

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.⁴

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 draw 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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release

10 SEPTEMBER 1998

Asian Leaders sign up for human rights

LONDON -- 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 leaders around the world who have already pledged their support include: President Bill Clinton; UK Prime Minister Tony Blair; President Yoweri Museveni of Uganda; President Rafael Caldera of Venezuela; Czech president Vaclav Havel; President Ezer Weizmann of Israel; and Prime Minister Abdelrahman Alyusofi of Morocco.

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

For more information, or to arrange an interview, please call:
Press Office, International Secretariat, tel: +44 171 413 5566/5729

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AI INDEX: ASA 25/32/98News Service

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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 Mr Pierre Sane, Secretary General of the worldwide human rights organization at a press conference today 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 organisations 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 AI'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," said Mr Sane.

"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 Sane made a special humanitarian appeal for the release of long term prisoners, some of whom are elderly and sick.

For a full view or receive a media pack, please contact:
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"South Korea is not only keeping prisoners of conscience in jail -- each year it is creating more." Mr Sane 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."

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 Sane 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 Sane 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 Sane 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 Sane 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 Sane 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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AI INDEX: ASA 25/13/98
3 SEPTEMBER 1998

News Service 171/98

AMNESTY INTERNATIONAL SECRETARY GENERAL MAKES FIRST VISIT TO REPUBLIC OF KOREA

9-12 SEPTEMBER 1998

Mr Pierre Sané, Secretary General of Amnesty International (AI) -- the world's foremost human rights organization -- is making his first official visit to the Republic of Korea from 9-12 September. Mr Sané will be meeting with President Kim Dae-jung, who was adopted as a prisoner of conscience by AI. He will also meet the Ministers of Foreign Affairs and Justice, and address members of the National Assembly, students at Seoul National University and human rights defenders, as well as other leaders of civil society.

During his visit, Mr Sané will raise the issue of human rights in the Republic of Korea, Korea's role in promoting human rights internationally. He will also highlight AI Korea's ongoing campaign to celebrate 50 years of the Universal Declaration of Human Rights (UDHR). Also in the AI delegation visiting the country are: Rory Mungoven, Director of the Asia-Pacific Program; and Clare McVey, Researcher on Korea.

PRESS CONFERENCE AND MEDIA ARRANGEMENTS

Members of the delegation will be available for interview throughout the visit and will give a press conference:

- 10.00 hrs on 10 September, Mok-ryon room, 19th Floor, PRESS CENTRE in Seoul

To arrange an interview or receive a media pack, please contact:

- OH Wan Ho, AI Korea, cellphone: (+82) 011 512 9645; AI Korea Office: 053 426 2533
- Eliane DRAKOPOULOS, cellphone: 011 385 0541; President Hotel: (+82) 02 753 3131

Schedule of meetings open to media for photograph opportunity:

9 September, 11.00: Meeting with President Kim Dae-Jung, Presidential Office

9 September, 12.30: Meeting with parliamentarians, National Assembly, Seoul

10 September, 14.00: Minkahyop Rally, Pagoda Park

10 September, 19.00 UDHR Reception, 19th Floor, Press Centre, Seoul

11 September, 15.00 Address at Seoul University

...../ENDS

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TAIWAN (REPUBLIC OF CHINA)

Death sentences based on unfair conviction: three men face execution

June 1998

SUMMARY

AI INDEX: ASA 38/01/98

DISTR: SC/CO/GR

Three men await execution in Taiwan although there are grave doubts surrounding their conviction. There is widespread concern that Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun were convicted on the basis of confessions extracted under torture and that they are innocent. Members of the judiciary, lawmakers, legal scholars and journalists are among the many thousands of people who have appealed for the case to be reviewed. But three years after their conviction, the three men remain under sentence of death, waiting for the Minister of Justice to sign a warrant for their execution. This case has caused much unease in Taiwan and has led to renewed calls for reform of the criminal justice system.

This report describes the case of Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun. Amnesty International is calling on the government to commute the death sentences imposed on Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun and to order a thorough and independent investigation into the case.

KEYWORDS:

This report summarizes a 5-page document (1818 words), : *Taiwan (Republic of China): Death sentences based on unfair conviction: three men face execution* (AI Index: ASA 38/01/98) issued by Amnesty International in June 1998. Anyone wishing further details or to take action on this issue should consult the full document.

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

amnesty international

**TAIWAN
(REPUBLIC OF CHINA)**

**Death sentences based on
unfair conviction: three men
face execution**



June 1998
AI Index: ASA 38/01/98
Distr: SC/CO/GR

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

TAIWAN (REPUBLIC OF CHINA)

Death sentences based on unfair conviction: three men face execution

Three men await execution in Taiwan although there are grave doubts surrounding their conviction. There is widespread concern that Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun were convicted on the basis of confessions extracted under torture and that they are innocent. Members of the judiciary, lawmakers, legal scholars and journalists are among the many thousands of people who have appealed for the case to be reviewed. But three years after their conviction, the three men remain under sentence of death, waiting for the Minister of Justice to sign a warrant for their execution. This case has caused much unease in Taiwan and has led to renewed calls for reform of the criminal justice system.

Amnesty International is calling on the government to commute the death sentences imposed on Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun and to order a thorough and independent investigation into the case. 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.

This case highlights one of the main arguments against use of the death penalty in Taiwan - the fact that executions do not allow for errors of justice to be redressed. The execution of an innocent person can never be put right.

The death penalty in Taiwan

The death penalty is in force in Taiwan for a range of offences and is mandatory for 65 different offences. Executions have been used increasingly in recent years. Thirty-eight people were executed in 1997, 22 in 1996 and 16 in 1995. Human rights activists believe the increased use of the death penalty in 1997 was the government's response to a public outcry following several recent kidnap and murder cases. But scientific studies in other countries have consistently failed to find convincing evidence that the death penalty deters crime more effectively than other punishments.

Execution warrants are signed by the Minister of Justice and the prisoner is not informed in advance. Execution may be by shooting or by lethal injection - there are reported to have been no executions by lethal injection to date. Prisoners under sentence of death are generally held with their hands and feet continuously shackled.

**The case of Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun
(known in Taiwan as the "Hsichih Trio")**



Liu Bin-lang (left), Su Chien-ho (centre), Chuang Lin-hsun (right)

The three men, then aged 18 and recent high school graduates, were arrested in August 1991 in Hsichih (in the north of Taiwan). They were accused of murdering a husband and wife, convicted on charges of murder, robbery and rape and sentenced to death. The three men claim to have been tortured and forced to make false confessions and there appears to have been no direct or physical evidence to convict them, other than their confessions. A fourth man who implicated them in the alleged crime was also arrested, tried speedily by a military court and executed just five months later.

In spite of a protracted legal process in which the Supreme Court (Taiwan's highest court of appeal) twice returned the case to a lower court for reconsideration, the conviction was upheld in February 1995. In an unusual move, Taiwan's Prosecutor General made three special appeals to the Supreme Court to review the case, but each of his appeals was rejected. Four police officers suspected of torture have not been prosecuted.

It would appear that few people in judicial and government circles believe the three men to be guilty, and yet the government seems unable to take action to rectify the situation. Two successive Ministers of Justice have declined to sign execution orders, but the men remain in a precarious position. The stress of knowing that they may be executed any day has led to a deterioration of their physical and mental health. The Taiwan Association for Human Rights reports that Su Chien-ho is losing weight, Liu Bin-lang has become withdrawn and Chuang Lin-hsun has started to show signs of mild schizophrenia.

Arrest and interrogation

On 24 March 1991, in the early hours of the morning, a husband and wife were murdered in their home in the town of Hsichih, in the north of Taiwan. On the same evening Su

Chien-ho and Liu Bin-lang went out for the evening with a friend called Wang Wen-chung and his brother Wang Wen-hsiao, both of whom were completing their military service at the time. They spent the evening in Hsichih and Keelung before returning home in the early hours of the morning. Chuang Lin-shun spent the evening at home with his family.

Five months later, on 13 August 1991, Wang Wen-hsiao was arrested on the grounds that his fingerprint was found on an envelope at the scene of the murder. He was interrogated first by a military prosecutor and later by the Hsichih police. His various confessions to the murder are inconsistent but the later ones named his brother and his brother's three friends as accomplices.

Wang Wen-hsiao was tried speedily by a military court, found guilty and executed in January 1992. It is not known whether he was ill-treated during interrogation by the military prosecutor and the police. The military court proceedings of his trial were later reported by the authorities to have been lost. His brother, Wang Wen-chung, was also tried by a military court and sentenced to two years and eight months' imprisonment.

Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun were arrested by the police on 15 August 1991. The police did not have arrest warrants, did not inform the men's families about the arrests and searched Chuang's home without a search warrant. During interrogation by the Hsichih police, the men claim to have been tortured and forced to confess to the murders. They were each told that the others had already confessed. None of the confessions they made were consistent with each other and all three later denied committing the murder.

Charge and trial; special appeals by the Prosecutor General

On 4 October 1991 Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun were charged under the Act for the Control and Punishment of Banditry with robbery, murder and rape, a combination of offences which carries a mandatory death sentence. Their trial opened before Shilin District Court on 11 October 1991 and they were tried before a panel of three judges.

Taiwanese law does not allow conviction solely on the basis of confession, but confessions frequently constitute the major item of evidence in criminal cases in Taiwan. In this case, the court based its verdict almost exclusively on the coerced confessions. Corroborative evidence was almost completely lacking. There were no corroborating eye-witnesses and no direct physical evidence linking the co-defendants to the crime.

During the district court proceedings the judges reportedly refused to call some of the defence witnesses, including fellow prisoners who might have corroborated the men's claims of torture and several other people who claim to have seen the three men elsewhere on the night of the murder. The coroner's testimony appeared to rule out any possibility that the female victim had been raped and forensic evidence from the scene of the crime was apparently not presented to the court. In spite of this, the men were found guilty on all charges and on 18 February 1992 they were sentenced to death.

After a lengthy and convoluted series of appeals to both the High Court and the Supreme Court, the Supreme Court on 13 February 1995 confirmed the original verdicts and the final sentence was rendered. All standard avenues of appeal have been exhausted and the three men could now be executed at any time.

In February, April and July 1995, Prosecutor General Chen Han, made three special appeals to the Supreme Court calling for the case to be reviewed. The main reasons for his appeals were the lack of evidence, inconsistencies in the various confessions, illegality in the arrest procedures, lack of evidence of rape and the testimony of Wang Wen-chung. The latter, who had been charged as an accomplice, was tried separately in a military court and sentenced to two years and eight months' imprisonment for conspiracy to commit robbery. After release, he completed his military service and was discharged in June 1996. After leaving the military, he spoke publicly about the case. He said he had been beaten and threatened during police interrogation and forced to make a confession which incriminated his three friends. He also claimed to have seen police officials torturing the three men by beating them with wooden swords and electric shock batons.

The three special appeals by the Prosecutor General were rejected by the Supreme Court and in August 1995 Shilin Prosecutor's Office decided not to charge the four police officers who had been accused of torturing the suspects.

Campaign for the three men

Thousands of people in Taiwan have appealed to President Lee Teng-hui for clemency. Appeals on behalf of the three have come from all sectors of society, including lawyers, businessmen, legal scholars, lawmakers, activists and journalists. In June 1996 a group of 58 organizations, led by the Taiwan Association for Human Rights, the Humanistic Education Foundation, the Green Party and the Judicial Reform Foundation, came together to form the "Campaign to save the innocent from execution". The campaign has organized letter-writing appeals, petitions, demonstrations and public events to raise awareness about the case. In 1995 and 1996 Amnesty International issued a series of Urgent Action appeals on behalf of the three men.

ACTION: WHAT YOU CAN DO

Send appeals to the President and Minister of Justice in Taiwan.

- ☛ Expressing concern at the death sentences imposed on Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun, in spite of strong evidence to suggest they are innocent.
- ☛ Calling on President Lee Teng-hui to exercise his constitutional power to commute the death sentences imposed on the three men.
- ☛ Calling on the Minister of Justice not to sign a warrant for the three men's execution and urging him to order a thorough and independent investigation into their conviction.
- ☛ Expressing concern that 38 people were executed in Taiwan in 1997, a massive increase over previous years.
- ☛ expressing Amnesty International's opposition to the death penalty in all cases and seeking its abolition in law.

Send appeals to:

President LEE Teng-hui
Office of the President, Chiehshou Hall
122 Chungking S. Road, Sec 1
Taipei
Taiwan, Republic of China
Fax: +886 22 3140 746
Salutation: Dear President

Mr LIAO Cheng-hao
Minister of Justice
130 Chungching S. Road, Sec 1
Taipei 10036
Taiwan, Republic of China
Fax +886 22 389 6759
Salutation: Dear Minister

Copies to:

Mr Jason HU
Minister of Foreign Affairs
2 Ketaglan Road, Sec 2
Taipei 10016
Taiwan, Republic of China
Fax: +886 22 311 9574
Salutation: Dear Minister

Taiwan Association for Human Rights
9th Floor, No 3, Lane 25, Sec 3
Hsin-Sheng South Road
Taipei
Taiwan, Republic of China

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분류인	분류기호	자료번호

amnesty international

REPUBLIC OF KOREA (SOUTH KOREA)

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

May 1998

SUMMARY

AI INDEX: ASA 25/18/98

DISTR: SC/CO/GR

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

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

KEYWORDS: CENSORSHIP1 / PRISONERS OF CONSCIENCE1 / HUMAN RIGHTS ACTIVISTS / STUDENTS / LEGISLATION / CONDITIONAL RELEASE

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

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

REPUBLIC OF KOREA (SOUTH KOREA)

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

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

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

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



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

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

Suh Jun-sik, before his arrest

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

The Human rights film festival

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

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

Arrest of Suh Jun-sik

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

National Security Law charges

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

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

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

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

Charges under the Social Surveillance Law

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

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

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

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

Other charges

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

Imprisonment and release on bail

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

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



ACTION: WHAT YOU CAN DO

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

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

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



AMNESTY INTERNATIONAL

NEWS RELEASE

13 March 1998

South Korea: Prisoner amnesty does not go far enough

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

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

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

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

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

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

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

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

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

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

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strengthening its open political system and by exercising greater tolerance of different political views. Security and stability can be enhanced by allowing greater space for debate and North-South contact".

The National Security Law has been widely used to imprison people for exercising their rights to freedom of expression and association. Before today's amnesty, over 300 political prisoners were held under this law, at least 20 of whom were arrested since Kim Dae-jung's election.

ENDS.../

For further information, call the Press Office, Amnesty International.

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منظمة العفو الدولية



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News Service 29/98

AI INDEX: ASA 25/07/98

EMBARGOED UNTIL 01.00 HRS GMT 24 FEBRUARY 1998

Republic of Korea (South Korea): A new human rights agenda?

As Kim Dae-jung takes office as President of the Republic of Korea, Amnesty International is calling on him to place human rights at the top of his agenda for reform.

"We are encouraged by Kim Dae-jung's early statements in support of human rights reforms. We urge him to ensure that human rights remain a priority throughout his term in office," said Rory Mungoven, Director of Amnesty International's Asia-Pacific Program, at a press conference in Seoul today.

"National security and economic necessity cannot justify human rights violations. Human rights protection is particularly important at a time of crisis -- the new administration should ensure that political, economic and social rights are not eroded during this period of economic hardship and that human rights reforms are not forgotten."

The human rights organization is calling on Kim Dae-jung to implement a series of reforms, including the release all prisoners of conscience and reform of the National Security Law in accordance with international human rights standards. There were more than 600 arrests under the National Security Law in 1997 and several dozen long-term political prisoners have spent up to three decades in prison after unfair trials. They include sick and elderly prisoners, refused parole simply because of their refusal to renounce communism.

Amnesty International is also calling on the new administration to ensure that torture and ill-treatment by law enforcement personnel are no longer tolerated and to order full investigations into reported human rights violations -- including those which occurred in the past. The organization has called on Kim Dae-jung to abolish the death penalty during his term of office.

Amnesty International welcomes Kim Dae-jung's reported statements about human rights, including proposals to reform the Agency for National Security Planning and to establish a human rights commission. It also welcomes his commitment to enhance human rights education and to ensure that South Korean law and practice are in conformity with international human rights standards.

But the organization is concerned that other pressing issues, such as the economic crisis and relations with North Korea should not obscure the need for human rights reforms.

The human rights organization stressed that measures for national security should be consistent with international standards. The threat from North Korea, though real, does not justify the severe and arbitrary restrictions on freedom of expression contained in national security legislation.

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Amnesty International also hopes that South Korea will commit itself to improving human rights in other countries, particularly through its work at the United Nations and at other international fora including the Asia-Europe heads of government meeting in April.

"President Kim has long been a champion of the universality of human rights. In this, the 50th anniversary of the Universal Declaration of Human Rights, we hope the new President will put that commitment into practice, both in Korea and internationally," Amnesty International said.

ENDS.../

For further information or an interview, please contact

1) Amnesty International Korea

Tel: (82)(53) 426 2533

Fax: (82)(53) 422 1956

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amnesty international

REPUBLIC OF KOREA (SOUTH KOREA) A Human Rights Agenda for South Korea



February 1998
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Distr: SC/CO/GR

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

REPUBLIC OF KOREA (SOUTH KOREA)

A human rights agenda for South Korea

Amnesty International is a worldwide voluntary movement which works to prevent human rights violations by governments. The main focus of its campaigning is to free all prisoners of conscience, to ensure fair trials for political prisoners, to abolish the death penalty and torture and to end extrajudicial executions and "disappearances".

The organization also works to promote all the human rights contained in the Universal Declaration of Human Rights and other international standards, through human rights education programs and campaigning for ratification of international human rights treaties.

Amnesty International has over 1,000,000 members in countries throughout the world, including South Korea. Research into human rights violations and individual victims is conducted by the International Secretariat in London. To ensure impartiality, the organization's members campaign for individual victims in countries other than their own.

Amnesty International's Korean Section works to improve human rights in South Korea, through human rights promotion and education programs and campaigns to bring South Korean law and practice into line with international standards. It also campaigns for the victims of human rights violations in other countries.

In October 1997 Amnesty International's Secretary General wrote an open letter to all candidates in the Presidential election. The letter called on candidates to commit themselves to a program of human rights reform if elected.

After the publication of Amnesty International's letter, Kim Dae-jung made a public commitment to release some, but not all, prisoners of conscience. After his election as President, Kim Dae-jung made public a number of other proposals for human rights reforms. These included the reform of the Agency for National Security Planning, the establishment of a human rights commission, measures to protect the rights of women and a commitment to ensure that Korean law and practice is in conformity with international human rights standards. These proposals have been welcomed by Amnesty International.

Amnesty International wrote again to President-elect Kim Dae-jung in February 1998 describing its proposals for human rights reform, including the following points.

Release prisoners of conscience and amend the National Security Law

Amnesty International calls for the release of all prisoners of conscience and for the National Security Law to be amended in accordance with international standards. In recent years Amnesty International has campaigned on behalf of hundreds of individual prisoners whose cases demonstrate a pattern of human rights violation under the National Security Law. The organization calls for the release of (all) prisoners who are currently held for the non-violent exercise of their rights to freedom of expression and association.

Most of the individual prisoners Amnesty International is campaigning for have been sentenced to long prison terms. They include prisoners who were convicted of espionage during the 1970s and 1980s, prisoners accused of belonging to "anti-state" groups and those who made an unauthorized visit to North Korea. These cases highlight the problems associated with unfair trials of political prisoners in past decades and the broad definition of the terms "espionage" and "state secrets" under the National Security Law.

Amnesty International is also concerned about a pattern of shorter-term arrest where prisoners are held for up to six months for minor violations of the National Security Law. At least 600 people were arrested under the National Security Law in 1997 alone. Many of these prisoners were charged under Article 7 of the National Security Law which provides up to seven years' imprisonment for the act of "praising" and "benefitting" North Korea. Article 7 has been used widely to detain people for the non-violent exercise of their rights to freedom of expression and association.

Amnesty International believes that the National Security Law should be amended so that provisions which punish non-violent political activities are removed. Many provisions of the law are vaguely worded and appear to be used selectively.

Reform the Agency for National Security Planning

Amnesty International is encouraged at reports that the new President proposes to reform the Agency for National Security Planning (ANSP) and urges him to ensure that this reform will prevent the Agency from abusing fundamental rights. In recent years Amnesty International has received reports of torture and ill-treatment committed by the ANSP. In December 1996 it was concerned about the passage of legislation which extended the agency's powers, without additional measures or curbs to ensure that these powers were not abused.

Investigate human rights violations - past and present

Amnesty International calls for a thorough, impartial and independent investigation into all reported human rights violations in South Korea, past and present. This includes a thorough investigation into the May 1980 killings in Kwangju and into cases of torture, political arrest and unfair trial carried out under past administrations. It believes that all those responsible for human rights violations, past and present, should be brought to justice.

The investigation of all reported human rights violations should conform to international human rights standards, which seek to end impunity for human rights violations. They state that all reports of human rights violations should be thoroughly and impartially investigated, the results of investigations should be made public, those responsible for such violations should be brought to justice, and victims should receive adequate compensation.

Improve human rights promotion and education

On the 50th anniversary of the Universal Declaration of Human Rights Amnesty International has called on the new President to promote the importance of civil, political, economic and social rights throughout Korean society.

It has urged him to integrate human rights education into school teaching and to ensure that human rights education is including in training programmes for all government officials, law enforcement and military personnel. It has also called on the President to promote equality throughout Korean society in order to prevent social and institutional discrimination against women and other disadvantaged groups.

Establish a human rights commission

Amnesty International is encouraged by the new President's proposal to establish a Human Rights Commission and urges him to ensure that the commission's statute is consistent with international standards for human rights commissions.

The new commission's mandate should include investigation of reported human rights violations, including by security agencies, making suggestions for legislative reforms and taking a lead in human rights education work. However, a commission should not be seen as a substitute for effective legal structures and an independent judiciary. To be effective, a human rights commission must be independent and impartial and must command the trust and respect of human rights defenders and the public in South Korea.

End torture and ill-treatment

Torture and ill-treatment of detainees by police and security agencies should not be tolerated. In practice this means introducing effective measures to end the widespread use of sleep deprivation, threats, coercion and sometimes beatings of suspects in custody aimed at obtaining a confession.

Amnesty International urges the new President to ensure that existing legislation against torture is reinforced and effectively implemented. It should be made fully consistent with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which South Korea has ratified.

Improve prison conditions

Amnesty International calls for conditions of imprisonment for all prisoners to be improved, by providing more and better medical facilities in prisons, fitting prisons with heating and

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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

DISTR: SC/CO/GR

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

providing warmer clothing for all prisoners in winter. It believes that political prisoners should not be isolated from other prisoners, denied meetings with lawyers or denied the opportunity to correspond with supporters.

Amnesty International also calls for an end to the system of ideological "conversion" of certain political prisoners which is used arbitrarily and is a violation of prisoners' right to freedom of conscience. Some long-term political prisoners have been held in poor conditions for over three decades and are denied the possibility of release on parole solely because of their refusal to "convert".

Abolish the death penalty

Following the execution of 23 people on 30 December 1997, Amnesty International wrote to President-elect Kim Dae-jung urging him to abolish the death penalty during his term in office. As a first step it calls on the new President to commute all death sentences and ensure that no further executions are ordered.

Respect trade union rights

Amnesty International urges the new President to ensure that labour legislation conforms with international standards relating to freedom of expression and association. South Korea should commit itself to protecting basic labour rights by ratifying conventions 87 and 98 of the International Labour Organization (ILO) which guarantee the rights to establish and join a trade union and to be protected from discrimination.

Implement international human rights treaties

South Korea should fully implement the international conventions which it has ratified. They include the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Protect the rights of foreigners and asylum seekers

People of any nationality seeking asylum in South Korea must not be sent back to a country where they face human rights violations and all people seeking asylum should have access to a fair and satisfactory refugee status determination process. Foreign workers in South Korea should also be afforded legitimate safeguards for their civil and social rights, in accordance with international standards.

Promote human rights throughout the world

As an active member of the United Nations, South Korea has a responsibility to press for improvements in the human rights situation internationally. Amnesty International urges the new President to express support for the UN's work to further protect human rights, and to commit his government to active human rights diplomacy both within the UN system and bilaterally with other governments. It also calls on him to uphold and promote the Universal Declaration of Human Rights in its 50th anniversary year.

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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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*¹². 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

¹²Security 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.⁷

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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**REPUBLIC OF KOREA
(SOUTH KOREA)**

**Foreign Policy and Human
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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.

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- 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.