security Law during his visit by attending a reunification rally.

- Dozens of trade union leaders, including KCTU leader Koh Yong-ju, who were arrested and charged with calling for "illegal" strike action in May and July.

5) Why is Amnesty International's Secretary General visiting South Korea? What is his program?

Amnesty International's (AI's) Secretary General, Pierre Sané, is visiting South Korea from 9 to 12 September. His visit will include meetings with President Kim Dae-jung and other high-level government officials, politicians, human rights leaders and activists, students, former prisoners, the families of political prisoners and trade unionists.

The main aims of the visit are to highlight AI's human rights concerns on South Korea, to raise the profile of AI in the country, to promote awareness of all human rights and to encourage South Korea to play a positive role regionally and internationally for human rights.

1998 marks the 50th anniversary of the Universal Declaration of Human Rights and throughout the year AI has been campaigning to raise awareness about the rights contained in the Declaration. During the visit, President Kim Dae-jung will be asked to sign his name alongside those of other world leaders who have agreed to respect the Universal Declaration of Human Rights. President Kim Dae-jung's personal pledge, along with those of millions of people around the world, will be presented to UN Secretary General Kofi Annan on 10 December 1998, as "the world's biggest book".

6) What did Amnesty International do for Kim Dae-jung when he was a prisoner?

Kim Dae-jung spent much of the 1970s under house arrest or in prison and it was during this period that he was first adopted by Amnesty International (AI) as a prisoner of conscience. He was arrested in 1976, as a prominent signatory of the "declaration for national democratic salvation" and sentenced to five years' imprisonment. Released in 1978, he was immediately placed under house arrest.

Just before the Kwangju massacre of May 1980, he was arrested again and accused of having "instigated" agitation. When he was sentenced to death in September 1980, AI and other human rights and pressure groups campaigned vigorously on his behalf. Following widespread protests, his sentence was commuted to life imprisonment in September 1981 and in 1982 he was

released. AI continued to campaign for Kim Dae-jung while he was under house arrest, on several occasions between 1985 and 1987.

7) What is Amnesty International's view on the requirement that political prisoners should sign a "law abiding oath" before they are considered for release

For many years prisoners held under certain provisions of the National Security Law were under pressure to "convert" (renounce alleged communist or left-wing views). Until the early 1980s prisoners were tortured as a means of persuasion, but in recent years they were simply denied rights and privileges given to other prisoners and refused early release on parole. Those serving life sentences were only released on humanitarian grounds when they became very old or sick.

Amnesty International (AI) welcomes the new government's decision to abolish "conversion" statements but it opposes a new requirement on all political prisoners to sign an "oath" in which they must agree to respect South Korean law (including the National Security Law) as a condition for early release. At least 100 political prisoners appear to have been excluded from the recent prisoner amnesty simply because they refused to sign this oath.

AI calls for the release of political prisoners who continue to be held solely on account of their refusal to sign an oath requiring them to respect legislation which violates their fundamental rights.

8) Why doesn't AI take up the cases of students and others who used/advocated violence?

As a matter of policy, Amnesty International (AI) only calls for the release of political prisoners who have not used or advocated violence. However, in some cases AI also calls for the release of political prisoners who have been held for a long time after an unfair trial. Over the years, AI has called for the release of many students in South Korean prisons.

But AI also opposes torture and ill-treatment in *all* cases and calls for fair trials for *all* political prisoners, whether or not they have used violence. It has intervened many times on behalf of detained students in South Korea who were the victims of torture and/or unfair trial.

While it does not condone student violence, AI has also expressed concern to the South Korean Government about excessive deployment of riot police at student demonstrations, on the grounds that it is provocative and may lead to violence and arrests.

9) What does Amnesty International think of President Kim Dae-jung's "sunshine policy" towards North Korea?

Amnesty International (AI) welcomes President Kim Dae-jung's policy of increased civilian links with North Korea (the "sunshine policy") which should help to reduce tension, as well as giving ordinary South Koreans a chance to contact families in North Korea and learn more about North Korea. We hope that greater openness and contact might also promote human rights improvements in North Korea.

But the National Security law in its current form is incompatible with the "sunshine policy". It is used to arrest students, activists, trade unionists, publishers and others on vaguely-defined charges of "benefitting" and "praising" North Korea. Since February this year over 180 people are reported to have been arrested for activities such as publishing leaflets and books, posting information on the Internet and belonging to small left-wing groups.

AI believes it is unfair to encourage increased civilian contacts, in a situation where people risk arrest and imprisonment for doing so. It is also concerned that the law will be used in an increasingly arbitrary manner with the effect that actions deemed acceptable for some may result in arrest and imprisonment for others.

10) Why is Amnesty International calling for the release of communists?

Everybody has rights, whatever their political views. Amnesty International (AI) does not take a position on the views of those prisoners for whom it campaigns. Around the world, we campaign for communists and anti-communists; for people of all political views and religious beliefs alike.

11) But hasn't South Korea got special security considerations?

Amnesty International (AI) agrees that South Korea has security considerations and accepts the government's right to have security legislation. But this legislation should be used to counter real, physical threats to national security and it should be in line with international standards to which South Korea is committed.

At the moment the National Security Law is misused to imprison people simply for their political ideas. AI believes that South Korea can maintain state security and still allow people to exercise their rights to freedom of expression and association. In fact, the best guarantee for South Korea's security is becoming a more open and democratic society. AI simply asks that the National Security Law be amended in accordance with the international standards that South Korea has itself accepted.

12) Shouldn't the government's priority be to overcome the economic crisis?

The economic crisis is important for all Koreans, but cannot be seen in isolation from human rights protection. Experience throughout the world shows that people's rights are often eroded in times of crisis. The experience of South Korea is no exception - the crisis has led to mass job losses in a country without a social safety net. Migrant workers, women, children and the homeless have suffered particularly during this period, demonstrating the importance of programs to protect the rights of these groups.

Social unrest has also led to violations of civil rights. Strike action and street protests have resulted in arrests and confrontation with riot police. At least 57 trade unionists were arrested between May and August, including key trade union leaders who are accused of calling "illegal" strike action.

Further social unrest and a tough government response may result in more arrests for "illegal" strike action/demonstrations and on national security charges. The National Security Law has recently been used to arrest several trade union leaders and AI is concerned it may be used further to stifle debate about the economic situation.

13) Isn't North Korean's human rights situation much worse than that in South Korea? Why doesn't AI pay more attention to North Korea?

Amnesty International (AI) is concerned about human rights for ALL Koreans. Human rights are not a scorecard, pitting one country against another. While South Koreans should be concerned about the situation of those in North Korea, there is no room for complacency about human rights in their own society.

AI is very concerned about the situation in North Korea. The country is experiencing serious food shortages which have led to malnutrition and possibly many deaths. It is also clear that the North Korean authorities do not tolerate the public, peaceful expression of critical views. Amnesty International believes that serious human rights violations may have occurred in this context.

AI is urging North Korea to develop dialogue on human rights matters with the UN and others. It calls on the North Korean Government to recognise its accountability on human rights issues, in particular by allowing access to independent human rights NGOs.

In 1997 the North Korean Government stated that it had "withdrawn" from the International Covenant on Civil and Political rights (ICCPR). AI was deeply concerned by this statement; the ICCPR is an important legal safeguard for the people of North Korea and the rights enshrined in the Covenant belong to the North Korean people. In July 1998 the UN Human Rights Committee stated that "*international law does not permit a State which has ratified or acceded or succeeded to the Covenant to denounce it or withdraw from it*". AI continues to call on North Korea to comply with its treaty obligations and in particular to report to the Human Rights Committee, in accordance with its obligations under the ICCPR.

AI is concerned that people deemed to be opposed to the policies of the North Korean Government may face detention. People who attempt to leave the country for political reasons may also be imprisoned and some have reportedly been executed. We are particularly concerned that economic hardship may have led to a deterioration of conditions of detention and serious food shortages for prisoners.

North Korea is closed to human rights monitors and AI's work is hampered by a lack of independent and accessible information about the country. AI's reputation rests on its accuracy and impartiality and it can only publish information which it knows to be true. Such information is difficult to obtain on North Korea. However, the organization has published some reports on North Korea in recent years and continues to search for ways to bring about improvements in human rights protection there.

South Korea, in comparison, is an open country where human rights violations are visible, there is an active network of human rights organizations and lawyers and a functioning legal system. These factors make it possible to document human rights violations and to campaign effectively

for improvements. AI is putting pressure on South Korea now because it believes there are many opportunities for human rights reforms. It also hopes and expects that South Korea will become an example of good human rights practice for the rest of Asia.

14) What can the South Korean Government and people do about human rights violations in North Korea?

The South Korean people have for many years been denied access to impartial information about North Korea and have often been punished under the National Security Law when they attempted to obtain information or make contacts themselves. Amnesty International (AI) hopes the government's new "sunshine policy" of increased civilian contacts with North Korea will now create better understanding, alleviate tensions and contribute to improved human rights protection for all Koreans.

At the same time, AI calls for the National Security Law to be amended so that South Koreans can take advantage of the new "sunshine policy" without fear of arrest and imprisonment.

There is very little reliable information about the human rights situation in North Korea. The South Korean Government could contribute to a better understanding of the situation by allowing more public scrutiny of information from North Korean sources and by not misusing reports of human rights violations in North Korea for propaganda purposes. It also encourages the government to consider the importance of human rights in any preparations for reunification.

There is one obvious way in which South Koreans are already helping to improve human rights protection in North Korea - through generous donations of food and financial assistance.

15) What does AI think about the prospects for Korean reunification?

Amnesty International (AI) does not study the issue of reunification in itself, although it realises this is a very important subject for all Koreans and the division of the country has clearly led to human rights violations in both countries.

In South Korea AI has been primarily concerned with the arrests under the National Security Law of ordinary people who tried to take part in reunification discussions by having unauthorized contacts with North Koreans, visiting North Korea or joining small study groups to discuss the issue.

A reunified Korea will need good human rights protection. South Korea can help by improving its own human rights record, which includes amending the National Security Law, by raising public awareness about human rights and by ensuring that human rights are included in any preparation for reunification.

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REPUBLIC OF KOREA (SOUTH KOREA)

Summary of Amnesty International's Concerns and Recommendations to the Government

September 1998

SUMMARY

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In February 1998 President Kim Dae-jung took office promising to respect and enhance human rights in South Korea. Over 150 political prisoners were released after prisoner amnesties in March and August, and in July the government announced that ideological "conversion" (or forcing political prisoners to renounce leftist views) would be abolished. President Kim Dae-jung said he would participate in international efforts to protect human rights. Amnesty International welcomes the new President's commitment to further improve human rights protection but believes that legal and institutional reforms are urgently needed in order to transform this commitment into reality.

In many respects, the human rights situation remains unchanged with some rights even being eroded as a result of South Korea's current economic crisis. Over 180 people are reported to have been arrested under the National Security Law between February and August 1998, most held for the non-violent exercise of their rights to freedom of expression and association. Trade unionists have been arrested and harassed for exercising their basic labour rights. Criminal suspects and prisoners have continued to face ill-treatment by law enforcement officials and further steps are needed to protect women and vulnerable groups such as migrant workers and asylum-seekers. Amnesty International welcomes proposals to establish a national human rights commission but is disappointed that the government has taken no steps to amend the National Security Law.

The government has stated that its top priority is to tackle the economic crisis which has beset South Korea since late 1997. Amnesty International does not dispute the importance of tackling the crisis, but hopes it will not divert government attention and resources away from human rights protection. The crisis has itself created new human rights violations, depriving many people of their livelihood and demonstrating a need for better institutional protection of *all* rights, including civil, political, economic and social rights. The crisis has also shown the inter-dependence of all basic rights. Economic hardship has led to public protests which have in turn led to a government crackdown and arrests in violation of the rights to freedom of expression and association. President Kim Dae-jung

has himself argued that the strengthening of human rights protection and democratic institutions will be critical to South Korea's economic recovery and long-term development

The most pressing concerns which Amnesty International is urging the South Korean Government to address quickly and effectively include:

Amendment of the National Security Law and release of political prisoners

Amnesty International calls for amendment of the National Security Law, further prisoner releases and a halt to the current high numbers of arrests.

1998 marks the 50th anniversary of the National Security Law, used throughout the years to imprison people for non-violent political activities. The National Security Law provides long prison sentences or the death penalty for "anti-state" and "espionage" activities but these terms are not clearly defined and have often been used to imprison people for the exercise of their basic rights.

Amnesty International acknowledges that every government has a right to counter real threats to its security, but they should do so in ways that are consistent with international human rights standards. The UN Human Rights Committee and other specialist UN bodies have criticised the National Security Law and called for its reform in line with South Korea's international treaty obligations.

Amnesty International welcomed the release of 94 political prisoners in a prisoner amnesty on 15 August 1998 but fears that those released will quickly be replaced with new prisoners. It was dismayed that the amnesty omitted those prisoners who refused to write a "law abiding oath", agreeing to respect South Korean law (including the National Security Law). At the time of writing some 240 prisoners were reportedly still held under the National Security Law including 17 men who have been in prison for between 28 and 40 years.

In accordance with the Security Surveillance Law, some of those released in the prisoner amnesty will have to endure continued surveillance of their activities, causing them further stress. They will be told to report their activities regularly to the police and will face arbitrary restrictions on their activities, such as a ban on meeting other former prisoners, participating in certain meetings and demonstrations or travelling abroad.

Most arrests today are under Article 7 of the National Security Law which provides sentences of up to seven years' imprisonment for "praising" and "benefitting" the enemy (generally meaning North Korea). Over 180 students, activists, trade unionists, publishers and others are reported to have been arrested under Article 7 of the law between February, when the new administration took office, and August. Most are believed to have been detained for belonging to student or activist groups with left-wing views and principles.

In July, 25 trade union leaders, youth and democracy activists were arrested under the National Security Law for belonging to the "anti-imperialist youth league" group and inciting strike action. The arrests took place at the time of a general strike and appeared to be an attempt to link worker unrest to alleged "pro-North Korean" activities.

The rights of workers and trade unionists

Workers in South Korea continue to be denied their basic labour rights in several areas. Amnesty International's main concern since the new government took office has focused on threats, harassment and arrests of trade union leaders who organized strike action and demonstrations to protest against restructuring, leading to mass lay-offs in the context of South Korea's current economic crisis. There is little social security protection in South Korea.

After a two-day general strike from 14 to 16 July 1998 at least six trade union leaders were arrested, including Koh Yong-ju, Secretary General of the Korean Confederation of Trade Unions (KCTU), and over 100 others were issued with warrants of arrest for calling a general strike, defined as "illegal", and organizing demonstrations. Between May and August at least 57 trade unionists were arrested for involvement in demonstrations and strike action. In August the KCTU lodged a formal complaint with the International Labour Organization (ILO), relating to the arrests of 57 trade unionists and discrimination against trade unionists at Hyundai Motor Company.

Protection from torture and cruel, inhuman and degrading treatment

Although there are better safeguards than in past decades, criminal and political suspects continue to be ill-treated during police interrogation, demonstrating a need for better protection for detainees. Political prisoners are often detained without a warrant, deprived of sleep for several days, questioned throughout the night, threatened and sometimes beaten. At least three criminal suspects are reported to have died in custody between late 1997 and the early months of 1998 as a possible result of ill-treatment.

Conditions of imprisonment fall below international standards in several respects - for example medical provision is inadequate and there appears to be no provision for the special health needs of women. Many political prisoners are held in solitary confinement for long periods (sometimes years), with little or no contact with other prisoners and the outside world. Prisoners who break the rules are reported to have been handcuffed and placed in solitary confinement for long periods. Although it is possible to lodge a formal complaint of ill-treatment, such complaints are investigated internally and prosecutions are rare. It is difficult for victims to obtain justice.

The Agency for National Security Planning (ANSP), responsible for many past violations, has been renamed and downsized in an attempt to check its abuse of power but the agency's basic structure appears to remain unreformed and Amnesty International is concerned that it still has the potential to violate the rights of detainees

There has been no adequate and independent investigation into past human rights violations in South Korea, including cases of torture, unfair trial and suspicious deaths committed under past military governments, in power until the late 1980s. This reinforces a culture of impunity which contributes to ongoing violations of human rights.

The death penalty

Amnesty International has appealed to President Kim Dae-jung, as a person who was once under sentence of death, to take steps to abolish the death penalty during his term in office. The last executions in South Korea took place when 23 men and women were hanged on one day in December 1997 without warning. Some 40 prisoners, convicted of murder, are

now believed to be under sentence of death and Amnesty International is concerned that rising crime rates linked to the economic crisis may lead to further death sentences being imposed.

Protection of vulnerable groups

Amnesty International urges the government to protect and promote the rights of women and vulnerable groups including migrant workers and asylum-seekers, who have been hit particularly hard by the economic crisis. These three groups also face special problems in the justice system. For example, discrimination against women in the workplace and society at large is reflected in the poor treatment they receive in the prison system. Migrant workers forced to leave the country have been detained and ill-treated by immigration officials. Because of weaknesses in South Korea's refugee determination procedures, Amnesty International fears that people may be forced to return to countries where they face serious human rights violations.

A human rights commission

Amnesty International welcomes the government's plan to establish a national human rights commission. In May it submitted to the government a series of recommendations for the establishment and functioning of national human rights commissions, based on international human rights standards. According to these recommendations, the commission's mandate should be as wide as possible, reflecting the full range of human rights, and it should be independent, adequately resourced and empowered.

Amnesty International is concerned about the lack of transparency surrounding the establishment of the commission. It urges the government to ensure that the proposed commission is established in accordance with international standards, including those proposed by Amnesty International. It also calls on the government to provide an open forum for debate about the proposed commission and to seek the opinions of human rights experts in South Korea, including human rights organizations, lawyers, academics and other professionals.

Key recommendations to the South Korean Government

- Amend the National Security Law in accordance with international standards so that the rights to freedom of expression and association are protected.
- Release all prisoners held for the non-violent exercise of their rights to freedom of expression and association and political prisoners sentenced in unfair trials under previous governments.
- Allow trade unionists and workers to organize legitimate strike action without harassment or arrest; release trade unionists arrested for calling strike action in May and July; make a commitment to protecting freedom of association by ratifying ILO Convention 87.
- Implement practical measures to protect detainees from police ill-treatment; ensure that conditions of imprisonment conform to international standards; introduce structural reforms to ensure the Agency for National Security Planning cannot abuse fundamental rights.

- Ensure that all reported cases of torture, ill-treatment and death in custody are investigated and those responsible brought to justice.
- Commute all death sentences and take steps to abolish the death penalty in law.
- Protect and promote the rights of women and vulnerable groups, including migrant workers and asylum-seekers.
- Take steps to ensure that South Korea's refugee determination procedures are in conformity with its obligations under international law.
- Make human rights education a priority, both for law-enforcement officials and other sectors of society.
- Ensure that the proposed national human rights commission is established in accordance with international and Amnesty International standards; initiate a public consultation on the proposed commission, which should include human rights groups and others with expertise.
- Implement fully the numerous recommendations made in previous years by UN bodies, including the UN Human Rights Committee, the UN Committee against Torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

KEYWORDS: POLITICAL PRISONERS1 / LEGISLATION1 / TORTURE/ILL-TREATMENT1 / DEATH PENALTY1 / TRADE UNIONISTS / NATIONAL HUMAN RIGHTS COMMISSION / AI & GOVERNMENTS / PRISON CONDITIONS / REFUGEES / WOMEN / MIGRANT WORKERS / CONDITIONAL RELEASE

This report summarizes a 25-page document (10,100 words), : *Republic of Korea (South Korea): Summary of Amnesty International's Concerns and Recommendations to the Government* (AI Index: ASA 25/27/98) issued by Amnesty International in September 1998. Anyone wishing further details or to take action on this issue should consult the full document.

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amnesty international

**REPUBLIC OF KOREA
(SOUTH KOREA)**

**Summary of Amnesty
International's Concerns and
Recommendations to the
Government**



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REPUBLIC OF KOREA (SOUTH KOREA)

Summary of Amnesty International's Concerns and Recommendations to the Government

1) INTRODUCTION

In February 1998 President Kim Dae-jung, a former political prisoner and human rights campaigner, took office promising to respect and enhance human rights in South Korea.

After six months in office, there has been some progress. President Kim Dae-jung's government has taken steps to establish a national human rights commission and has committed itself to improving human rights education. Over 150 political prisoners were released after prisoner amnesties in March and August, and in July the government announced that political prisoners would no longer be forced to change their political views (known as ideological "conversion") to qualify for early release. The government took steps to facilitate civilian contacts with North Korea, which included plans for uniting divided families. The President has publicly stated his commitment to participate in international efforts to protect human rights.

But in many respects, the human rights situation remains unchanged and some rights have been eroded as a result of the economic crisis. Over 180 people are reported to have been arrested under the National Security Law between February and August 1998, most of whom were held for the non-violent exercise of their rights to freedom of expression and association. During these months trade unionists have been arrested and harassed for exercising their basic labour rights. Criminal suspects and prisoners have continued to face ill-treatment by law enforcement officials and further steps are needed to protect vulnerable groups such as migrant workers, asylum-seekers and women. The lack of structural and legislative human rights reform is disappointing, although Amnesty International welcomes proposals to establish a national human rights commission.

The government has stated that its top priority is to tackle the economic crisis which has beset South Korea since late 1997. Amnesty International does not dispute the importance of tackling the crisis, but hopes it will not divert government attention and resources away from human rights protection. The crisis has itself created new human rights violations, depriving many people of their livelihood and demonstrating a need for better institutional protection of *all* rights, including civil, political, economic and social rights. The crisis has also shown the inter-dependence of all basic rights. Economic hardship has led to public protests which have in turn led to a government crackdown and arrests in violation of the rights to freedom of expression and association.

Amnesty International welcomes President Kim Dae-jung's commitment to human rights protection and hopes his government will now initiate legal and institutional reforms to put this commitment into practice. President Kim Dae-jung has himself publicly recognised that the strengthening of human rights protection and democratic institutions will be critical to South Korea's economic recovery and long-term development. In June he stated: *"As painful as the current situation is, we wish to use it as much as we can to push through economic reforms and to make our democracy stronger so that we will be a model for the Asian region, a model that says that you have to promote democracy and the free market in parallel, and that the future of Asia lies in this model"*¹

This document summarizes Amnesty International's main concerns regarding human rights protection and promotion in South Korea and makes some recommendations to the government. It will be presented to the Korean authorities by Amnesty International's Secretary General, Pierre Sané, during a visit to South Korea from 9 to 12 September 1998.

Amnesty International does not compare the human rights records of different countries (including those of North and South Korea) and is not singling out South Korea for special criticism. These recommendations are made in the spirit of cooperation and a genuine desire to encourage better human rights protection and awareness in South Korea.

Amnesty International works to promote all the human rights contained in the Universal Declaration of Human Rights and other international standards, including civil, political, economic, social and cultural rights. Throughout 1998 it has been undertaking a worldwide campaign to mark the 50th anniversary of the Universal Declaration of Human Rights. Amnesty International calls on all governments to respect the universality and indivisibility of the rights contained in these standards. In addition to this promotional work, Amnesty International campaigns on individual cases of political prisoners who are held for the non-violent exercise of their rights to freedom of expression and association. It also works for fair trials for political prisoners and against torture, execution and "disappearances" in all cases.

¹New York Times, 6 June 1998

2) THE RIGHTS TO FREEDOM OF EXPRESSION AND ASSOCIATION

a) Summary of concern

The rights to freedom of expression and association remain restricted in South Korea by the National Security Law and other legislation. Amnesty International welcomed the release of over 150 political prisoners in prisoner amnesties in March and August, but after the August amnesty there were still reported to be over 360 political prisoners in South Korea, of whom some 240 were held under the National Security Law. Over 180 students, activists, trade unionists, publishers and others are reported to have been arrested under the National Security Law between February and August 1998, most of whom were held for the non-violent exercise of their rights.

Political prisoners are still subject to surveillance and restrictions on their activities after release. In July the government said that political prisoners would no longer be put under pressure to renounce communist or left-wing views (known as ideological "conversion"). But all political prisoners were told they would have to sign an "oath" agreeing to respect South Korean law (including the National Security Law) in order to qualify for early release. Progress with regard to freedom of association for trade unionists was marred by the arrests between May and August of dozens of trade union leaders, held for calling strike action and demonstrations in protest against government economic policies and company proposals for mass layoffs.

b) The National Security Law

1998 marks the 50th anniversary of the National Security Law, a piece of legislation which has been used throughout the years to imprison people for non-violent political activities. The law provides long sentences or the death penalty for "anti-state" and "espionage" activities but these terms are not clearly defined and have often been used to imprison people for the exercise of their basic rights. Most arrests today are under Article 7 of the law which provides sentences of up to seven years' imprisonment for "praising" and "benefitting" the enemy (generally meaning North Korea).

In August 1998 there were reported to be at least 240 people held under the National Security Law, ranging from student activists held for a few months to long-term prisoners held for over 30 years. Amnesty International believes that many of these prisoners are held for non-violent political activities or were convicted unfairly under previous governments when there were fewer human rights safeguards than there are today.

Many long-term political prisoners were released in the August prisoner amnesty, but some were excluded because they refused to sign an "oath" agreeing to respect South

Korean law, including the National Security Law. Long-term prisoners Cho Sang-nok and Kang Yong-ju who were convicted under the National Security Law in 1978 and 1985 respectively, were not released. After his arrest in 1978 Cho Sang-nok was held for 17 days without access to a lawyer and was sentenced to life imprisonment on the basis of a confession extracted under torture. He is now believed to be in poor health. Kang Yong-ju was held incommunicado for 36 days after his arrest in July 1985, during which time he was tortured. He was convicted of passing on "state secrets" - all of which were publicly available information - and in a trial which did not conform to international standards. Both prisoners are reportedly held in solitary confinement. Amnesty International calls for their release.

It also calls for the release of Ahn Jae-ku, aged 65, whose life sentence on spying charges was reduced in the amnesty, and Yu Rak-jin, aged 70, who is serving an eight-year prison term. Both men were arrested in 1994 for forming an "anti-state" organization; Ahn Jae-ku is in poor health.

Seventeen long-term political prisoners held for between 28 and 40 years should also be released. These prisoners were arrested during the 1950s and 1960s, charged with "espionage" for North Korea and sentenced to life imprisonment. Amnesty International is concerned at reports that these prisoners did not have a fair trial and about their treatment in prison. Many are reported to have been tortured after arrest, denied access to legal counsel and convicted in trials which fell short of international standards. Until the early 1980s these prisoners were tortured in an effort to force them to change their political views and they have been consistently denied release on parole because of their refusal to do so.

Over 180 people including students, activists, publishers and trade unionists, are reported to have been arrested under the National Security Law between February and August 1998. Almost all were arrested under Article 7 of the law and accused of belonging to student or activist groups with left-wing views and principles. They include people accused of publishing pro-North Korean material, in print and on the Internet and groups involved in human rights work such as welfare and educational activities and the promotion of workers' rights. Amnesty International calls for the release of those held for non-violent activities.

Nine members of the Anyang Democratic Youth Federation, including its leader Kim Yong-bak, were arrested in June and charged with forming an organization which "benefits" North Korea. The group had reportedly ran literacy classes, held counselling sessions and helped the elderly. At the time of writing their trial was in progress. In May, Yun Sun-jae and Yun Su-keun, leaders of the Kwanak Youth Workers' group were sentenced to two years' and one-and-a-half years' imprisonment respectively for "praising" and "benefitting" North Korea. Defence lawyers argued that the group did not advocate a

particular ideological line but had merely criticised capitalism. According to human rights groups, the Kwanak Youth Group had worked to provide political and cultural education for young workers. Their sentences were suspended after an appeal to the High Court in August and they were released.

The National Security Law has been used frequently as a form of censorship, to imprison people for publishing and distributing material deemed to "benefit" North Korea. Publisher Lee Sang-kwan was arrested in April 1998 for publishing two books, about the lives of women in North Korea and about long-term political prisoners in South Korea. The two books were published over a year ago and are apparently still available in bookshops. He was released after trial. Student Ha Young-joon was arrested in April for posting a socialist text on the Internet and was sentenced to one year's imprisonment in early August. Human rights activist Suh Jun-sik, arrested in November 1997 for screening a film alleged to "benefit" North Korea at a human rights film festival, was released on bail in February 1998 but his trial continues. In March 1998 the Supreme Court overturned a lower court verdict and ruled that the oil painting *Monaegi* (planting rice), by the *Minjung* artist Shin Hak-chol, violated the National Security Law because it depicted North Korea in a positive light (the artist is not currently detained).

In July it appeared that the National Security Law was being used to crack down on trade union activities. Twenty-five activists from a range of groups in three cities were arrested on 22 July and accused of forming the "the anti-imperialist youth league" and inciting labour unrest. Those arrested were trade union leaders, and the leaders of womens' groups, youth groups and workers' associations. They included Kim Chang-hyon, a local council leader in Ulsan; Kim Myong-ho, Policy Director of the Korean Metalworkers Federation branch in Ulsan and Lee Eun-mi, Chairperson of the Ulsan Womens' Association. The arrests came as the authorities warned of a crackdown on strikes and appeared to be an attempt by the authorities to link worker unrest with alleged "pro-North Korean activities". By the end of August, 10 of the detainees were reported to have been released but 15 others were still being questioned by prosecutors on suspicion of establishing an "anti-state" organization under Article 3 of the National Security Law.

The National Security Law is applied in an arbitrary fashion - while certain left-wing political works are permitted for academic study, the same works often become a criminal offence in the hands of a student or activist with perceived "pro-North Korean" leanings. Current use of the National Security Law appears to contradict the government's new "sunshine policy" towards North Korea. This new policy includes an emphasis on greater business and civilian links with North Korea, including family contacts, tourist trips and the importation of North Korean literature. But while some people are permitted such contacts, others continue to be arrested for merely discussing reunification, publishing

socialist or "pro-North Korean" material or having views considered similar to those of the North Korean Government.

Two further arrests in late August demonstrate this arbitrary use of the law and its inconsistency with the "sunshine policy". Reverend Kang Hee-nam, aged 78, a leader of *Pomminnyon* (Pan-National Alliance for Reunification of Korea) was reported to have been arrested on 20 August merely for leading a reunification rally. *Pomminnyon* has frequently been accused by the authorities of "benefitting" North Korea and having unauthorized contacts with North Koreans. Father Moon Kyu-hyun and eight other Catholic priests were detained for questioning on 19 August when they returned from a visit to North Korea. Their visit had been authorised by the authorities but prosecutors stated that Father Moon Kyu-hyun had violated the National Security Law during his visit by attending a reunification rally. He was arrested under the National Security Law on 27 August.

Amnesty International acknowledges that every government has a right to maintain state security and to have security legislation. It also appreciates that South Korea has special security concerns with regard to North Korea. But this should not be an excuse or justification for denying people the right to express different political views, in accordance with international human rights standards. The UN Human Rights Committee has also pointed out that the National Security Law is not in conformity with international standards (see recommendations at the end of this section).

Many South Koreans are believed to oppose amendment or abolition of the National Security Law, but Amnesty International believes that public opinion has been shaped by past governments who have used the threat from North Korea as an excuse to crack down on civil unrest. There is also resistance to reform from law-enforcement authorities and others in positions of authority who have become accustomed to using the law to suppress political activism, with little regard for human rights. In previous years, while in opposition, Kim Dae-jung had called for the National Security Law to be abolished and replaced by a "law of democratic order" but this idea has not been raised publicly since he took office. Amnesty International now urges the new administration not to resort to the same tactics and excuses as past governments but to take bold and decisive action to amend the National Security Law, leading public opinion rather than following it.

c) The use of ideological "conversion" / law-abiding oath

Ideological "conversion" has been used since the late 1950s in South Korea as a means of forcing certain political prisoners to change their political views. Until the early 1980s some political prisoners were tortured in order to force them to make a statement denouncing their alleged communist or left-wing views. Those who refused were considered ineligible for release on parole. For those prisoners serving life sentences, this amounted to

imprisonment for 30 or 40 years. These prisoners were only released on humanitarian grounds when they became very elderly and/or sick.

Since the early 1980s, torture has not been used as a form of coercion but prisoners who refused to "convert" have still been considered ineligible for release on parole and have been denied certain rights and privileges granted to other prisoners. Somewhat weaker "conversion" statements were accepted in recent years but until recently the requirement was maintained.

On 1 July 1998, however, the Minister of Justice stated publicly that the requirement to "convert" would be ended. Amnesty International welcomed this announcement. For many years the organization has called for an end to "conversion" statements, considering they were used arbitrarily and in violation of the rights of prisoners to have their own political opinions, whether or not these were in support of communist or left-wing ideology.

But the government also stated that to qualify for release in a prisoner amnesty in August, all political prisoners would be required to sign a statement agreeing to respect the law and not to use violence. While some prisoners agreed to sign this "law-abiding oath", other prisoners refused. Some political prisoners viewed the new oath as a disguised form of ideological "conversion", particularly the group of very long-term political prisoners who have resisted pressure to "convert" for several decades. Furthermore, the requirement to sign an oath agreeing to respect the National Security Law was not acceptable to many of those imprisoned under this law in violation of their rights to freedom of expression and association. At least 100 political prisoners reportedly refused to sign the oath and were consequently not released in the August prisoner amnesty.

Amnesty International urges the government to make a clear commitment not to make the release of political prisoners dependent upon an oath/statement which requires them to either change their political views and inner convictions, or to respect legislation which violates their fundamental rights. Amnesty International continues to call for the unconditional release of political prisoners held for the non-violent exercise of their rights to freedom of expression and association and of long-term political prisoners convicted after unfair trials.

d) The Security Surveillance Law

The Security Surveillance Law, enacted in 1989, is used to track the activities of certain political prisoners after their release in order to "prevent the danger of their recommitting crime and promote their return to normal sound social life and thereby to maintain national

*security and social peace*². The law applies to certain prisoners who were convicted under the National Security Law on charges of "espionage" and "anti-state" activities. Human rights groups estimate that hundreds of former political prisoners may be subject to this law, but the exact number is not publicly available.

Under the terms of the Security Surveillance Law, released prisoners are required to report their activities regularly to the police. They also face arbitrary restrictions on their activities, such as a ban on meeting other former prisoners subject to the same law or from participating in certain meetings and demonstrations. Former prisoners have told Amnesty International that their neighbours and work colleagues were asked by the police to report on them and they receive regular phone calls to check on their whereabouts. Their freedom of movement is restricted and some have been denied passports to travel abroad.

Many former prisoners refuse to comply with these requirements and 10 are currently reported to be subject to court proceedings for violating the terms of the Security Surveillance Law. At least two people have been found guilty and fined since the beginning of 1998. The maximum penalty is two years' imprisonment.

Amnesty International does not dispute the need to maintain state security but believes the Security Surveillance Law is applied in an arbitrary and secretive way to threaten and harass former prisoners of conscience and long-term political prisoners who pose no security threat. They include former prisoners who are elderly and suffering from the after-effects of long-term imprisonment and torture. The requirements force them to live under considerable pressure with the constant threat of re-arrest and imprisonment.

e) The rights of workers and trade unionists

On 14 February 1998, in response to South Korea's current economic crisis, the National Assembly adopted amendments to South Korea's labour legislation with far-reaching consequences. The legislation paved the way for mass redundancies, leading to high unemployment in a country with very little social security provision. The government argued that the new legislation was necessary to fulfil the conditions for restructuring and labour market flexibility laid down by the IMF when it loaned US\$57 billion to Korea in late December 1997.

The amended legislation also included provisions granting greater, but not complete, freedom of association for trade unionists. It stipulated that teachers will be permitted to form trade unions from July 1999, (while denying them the right to take collective action), that trade unions will be allowed to participate in political activities from

²Security Surveillance Law, Article 1.

early 1998 and that white collar civil servants will be allowed to form a "consultative body" (as opposed to a trade union) from 1999. Other restrictions on freedom of association continue - for example, multiple trade unions at the enterprise level will be prohibited until 2002; the Korean Confederation of Trade Unions (KCTU), with a membership of over 500,000, is still not legally registered. South Korea has not yet ratified International Labour Organization (ILO) Convention 87.

Amnesty International's main concern since the new government took office has focused on threats, harassment and arrests of trade union leaders who organized strike action and demonstrations to protect their basic rights. The trade unions were protesting against restructuring leading to mass redundancies, inadequate social welfare provision, the failure to prosecute employers engaging in illegal layoffs and the lack of effective consultation between the government, employers and trade unions. Thousands of workers have lost their jobs in South Korea since the start of the economic crisis, few of whom are covered by unemployment insurance.

Between early May and mid-August 1998 at least 57 trade unionists were arrested for involvement in a May Day rally, two general strikes and other demonstrations linked to the strike action. They included trade union leaders charged with calling "illegal" strike action and "obstructing company business". A number of trade union members were charged for acts of violence which occurred during some strikes and demonstrations. At least 200 other trade unionists had warrants of arrest issued against them. In August the KCTU lodged a formal complaint with the ILO, relating to the arrests of trade unionists and discrimination against trade unionists at Hyundai Motor Company.

The two general strikes took place in May and July 1998. When the KCTU called the first two-day general strike, on 27 May, the government responded by declaring the strike "illegal" and arrest warrants were issued against 143 trade unionists on charges of calling "illegal" strike action and "interfering with company business". After a second general strike from 14 to 16 July a number of trade union leaders were arrested, including KCTU Secretary General Koh Yong-ju, and Choi Yong-kuk, Chairman of the Pusan-Yangsan Regional Council of the Korean Metal Workers Federation, and arrest warrants were issued against over 100 others. However, in a more positive move in August, criminal prosecutions against members of Hyundai Motor Union were reportedly dropped following intervention by mediators from the National Congress for New Politics, ending a month-long strike at Hyundai Motor Company.

Amnesty International called for the release of trade union leaders detained for organizing strike action in May and July. Before the strike action government officials had issued warnings of a crackdown using the riot police and court action, but the trade union

leadership had made efforts to carry out the strike action in a legitimate manner and called for the strike and demonstrations to be conducted peacefully.

Amnesty International has also expressed its concern to the government about the use of the National Security Law to arrest 25 trade union leaders, youth and democracy activists on 22 July, just after the general strike (see section (b) above on the National Security Law). This appeared to be an attempt to link trade union leaders with "pro-North Korean" activities. Using the National Security Law to stifle peaceful political and industrial protest is a method of repression best identified with past authoritarian governments and it is worrying to see this pattern re-emerge under the new government in South Korea.

f) Recommendations to the government

- The National Security Law should be amended in accordance with international standards so that the rights to freedom of expression and association are protected, in accordance with international standards.

- Pending legislative amendment, use of the National Security Law should be minimized. In particular, there should be a halt to the current high numbers of arrests for non-violent activities under Article 7 of the National Security Law. The law should not be used to crack down on peaceful political and industrial protest in the context of the current economic crisis.

- The government should ensure that complaints about the abuse of the National Security Law are subjected to independent scrutiny, including through the establishment of a national human rights commission with appropriate powers (see point 6(c) below).

- The government should release all prisoners of conscience held under the National Security Law and other legislation for the non-violent exercise of their rights to freedom of expression and association. The government should release those remaining long-term political prisoners who were convicted unfairly under past governments.

- No political prisoners should be refused early release solely on account of their refusal to sign an oath/statement which requires them to either change their political views and inner convictions or to respect legislation which violates their fundamental rights.

- The arbitrary use of the Security Surveillance Law to harass and restrict the activities of former prisoners of conscience and long-term political prisoners who were convicted unfairly is a violation of their basic rights and should be halted.

- South Korea should ratify ILO Convention 87 and take steps to ensure that trade unionists are able to exercise their rights to freedom of association, in accordance with international labour standards.

- Trade unionists and workers should be permitted to organize and take part in legitimate and non-violent strike action without harassment or arrest, in accordance with their rights under international human rights and labour standards. The trade union leaders arrested for calling strike action in May and July should be released.

- South Korea should withdraw its reservation in respect of Article 22 of the International Covenant on Civil and Political Rights (relating to freedom of association).

- The government should take steps to implement the recommendations of international bodies, including the following:

Comments of the Human Rights Committee on the initial report of the Republic of Korea (July 1992):

"... the Committee recommends that the State party intensify its efforts to bring its legislation more in line with the provisions of the Covenant. To that end, a serious attempt ought to be made to phase out the National Security Law which the Committee perceives as a major obstacle to the full realization of the rights enshrined in the Covenant and, in the meantime, not to derogate from certain basic rights".

Recommendations from the Report on the mission to the Republic of Korea of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (November 1995):

a) The Government of the Republic of Korea is strongly encouraged to repeal the National Security Law and to consider other means, in accordance with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to protect its national security.

c) All prisoners who are held for their exercise of the right to freedom of opinion and expression should be released unconditionally. The cases of prisoners who have been tried under previous governments should be reviewed, due account being taken of obligations arising under the International Covenant on Civil and Political Rights. In this respect, the obligation to protect the right to freedom of opinion and expression cannot be seen in isolation from other obligations arising under the Covenant, notably concerning the right to a fair trial.

2) PROTECTION FROM TORTURE AND CRUEL, INHUMAN AND DEGRADING TREATMENT

a) Summary of concern

Government officials have repeatedly told Amnesty International that torture and ill-treatment will not be tolerated, but the organization believes these practices will not be eradicated without the implementation of practical safeguards combined with a comprehensive human rights education program for law enforcement officials.

Although there is better protection than in past decades, criminal and political suspects continue to be ill-treated during police interrogation, demonstrating a need for better safeguards to protect the rights of detainees. At least three people are feared to have died in custody between December 1997 and February 1998 after reported ill-treatment. Conditions of imprisonment fall below international standards in several respects, including the provision of medical care. The Agency for National Security Planning (ANSP) has been renamed and downsized in an attempt to check its abuse of power but the agency's basic structure remains unreformed and Amnesty International is concerned that it still has the potential to violate the rights of detainees.

b) Ill-treatment by police and other law-enforcement officials

Reports from political prisoners detained by the police indicate a pattern of ill-treatment where detainees are deprived of sleep for several days, questioned throughout the night, threatened and sometimes beaten. There is still a pattern of abuse in which suspects are detained without an arrest warrant and are not allowed prompt communication with their family and/or colleagues. This results in many detainees being held incommunicado for short periods after their arrest, when they are vulnerable to police ill-treatment.

Amnesty International is also concerned at reports that ordinary criminal suspects have been ill-treated. In June 1998 the organization called for an investigation into three deaths in custody, believed to be the result of ill-treatment at the hands of police and detention centre officials. The victims died between December 1997 and February 1998 after they had been detained at Yongsan police station, Songdong Detention Centre and Youngdungpo Detention Centre, all in Seoul. The organization received no response from the government to its concern about these cases.

Detainees may be held for up to 30 days' questioning by police and prosecution officials before indictment (under some provisions of the National Security Law this may be extended to 50 days). Amnesty International believes this long period of detention for interrogation purposes facilitates the use of ill-treatment to extract confessions. Lawyers are

not permitted to be present during questioning by police or prosecutors. The UN Committee against Torture has also criticised this long period of detention (see point (e) below).

Amnesty International has received recent reports that prisoners in at least four prisons and detention centres have been held in handcuffs and chains and placed in solitary confinement for up to two months as punishment for breaking prison rules. There are also reports of prisoners being held in darkness, denied adequate food and beaten. These incidents, reported to have occurred between October 1997 and the early months of 1998, may demonstrate a wider pattern of abuse in Korean prisons and detention centres. There is no independent inspector of prisons in South Korea.

Any person who believes his or her rights have been violated by law enforcement officials is entitled to lodge a complaint, but in practice it is difficult to do so successfully. Complaints are not the subject of an independent investigation and public prosecutions are rare. Human rights groups report that many victims do not complain, for fear of reprisals or lack of confidence in the system. In recent years some victims have brought civil law suits against the authorities, but these are expensive and hence inaccessible to most people.

Amnesty International acknowledges that the government has a responsibility to maintain order and control violence. However it is concerned that very large numbers of riot policemen are frequently used to quell relatively small demonstrations. Although many demonstrations are peaceful, it believes that the outbreak of violence on some demonstrations might be avoided by a less oppressive police presence. The police response to violence at demonstrations has sometimes appeared to be excessive, resulting in violence and injury to both police and unarmed demonstrators. For example, on 13 August 1998 around 6000 riot police were deployed to break up a student rally with around 2500 participants at Seoul National University. Student leaders had appealed for the right to hold a peaceful rally but do not appear to have been given the opportunity to do so.

c) Conditions of imprisonment

Conditions of imprisonment fall below international standards in several areas. Political prisoners have been held in solitary confinement, with almost no contact with other prisoners or outside visitors, sometimes for a period of many years. Recently released prisoners have told Amnesty International that they were unable to communicate properly after their release as a result of prolonged solitary confinement.

Some long-term political prisoners are reported to be suffering from psychological problems as a result of prolonged isolation. They also suffer from digestive ailments, rheumatism, high blood pressure and other illnesses resulting from long-term imprisonment in poor conditions. Prison cells are unheated in winter and lack air conditioning in the

summer. Prisons are reported to have become overcrowded as a result of higher crime rates in the current economic crisis.

Detainees held in police custody are not routinely given a medical examination after they are taken into custody or examined during the period of their interrogation. Medical facilities in prisons and detention centres are poor. Amnesty International has received many reports of prisoners who have had great difficulty in obtaining appropriate medical treatment for their illnesses and medication and hospital treatment must generally be paid for by prisoners' families. Detainees and prisoners who wish to make a formal complaint of ill-treatment do not usually have access to independent medical advice.

Amnesty International is also concerned about the treatment of women prisoners, who suffer discrimination in a system largely geared towards men. (See 5(d) for information on this concern).

d) The Agency for National Security Planning

Over the years the ANSP has been responsible for some of the most serious human rights violations in South Korea, including torture of political suspects arrested under the National Security Law. Since taking office, the new government has downsized the agency and removed some officials deemed responsible for interfering in politics. In April the government announced that the agency was to be given a new name, the National Intelligence Agency. President Kim Dae-jung stated that it would not be used as a political tool or permitted to carry out human rights violations. These assurances were repeated in June when the Director of the ANSP publicly admitted that the ANSP had committed human rights violations under previous administrations but stated that this would not continue in future.

While welcoming the government's commitment to prevent the ANSP from committing human rights violations, Amnesty International is concerned that the agency still has the practical means to do so. It remains largely unaccountable for its actions and continues to have widespread authority to detain suspects under the National Security Law. To date there has been no independent investigation into past human rights violations committed by the ANSP, including numerous reports of torture and fabricated charges against political prisoners, some of whom remain in prison. Amnesty International does not know of any ANSP officials who have been brought to justice for the infliction of human rights violations.

e) Recommendations to the government

Amnesty International urges the government to initiate a comprehensive human rights education program for law enforcement officials and to take practical steps to eliminate

torture and ill-treatment. The following recommendations are in accordance with international human rights standards:

- When carrying out arrests police officers must ensure that all detainees are able to notify family members or others immediately of their whereabouts. Relatives, lawyers and independent doctors should be able to visit a detainee as soon as possible after he or she is taken into custody.
- Legislation which permits suspects to be held for 30 or 50 days without charge should be amended. Suspects should either be charged promptly with a recognizable offence or released.
- Conditions of imprisonment should conform to international human rights standards, with particular attention to the provision of medical care and the use of solitary confinement. Instruments of restraint such as handcuffs should not be applied as a punishment and chains should never be used.
- All reports of torture or ill-treatment and deaths in custody should be the subject of an independent investigation. Any official found responsible for human rights violations should be brought to justice and victims should receive fair and adequate compensation.
- Police officers, in carrying out their duty, should apply non-violent means before resorting to the use of force. Whenever the lawful use of force is unavoidable, police officers must exercise restraint and act in proportion to the seriousness of the offence and the legitimate objective to be achieved. Relevant international standards including the *UN Code of Conduct for Law Enforcement Officials* and the *UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* should be widely disseminated and police should receive training in their practical application.
- The government should take practical steps to ensure that the ANSP does not torture or ill-treat suspects held under the National Security Law. An independent body, such as the proposed national human rights commission, should have the competence to investigate complaints against the intelligence agency and other law enforcement personnel.
- South Korea should make a declaration under Article 22 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), recognizing the competence of the UN Committee against Torture to receive individual complaints.
- South Korea should enact legislation to ensure that all provisions of the CAT are incorporated into South Korean law, including Article 4 which states: "Each State Party shall ensure that all acts of torture are offences under its criminal law . . . Each State Party

shall make these offences punishable by appropriate penalties which take into account their grave nature".

•The government should take steps to implement the recommendations of the UN Committee against Torture in November 1996 which included the following points:

"Education of police investigators, public prosecutors, other law enforcement personnel and medical personnel, regarding the prohibition against torture should be fully included in the educational system. . .

"An independent governmental body should take over the inspections of detention centres and places of imprisonment. Public prosecutors, who are also part of the law enforcement personnel, which may itself be subject to investigation of the crime of torture, should not be the main inspection figure".

"The 30 or 50 day maximum period of detention for interrogation purposes in police premises before the subject is charged is too long and should be shortened".

4) THE DEATH PENALTY

a) Summary of concern

On his inauguration, Amnesty International wrote to President Kim Dae-jung urging him to abolish the death penalty during his term of office. As a former political prisoner who lived for four months under sentence of death, President Kim has the moral authority and the experience to take a lead on this issue. There have been no executions since the new President took office but the government has not made public any intention to abolish the death penalty and internationally South Korea has recently taken a stand against abolition. In July 1998 South Korea and several other countries signed a joint statement dissociating themselves from a resolution adopted at the UN Commission on Human Rights³ which called on all states to work towards abolition of the death penalty.

Twenty-three men and women were executed without warning on 30 December 1997. These hangings, the first since 1995, were carried out secretly and without the families or the prisoners themselves receiving advance warning. Ministry of Justice officials were reported to have justified the executions as a means of maintaining social order and reducing the number of prisoners under sentence of death. Some 40 prisoners, convicted of

³Resolution 1998/8

murder, are now believed to be under sentence of death and Amnesty International is concerned that rising crime rates linked to the economic crisis may lead to further death sentences being imposed.

Amnesty International opposes the death penalty in all cases, as a violation of the right to life and the ultimate cruel, inhuman and degrading punishment. Executions are often inflicted on the poorest members of society and those least able to defend themselves. They do not allow for errors of judgement - the execution of an innocent person can never be put right - and UN studies have shown that executions have no greater deterrent effect on crime than life imprisonment.

On 15 January 1998 the European Parliament adopted the following resolution on the executions of 30 December 1997: *"The European parliament condemns the mass execution carried out in late December and calls on the South Korean President and Government to impose an immediate moratorium on executions as a first step towards the complete abolition of the death penalty."*

In August Amnesty International welcomed the commutation of death sentences imposed on Mohammad Ajaz and Amir Jamil, two Pakistani nationals who had been sentenced to death in 1992 after an unfair trial.

b) Recommendations to the government

Amnesty International calls for South Korea to abolish the death penalty in law. It urges the government to implement the following recommendations, as steps towards abolition.

- Initiate a debate about the death penalty, involving parliamentarians, the judiciary, lawyers, human rights advocates and others who have knowledge and expertise in this field.
- Commute the death sentences of those currently under sentence of death and ensure that no further executions are carried out.
- Introduce legislative amendments to reduce the number of crimes for which the death penalty may be imposed.
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at worldwide abolition of the death penalty.

5) PROTECTION OF VULNERABLE GROUPS

a) Summary of concern

Amnesty International urges the government to protect and promote the rights of women and vulnerable groups including migrant workers and asylum-seekers, who have been hit particularly hard by the economic crisis. These three groups also face special problems in the justice system which are of direct concern to Amnesty International. Discrimination against women in the workplace and society at large is also reflected in the poor treatment they receive in the prison system. Migrant workers forced to leave the country have been detained and ill-treated by immigration officials. Because of apparent weaknesses in South Korea's refugee determination procedures, people may be forced to return to countries where they face serious human rights violations.

b) Migrant workers

Before the economic crisis there were at least 230,000 migrant workers in South Korea from a variety of countries in Asia, Latin America, North Africa and the Middle East. Mostly undocumented, they have provided cheap labour in the "3D industries" (difficult, dirty and dangerous jobs). Even before the economic crisis, migrant workers were a vulnerable group, often the victims of unscrupulous brokers, low or unpaid wages, industrial accidents, poor health, poor working conditions and racial discrimination. In recent years human rights and workers' organizations have been campaigning for the enactment of legislation to protect the rights of migrant workers and introduction of a work permit scheme, giving migrant workers the same rights and benefits as Korean workers.

As the crisis set in during 1997, migrant workers were laid off in large numbers to make way for unemployed Korean workers. In December 1997 the government announced a three-month amnesty period for undocumented migrant workers, during which time they could leave the country without penalty. However, many were owed months of unpaid wages or compensation for industrial accidents and simply could not afford to buy a ticket out. They could also not afford the SK Won 1,000,000 fine (about US\$800) which would be imposed for staying beyond the amnesty period. In June 1998 the Ministry of Justice said that migrant workers should be permitted to leave the country without penalty but problems relating to unpaid wages and compensation claims remain.

Amnesty International is concerned that those forced to leave the country may include people who will be subject to human rights violations if they return to their own country (see point (c) below). It is also concerned at reports of a government crackdown on protests by migrant workers, and of detained migrant workers being subjected to beatings and verbal abuse at the hands of law-enforcement officials.

On 15 June 1998 two organizations campaigning for the rights of migrant workers attempted to hold a protest rally at Seoul Station. Although the rally was legal and non-violent, hundreds of riot policemen were deployed and 10 migrant workers were detained, apparently at random and without arrest warrants. After a further demonstration on 23 June, some 20 migrant workers were detained and taken to an immigration detention centre attached to Seoul Immigration Office. A total of 21 people were reportedly squeezed into a room measuring approximately three metres in length. They were forced to kneel on the floor in this room with their hands crossed behind their heads for about eight hours. The migrant worker who reported this incident to a human rights organization was later threatened and verbally abused by immigration officials.

c) Asylum-seekers

In 1992 South Korea became a party to the UN Convention relating to the Status of Refugees (Refugee Convention). The Refugee Convention states the principle of *non refoulement* which forbids any state from returning a person to a country where he or she might be at risk of serious human rights violations. Implicit in this obligation is the establishment of adequate procedures to identify all those persons who may be at risk and are in need of protection, as well as unhindered access to these procedures. But procedures in South Korea appear to fall short of international standards, and officials responsible for handling refugee claims do not seem to be adequately trained.

In June 1998 Ministry of Justice officials told Amnesty International that there had been three applications for refugee status in 1995, four in 1996 and 12 in 1997. None had been successful and nobody has been granted refugee status since South Korea became a party to the Refugee Convention. While this data by itself does not necessarily relate to the merits of these cases, the extremely low numbers may be a good indication of how difficult it can be to access the procedures.

Amnesty International has received recent reports from asylum-seekers and lawyers that immigration officials have discouraged people from lodging a claim for refugee status, and have sometimes refused to register applications. People who did manage to lodge an application have not been given adequate information about the procedures to be followed, and immigration officials have not appeared to be familiar with the principles of refugee recognition. In some cases immigration officials appeared to place an undue burden on applicants to provide full documentation in support of their cases and have not employed translators. This gives rise to concerns regarding the adequacy of the training immigration officials receive on handling refugee cases.

The difficulty of obtaining information about the procedures is also likely to discourage people at risk from seeking asylum. At a time when thousands of migrant

workers are being forced to leave the country, Amnesty International is concerned that people at risk may be unable to access the refugee determination procedures.

Applicants for refugee status are not entitled to legal aid, and are generally unable to obtain financial assistance for living costs. This has led to extreme hardship in some cases. For example, Amnesty International knows of a group of Algerian asylum-seekers who have been left without income, and are currently sheltering in a mosque in Seoul.

d) Women

President Kim Dae-jung has committed his government to improving the rights of Korean women who face discrimination in the home, the workplace and society at large. In spite of a government commitment to increased political representation, just over two per cent of successful candidates in the June 1998 local elections were reported to be women. The government has also established a new government advisory committee for women's affairs but women's organizations are concerned that this committee does not have the power or the profile it needs to be effective.

The economic crisis in Korea has highlighted the problems associated with discrimination against women and the difficulties of enforcing government commitments. Although new labour legislation adopted in February 1998 prohibits redundancy on the grounds of gender, in practice women have been laid-off in larger numbers than men, often because they are employed on a part-time or temporary basis, because they are not considered the main bread-winner and because they are less likely or able to resist than their male colleagues. Over 60% of women work in small companies which are not covered by legislation on unemployment and medical insurance. Women's groups claim that government employment programs do not adequately reflect the needs and rights of women.

Amnesty International is concerned about several aspects of the treatment of women in the criminal justice system. Discrimination against women in society appears to be reflected in a prison system which is geared towards men. Women constitute a small percentage of the prison population and there is only one women's prison (Chongju Prison). In all other prisons women are held in a separate wing of the prison to men. Released prisoners have spoken about the difficulties of obtaining items of clothing and footwear of the correct size, because prison clothing is mainly designed for men, and problems obtaining appropriate sanitary items. There appears to be no special provision for the health needs of women prisoners and no separate cells or dietary provision for pregnant women and women who have recently given birth.

In all prisons, political prisoners are held separately from ordinary criminals. Because there are so few female political prisoners, they are invariably held in solitary confinement with little or no human contact. A former political prisoner told Amnesty

International that she found it difficult to communicate after spending three years in solitary confinement. She also found it difficult to obtain medical treatment for arthritis or to have access to a doctor, who generally saw patients in the men's section of the prison.

Women detained and questioned by the police or other law-enforcement officials have claimed they were subjected to humiliating treatment during interrogation. A woman detained in May 1998 said she was only allowed to sleep for two or three hours on the first two days of interrogation, although she was in great pain, having suffered a recent leg fracture and had a leg in plaster. She claims to have been threatened and intimidated by police and prosecution officials. She was also held in crowded cells, without any assistance for washing and was forced to walk unaided between police station, detention centre and court rooms.

e) Recommendations to the government

- Amnesty International urges the government to take steps to protect and promote the rights of women and vulnerable groups, including migrant workers and asylum-seekers.
- Recruitment, training and accountability of all police and prison officials should ensure effective protection of women's human rights. Conditions of imprisonment for women should conform to international standards. The government is urged in particular to ensure that women are not held for long periods in solitary confinement and that there is adequate provision for the health needs of women prisoners.
- Conditions of detention in immigration detention centres should be in conformity with international standards, including the *Standard Minimum Rules for the Treatment of Prisoners*.
- Refugee determination procedures should be in conformity with South Korea's obligations under international law. In particular the government is urged to note the following:
 - Asylum-seekers arriving at ports-of-entry should be guaranteed an opportunity to have their claims considered by a competent authority. Those who approach immigration offices to apply for asylum should be allowed to submit a formal application and should be given advice and guidance on the procedures to be followed.
 - Officials involved in questioning or interviewing asylum-seekers and in making a decision on applications should be trained to follow the

procedural guidance given in the UNHCR's Handbook on *Procedures and Criteria for Determining Refugee Status*.

- Asylum-seekers should have the right to legal counsel and the right to contact and have access to the UNHCR. They should have the right to competent interpreters, provided by the government.
- Asylum claims should be decided by an independent body whose members have expertise in international human rights law. Asylum seekers should have a right to appeal in every case to a higher authority which is distinct from the decision-maker at first instance.

6) FURTHER STEPS TO PROTECT AND PROMOTE HUMAN RIGHTS

a) Summary of concern

Amnesty International welcomes the new President's stated commitment to improve human rights protection in South Korea. The organization believes, however, that further practical steps are needed in order to transform commitment into reality. In many respects it appears that the government's new commitment to human rights has not filtered through to the government officials, law-enforcement personnel, the judiciary and others whose decisions and actions have a direct effect on people's rights.

The establishment of an independent and empowered national human rights commission and a comprehensive human rights education program would be positive steps to improve human rights protection and awareness. Amnesty International also urges South Korea to address the issue of its many unresolved past human rights violations.

b) Human rights education

As the 50th anniversary of the Universal Declaration of Human Rights approaches, Amnesty International urges the government to make human rights education a priority at all levels of society. Human rights should be included in all curricula including at schools and universities and it should be incorporated into training for all law-enforcement, judicial and government officials. It is hoped that some of this work can be coordinated by the proposed national human rights commission.

International bodies have made similar recommendations to South Korea, including the recommendation by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in November 1995:

"The Government is encouraged to take steps to enhance the systematic application of international human rights law in the national legal system, especially concerning the right to freedom of opinion and expression. The Government is invited to consider disseminating appropriate human rights materials, including case-law, to the judiciary and the larger legal profession, and to seek the participation of practising judges and lawyers in seminars or courses on the application of international human rights law."

c) A national human rights commission

In February 1998 the new government announced that it would establish a national human rights commission. Amnesty International believes national human rights institutions of this kind can make an important contribution to the protection and promotion of human rights and welcomed this initiative. In May it submitted to the government a series of recommendations for the establishment and functioning of national human rights commissions, based on international human rights standards. These recommendations stipulate that the commission's mandate should be as wide as possible, reflecting the full range of human rights including civil, political, economic and social rights. The commission should be independent, adequately funded and authoritative. It should have powers to investigate human rights violations by all government authorities, including those committed by security agencies and under security legislation. It should not, however, be seen as a replacement for effective legal structures and a properly functioning judiciary⁴.

Legislation for the establishment of the commission is being drawn up by the Human Rights Division of the Ministry of Justice. Officials told Amnesty International in June that they hope to publish the proposed legislation in the autumn, with the aim of establishing the commission by December 1998, the 50th anniversary of the Universal Declaration of Human Rights.

Amnesty International hopes to comment on the government's proposed legislation when it is made public. Meanwhile, the organization is concerned about the procedures being followed to establish the commission, particularly regarding the lack of public consultation. Human rights organizations, lawyers, academics and others with human rights expertise have been excluded from the process which appears to involve only a small group of prosecutors in the Ministry of Justice. While human rights activists have organized several seminars on the subject, some of which were attended by a Ministry of Justice official, at the time of writing the government does not appear to have initiated a public debate on the subject. Amnesty International reiterates its concern that the human rights

⁴See *South Korea: Proposed Standards for a National Human Rights Commission*, ASA 25/16/98 published in May 1998.

commission will not be effective without the confidence and support of the public and those working in the human rights field.

Amnesty International again urges the government to ensure that the proposed commission is established in accordance with international standards, including those proposed by Amnesty International. It urges the government to provide an open forum for debate about the proposed commission and also to seek the opinions of human rights experts in South Korea - including human rights organizations, lawyers, academics and other professionals - on its mandate, composition and working methods.

d) Investigations into past human rights violations

There has been no adequate and independent investigation into past human rights violations in South Korea. Investigations into past human rights violations are important for the victims and their families and can provide valuable lessons for future human rights protection. It also sends a message to state officials that they cannot abuse human rights with impunity. Human rights organizations, victims and their families have repeatedly called for investigations into many individual cases of torture, and unfair trial and imprisonment under past military governments in power until the late 1980s. There has been no impartial inquiry into some 40 deaths which human rights groups suspect were carried out by the law-enforcement agencies during this period. The 1995 investigation into killings of civilian demonstrators at Kwangju in May 1980 was not independent and failed to reveal the truth about many cases of death and disappearance linked to the incident.

For many years Amnesty International has called on South Korea to order full and impartial investigations into past human rights violations. Whatever the political sensitivities, the organization reiterates now its concern that South Korea should find a comprehensive way of addressing past violations, as a means of bringing justice to the victims and their families and of providing a solid foundation for future human rights protection.

7) AMNESTY INTERNATIONAL DOCUMENTS

List of public documents on South Korea, February to July 1998

South Korea: A Human Rights Agenda for South Korea (AI Index: ASA 25/05/98), a four-page document issued in February 1998.

South Korea: Proposed Standards for a National Human Rights Commission (AI Index: ASA 25/16/98), a six-page report issued in May 1998.

South Korea: Long-term prisoners still held under the National Security Law (ASA 25/15/98), a 17-page report issued in May 1998.

South Korea: On trial for defending his rights: the case of human rights activist Suh Jun-sik (AI Index: ASA 25/18/98), a five-page report issued in May 1998.

South Korea: Deaths in Custody (AI Index: ASA 25/21/98), a four-page medical letter-writing action issued in June 1998.

Womens' Rights in South Korea, a summary prepared for the Committee on the Elimination of Discrimination against Women (AI Index: ASA 25/20/98) a four-page briefing issued in June 1998.

South Korea: Arrests of trade union leaders (AI Index: ASA 25/24/98), a two-page appeal issued on 21 July 1998.

South Korea: Amnesty International calls for prisoner releases and a halt to National Security Law Arrests (AI Index: ASA 25/22/98), a five-page report issued in July 1998.

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News Service 176/98

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Republic of Korea (South Korea): Human rights crucial to long term development

SEOUL -- President Kim needs to move beyond rhetoric if he is to leave a lasting legacy of human rights reform in South Korea, an Amnesty International delegation visiting the country said today.

"President Kim seems to have lost touch with the true state of human rights in South Korea," said Pierre Sané, Secretary General of the worldwide human rights organization at a press conference in Seoul.

"His government's failure to stop abuse of the National Security Law, to release political prisoners and to engage in meaningful dialogue with local human rights organizations is fast eroding confidence and trust in his reform program."

Yesterday President Kim Dae-jung leant his support to a worldwide campaign Amnesty International has organised to mark the 50th anniversary of the Universal Declaration of Human Rights. President Kim also said he would personally support Amnesty International's human rights work in other countries, including through human rights initiatives in the region.

According to Amnesty International, South Korea should also remember that human rights protection starts at home.

"While the world understands South Korea's special history and current economic predicament, the time has come to end the excuses. It is a complete aberration that an open and developed society of this kind should continue to jail people for their peaceful political activities and beliefs," Mr Sané said.

"Some of these political prisoners are elderly and sick, pose no conceivable threat to South Korea's laws or security, and are now held solely because they refuse to sign an unacceptable legal pledge. Their continued imprisonment is a black mark on South Korea's conscience and international reputation."

While Amnesty International has welcomed the release of many political prisoners in amnesties over the past few months, it noted that more than 400 remained in jail, most under the National Security Law. Mr Sané made a special humanitarian appeal for the release of long term prisoners, some of whom are elderly and sick.

"South Korea is not only keeping prisoners of conscience in jail -- each year it is creating more." Mr Sané said. "Since President Kim was inaugurated, there have been over 240 arrests under the National Security Law, most under the vague provisions of Article 7 for peaceful political activities."

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Political prisoners include students, young activists, publishers, workers and others accused of forming "left-wing" organizations, and distributing socialist pamphlets or books, in print or on the Internet. Contacts with North Korea have also resulted in arrests -- in spite of the government's "sunshine policy" which encourages such contacts.

Mr Sané acknowledged the government's responsibility to maintain security, but said the National Security Law is in breach of South Korea's international human rights obligations.

"The National Security Law seems out of control. The government says it will not abuse the law, and yet it continues to be used widely and arbitrarily. The government says the courts provide a safeguard against abuse, but acquittals are rare and have even been overturned by the Supreme Court."

Mr Sané welcomed President Kim's assurance during their meeting that the National Security Law would be revised in the not-too-distant future and urged the government to move quickly to bring the law into line with international standards.

According to Amnesty International, reforms are also needed to ensure that torture and ill-treatment are no longer tolerated and human rights should be included in training for all law enforcement officials. Prison conditions should be brought into conformity with international standards.

Mr Sané also pointed out that South Korea stands out against the worldwide trend towards abolition of the death penalty. Last year alone, 23 prisoners were executed on the one day, putting South Korea in the big league of executors worldwide.

"Yesterday, I urged President Kim, as a former death row prisoner on whose behalf many people from Amnesty International and around the world had appealed for clemency, to commute all death sentences and take steps to abolish the death penalty during his term in office," he said.

Mr Sané also pointed out that economic difficulties are creating a new layer of human rights violations in South Korea, as thousands of unemployed Koreans have been left without a livelihood. Women and vulnerable groups such as migrant workers are often the worst affected. Trade unionists are again being arrested merely for taking legitimate strike action, and the peaceful expression of popular discontent is being curtailed through draconian measures such as the National Security Law.

"The economic crisis that has beset the region has showed that sustainable economic growth depends on open government, the rule of law, transparency, accountability and freedom of expression and information," Mr Sané argued. "Securing civil and political freedoms will be integral to South Korea's economic recovery and long term sustainable development."

.../ENDS

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10 September 1998

News Service 176/98

HUMAN RIGHTS CRUCIAL TO LONG TERM DEVELOPMENT IN SOUTH KOREA

**Press conference statement by
Pierre Sané, Secretary General, Amnesty International**

**Press Centre, Seoul, Republic of Korea
10 September 1998
(Check against delivery)**

This year sees the coincidence of two important anniversaries – the 50th anniversary of the founding of the Republic of Korea and the 50th anniversary of the proclamation of the Universal Declaration of Human Rights (UDHR).

Since 1948, South Korea has undergone remarkable economic development, which has transformed the lives of a generation of its people. It has made the transition from authoritarian rule to a more democratic and open society. But the recent economic crisis and ongoing human rights problems should be a reminder to all South Koreans that there is no room for complacency.

Yesterday, I was pleased to meet with President Kim Dae-jung, who lent his support to a worldwide campaign Amnesty International has organised to mark the 50th anniversary of the Universal Declaration of Human Rights.

His pledge, along with those of many world leaders and statespeople and millions of people from all regions and all walks of life, will be presented to UN Secretary General Kofi Annan on Human Rights Day, 10 December 1998.

I discussed with President Kim the positive role South Korea could play in support of human rights internationally, shown by its recent work for the International Criminal Court. He agreed would personally support AI's human rights work in other countries, including through human rights initiatives in the region. We discussed specifically Myanmar and East Timor and will be forwarding to him other cases of concern.

I reminded President Kim, however, that human rights protection starts at home.

It seemed to me that he has lost touch with the true reality of the human rights situation in South Korea. His government's failure to stop abuse of the National Security Law, to release political prisoners and to engage in meaningful dialogue with local human rights organisations is fast eroding confidence and trust in his reform program. We urged President Kim to meet with local human rights organisations and victims immediately to hear their concerns.

While the world understands South Korea's special history and current economic predicament, but the time for excuses has come to an end. It is a complete aberration that an open and developed society of this kind should continue to jail people for their peaceful political activities and beliefs.

Some of these political prisoners are elderly and sick, pose no conceivable threat to South Korea's laws or security, and are now held solely because they refuse to sign an unacceptable legal pledge. Their continued imprisonment is a black mark on South Korea's conscience international reputation.

While Amnesty International has welcomed the release of many political prisoners in amnesties over the past few months, more than 400 remain in jail, most under the National Security Law. President Kim said he would consider our special humanitarian appeal for the release of long term prisoners, many of whom are elderly and sick.

South Korea is not only keeping prisoners of conscience in jail -- each year it is creating more. Since President Kim came to office in February, there have been more than 240 arrests under the National Security Law, most under the vague provisions of Article 7 for peaceful political activities.

They include students, young activists, publishers, workers and others accused of forming "left-wing" organizations, and distributing socialist pamphlets or books, in print or on the Internet. Contacts with North Korea have also resulted in arrests -- in spite of the government's "sunshine policy" which encourages such contacts.

While Amnesty International acknowledges the government's responsibility to maintain security, it has long been concerned that the National Security Law is in breach of South Korea's international human rights obligations.

The National Security Law seems out of control. The government says it will not abuse the law, and yet it continues to be used widely and arbitrarily. The government says the courts provide a safeguard against abuse, but acquittals are rare and have even been overturned by the Supreme Court.

The best guarantee of South Korea's security is to strengthen the foundations of its open political system. Security laws can be **more**, not less effective if they include strong safeguards for human rights. President Kim said that the law would be revised in the not-too-distant future. The question is how many more people will go to jail before then.

Reforms are also needed to ensure that torture and ill-treatment are no longer tolerated and human rights should be included in training for all law enforcement officials. Prison conditions should be brought into conformity with international standards.

The establishment of a national human rights commission, as promised by the government, should improve human rights protection. But the government should not prepare this legislation behind closed doors and must start open public consultation immediately, including with human rights organisations, if the commission is to be effective and enjoy public confidence.

South Korea stands out against the worldwide trend towards abolition of the death penalty. Last year alone, 23 prisoners were executed on the one day, putting South Korea in the big league of executors worldwide.

Yesterday, I urged President Kim, as a former death row prisoner on whose behalf many people from Amnesty International and around the world had appealed for clemency, to commute all death sentences and take steps to abolish the death penalty during his term in office.

Of course this is a very difficult and challenging time for South Korea as it grapples with the effects of severe economic crisis. But human rights require special protection at a time such as this.

Economic difficulties are creating a new layer of human rights violations. Basic economic rights such as employment are being denied to several million people in South Korea. Women and vulnerable groups such as migrant workers are often the worst affected. Trade unionists are again being arrested merely for taking legitimate strike action. The peaceful expression of popular discontent is being curtailed through draconian measures such as the National Security Law.

The economic crisis that has beset the region has showed that sustainable economic growth depends on open government, the rule of law, transparency, accountability and freedom of expression and information.

The UDHR makes clear, and President Kim himself has publicly recognised, that *all* human rights are of equal importance --economic, social, civil and political rights. Securing all these rights will be integral to South Korea's economic recovery and long term sustainable development.

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Asian Leaders sign up for human rights

South Korean President Kim Dae-jung today joined more than six million others around the world as he pledged to support the Universal Declaration of Human Rights (UDHR), as part of a global campaign organized by Amnesty International.

The campaign celebrates the 50th anniversary of the UDHR, which takes place on 10 December 1998, when President Kim's signature, along with millions of others in the "world's biggest book", will be officially presented to UN Secretary General Kofi Annan in Paris.

In signing the pledge, President Kim expressed his hope that this anniversary year would see dramatic improvements in human rights world-wide.

President Kim Dae-jung joined Amnesty International in inviting other Asian leaders to join in the campaign. He said: "The promotion of human rights is a goal that all leaders should work together to achieve. We must all offer maximum cooperation to Amnesty International in achieving this."

Amnesty International Secretary General Pierre Sané, who is on an official visit to South Korea said: "As a former prisoner of conscience facing a death sentence, who was freed with the help of human rights activists around the world, President Kim's personal experience demonstrates the importance of international human rights protection."

Secretary General Pierre Sané will be writing to other Asian leaders asking them to sign the pledge as well. "We want all leaders to sign this pledge to publicly demonstrate their personal commitment to working for a world without cruelty and injustice, illiteracy and hunger," Mr Sané said.

At least six million people from more than 86 countries around the world have so far pledged their support, and Mr Sané said that Amnesty International had set a target of more than 10 million signatures by the anniversary itself.

Other world leaders who have pledged their support include: US President Bill Clinton; UK Prime Minister Tony Blair; Ugandan President Yoweri Museveni; Venezuelan President Rafael Caldera; Czech president Vaclav Havel; Israeli President Ezer Weizmann; and Moroccan Prime Minister Abderrahmane Youssoufi.

Leaders from Asia who have signed include: Thai Prime Minister Khun Chuan Leekpai; Australian Prime Minister John Howard; Mongolian President N. Bagabandi and President Lee Teng-hui of Taiwan.

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REPUBLIC OF KOREA (SOUTH KOREA)

Summary of Amnesty International's Concerns and Recommendations to the Government

September 1998

SUMMARY

AI INDEX: ASA 25/27/98

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In February 1998 President Kim Dae-jung took office promising to respect and enhance human rights in South Korea. Over 150 political prisoners were released after prisoner amnesties in March and August, and in July the government announced that ideological "conversion" (or forcing political prisoners to renounce leftist views) would be abolished. President Kim Dae-jung said he would participate in international efforts to protect human rights. Amnesty International welcomes the new President's commitment to further improve human rights protection but believes that legal and institutional reforms are urgently needed in order to transform this commitment into reality.

In many respects, the human rights situation remains unchanged with some rights even being eroded as a result of South Korea's current economic crisis. Over 180 people are reported to have been arrested under the National Security Law between February and August 1998, most held for the non-violent exercise of their rights to freedom of expression and association. Trade unionists have been arrested and harassed for exercising their basic labour rights. Criminal suspects and prisoners have continued to face ill-treatment by law enforcement officials and further steps are needed to protect women and vulnerable groups such as migrant workers and asylum-seekers. Amnesty International welcomes proposals to establish a national human rights commission but is disappointed that the government has taken no steps to amend the National Security Law.

The government has stated that its top priority is to tackle the economic crisis which has beset South Korea since late 1997. Amnesty International does not dispute the importance of tackling the crisis, but hopes it will not divert government attention and resources away from human rights protection. The crisis has itself created new human rights violations, depriving many people of their livelihood and demonstrating a need for better institutional protection of *all* rights, including civil, political, economic and social rights. The crisis has also shown the inter-dependence of all basic rights. Economic hardship has led to public protests which have in turn led to a government crackdown and arrests in violation of the rights to freedom of expression and association. President Kim Dae-jung

has himself argued that the strengthening of human rights protection and democratic institutions will be critical to South Korea's economic recovery and long-term development

The most pressing concerns which Amnesty International is urging the South Korean Government to address quickly and effectively include:

Amendment of the National Security Law and release of political prisoners

Amnesty International calls for amendment of the National Security Law, further prisoner releases and a halt to the current high numbers of arrests.

1998 marks the 50th anniversary of the National Security Law, used throughout the years to imprison people for non-violent political activities. The National Security Law provides long prison sentences or the death penalty for "anti-state" and "espionage" activities but these terms are not clearly defined and have often been used to imprison people for the exercise of their basic rights.

Amnesty International acknowledges that every government has a right to counter real threats to its security, but they should do so in ways that are consistent with international human rights standards. The UN Human Rights Committee and other specialist UN bodies have criticised the National Security Law and called for its reform in line with South Korea's international treaty obligations.

Amnesty International welcomed the release of 94 political prisoners in a prisoner amnesty on 15 August 1998 but fears that those released will quickly be replaced with new prisoners. It was dismayed that the amnesty omitted those prisoners who refused to write a "law abiding oath", agreeing to respect South Korean law (including the National Security Law). At the time of writing some 240 prisoners were reportedly still held under the National Security Law including 17 men who have been in prison for between 28 and 40 years.

In accordance with the Security Surveillance Law, some of those released in the prisoner amnesty will have to endure continued surveillance of their activities, causing them further stress. They will be told to report their activities regularly to the police and will face arbitrary restrictions on their activities, such as an ban on meeting other former prisoners, participating in certain meetings and demonstrations or travelling abroad.

Most arrests today are under Article 7 of the National Security Law which provides sentences of up to seven years' imprisonment for "praising" and "benefitting" the enemy (generally meaning North Korea). Over 180 students, activists, trade unionists, publishers and others are reported to have been arrested under Article 7 of the law between February, when the new administration took office, and August. Most are believed to have been detained for belonging to student or activist groups with left-wing views and principles.

In July, 25 trade union leaders, youth and democracy activists were arrested under the National Security Law for belonging to the "anti-imperialist youth league" group and inciting strike action. The arrests took place at the time of a general strike and appeared to be an attempt to link worker unrest to alleged "pro-North Korean" activities.

The rights of workers and trade unionists

Workers in South Korea continue to be denied their basic labour rights in several areas. Amnesty International's main concern since the new government took office has focused on threats, harassment and arrests of trade union leaders who organized strike action and demonstrations to protest against restructuring, leading to mass lay-offs in the context of South Korea's current economic crisis. There is little social security protection in South Korea.

After a two-day general strike from 14 to 16 July 1998 at least six trade union leaders were arrested, including Koh Yong-ju, Secretary General of the Korean Confederation of Trade Unions (KCTU), and over 100 others were issued with warrants of arrest for calling a general strike, defined as "illegal", and organizing demonstrations. Between May and August at least 57 trade unionists were arrested for involvement in demonstrations and strike action. In August the KCTU lodged a formal complaint with the International Labour Organization (ILO), relating to the arrests of 57 trade unionists and discrimination against trade unionists at Hyundai Motor Company.

Protection from torture and cruel, inhuman and degrading treatment

Although there are better safeguards than in past decades, criminal and political suspects continue to be ill-treated during police interrogation, demonstrating a need for better protection for detainees. Political prisoners are often detained without a warrant, deprived of sleep for several days, questioned throughout the night, threatened and sometimes beaten. At least three criminal suspects are reported to have died in custody between late 1997 and the early months of 1998 as a possible result of ill-treatment.

Conditions of imprisonment fall below international standards in several respects - for example medical provision is inadequate and there appears to be no provision for the special health needs of women. Many political prisoners are held in solitary confinement for long periods (sometimes years), with little or no contact with other prisoners and the outside world. Prisoners who break the rules are reported to have been handcuffed and placed in solitary confinement for long periods. Although it is possible to lodge a formal complaint of ill-treatment, such complaints are investigated internally and prosecutions are rare. It is difficult for victims to obtain justice.

The Agency for National Security Planning (ANSP), responsible for many past violations, has been renamed and downsized in an attempt to check its abuse of power but the agency's basic structure appears to remain unreformed and Amnesty International is concerned that it still has the potential to violate the rights of detainees

There has been no adequate and independent investigation into past human rights violations in South Korea, including cases of torture, unfair trial and suspicious deaths committed under past military governments, in power until the late 1980s. This reinforces a culture of impunity which contributes to ongoing violations of human rights.

The death penalty

Amnesty International has appealed to President Kim Dae-jung, as a person who was once under sentence of death, to take steps to abolish the death penalty during his term in office. The last executions in South Korea took place when 23 men and women were hanged on one day in December 1997 without warning. Some 40 prisoners, convicted of murder, are

now believed to be under sentence of death and Amnesty International is concerned that rising crime rates linked to the economic crisis may lead to further death sentences being imposed.

Protection of vulnerable groups

Amnesty International urges the government to protect and promote the rights of women and vulnerable groups including migrant workers and asylum-seekers, who have been hit particularly hard by the economic crisis. These three groups also face special problems in the justice system. For example, discrimination against women in the workplace and society at large is reflected in the poor treatment they receive in the prison system. Migrant workers forced to leave the country have been detained and ill-treated by immigration officials. Because of weaknesses in South Korea's refugee determination procedures, Amnesty International fears that people may be forced to return to countries where they face serious human rights violations.

A human rights commission

Amnesty International welcomes the government's plan to establish a national human rights commission. In May it submitted to the government a series of recommendations for the establishment and functioning of national human rights commissions, based on international human rights standards. According to these recommendations, the commission's mandate should be as wide as possible, reflecting the full range of human rights, and it should be independent, adequately resourced and empowered.

Amnesty International is concerned about the lack of transparency surrounding the establishment of the commission. It urges the government to ensure that the proposed commission is established in accordance with international standards, including those proposed by Amnesty International. It also calls on the government to provide an open forum for debate about the proposed commission and to seek the opinions of human rights experts in South Korea, including human rights organizations, lawyers, academics and other professionals.

Key recommendations to the South Korean Government

- Amend the National Security Law in accordance with international standards so that the rights to freedom of expression and association are protected.
- Release all prisoners held for the non-violent exercise of their rights to freedom of expression and association and political prisoners sentenced in unfair trials under previous governments.
- Allow trade unionists and workers to organize legitimate strike action without harassment or arrest; release trade unionists arrested for calling strike action in May and July; make a commitment to protecting freedom of association by ratifying ILO Convention 87.
- Implement practical measures to protect detainees from police ill-treatment; ensure that conditions of imprisonment conform to international standards; introduce structural reforms to ensure the Agency for National Security Planning cannot abuse fundamental rights.

- Ensure that all reported cases of torture, ill-treatment and death in custody are investigated and those responsible brought to justice.
- Commute all death sentences and take steps to abolish the death penalty in law.
- Protect and promote the rights of women and vulnerable groups, including migrant workers and asylum-seekers.
- Take steps to ensure that South Korea's refugee determination procedures are in conformity with its obligations under international law.
- Make human rights education a priority, both for law-enforcement officials and other sectors of society.
- Ensure that the proposed national human rights commission is established in accordance with international and Amnesty International standards; initiate a public consultation on the proposed commission, which should include human rights groups and others with expertise.
- Implement fully the numerous recommendations made in previous years by UN bodies, including the UN Human Rights Committee, the UN Committee against Torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

KEYWORDS:

This report summarizes a 25-page document (10,100 words), : *Republic of Korea (South Korea): Summary of Amnesty International's Concerns and Recommendations to the Government* (AI Index: ASA 25/27/98) issued by Amnesty International in September 1998. Anyone wishing further details or to take action on this issue should consult the full document.

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**REPUBLIC OF KOREA
(SOUTH KOREA)**

**Summary of Amnesty
International's Concerns and
Recommendations to the
Government**



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

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REPUBLIC OF KOREA (SOUTH KOREA)

Summary of Amnesty International's Concerns and Recommendations to the Government

1) INTRODUCTION

In February 1998 President Kim Dae-jung, a former political prisoner and human rights campaigner, took office promising to respect and enhance human rights in South Korea.

After six months in office, there has been some progress. President Kim Dae-jung's government has taken steps to establish a national human rights commission and has committed itself to improving human rights education. Over 150 political prisoners were released after prisoner amnesties in March and August, and in July the government announced that political prisoners would no longer be forced to change their political views (known as ideological "conversion") to qualify for early release. The government took steps to facilitate civilian contacts with North Korea, which included plans for uniting divided families. The President has publicly stated his commitment to participate in international efforts to protect human rights.

But in many respects, the human rights situation remains unchanged and some rights have been eroded as a result of the economic crisis. Over 180 people are reported to have been arrested under the National Security Law between February and August 1998, most of whom were held for the non-violent exercise of their rights to freedom of expression and association. During these months trade unionists have been arrested and harassed for exercising their basic labour rights. Criminal suspects and prisoners have continued to face ill-treatment by law enforcement officials and further steps are needed to protect vulnerable groups such as migrant workers, asylum-seekers and women. The lack of structural and legislative human rights reform is disappointing, although Amnesty International welcomes proposals to establish a national human rights commission.

The government has stated that its top priority is to tackle the economic crisis which has beset South Korea since late 1997. Amnesty International does not dispute the importance of tackling the crisis, but hopes it will not divert government attention and resources away from human rights protection. The crisis has itself created new human rights violations, depriving many people of their livelihood and demonstrating a need for better institutional protection of *all* rights, including civil, political, economic and social rights. The crisis has also shown the inter-dependence of all basic rights. Economic hardship has led to public protests which have in turn led to a government crackdown and arrests in violation of the rights to freedom of expression and association.

Amnesty International welcomes President Kim Dae-jung's commitment to human rights protection and hopes his government will now initiate legal and institutional reforms to put this commitment into practice. President Kim Dae-jung has himself publicly recognised that the strengthening of human rights protection and democratic institutions will be critical to South Korea's economic recovery and long-term development. In June he stated: *"As painful as the current situation is, we wish to use it as much as we can to push through economic reforms and to make our democracy stronger so that we will be a model for the Asian region, a model that says that you have to promote democracy and the free market in parallel, and that the future of Asia lies in this model"*

This document summarizes Amnesty International's main concerns regarding human rights protection and promotion in South Korea and makes some recommendations to the government. It will be presented to the Korean authorities by Amnesty International's Secretary General, Pierre Sané, during a visit to South Korea from 9 to 12 September 1998.

Amnesty International does not compare the human rights records of different countries (including those of North and South Korea) and is not singling out South Korea for special criticism. These recommendations are made in the spirit of cooperation and a genuine desire to encourage better human rights protection and awareness in South Korea.

Amnesty International works to promote all the human rights contained in the Universal Declaration of Human Rights and other international standards, including civil, political, economic, social and cultural rights. Throughout 1998 it has been undertaking a worldwide campaign to mark the 50th anniversary of the Universal Declaration of Human Rights. Amnesty International calls on all governments to respect the universality and indivisibility of the rights contained in these standards. In addition to this promotional work, Amnesty International campaigns on individual cases of political prisoners who are held for the non-violent exercise of their rights to freedom of expression and association. It also works for fair trials for political prisoners and against torture, execution and "disappearances" in all cases.

¹New York Times, 6 June 1998

2) THE RIGHTS TO FREEDOM OF EXPRESSION AND ASSOCIATION

a) Summary of concern

The rights to freedom of expression and association remain restricted in South Korea by the National Security Law and other legislation. Amnesty International welcomed the release of over 150 political prisoners in prisoner amnesties in March and August, but after the August amnesty there were still reported to be over 360 political prisoners in South Korea, of whom some 240 were held under the National Security Law. Over 180 students, activists, trade unionists, publishers and others are reported to have been arrested under the National Security Law between February and August 1998, most of whom were held for the non-violent exercise of their rights.

Political prisoners are still subject to surveillance and restrictions on their activities after release. In July the government said that political prisoners would no longer be put under pressure to renounce communist or left-wing views (known as ideological "conversion"). But all political prisoners were told they would have to sign an "oath" agreeing to respect South Korean law (including the National Security Law) in order to qualify for early release. Progress with regard to freedom of association for trade unionists was marred by the arrests between May and August of dozens of trade union leaders, held for calling strike action and demonstrations in protest against government economic policies and company proposals for mass layoffs.

b) The National Security Law

1998 marks the 50th anniversary of the National Security Law, a piece of legislation which has been used throughout the years to imprison people for non-violent political activities. The law provides long sentences or the death penalty for "anti-state" and "espionage" activities but these terms are not clearly defined and have often been used to imprison people for the exercise of their basic rights. Most arrests today are under Article 7 of the law which provides sentences of up to seven years' imprisonment for "praising" and "benefitting" the enemy (generally meaning North Korea).

In August 1998 there were reported to be at least 240 people held under the National Security Law, ranging from student activists held for a few months to long-term prisoners held for over 30 years. Amnesty International believes that many of these prisoners are held for non-violent political activities or were convicted unfairly under previous governments when there were fewer human rights safeguards than there are today.

Many long-term political prisoners were released in the August prisoner amnesty, but some were excluded because they refused to sign an "oath" agreeing to respect South

Korean law, including the National Security Law. Long-term prisoners Cho Sang-nok and Kang Yong-ju who were convicted under the National Security Law in 1978 and 1985 respectively, were not released. After his arrest in 1978 Cho Sang-nok was held for 17 days without access to a lawyer and was sentenced to life imprisonment on the basis of a confession extracted under torture. He is now believed to be in poor health. Kang Yong-ju was held incommunicado for 36 days after his arrest in July 1985, during which time he was tortured. He was convicted of passing on "state secrets" - all of which were publicly available information - and in a trial which did not conform to international standards. Both prisoners are reportedly held in solitary confinement. Amnesty International calls for their release.

It also calls for the release of Ahn Jae-ku, aged 65, whose life sentence on spying charges was reduced in the amnesty, and Yu Rak-jin, aged 70, who is serving an eight-year prison term. Both men were arrested in 1994 for forming an "anti-state" organization; Ahn Jae-ku is in poor health.

Seventeen long-term political prisoners held for between 28 and 40 years should also be released. These prisoners were arrested during the 1950s and 1960s, charged with "espionage" for North Korea and sentenced to life imprisonment. Amnesty International is concerned at reports that these prisoners did not have a fair trial and about their treatment in prison. Many are reported to have been tortured after arrest, denied access to legal counsel and convicted in trials which fell short of international standards. Until the early 1980s these prisoners were tortured in an effort to force them to change their political views and they have been consistently denied release on parole because of their refusal to do so.

Over 180 people including students, activists, publishers and trade unionists, are reported to have been arrested under the National Security Law between February and August 1998. Almost all were arrested under Article 7 of the law and accused of belonging to student or activist groups with left-wing views and principles. They include people accused of publishing pro-North Korean material, in print and on the Internet and groups involved in human rights work such as welfare and educational activities and the promotion of workers' rights. Amnesty International calls for the release of those held for non-violent activities.

Nine members of the Anyang Democratic Youth Federation, including its leader Kim Yong-bak, were arrested in June and charged with forming an organization which "benefits" North Korea. The group had reportedly ran literacy classes, held counselling sessions and helped the elderly. At the time of writing their trial was in progress. In May, Yun Sun-jae and Yun Su-keun, leaders of the Kwanak Youth Workers' group were sentenced to two years' and one-and-a-half years' imprisonment respectively for "praising" and "benefitting" North Korea. Defence lawyers argued that the group did not advocate a

particular ideological line but had merely criticised capitalism. According to human rights groups, the Kwanak Youth Group had worked to provide political and cultural education for young workers. Their sentences were suspended after an appeal to the High Court in August and they were released.

The National Security Law has been used frequently as a form of censorship, to imprison people for publishing and distributing material deemed to "benefit" North Korea. Publisher Lee Sang-kwan was arrested in April 1998 for publishing two books, about the lives of women in North Korea and about long-term political prisoners in South Korea. The two books were published over a year ago and are apparently still available in bookshops. He was released after trial. Student Ha Young-joon was arrested in April for posting a socialist text on the Internet and was sentenced to one year's imprisonment in early August. Human rights activist Suh Jun-sik, arrested in November 1997 for screening a film alleged to "benefit" North Korea at a human rights film festival, was released on bail in February 1998 but his trial continues. In March 1998 the Supreme Court overturned a lower court verdict and ruled that the oil painting *Monaegi* (planting rice), by the *Minjung* artist Shin Hak-chol, violated the National Security Law because it depicted North Korea in a positive light (the artist is not currently detained).

In July it appeared that the National Security Law was being used to crack down on trade union activities. Twenty-five activists from a range of groups in three cities were arrested on 22 July and accused of forming the "the anti-imperialist youth league" and inciting labour unrest. Those arrested were trade union leaders, and the leaders of womens' groups, youth groups and workers' associations. They included Kim Chang-hyon, a local council leader in Ulsan; Kim Myong-ho, Policy Director of the Korean Metalworkers Federation branch in Ulsan and Lee Eun-mi, Chairperson of the Ulsan Womens' Association. The arrests came as the authorities warned of a crackdown on strikes and appeared to be an attempt by the authorities to link worker unrest with alleged "pro-North Korean activities". By the end of August, 10 of the detainees were reported to have been released but 15 others were still being questioned by prosecutors on suspicion of establishing an "anti-state" organization under Article 3 of the National Security Law.

The National Security Law is applied in an arbitrary fashion - while certain left-wing political works are permitted for academic study, the same works often become a criminal offence in the hands of a student or activist with perceived "pro-North Korean" leanings. Current use of the National Security Law appears to contradict the government's new "sunshine policy" towards North Korea. This new policy includes an emphasis on greater business and civilian links with North Korea, including family contacts, tourist trips and the importation of North Korean literature. But while some people are permitted such contacts, others continue to be arrested for merely discussing reunification, publishing

socialist or "pro-North Korean" material or having views considered similar to those of the North Korean Government.

Two further arrests in late August demonstrate this arbitrary use of the law and its inconsistency with the "sunshine policy". Reverend Kang Hee-nam, aged 78, a leader of *Pomminnyon* (Pan-National Alliance for Reunification of Korea) was reported to have been arrested on 20 August merely for leading a reunification rally. *Pomminnyon* has frequently been accused by the authorities of "benefitting" North Korea and having unauthorized contacts with North Koreans. Father Moon Kyu-hyun and eight other Catholic priests were detained for questioning on 19 August when they returned from a visit to North Korea. Their visit had been authorised by the authorities but prosecutors stated that Father Moon Kyu-hyun had violated the National Security Law during his visit by attending a reunification rally. He was arrested under the National Security Law on 27 August.

Amnesty International acknowledges that every government has a right to maintain state security and to have security legislation. It also appreciates that South Korea has special security concerns with regard to North Korea. But this should not be an excuse or justification for denying people the right to express different political views, in accordance with international human rights standards. The UN Human Rights Committee has also pointed out that the National Security Law is not in conformity with international standards (see recommendations at the end of this section).

Many South Koreans are believed to oppose amendment or abolition of the National Security Law, but Amnesty International believes that public opinion has been shaped by past governments who have used the threat from North Korea as an excuse to crack down on civil unrest. There is also resistance to reform from law-enforcement authorities and others in positions of authority who have become accustomed to using the law to suppress political activism, with little regard for human rights. In previous years, while in opposition, Kim Dae-jung had called for the National Security Law to be abolished and replaced by a "law of democratic order" but this idea has not been raised publicly since he took office. Amnesty International now urges the new administration not to resort to the same tactics and excuses as past governments but to take bold and decisive action to amend the National Security Law, leading public opinion rather than following it.

c) The use of ideological "conversion" / law-abiding oath

Ideological "conversion" has been used since the late 1950s in South Korea as a means of forcing certain political prisoners to change their political views. Until the early 1980s some political prisoners were tortured in order to force them to make a statement denouncing their alleged communist or left-wing views. Those who refused were considered ineligible for release on parole. For those prisoners serving life sentences, this amounted to

imprisonment for 30 or 40 years. These prisoners were only released on humanitarian grounds when they became very elderly and/or sick.

Since the early 1980s, torture has not been used as a form of coercion but prisoners who refused to "convert" have still been considered ineligible for release on parole and have been denied certain rights and privileges granted to other prisoners. Somewhat weaker "conversion" statements were accepted in recent years but until recently the requirement was maintained.

On 1 July 1998, however, the Minister of Justice stated publicly that the requirement to "convert" would be ended. Amnesty International welcomed this announcement. For many years the organization has called for an end to "conversion" statements, considering they were used arbitrarily and in violation of the rights of prisoners to have their own political opinions, whether or not these were in support of communist or left-wing ideology.

But the government also stated that to qualify for release in a prisoner amnesty in August, all political prisoners would be required to sign a statement agreeing to respect the law and not to use violence. While some prisoners agreed to sign this "law-abiding oath", other prisoners refused. Some political prisoners viewed the new oath as a disguised form of ideological "conversion", particularly the group of very long-term political prisoners who have resisted pressure to "convert" for several decades. Furthermore, the requirement to sign an oath agreeing to respect the National Security Law was not acceptable to many of those imprisoned under this law in violation of their rights to freedom of expression and association. At least 100 political prisoners reportedly refused to sign the oath and were consequently not released in the August prisoner amnesty.

Amnesty International urges the government to make a clear commitment not to make the release of political prisoners dependent upon an oath/statement which requires them to either change their political views and inner convictions, or to respect legislation which violates their fundamental rights. Amnesty International continues to call for the unconditional release of political prisoners held for the non-violent exercise of their rights to freedom of expression and association and of long-term political prisoners convicted after unfair trials.

d) The Security Surveillance Law

The Security Surveillance Law, enacted in 1989, is used to track the activities of certain political prisoners after their release in order to "prevent the danger of their recommitting crime and promote their return to normal sound social life and thereby to maintain national

*security and social peace*². The law applies to certain prisoners who were convicted under the National Security Law on charges of "espionage" and "anti-state" activities. Human rights groups estimate that hundreds of former political prisoners may be subject to this law, but the exact number is not publicly available.

Under the terms of the Security Surveillance Law, released prisoners are required to report their activities regularly to the police. They also face arbitrary restrictions on their activities, such as a ban on meeting other former prisoners subject to the same law or from participating in certain meetings and demonstrations. Former prisoners have told Amnesty International that their neighbours and work colleagues were asked by the police to report on them and they receive regular phone calls to check on their whereabouts. Their freedom of movement is restricted and some have been denied passports to travel abroad.

Many former prisoners refuse to comply with these requirements and 10 are currently reported to be subject to court proceedings for violating the terms of the Security Surveillance Law. At least two people have been found guilty and fined since the beginning of 1998. The maximum penalty is two years' imprisonment.

Amnesty International does not dispute the need to maintain state security but believes the Security Surveillance Law is applied in an arbitrary and secretive way to threaten and harass former prisoners of conscience and long-term political prisoners who pose no security threat. They include former prisoners who are elderly and suffering from the after-effects of long-term imprisonment and torture. The requirements force them to live under considerable pressure with the constant threat of re-arrest and imprisonment.

e) The rights of workers and trade unionists

On 14 February 1998, in response to South Korea's current economic crisis, the National Assembly adopted amendments to South Korea's labour legislation with far-reaching consequences. The legislation paved the way for mass redundancies, leading to high unemployment in a country with very little social security provision. The government argued that the new legislation was necessary to fulfil the conditions for restructuring and labour market flexibility laid down by the IMF when it loaned US\$57 billion to Korea in late December 1997.

The amended legislation also included provisions granting greater, but not complete, freedom of association for trade unionists. It stipulated that teachers will be permitted to form trade unions from July 1999, (while denying them the right to take collective action), that trade unions will be allowed to participate in political activities from

²Security Surveillance Law, Article 1.

early 1998 and that white collar civil servants will be allowed to form a "consultative body" (as opposed to a trade union) from 1999. Other restrictions on freedom of association continue - for example, multiple trade unions at the enterprise level will be prohibited until 2002; the Korean Confederation of Trade Unions (KCTU), with a membership of over 500,000, is still not legally registered. South Korea has not yet ratified International Labour Organization (ILO) Convention 87.

Amnesty International's main concern since the new government took office has focused on threats, harassment and arrests of trade union leaders who organized strike action and demonstrations to protect their basic rights. The trade unions were protesting against restructuring leading to mass redundancies, inadequate social welfare provision, the failure to prosecute employers engaging in illegal layoffs and the lack of effective consultation between the government, employers and trade unions. Thousands of workers have lost their jobs in South Korea since the start of the economic crisis, few of whom are covered by unemployment insurance.

Between early May and mid-August 1998 at least 57 trade unionists were arrested for involvement in a May Day rally, two general strikes and other demonstrations linked to the strike action. They included trade union leaders charged with calling "illegal" strike action and "obstructing company business". A number of trade union members were charged for acts of violence which occurred during some strikes and demonstrations. At least 200 other trade unionists had warrants of arrest issued against them. In August the KCTU lodged a formal complaint with the ILO, relating to the arrests of trade unionists and discrimination against trade unionists at Hyundai Motor Company.

The two general strikes took place in May and July 1998. When the KCTU called the first two-day general strike, on 27 May, the government responded by declaring the strike "illegal" and arrest warrants were issued against 143 trade unionists on charges of calling "illegal" strike action and "interfering with company business". After a second general strike from 14 to 16 July a number of trade union leaders were arrested, including KCTU Secretary General Koh Yong-ju, and Choi Yong-kuk, Chairman of the Pusan-Yangsan Regional Council of the Korean Metal Workers Federation, and arrest warrants were issued against over 100 others. However, in a more positive move in August, criminal prosecutions against members of Hyundai Motor Union were reportedly dropped following intervention by mediators from the National Congress for New Politics, ending a month-long strike at Hyundai Motor Company.

Amnesty International called for the release of trade union leaders detained for organizing strike action in May and July. Before the strike action government officials had issued warnings of a crackdown using the riot police and court action, but the trade union

leadership had made efforts to carry out the strike action in a legitimate manner and called for the strike and demonstrations to be conducted peacefully.

Amnesty International has also expressed its concern to the government about the use of the National Security Law to arrest 25 trade union leaders, youth and democracy activists on 22 July, just after the general strike (see section (b) above on the National Security Law). This appeared to be an attempt to link trade union leaders with "pro-North Korean" activities. Using the National Security Law to stifle peaceful political and industrial protest is a method of repression best identified with past authoritarian governments and it is worrying to see this pattern re-emerge under the new government in South Korea.

f) Recommendations to the government

- The National Security Law should be amended in accordance with international standards so that the rights to freedom of expression and association are protected, in accordance with international standards.

- Pending legislative amendment, use of the National Security Law should be minimized. In particular, there should be a halt to the current high numbers of arrests for non-violent activities under Article 7 of the National Security Law. The law should not be used to crack down on peaceful political and industrial protest in the context of the current economic crisis.

- The government should ensure that complaints about the abuse of the National Security Law are subjected to independent scrutiny, including through the establishment of a national human rights commission with appropriate powers (see point 6(c) below).

- The government should release all prisoners of conscience held under the National Security Law and other legislation for the non-violent exercise of their rights to freedom of expression and association. The government should release those remaining long-term political prisoners who were convicted unfairly under past governments.

- No political prisoners should be refused early release solely on account of their refusal to sign an oath/statement which requires them to either change their political views and inner convictions or to respect legislation which violates their fundamental rights.

- The arbitrary use of the Security Surveillance Law to harass and restrict the activities of former prisoners of conscience and long-term political prisoners who were convicted unfairly is a violation of their basic rights and should be halted.

- South Korea should ratify ILO Convention 87 and take steps to ensure that trade unionists are able to exercise their rights to freedom of association, in accordance with international labour standards.

- Trade unionists and workers should be permitted to organize and take part in legitimate and non-violent strike action without harassment or arrest, in accordance with their rights under international human rights and labour standards. The trade union leaders arrested for calling strike action in May and July should be released.

- South Korea should withdraw its reservation in respect of Article 22 of the International Covenant on Civil and Political Rights (relating to freedom of association).

- The government should take steps to implement the recommendations of international bodies, including the following:

Comments of the Human Rights Committee on the initial report of the Republic of Korea (July 1992):

"... the Committee recommends that the State party intensify its efforts to bring its legislation more in line with the provisions of the Covenant. To that end, a serious attempt ought to be made to phase out the National Security Law which the Committee perceives as a major obstacle to the full realization of the rights enshrined in the Covenant and, in the meantime, not to derogate from certain basic rights".

Recommendations from the Report on the mission to the Republic of Korea of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (November 1995):

a) The Government of the Republic of Korea is strongly encouraged to repeal the National Security Law and to consider other means, in accordance with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to protect its national security.

c) All prisoners who are held for their exercise of the right to freedom of opinion and expression should be released unconditionally. The cases of prisoners who have been tried under previous governments should be reviewed, due account being taken of obligations arising under the International Covenant on Civil and Political Rights. In this respect, the obligation to protect the right to freedom of opinion and expression cannot be seen in isolation from other obligations arising under the Covenant, notably concerning the right to a fair trial.

2) PROTECTION FROM TORTURE AND CRUEL, INHUMAN AND DEGRADING TREATMENT

a) Summary of concern

Government officials have repeatedly told Amnesty International that torture and ill-treatment will not be tolerated, but the organization believes these practices will not be eradicated without the implementation of practical safeguards combined with a comprehensive human rights education program for law enforcement officials.

Although there is better protection than in past decades, criminal and political suspects continue to be ill-treated during police interrogation, demonstrating a need for better safeguards to protect the rights of detainees. At least three people are feared to have died in custody between December 1997 and February 1998 after reported ill-treatment. Conditions of imprisonment fall below international standards in several respects, including the provision of medical care. The Agency for National Security Planning (ANSP) has been renamed and downsized in an attempt to check its abuse of power but the agency's basic structure remains unreformed and Amnesty International is concerned that it still has the potential to violate the rights of detainees.

b) Ill-treatment by police and other law-enforcement officials

Reports from political prisoners detained by the police indicate a pattern of ill-treatment where detainees are deprived of sleep for several days, questioned throughout the night, threatened and sometimes beaten. There is still a pattern of abuse in which suspects are detained without an arrest warrant and are not allowed prompt communication with their family and/or colleagues. This results in many detainees being held incommunicado for short periods after their arrest, when they are vulnerable to police ill-treatment.

Amnesty International is also concerned at reports that ordinary criminal suspects have been ill-treated. In June 1998 the organization called for an investigation into three deaths in custody, believed to be the result of ill-treatment at the hands of police and detention centre officials. The victims died between December 1997 and February 1998 after they had been detained at Yongsan police station, Songdong Detention Centre and Youngdungpo Detention Centre, all in Seoul. The organization received no response from the government to its concern about these cases.

Detainees may be held for up to 30 days' questioning by police and prosecution officials before indictment (under some provisions of the National Security Law this may be extended to 50 days). Amnesty International believes this long period of detention for interrogation purposes facilitates the use of ill-treatment to extract confessions. Lawyers are

not permitted to be present during questioning by police or prosecutors. The UN Committee against Torture has also criticised this long period of detention (see point (e) below).

Amnesty International has received recent reports that prisoners in at least four prisons and detention centres have been held in handcuffs and chains and placed in solitary confinement for up to two months as punishment for breaking prison rules. There are also reports of prisoners being held in darkness, denied adequate food and beaten. These incidents, reported to have occurred between October 1997 and the early months of 1998, may demonstrate a wider pattern of abuse in Korean prisons and detention centres. There is no independent inspector of prisons in South Korea.

Any person who believes his or her rights have been violated by law enforcement officials is entitled to lodge a complaint, but in practice it is difficult to do so successfully. Complaints are not the subject of an independent investigation and public prosecutions are rare. Human rights groups report that many victims do not complain, for fear of reprisals or lack of confidence in the system. In recent years some victims have brought civil law suits against the authorities, but these are expensive and hence inaccessible to most people.

Amnesty International acknowledges that the government has a responsibility to maintain order and control violence. However it is concerned that very large numbers of riot policemen are frequently used to quell relatively small demonstrations. Although many demonstrations are peaceful, it believes that the outbreak of violence on some demonstrations might be avoided by a less oppressive police presence. The police response to violence at demonstrations has sometimes appeared to be excessive, resulting in violence and injury to both police and unarmed demonstrators. For example, on 13 August 1998 around 6000 riot police were deployed to break up a student rally with around 2500 participants at Seoul National University. Student leaders had appealed for the right to hold a peaceful rally but do not appear to have been given the opportunity to do so.

c) Conditions of imprisonment

Conditions of imprisonment fall below international standards in several areas. Political prisoners have been held in solitary confinement, with almost no contact with other prisoners or outside visitors, sometimes for a period of many years. Recently released prisoners have told Amnesty International that they were unable to communicate properly after their release as a result of prolonged solitary confinement.

Some long-term political prisoners are reported to be suffering from psychological problems as a result of prolonged isolation. They also suffer from digestive ailments, rheumatism, high blood pressure and other illnesses resulting from long-term imprisonment in poor conditions. Prison cells are unheated in winter and lack air conditioning in the

summer. Prisons are reported to have become overcrowded as a result of higher crime rates in the current economic crisis.

Detainees held in police custody are not routinely given a medical examination after they are taken into custody or examined during the period of their interrogation. Medical facilities in prisons and detention centres are poor. Amnesty International has received many reports of prisoners who have had great difficulty in obtaining appropriate medical treatment for their illnesses and medication and hospital treatment must generally be paid for by prisoners' families. Detainees and prisoners who wish to make a formal complaint of ill-treatment do not usually have access to independent medical advice.

Amnesty International is also concerned about the treatment of women prisoners, who suffer discrimination in a system largely geared towards men. (See 5(d) for information on this concern).

d) The Agency for National Security Planning

Over the years the ANSP has been responsible for some of the most serious human rights violations in South Korea, including torture of political suspects arrested under the National Security Law. Since taking office, the new government has downsized the agency and removed some officials deemed responsible for interfering in politics. In April the government announced that the agency was to be given a new name, the National Intelligence Agency. President Kim Dae-jung stated that it would not be used as a political tool or permitted to carry out human rights violations. These assurances were repeated in June when the Director of the ANSP publicly admitted that the ANSP had committed human rights violations under previous administrations but stated that this would not continue in future.

While welcoming the government's commitment to prevent the ANSP from committing human rights violations, Amnesty International is concerned that the agency still has the practical means to do so. It remains largely unaccountable for its actions and continues to have widespread authority to detain suspects under the National Security Law. To date there has been no independent investigation into past human rights violations committed by the ANSP, including numerous reports of torture and fabricated charges against political prisoners, some of whom remain in prison. Amnesty International does not know of any ANSP officials who have been brought to justice for the infliction of human rights violations.

e) Recommendations to the government

Amnesty International urges the government to initiate a comprehensive human rights education program for law enforcement officials and to take practical steps to eliminate

torture and ill-treatment. The following recommendations are in accordance with international human rights standards:

- When carrying out arrests police officers must ensure that all detainees are able to notify family members or others immediately of their whereabouts. Relatives, lawyers and independent doctors should be able to visit a detainee as soon as possible after he or she is taken into custody.
- Legislation which permits suspects to be held for 30 or 50 days without charge should be amended. Suspects should either be charged promptly with a recognizable offence or released.
- Conditions of imprisonment should conform to international human rights standards, with particular attention to the provision of medical care and the use of solitary confinement. Instruments of restraint such as handcuffs should not be applied as a punishment and chains should never be used.
- All reports of torture or ill-treatment and deaths in custody should be the subject of an independent investigation. Any official found responsible for human rights violations should be brought to justice and victims should receive fair and adequate compensation.
- Police officers, in carrying out their duty, should apply non-violent means before resorting to the use of force. Whenever the lawful use of force is unavoidable, police officers must exercise restraint and act in proportion to the seriousness of the offence and the legitimate objective to be achieved. Relevant international standards including the *UN Code of Conduct for Law Enforcement Officials* and the *UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* should be widely disseminated and police should receive training in their practical application.
- The government should take practical steps to ensure that the ANSP does not torture or ill-treat suspects held under the National Security Law. An independent body, such as the proposed national human rights commission, should have the competence to investigate complaints against the intelligence agency and other law enforcement personnel.
- South Korea should make a declaration under Article 22 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), recognizing the competence of the UN Committee against Torture to receive individual complaints.
- South Korea should enact legislation to ensure that all provisions of the CAT are incorporated into South Korean law, including Article 4 which states: "Each State Party shall ensure that all acts of torture are offences under its criminal law . . . Each State Party

shall make these offences punishable by appropriate penalties which take into account their grave nature".

•The government should take steps to implement the recommendations of the UN Committee against Torture in November 1996 which included the following points:

"Education of police investigators, public prosecutors, other law enforcement personnel and medical personnel, regarding the prohibition against torture should be fully included in the educational system. . .

"An independent governmental body should take over the inspections of detention centres and places of imprisonment. Public prosecutors, who are also part of the law enforcement personnel, which may itself be subject to investigation of the crime of torture, should not be the main inspection figure".

"The 30 or 50 day maximum period of detention for interrogation purposes in police premises before the subject is charged is too long and should be shortened".

4) THE DEATH PENALTY

a) Summary of concern

On his inauguration, Amnesty International wrote to President Kim Dae-jung urging him to abolish the death penalty during his term of office. As a former political prisoner who lived for four months under sentence of death, President Kim has the moral authority and the experience to take a lead on this issue. There have been no executions since the new President took office but the government has not made public any intention to abolish the death penalty and internationally South Korea has recently taken a stand against abolition. In July 1998 South Korea and several other countries signed a joint statement dissociating themselves from a resolution adopted at the UN Commission on Human Rights³ which called on all states to work towards abolition of the death penalty.

Twenty-three men and women were executed without warning on 30 December 1997. These hangings, the first since 1995, were carried out secretly and without the families or the prisoners themselves receiving advance warning. Ministry of Justice officials were reported to have justified the executions as a means of maintaining social order and reducing the number of prisoners under sentence of death. Some 40 prisoners, convicted of

³Resolution 1998/8

murder, are now believed to be under sentence of death and Amnesty International is concerned that rising crime rates linked to the economic crisis may lead to further death sentences being imposed.

Amnesty International opposes the death penalty in all cases, as a violation of the right to life and the ultimate cruel, inhuman and degrading punishment. Executions are often inflicted on the poorest members of society and those least able to defend themselves. They do not allow for errors of judgement - the execution of an innocent person can never be put right - and UN studies have shown that executions have no greater deterrent effect on crime than life imprisonment.

On 15 January 1998 the European Parliament adopted the following resolution on the executions of 30 December 1997: *"The European parliament condemns the mass execution carried out in late December and calls on the South Korean President and Government to impose an immediate moratorium on executions as a first step towards the complete abolition of the death penalty."*

In August Amnesty International welcomed the commutation of death sentences imposed on Mohammad Ajaz and Amir Jamil, two Pakistani nationals who had been sentenced to death in 1992 after an unfair trial.

b) Recommendations to the government

Amnesty International calls for South Korea to abolish the death penalty in law. It urges the government to implement the following recommendations, as steps towards abolition.

- Initiate a debate about the death penalty, involving parliamentarians, the judiciary, lawyers, human rights advocates and others who have knowledge and expertise in this field.
- Commute the death sentences of those currently under sentence of death and ensure that no further executions are carried out.
- Introduce legislative amendments to reduce the number of crimes for which the death penalty may be imposed.
- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at worldwide abolition of the death penalty.