

2.4. All APEC member states should guarantee basic workers' rights, such as the right to organize and the right of collective action in accordance with the standards of the International Labor Organization (ILO). They should also effect efforts to remove all forms of discrimination against women, including in employment and wages, in accordance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

2.5. All APEC member states should focus their efforts on protecting the environment in the Asia-Pacific region by means of instituting prohibitions on massive deforestation due to logging, bans on transborder movement of toxic waste and other environmentally destructive materials, bans on nuclear testing, development of alternative forms of energy friendly to the environment, and the reduction or prohibition of arms trade within the region.

2.6. All APEC member states should enact practical measures to protect the human rights of migrant workers which has worsened in recent years due to the increasing import and export of labor without appropriate social policies.

2.7. All APEC member states should establish and strengthen a cooperative network to solve various transborder social problems, such as the issues of refugees, child labor, human trafficking, sex tourism, and drug trade.

2.8. APEC should frame a "Social Charter" containing the aforementioned provisions and establish a "Regional Human Rights or Social Commission" to monitor and evaluate the APEC's implementation of these provisions. In both institutions, NGO participation should be fully guaranteed.

Our demands of the Korean government

3.0. We demand the following of the Korean government.

3.1. The Korean government policy of globalization has been based on an ideology of "International competitiveness". The Structural Adjustment Program(SAP) which started with an open-market trend since the early 80s and signing of Uruguay Round should consider its effects on the socio-economically marginalized including workers and peasants. Furthermore, it should give special and much needed priority to medium-size industry over large industry.

3.2. Women workers in Korea have suffered most heavily under the SAP. Therefore, more equitable job training and priority employment in the public sector should be implemented. Also, corporate policies protective of maternity should be encouraged by an increase in the governmental budget for such policies as well as by a decrease in corporate taxes for companies instituting such policies.

3.3. Overseas capital investment and construction projects of Korean companies should not be accompanied by violations of the human rights of overseas workers and destruction of the environments. In particular, the Korean government should make special efforts to protect the human rights of workers employed in Korean companies abroad. Machinery such as that used in the Wonjin Rayon Factory which was responsible for the deaths of numerous workers should not be allowed to be exported to other nations such as China. Also, the overseas construction project of unsafe nuclear power plants should be stopped.

3.4. The death of Aida, a female migrant worker from the Philippines, in the collapse of the Songsoo Bridge on October 21, 1994 symbolizes the tragic situation of the approximately 80,000 migrant workers in Korea. The Korean government should draft legal and institutional policy for the fundamental improvement in the treatment of migrant workers and the protection of their human rights.

3.5. Economic development can be sustained only when accompanied by a consistent expansion of reform and democracy. We call for the immediate repeal of the National Security Law(NSL) and current labor laws which prohibit third party intervention, organization of parallel labor unions and political activities condemned by international representatives such as the UN and ILO. Recommendations by the committee on CEDAW should be ratified and implemented.

3.6. The Korean government should not manipulate the diplomatic activities in APEC Summit to divert the people's attention from domestic issues such as the indictment of those instrumental in the military coup of December 12 1979 (commonly referred to as the "12.12 Issue") and to create a political atmosphere favorable to the ratification of Uruguay Round Treaty.

The Resolutions of the Korean NGOs:

4.0. We believe that true globalization should promote progressive and universal values, such as human rights and democracy, among all states and peoples and should seek a common prosperity based on the interests and demands of the people. APEC should serve to realize such worthy goals in the Asia-Pacific Region.

4.1. We, in solidarity with other NGOs in our region sharing a similar vision, resolve to set forth our best efforts for realizing "People's Regionalism," a true form of "Asia Pacific Economic Cooperation," and "People-Centered Development and Transborder Participatory Democracy" transcending national boundaries, peoples, and race.

End.

History about the economic development of Korean style

지향성 자료

CISJD

(Christian Institute for the Studies of Justice and Development)

For the past two decades, South Korea's major strategy for economic development has been an outward-looking industrialization which promotes labor-intensive export industries financed directly or indirectly by foreign capital. In the process, it launched a series of Five-year Economic Development plans. The First 1962-1966 and Second 1967-71 Five-plans emphasized industrial growth. The Third Five-year Plan 1972-76 emphasized balanced growth between industrial and agricultural sectors and the Fourth Five-year Plan 1977-81 stressed sustained economic growth and equity. In this process Korean women have served as a significant labor force which is well-disciplined and motivated with a relatively high level of education, and their contribution to the rapid economic growth is widely recognized. Although the extent and nature of Korean women's participation in the industrialization process may have been conditioned by Korea's unique tradition and history as a divided nation, a basic, common trend has emerged throughout the Asian Countries in the structure of women's labor participation. These strategies focused on labor-intensive light industries in the sixties to the early seventies, and then capital-intensive heavy industries in the late seventies, until Park's regime collapsed upon his assassination in 1979.

In spite of government's original intention to build a self-sufficient national economy, the export-oriented economy had to depend on foreign capital, technology and resources. Since the 1970s, the deepening industrialization has changed from a focus on traditional light industries to a concentration in modern heavy industries. By 1977, the share of light industries had decreased to 38.8%, while heavy industries accounted for 48.9% of industrial output. However, this rapid growth of export industrialization inevitably increased the Korean economy's dependence on foreign trade and

investment.

This dependent development has produced impressive growth, bringing new recognition of Korea's status and role from a peripheral agrarian state to the semi-periphery of the international system. Internally, however, it has caused decisive changes in the social structure, with widening gaps in income distribution and consumption levels.

The low-wage policy for labor in export industries has excluded the working class from their share of economic growth, which is evident in the deterioration of income distribution and falling real wages.

Also those features made the economic dependency of Korea on USA and Japan a necessary condition for the national economic connected in the economic cycle of one production and market block, and it was the most significant feature observed in the economic reproduction of Korea.

However a dependency on foreign countries does not guarantee a high economic growth. Obviously, we should find out the conditions that cause economic growth in the political and economic context of Korea. It did influence the national economic development so much that an authoritarian political structures such as Yu-Shin regime and military regime of the 1980's guaranteed the capital (capitalists) to get an advantage over labor(workers) and controlled the nation with a limited labor laws and a national security law. Those conditions were justified by an ideology of the economic growth to become an ideology of social unity. There were long working hours, low wages, limited labor laws, continuous supply of the surplus manpower through breaking up agricultural industry in the labor policy, and there were governmental mediation about the conflict of interests among the conglomerates, financial support and preferential treatment on

taxation towards the capitalists in the industry policy. In this view, we can assume a model to show a clear contrast between labor and industry policy.

The economic development of Korea faced a crisis of the world market in the late 1970's externally and a change of political structure internally. But it did not seem that during the political and economic rearrangement at that time. Correctly speaking, a foundation of the established economic development was re-strengthened only in a partial change of the social structures through an active involvement of the government.

It brought a change of the basic structure in the established pattern of the economic development which contributed to a high situation in which externally the US pressure about open market and internally demand of import restriction and basic rights of labor arose as a result of the high economic growth.

A wave of the democracy and labor movements in the 1980's made it unstable and further demolished partially the existing conditions of the economic development which the government and economic powers such as conglomerates installed unilaterally. It forced the government to change a character of political system that democratization demanded a democratic political system and labor movement protested about an unfair wage policy. The suppressive political structure and national system were restrained in some ways. In external shape, the style of nation's involvement to economy changed its policy from an oppressive the employers. At the same time, the domestic conglomerates which grew up in capital accumulation demanded the government to allow them self-regulation over private capital. This was intensively mentioned in a point of the employers that 'Economy lead by private sectors' or 'Economic Democratization' are the primary condition for a new economic boost.

The most significant fact in this change is to occur a discontinuous character in the social development of Korea. That is a labor strikes on a large scale in 1987. There were its typical characters such as a high degree of a wage increase, reduction of working hours, increase in the number of union units and members, and a

rise of labor dispute since 1987.

This change in the mid 1980's proved it was not suitable any more that the style of the economic development which allowed the employers and the governmental control over economy and depended on low wage and long working hours. It was changed greatly that the pattern of economic development which capital and an authoritarian political system depended on, that is, a political and economic relation.

It is so called 'Rearrangement of Industrial Structure' in the 1980's that the government and the dominant capitalists responded to the crisis of the established development structure in a close collaboration between two parties. Also in this attempt, there was a demand for a relaxation of the administrative control over economy and privatization. The present government is urging Internationalism and globalization as ideology of social unity while the contradiction among capitals increases due to the protectionism of world market and trade conflicts.

There was a change in the style of the nation's involvement to economy. There was a strong opinion that the nation's over intervention was a real hindrance for developing efficiency and international competitiveness in the economy. In the same context, the open-door policy as a new development style was the easing of the restriction in the relation with the Uruguay Round(UR) trade talks generally forced the people in the agricultural industry and the small medium sized enterprises sacrifice.

A new policy of economic development by the government and the dominant employers is a new challenge for the workers and the ordinary people to overcome. In the present Korea, there are a poor social welfare system and an increase of a high degree of environmental pollution while the past authoritarian political systems still remains a limited labor law and a notorious national security law.

In conclusion, the model of the Korean economic development was not made in the social agreement among people, capital, and state. Therefore, it is needed to create a paradigm for new development.

인권	03-86
등록일	03
출판	04

Human Rights Report
1995
South Korea



About MINKAHYUP

MINKAHYUP is a nation-wide human rights organization in South Korea, built upon the efforts and struggles of the families and relatives of people oppressed by the dictatorship since the 1970's. MINKAHYUP took organizational shape and direction on 12 December 1985. Since then, members of MINKAHYUP, especially the mothers of political prisoners and prisoners of conscience, have become a symbol and an important part of the struggle towards democracy and the proper realization of human rights. Rain or shine, these elderly women have gone on fasting struggles, virgils, whatever that is necessary for the release of all prisoners of conscience. MINKAHYUP has grown over the years with regional chapters in Kwangju, Pusan, Chunju, Kangnung, Taejon, Taegu, and Masan.

MINKAHYUP is organized into "The Parents Committee of Imprisoned Students," "The Family Committee of Democratic Leaders," "The Family Committee of Long-term Prisoners of Conscience," "The Family Committee of Imprisoned Laborers," and "The Supporting Committee for Prisoners of Conscience" and is a part of KOHRNET, the Korea Human Rights Network.

OBJECTIVES

MINKAHYUP strives to integrate the struggle against political detention into a wider struggle for the realization of human rights, democracy, and national reunification in the Korean Peninsula.

● International goals

MINKAHYUP works to build closer ties with other organizations, sectors and individuals outside the country to generate support for and awareness about the prisoners of conscience and other victims of human rights violations in Korea.

● National goals

MINKAHYUP works for the immediate release and unconditional amnesty of all prisoners of conscience on humanitarian and legal grounds.

Related issues of concern are:

The prevention of torture during police interrogations and in the prisons.

- The welfare of prisoners and better prison conditions.
- The welfare of the families of prisoners of conscience.
- Actions against the corrupt Judiciary and unfair laws such as the National Security Law.

The NSL has violated the basic human rights of many innocent people and is still harshly persecuting many others. The NSL legalizes repression and must be repealed.

- The truth behind fabricated and distorted cases, especially of the so-called "espionage" cases.

Table of Contents

1995 Prisoners of Conscience in South Korea / 5

I. Conditions under the Civilian Government / 7

II. Analysis -1995 / 11

1. NSL Arrests / 12
2. NSL Applied to Past Activities / 15
3. Acquittals / 20
4. Human Rights Violations by the ANSP / 22
5. Mass Arrests against the Right to Life / 26

III. The True Meaning of Globalization / 29

1995 Human Rights Conditions in Detention Facilities / 31

1. Detention Environment / 33
2. Visitations / 34
3. Library Facilities & Right to Freedom of Expression / 35
4. Right of Petition / 37
5. Medical Treatment / 39
6. Disciplinary Action / 41
7. Food & Malnutrition / 42
8. Leave of Absence / 44

1995 Conditions of Torture in South Korea / 47

I. 1995 Torture Situation / 49

1. Police Violence / 50
2. Cases of Torture in the Process of Investigation / 54
3. Use of Violence & Inhuman Treatment of Detainees / 56

II. The Legal System Concerning the Crime of Torture / 56

1. Evidence of Torture / 56
2. Investigation & Punishment of Those Accused of Torture / 57
3. The Problem with the Statute of Limitations / 60
4. Compensation & Treatment of Torture Victims / 61

III. The Revision of the Legal System for the Eradication of Torture / 63

1. The Abolition & Limitation of the Jurisdiction of Investigation by the ANSP and other Security Investigative Organs / 63
2. The Introduction of Special System of Prosecution & the Revision of the Legal System / 64
3. The Inapplicability of the Statute of Limitations on Torture & Other Inhuman Crimes / 65

A Case Study - The Case of Koh Ae-soon / 67

1. Brief Case Description / 69
2. All Appeals for Legitimacy/Legality Hearing & Release on Bail Denied / 69
3. Koh's Health / 70
4. Medical Examination Denied by the Prison Authorities / 72
5. Prison Conditions / 73
6. Still-birth / 74
7. The Opinion of a Professional Obstetrician / 74
8. Charges against Koh / 75
9. Koh's Statement against the Charges / 77
10. Current Situation / 78
11. Recommendation / 80

1995 Prisoners of Conscience in South Korea

**1995 Prisoners of Conscience
in South Korea**



1995 Prisoners of Conscience in South Korea

The year 1995 will go down in modern history as an unprecedented year in which two past presidents, Chun Do-hwan and Roh Tae-woo, were arrested on charges of conspiracy of 18 May 1980 and the coup d'etat of 12 December 1979. However, the movement for uprighting history and clearing the past is far from over as the criminal acts violating human rights for the purpose of maintaining the unjust power acquired through the coup d'etat and massacre of innocent civilians continue to be covered up and the resulting human rights victims continue to suffer. Prisoners of conscience continue to be held under extended terms upto life imprisonment after illegally being detained and sentenced based on fabrications induced by torture. There are endless numbers of questionable deaths and surviving victims of torture who suffer from physical and mental pains.

What's more, such laws as the National Security Law and the Labor Related Law, which played crucial roles in justifying the illegitimate government brought to power by the coup d'etat, continue to wield its force even after proof that the past presidents, Chun and Roh, proccured power through illegal means.

The movement to correct history and clear the past can never be finished and come to fruition without the eradication of all laws and organs such as the Agency for National Security Planning (ANSP-formerly known as the KCIA), which were and continue to be instrumental in human rights violations. Not only are such systematic reforms necessary, but restitution, compensation, and rehabilitation of victims of past human rights violations under the dictatorships of Chun and Roh are equally of great importance.

I. Conditions under the Civilian Government

The year 1995 saw the 50th anniversary of the Korean independence

1995 Prisoners of Conscience
in South Korea

1. Brief Case Description / 69
2. All Appeals for Legitimate Rights Denied / 69
3. Kob's Health / 70
4. Medical Examination Denied by the Labor Authority / 72
5. Prison Conditions / 73
6. Starvation / 73
7. The Oppression of Prisoners / 74
8. Charges against Kob / 75
9. Kob's Statement against the Charges / 75
10. Other Prisoners / 76
11. Recommendations / 76

from Japanese occupation as well as the 50th year of division between North and South Korea. Consequently, having adopted reconciliation and reunification of North and South Korea as a priority theme for the year, various organizations from the religious, social/community, and human rights sectors campaigned for the release of all prisoners of conscience, many of whom are incarcerated in connection with fabricated and/or distorted cases in connection with North Korea, including Kim Sun-myung, the world's longest served prisoner of conscience, having served 45 years in prison.

For 6 days beginning on 7 August 1995, leaders from all sectors of society demanded the release of prisoners of conscience. During this intensive campaigning period, 1995 figures from the community made statements for the release of prisoners of conscience as well as participating in a mock prison experience for a day as a sign of solidarity with the sufferings of the prisoners.

However, the amnesty declared on 15 August in commemoration of Independence Day, ended sadly in a 'grand amnesty' of those involved in corruption and bribery during the 5th and 6th Republic under Chun and Roh respectively. Of the 465 prisoners of conscience at the time, only 25, a mere 5%, were released. Moreover, only 3 of the long-term prisoners, who had served 39 to 45 years in prison, were released. In South Korea, there still exists 23 long-term prisoners who have served more than Nelson Mandela's 27 years imprisonment. It is not an exaggeration to conclude that Korea continues to be a land of the world's longest serving prisoner of conscience.

Such subtle tactics as the amnesty of 15 August carried out by the government under President Kim Young-sam is nothing new. The amnesty carried out initially upon President Kim's election was applied to an extremely minimal number of prisoners of conscience, and it is all too evident now that his amnesties are not for the prisoners of conscience, but for the benefit of those brought to justice and sentenced for past corruption and bribery under the grandiose purpose of reformation. While President Kim demanded the release of all prisoners of conscience during his opposition party days, 1589 prisoners of conscience have been detained during the 3 years since his inauguration. The graphs below give a more detailed picture of this 3 year period.

The Monthly Distribution of Detainees since the Inauguration of Kim Young-sam's government between 1993 and 1995

Since the inauguration of Kim's government on 25 February 1993 until the end of 1995, the total number of prisoners of conscience detained for the National Security Law (NSL), Labor-related Law, Assembly & Demonstration Law, etc. is 1589.

1993 (A total of 195 detained\105 for the NSL)

Month	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Total detained	7	7	4	19	19	43	28	7	13	28	20
NSL	1	3	2	16	6	16	12	5	7	20	17

1994 (A total of 774 detained\388 for the NSL)

Month	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Total detained	4	42	24	25	23	215	131	97	72	74	26	41
NSL	3	35	18	14	8	46	62	58	43	53	19	29

1995 (A total of 532 detained\220 for the NSL)

Month	Jan.	Feb.	March	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Total detained	13	29	38	36	109	98	54	69	29	55	81	9
NSL	10	22	27	13	40	25	18	34	7	21	60	6

The Current Situation of Long-term Prisoners of Conscience

As of January 1996, the total number of prisoners of conscience held over 7 years for the National Security Law and the Anti-communist Law is 63. The following are distributions according to case involved, age, and sentence-term.

Distribution of Related Case

Cases of visits to the North and those with acquaintances who mysteriously disappeared	6	Cases involving those who came to the South from the North	1
Cases of Korean emigrants to Japan	7	Cases involving Japan	9
Cases involving Korean students studying in Japan	3	Cases of fishermen kidnapped to the North	4
North Korean Spy cases	24		
Cases involving visits to North Korea	2	Miscellaneous	1
Cases of intension of going to North Korea	2	WesternIllinois University Spy-Case	4

Age Distribution

Total	60
over 70	5
60-69	29
50-59	14
under 49	15

Distribution of term served

Total	63
35 or more	2
30-34	10
20-29	12
under 20	39

II. Analysis - 1995

There were a total of 620 prisoners of conscience in 1995. If we look at the periodical distribution, there were a great many number of arrests and indictments of students and laborers in the months of May and June before the regional elections in 27 June 1995. (Of the 620 total arrested in 1995, 207 (33.3%) were detained in June and July) The countless number of arrests under the NSL during this period involved many cases of organizations from various universities and other such youth organizations. Moreover, labor union members from such corporations as Hyundai Motors and Korea Telecom were arrested in large numbers under the Prohibition of Third Party Intervention Law and Obstruction of Business Law.

Also, there was a sharp increase of NSL arrests during the period following the arrest of Roh Tae-woo in November at which time there were suspicions that Roh's slush funds were used in Kim Young-sam's election campaign. In the so-called 'Buyo Spy Case' various leaders of the youth movement were arrested under charges of failure to report with the only evidence being the statement made by the so-called spy, Kim Dong-shik. In addition, officers and members of 'Pomminnyon' (Pan-national Alliance for Reunification) were arrested in large numbers. This was particularly a point for criticism on inhumanitarian grounds since most of them were of advanced ages, as well as including Koh Ae-soon, a woman who was in her eighth month of pregnancy at the time.

The government under Kim Young-sam, which claims to advocate reform and change from the past military dictatorships, continues to use the same tactics of suppression to maintain power. Not only are possible figures of threat and challenge to the status quo arrested and detained, but cases are fabricated and/or distorted for the purpose of instilling fear and confusion within the general society. This inevitably results in the general public looking for stability and security, in support of the status quo, thereby securing the position of those in power.

1. NSL Arrests

Of the 620 political prisoners detained in 1995, 283 (45.6%) persons were arrested under the NSL. Below is the list of the main 'anti-state' organization cases under the NSL in 1995. The date of arrest has been entered according to the date of the first arrest of any member of the organization.

Case Name	Date of Arrest	Number of Arrests
Pusan University 'Activists Organization'	12 February	19
Kyoungki University 'Independence Group'	15 March	16
Wonkwang University 'Independence Group'	May	8
Pusan 'Shining View'	15 May	10
Koryo University 'Students against US Armed Forces in Korea'	15 May	7
Sungkyunkwan University 'National Student Alliance for People & Democracy'	30 May	4
'Alliance for Class Equality'	9 June	15
Ahnsan 'Alliance for People's Politics'	14 June	7
'May Day Alliance'	23 August	13
Woosuk University 'Independence Group'	29 August	9
'Socialist Group'	30 August	11
Chungnam University 'Independence Group'	18 October	12
'Patriotic Alliance'	16 November	7
Honam 'Sanomaeng' (Socialist Workers League) (Case re-opened after 3 years)	24 November	6
'Pomminnyon' (Pan-national Alliance for Reunification)	29 November	30

NSL Applied to Funeral Ceremony

Ki Seh-moon was arrested and indicted for managing the funeral of his fellow long-term prison inmate, Yoon Ki-nam, who had been released after serving 28 years in prison and died of intestinal cancer on 24 February 1995. Consequently, friends of the deceased, religious figures, and professors numbering some 133 persons organized a funeral committee. They held the funeral for Yoon Ki-nam, mourning the death of a "patriotic fighter on the forefront of reunification," burying him at a cemetery in Kwangju, South Cholla Province.

Then, on 8 March 1995, Ki Seh-moon was taken into custody under charges of violating the National Security Law upon the investigation carried out by the Kwangju Prosecutor's Office and the South Cholla Police Agency. They considered it problematic that Yoon Ki-nam was called a "patriotic fighter on the forefront of reunification," and arrested Ki Seh-moon, who was the executive committee chair of the funeral committee.

On 12 March, the Kwangju Prosecutor's Office and the South Cholla Police Agency formally charged him with violating article 7, clause 1 (praise and encouragement of anti-state organization) and clause 5 (possession and production of anti-state materials) of the NSL, stating "Ki Seh-moon called the ideologically unconverted long-term prisoner, Yoon Ki-nam, a patriotic fighter on the forefront of reunification, and last June Ki also participated in the General Assembly of the Preparatory Committee for the founding of the Kwangju, South Cholla Province section of the South Korean Division of 'Pomminnyon', the Pan-national Alliance for Reunification."

On the following 13 March, the police also arrested Yi Kyoung-ryul (age 35) under charges of violating article 7, clause 1 and 5 of the NSL. Yi Kyoung-ryul was the administrative official of the Kwangju, South Cholla Province division of the National Alliance for Democracy and Unification of Korea (NADUK), and had made a memorial address at Yoon's funeral as the publicity committee chair of the funeral committee. Yi Kyoung-ryul was arrested for having managed the Pan-national Rally last August 1994 and for possessing anti-state materials.

They were both charged with possessing so-called 'anti-state materials',

which involve books and written materials available in bookstores, and for praising an 'anti-state figure' at a funeral. In looking at the details of the case, it seems that the charges of possessing anti-state materials were added on as a result of the difficulties the authorities faced in trying to establish clear violations of the NSL in connection with the funeral although initially it was the funeral which was the direct cause for their arrests. On 31 May, the Kwangju District Court Judge declared Ki Seh-moon guilty of all the charges against him and sentenced him to 2 years imprisonment. Ki Seh-moon appealed, however, and was released on probation.

Arrests against Freedom of Expression

On 23 March 1995, Kim Mu-yong, history lecturer of the Korea Broadcast and Communications University, was arrested by the National Police Agency Security Division under charges of violating the NSL for producing and distributing materials about the activities of the guerillas of Chiri Mountain. (Between 1948 and 1953, there was a guerilla movement by civilians and soldiers resisting the establishment of a separate government between North and South Korea.) The police announced that Kim Mu-yong "produced and distributed anti-state materials with contents supporting the continuance of the revolutionary tradition of the past guerilla activities and spread the legitimacy of the North Korean government by producing such anti-state materials under the title of Modern Korean History and the Guerilla Movement."

However, according to the National University Lecturers' Union, Kim Mu-yong is a researcher specializing in modern Korean history, having announced several studies and thesis on modern Korean history. Trying to record the modern history of Korea as objectively as possible, Kim recorded statements from witnesses and from various written documents, and the so-called 'anti-state' material, Modern Korean History and the Guerilla Movement is an informational material distributed as an historical travel guide. In trying to contribute to a better understanding of modern history of Korea, which has long been distorted by the military dictatorships attempting to legitimize their power and cover up their wrong-doings, Kim Mu-yong's efforts have been condemned even before any general discussion could bring fruit to

his academic activities. Kim Mu-yong was sentenced to one year in prison and 2 years on probation.

Moreover, on 20 October 1995, Yi Chan-haeng, a researcher at Korea Institute of Social Sciences, was taken into custody for the 1994 publication of Kim Jung-il, the Person and Kim Jung-il, the Leader under charges of violating the NSL. In addition, Ryu Duk-yul, president of 'Han' Publishing Company, and Kim Chun-hee, Chief Editor, were arrested on 17 July under charges of violating the NSL for publishing North Korean literature. Such examples are only a few of the many cases upon which the NSL was applied to publications in violation of the right to freedom of expression.

Suspension of Arts Exhibition

On 10 February 1995, the exhibition of works by the Japanese artist, Yukinori Yanagi, which was scheduled to be exhibited during the arts exhibition entitled 'Border Crawl' at the International Arts Gallery, was excluded from the exhibition as a result of the pressures from the Agency for National Security Planning. Yukinori Yanagi's works, under the title of 'The 38th Parallel - North & South Korean Ant Farm', were about the dissolution of the national flags of North and South Korea, thereby dissolving the boundaries between North and South Korea.

On 23 June, the Seoul Prosecutor's Office Security Division claimed that a random critique in Kyoungyang Daily Newspaper about painter Kim Sang-baek that 'the US military forces were the occupation forces during the Korean War' was problematic, and an investigation would be carried out under charges of violating the NSL. All such examples paint only a faint picture of the serious violation of the freedom of expression, opinion, the arts, and creation by the NSL.

2. NSL Applied to Past Activities

The majority of the arrests in 1995 involve the activities from 2-3 years ago in the student movement or in organizations, which since have been dissolved. Such cases involve 282 individuals, 45.4% of the total of 620

prisoners of conscience in 1995.

Most of them had been officers of student organizations in early 1990, and had since terminated their activities in such student organizations and had been working or serving the mandatory armed services. Also, many of the 'anti-state' organization cases from the 6th Republic under Roh Tae-woo, such as the 'Independence Group', 'Sanomaeng' (Socialist Workers League), and the South Korean Chosun Workers' Party Case, were re-opened and countless individuals were arrested without physical evidence.

The following is a brief description of each case.

'Independence Group' Case

Beginning in February 1995, students, alumni, and those serving the mandatory armed services were arrested in large numbers from Pusan University, Kyoungki University, Wonkwang University, Woosuk University, and Chungnam University. All of the arrested had been elected as officers and had been active in the student association 2-3 years ago, having since terminated their student activities, having graduated, employed, or in the military.

Moreover, during the initial emergency arrest of these individuals numbering over 10, they were mostly charged with violating article 7, clause 3 (formation and membership in anti-state organization) of the NSL. However, in such cases as with Pusan University, charges of anti-state organization were deleted and they were only charged with possession of anti-state materials and anti-state praise and encouragement. Also, even in cases in which they were found guilty of anti-state organization charges, most were released on probation upon appeal with the exception of one or two individuals. And unlike other cases involving anti-state organizations, those who received a term of imprisonment were sentenced to a much lower term of 6 to 8 months.

Case Name	Date of Arrest	Number of Arrests	Note	1st Trial Result
Pusan University	12 February 1995	14	Charges reduced to possession & viewing of anti-state materials	12 on probation; 1 sentenced to 6 months; 1 sentenced to 10 months
Kyongki University	15 March 1995	14 (6 soldiers)	Mostly officers of 1993 student association	11 on probation; 1 sentenced to 6 months; 1 sentenced to 10 months
Wonkwang University	May 1995	6 (3 soldiers)	Officers of 1993 student association	2 released on bail; 6 on probation
Woosuk University	29 August 1995	5 (4 soldiers)	Officers of 1993 student association	5 on probation
Chungnam University	18 October 1995	12 (6 soldiers)		10 on probation

Koryo University 'Students against US Armed Forces in Korea' Case

On 15 May 1995, the Seoul Police Agency Security Division arrested 8 persons, including Choi Hong-jae, Reunification Committee Chair of NADUK, under charges of violating the NSL. On the following 16 May, the police announced that they were arrested for 'forming 'Students against US Armed Forces in Korea,' an organization supporting the self-reliance ideology of North Korea, and for distributing materials regarding North Korea and reunification within various universities.'

However, the arrested claimed that they never formed such an organization, and the police investigation was centered around the activities of the individuals rather than the organization itself. Consequently, they were indicted for distribution of anti-state materials and anti-state praise and encouragement under the NSL, rather than for formation of an anti-state organization. On 17 May, one of them was released with insufficient evidence,

2 were released on stay of indictment, and 5 were released after the first trial on probation.

Pusan 'Shining View' Case

On 15 May 1995, the Pusan Police Agency arrested 17 university students from the Pusan area under charges of violating the NSL, and later announced that they were arrested for forming an organization called 'Shining View', fighting against class division and publicizing Marxism through their newsletter, 'Heartbeat'. However, according to the arrested students, 'Shining View', which was formed in early 1994, was dissolved after about 6 months and had since been inactive. The police released 7 of the 17 arrested on stay of detention.

Sungkyunkwan University 'National Student Alliance for People and Democracy' Case

On 16 May 1995, the Military Security Headquarters took 4 Sungkyunkwan University students serving the compulsory military service into emergency custody. They were charged with forming and being members of an anti-state organization, having been active in the university organization called 'National Student Alliance for People and Democracy' during the early 1990's. However, they claimed that the latter organization had been active publicly and that after the investigation of the officers in late 1992 the case had been closed.

Re-opening of 'Sanomaeng' Case

On 21 November 1995, 13 members of the Kwangju Division of the Progressive Political Alliance were arrested by the South Cholla Province Police Agency Security Investigation Team. Although the charges on the emergency arrest warrant indicated violation of the NSL, the request for the final arrest warrant was denied by the prosecution for insufficient evidence. Within 10 hours of the denial for the arrest warrant, 6 persons including Kim Sang-jin were again taken into custody. The charges against them were the following. "They held a welcoming out-door party for the release of Koh Won, who had been released after serving his 3 years and 6 months sentence, at which time

they communicated with members of an anti-state organization...and the welcoming party constitutes a reunion of Sanomaeng."

However, the police gave no evidence as to the existence of such a 'reunion', and during the actual trial, no such charges of re-forming an anti-state organization were submitted.

On 12 July, 7 members of the Yujoo, Ahnsan area Alliance for People's Politics were arrested under charges of violating the NSL in the re-opening of the Sanomaeng Case. However, when the arrest warrants were issued, they were merely charged with having been members or participated in Sanomaeng during its period of activity without any details as to their actual activities or claims of reorganization of the so-called 'anti-state' organization.

In spite of such facts, the police distortedly announced that they had been active as members of the reorganized Sanomaeng.

South Korean Chosun Workers' Party Case

On 23 August 1995, 13 persons including Han Mi-sun (a graduate of Koryo University) were arrested in the May Day Alliance Case. They were charged with having been members of the May Day Committee of the Patriotic Alliance, which is allegedly connected with the South Korean Chosun Workers' Party Case announced immediately before the presidential election in 1992. However, the police had failed to carry out any investigation regarding these persons in 1992, and during the 3 years after the case they had been leading normal lives until they were suddenly arrested.

On 16 November 1995, 8 persons including Jung Jae-dong (a pastor) were arrested in the Patriotic Alliance Case. Using the press release by the police, the media reported that 'they had re-formed the organization from 1993, and had been carrying out underground activities and instigating demonstrations.'

However, the arrested claimed that not one of them had been in hiding since the South Korean Chosun Workers' Party Case 3 years ago, and that their activities had been completely public and legal. They further stated that if the authorities had anything against them they should have been charged 3 years ago, and went on to claim that the investigative authorities are carrying out

arbitrary detentions.

The Patriotic Alliance Case erupted at the time when the youth movement related leaders were arrested in connection with the Buyo Spy, Kim Dong-shik, before the 1996 general assembly elections. Consequently, many individuals, including human rights and progressive organizations, have come to expect NSL related arrests during periods before elections.

One of the most important characteristics of the NSL arrests in 1995 was the fact that individuals were arrested for activities which may or may not have occurred 2-3 years ago, which was not considered problematic at the time the case actually occurred. The police, then, usually distorted the facts through the media, making it seem like subversive activities had been constantly occurring, when in fact the original cases involved nothing more than the individual's right to association, freedom of opinion and expression.

With the Cold War over, the security considerations between the Eastern and Western blocks, between communism and capitalism have dissolved and given way to a more complex international atmosphere, in which economic issues have created a Northern and Southern block between wealthy countries and the third world countries. Consequently, not only are intelligence positions under threat by their diminishing roles, but the authorities are beginning to face more difficult challenges in suppressing the public. That is, with the changing international situation, the authorities are no longer able to use the fear of the general public concerning the threat of national security to maintain their power and the status quo. Thus, various investigative organs inevitably compete against one another in trying to maintain their position and importance, and the authorities try to create a sense of need for stability and the status quo by creating national security cases.

3. Acquittals

Although there were countless human rights violations under the NSL, there have been some positive steps by the courts in declaring various acquittals guilty verdicts.

17 January 1995

The Pusan District Court Judge, Park Tae-bum, released on bail 4 individuals including Jung Eun-kyoung, who were indicted in a case involving the 'International Socialist Group,' during the first trial.

The court appealed for a constitutionality hearing to the Constitutional Court, stating that parts of the NSL article 7, clause 1 (praise and encouragement of anti-state organization), clause 3 (membership in anti-state organization), and clause 5 (possession of anti-state materials) are in violation of the freedom of expression, as well as in violation of the prohibition of the infringement of the fundamental and basic rights in contradiction to the rules and regulations of the law.

6 April 1995

Reversing the original guilty verdict (10 months imprisonment) passed during the first trial, the Seoul District Criminal Appeals Court announced the acquittal of Yi Chang-bok, Chair of National Alliance for Democracy and Unification of Korea (NADUK), who was arrested in connection with the Pan-national Rally for reunification under NSL article 7, clause 5 (production and distribution of anti-state materials) and the Assembly and Demonstration Law. The court stated that 'the NSL article 7 has dangerous possibilities for misuse when interpreted broadly, and must be interpreted and applied strictly only in cases of clear and present danger.'

21 April 1995

The Seoul District Appeals Court reversed the original decision of the first court, which put Park Chi-hwan, Editor of magazine 'Il-tuh', on probation for the violation of NSL article 7, clause 5 for publishing a North Korean novel. The court passed a not guilty verdict, stating that 'it is difficult to establish clearly whether the contents of this book will be a threat to the existence, safety, free and democratic order of Korea.'

17 May 1995

The Seoul District Criminal Appeals Court reversed the decision of the

first trial to put Jin Sang-ho on probation for the violation of the NSL article 7, clause 5 (production and distribution of anti-state materials) for putting the 'Communist Party Platform' through computer communications, stating that 'the Communist Party Platform is widely available in libraries and regular bookstores and cannot be seen as a clear threat to the order of Korea.'

11 December 1995

The Pusan District Court acquitted Joo Woo-yul, president of the student association of Pusan Fisheries University, who was arrested and indicted under charges of violating the NSL, article 8 (meeting and communicating with an anti-state figure). The court stated that 'only in cases of clear danger of possible and specific threat to the existence, safety, free and democratic order of this society can the NSL be applied. Thus, anti-state activities cannot be established merely by the criticism of the political system and government policies of South Korea nor by the fact that one's opinions coincide with that of North Korea.'

In April 1990, the Constitutional Court gave limitations as to the constitutional use of the NSL, article 7, clause 5, stating that 'it must be strictly applied only in cases of clear danger of threat to the existence and safety of the nation and harmful to the free and democratic order of society.' However, the investigative organs continued the arbitrary application of the law. The acquittals in 1995 constitute the acknowledgement by the Judiciary concerning the existence of the problem with the NSL as a major cause of human rights violations by arbitrary use. However, such positive incidents are minimal and the NSL continues to violate human rights in large numbers.

4. Human Rights Violations by the ANSP

Case of Professor Park Chang-hee

On 27 April 1995, the Agency for National Security Planning arrested Park Chang-hee, a professor of history at Foreign Language University, under charges of meeting and communicating with Suh Tae-soo, a history scholar in

Japan who studied Koryo history at Meiji University in Japan, for violating the NSL.

On 15 May, the ANSP took Park to the prosecutor's office for investigation and announced that 'Professor Park joined the North Korean Workers' Party,' distributing press releases without any evidence supporting such claims.

On 16 May, Park filed a petition to the Committee for Arbitration of Media Disputes against 9 press companies for the false report, claiming that he had been forced to make a false confession that he had joined the North Korean Workers' Party as a result of torture by the ANSP. He further stated that 'the media irresponsibly reported the one-sided claim made by the ANSP without reconfirming the facts, and consequently caused great harm, as well as disparaging the activities of a history scholar as espionage activities.'

Case of Kim Dong-shik

With the capture of a supposed spy called Kim Dong-shik near Buyo, South Chungchong Province on 24 October 1995, people were arrested for failing to report any connections with him, and a wave of threat to national security swept the country as 1995 drew to a close and the 1996 general assembly elections approached. Between 6 and 7 November, Woo Sang-ho (Chief of Youth Information & Cultural Center), Yi In-young (President of National Council of Student Representatives Alumni Association), Hahm Woon-kyoung (Chief of General Affairs Department of Korean National Congress for Reunification), and Huh In-hwae (committee member of the National Council for New Politics Party) were arrested under charges of failure to report of the NSL for not reporting their meetings with Kim Dong-shik.

The only evidence offered was the statement made by Kim Dong-shik. Woo Sang-ho and Yi In-young were released without charge, and Huh In-hwae and Hahm Woon-kyoung were released on bail.

According to article 3, clause 3 of the ANSP Law, which was amended in December 1993, it is stated that 'the crime of failure to report under article 7, clause 10 of the NSL is excluded from ANSP duties.' Since the ANSP does not have jurisdiction over investigations involving charges of failure to report,

on 15 November, the ANSP arrested Park Chung-ryul (Assistant Secretary General of NADUK) and Kim Tae-nyun (Chairman of a youth organization) under charges of violating the NSL, article 8 (meeting and communicating with anti-state figure).

The charges on the arrest warrant stated that 'at an unknown time and date in 1990, they joined with an unknown North Korean spy and were given orders of unknown content, and have been reporting their activities to the North through an unknown communications network.'

Having obtained an arrest warrant without even such basic facts to build a case, the ANSP carried out an impossible investigation based on torture.

During the 21 days of investigation by the ANSP, Park Chung-ryul and Kim Tae-nyun were almost never allowed to sleep, and were interrogated standing up. When they completely denied all charges against them, the ANSP did not even allow legal counsel during the last 4 days before taking them to the prosecutor's office, continuing the investigation with cruel torture.

On 4 December, the Seoul District Attorney indicted Park Chung-ryul and Kim Tae-nyun under charges of violating the NSL, article 7, clause 1 (anti-state praise and encouragement) and clause 5 (possession and distribution of anti-state materials). Such anti-state materials involved publications made by opposition organizations such as NADUK and Pomminnyon. In the case of Kim Tae-nyun, charges of violating the Assembly and Demonstration Law were also added for carrying the Anti-Uruguay Round Rally of March 1994 30 minutes passed the originally reported time. This only gives further evidence to the fact that the ANSP failed in their attempt at fabricating another espionage case.

Consequently, in an attempt to compensate for their failure at building an espionage case by gaining wide press coverage, the ANSP allowed the live broadcast of the press conference with Kim Dong-shik on 8 December.

During the press conference, Kim Dong-shik stated, "I came to South Korea on 17 October 1990 with Yi Sun-shil, who had first been sent to South Korea on 30 May 1990 and had acted as the chief head of the South Korean Chosun Workers' Party. At the time, I stayed with Yi for about 5 months and we contacted about 30 figures from all levels and sectors, planning the

construction of an underground party. I was sent for the second time last 2 September 1995 with Park Kwang-nam to supervise the activities of the 'permanent North Korean spies' in South Korea and to infiltrate the various political movements and activists in South Korea." However, Kim Dong-shik did not state the identity of the 'permanent spy' he was supposed to send back to North Korea, and continued to claim one-sidedly that he met with Huh In-hwae twice. Kim Dong-shik rejected any cross-examinations by Huh In-hwae, who had been fasting for 13 days in the detention center as an expression of his statement that he had never met with Kim Dong-shik.

This case is strongly biased not only in that the charges against the above persons were announced and reported as if they had been convicted even before the trial had taken place, but also in that the timing of the case coincides with that of the period just before the general assembly elections. There are strong indications that this was another 'espionage case' exploited for the purpose of creating a false sense of threat to national security, reviving the old 'red scare' and thereby intimidating the public into supporting the party in power.

As can be seen from the details above, the principle of 'presumption of innocence' before being proven guilty in a court of law is in practice not respected, if not ignored completely. The ANSP and security authorities fabricate and distort cases, persecuting defenseless and innocent victims through the media. The media has continuously had to make correctional reports as a result of the appeals made to the Committee for Arbitration of Media Disputes or the courts in connection with the many false reports made without proper confirmation and clarification of the truth, based solely on the announcement made by the security investigative authorities. For example, Professor Jung Hyun-baik, who was called 'North Korean Scholarship Professor,' won in a civil suit; Chosun Daily News had to correct their article entitled 'Singing Group, Heemang Sae (Bird of Hope), arrested for singing praises of Kim Il-sung'; articles about 'Saem' as 'Self-reliance (ideology propagated by Kim Il-sung in North Korea) organization infiltrated High School,' and Alliance of People's Culture for Laborers as 'Self-reliance Ideology infiltrated Labor Sector' had to

be corrected as well. However, the majority of the media continue their irresponsible practice of reporting information solely based on the position of the security authorities.

Illegal Detention of Victims

On 15 December 1995, upon the appeal of Chun Chang-il who was arrested in the Pomminnyon case, the Seoul District Court ruled that 'the change in the location of the detainee from the original location designated in the arrest warrant (in this case Socho Police Station) to the ANSP must be cancelled.' Chun, who was arrested by the ANSP on 29 November 1995, was taken to the ANSP to be investigated rather than to the Socho Police Station as stated on the arrest warrant. Stating that it is illegal to change the place of detention from that which is designated on the arrest warrant, Chun appealed to the Seoul District Court. Consequently, the various investigative organs, which had hitherto carried out secretive investigations at the ANSP, are not as easily able to randomly execute their illegal practice of changing the location of detention. This was in large part due to the efforts of the human rights organizations and other opposition organizations, which have repeatedly pointed out the problems related to secretive investigations. However, on 23 February 1996, it was shockingly discovered that the ANSP was in the process of building a jail cell within the ANSP in an attempt to legalize and justify their practice of secretive investigations.

5. Mass Arrests against the Right to Life

Labor Movement Leaders arrested for Third Party Intervention

The Prohibition of Third Party Intervention Law (Labor Union Law article 12, clause 2, Labor Dispute Mediation Act article 13, clause 2, and Joint Labor-Management Conference Law article 27) was detrimentally revised by the National Security Legislative Council on 31 December 1980, which was an emergency legislative organ formed by the Chun Do-hwan regime upon its illegal seizure of power by a military coup d'etat.

The Prohibition of Third Party Intervention Law has been repeatedly

criticized by international organs. The International Labor Organization (ILO) has repeatedly advised the revision of such laws as the Prohibition of Third Party Intervention Law and Labor-Related Laws restricting the freedom of association to the South Korean government in March 1993, November 1993, and June 1994. The ILO stated, "The labor organizations must respect national law, but the national law must abide by the principle of freedom of association." In May 1995, the UN ECOSOC also advised the revision of the labor laws in South Korea, including the Prohibition of Third Party Intervention Law. Moreover, the UN Human Rights Committee also advised the revision of the latter law upon accepting the appeal of Sohn Jong-kyu, the labor union chair of Keumho Tires.

However, with the coming inauguration of the Korea Council of Trade Unions (KCTU) in November 1995, many labor movement leaders, including Kwon Yong-gil (Chair of KCTU), were arrested for violation of the Prohibition of Third Party Intervention Law.

1995 Arrests for Third Party Intervention

Jung Woo-dal (Daegu Labor Alliance Chair), Moon Young-man (Booyang Labor Alliance Chair), Yi Sang-hyun (KCTU Executive Committee Chair), Min Dong-won (Seoul Labor Union Association, Dispute Committee Chair), Kim Young-kon (National Association of Labour Movement Organizations-NALMO Chair), Yoon Jae-kun (Hyundai Labor Union Alliance Chair), Dahn Byoung-ho (National Labor Association Chair), Park Yong-sun (Daegu Labor Alliance Chair), Yi Soo-won (Hyundai Labor Union Alliance, Administrative Secretary), Yi Joon-hyung (Kyoungki Labor Alliance Vice-chair), Choi Kyoung-ok (Dongsung Pharmaceuticals Labor Union Chair), Moon Sung-hyun (Metals Alliance Executive Committee), Yi Yong-jin (Hyundai Labor Union Alliance, Secretary General), Yi Seung-pil (Machang Labor Alliance Chair), Kwon Yong-gil (KCTU General Representative), Yang Kyu-hun (KCTU General Representative).

Those subjected to the application of the Prohibition of the Third Party Intervention Law are those who intervene in labor disputes 'for the purpose of

controlling, instigating, and influencing' the dispute. Such actions are nothing more than the exercise of the right to freedom of expression, participating in assemblies, singing, shouting slogans, and/or jointly announcing statements, which all become causes for arrest and punishment under the arbitrary application of the law by investigative organs.

Mass Arrests by Security Forces

Like 1994, the government continued to show a strong bias towards the management, aggravating the autonomous labor-management relations and arresting large numbers of laborers.

In May 1995, the Korea Telecom Labor Union held reservations about its original decision to hold a strike, taking more moderate dispute actions within the legal boundaries of the existing labor laws. However, on 19 May, President Kim Young-sam declared that the legal dispute action taken by the Korea Telecom Labor Union was an action to 'overthrow the government', implementing a wide-scale suppression of the Korea Telecom Labor Union.

One of the prime examples of the oppression of the labor movement in 1995 involved the use of security forces on 21 April 1995. When the laborers with the National Association of Dismissed Laborers for Reinstatement tried to enter the Unified Government Building for an interview, the police battered the laborers. Security forces were later sent in to the hospital where the injured laborers were hospitalized, arresting them in large numbers.

On 19 May, large numbers of laborers were arrested in connection with the Hyundai Motors Labor Union strike, which began as a result of Yang Bong-soo who set himself on fire after being dismissed from Hyundai Motors. On 6 June, Korea Telecom Labor Union members on strike at Myongdong Cathedral and Jogae Buhhist Temple were arrested unprecedentedly from such places of worship. The continued suppression of the labor movement in favor of the management and the capitalists by the government resulted in one too many protest suicides by laborers (Park Sam-hoon of Daewoo Shipyards in June, Cho Soo-won, a dismissed laborer, in December) who set themselves on fire.

The following is a list of laborers detained from various business sectors in 1995.

Korea Telecom	38
Hyundai Motors	22
National Association of Dismissed Laborers for Reinstatement	6
Kia Construction	10
Shinil Metals	7
Wooshin Industries	5
Youngnam University Hospital	5

III. The True Meaning of Globalization

The movement and campaign for the abolition of such unjust laws as the National Security Law saw many positive steps in 1995, including several unprecedented not guilty verdicts in NSL violation cases. The year 1996 will be crucial in the effective use of the momentum which put the former two presidents, Chun Do-hwan and Roh Tae-woo, behind bars. With the arrests of Chun and Roh, modern history of Korea can finally be looked upon painfully but truthfully as a period of abuse of the most fundamental and basic human rights with the implementation of illegal and anti-human rights laws by such mechanisms as the National Security Legislative Council. In light of the current trend in internationalization around the world, it is only too obvious to note the impact that the international human rights organizations will have on the governments like South Korea, which claim to be working towards globalization and peace. With the NSL still intact and the countless prisoners of conscience and political prisoners in prison, the present South Korean government will truly have to face difficult obstacles in trying to portray an image of globalization and peace on the international stage.

On 30 May 1995, the Working Group on Arbitrary Detention under the UN Commission on Human Rights adopted the cases of Yi Jang-hyoung and Kim Sun-myung as cases of arbitrary detention under article 5 (right to be free from torture) and article 10 (right to a fair trial) of the Universal Human Rights Declaration, and article 7 (prohibition of torture), article 9 (physical freedom),

and article 14 (right to a fair trial) of the International Covenant on Civil and Political Rights (ICCPR). [Decision No. 1/1995 Republic of Korea] In addition, the cases of Ahn Jae-ku, Ryu Rak-jin, and 6 others were declared arbitrary detentions in violation of article 19 (freedom of expression of opinion) and article 20 (freedom of association) of the Universal Human Rights Declaration, and article 19 (freedom of expression) and article 22 (freedom of association) of the ICCPR, urging the South Korean government to take necessary steps to improve the human rights situation in South Korea.

Moreover, the report on South Korea by the UN Special Rapporteur on Freedom of Expression, Abid Hussain, who visited South Korea last June 1995, was presented during the 52nd session of the UN Commission on Human Rights held this year for six weeks beginning on 18 March 1996. The latter document pointed out that the South Korean government, under the pretext of national security, misuses the NSL in the suppression of freedom of expression, at which the ANSP leads the way. The Special Rapporteur further stated that the system of ideological conversion for political prisoners must be repealed and that they should be considered for release on parole.

This report also strongly recommended that the NSL should be repealed in conformity with the Universal Human Rights Declaration and the International Human Rights Covenants, that the system of ideological conversion should stop, that political prisoners held for the exercise of the right to freedom of opinion/expression should be released, that a retrial should be guaranteed for those who became political prisoners under the past military regimes, that the labor laws, including the Prohibition of Third Party Intervention Law and the Labor Dispute Mediation Act, should be revised, that the Ministry of Justice should seriously consider the application of laws to protect the freedom of expression, and that the prisoners right to freedom of expression should be guaranteed.

In consideration of all such events, it is of utmost importance and priority that the government under Kim Young-sam make human rights reforms at once in order to truly realize globalization, releasing all prisoners of conscience and abolishing the NSL and like laws, as advised by the UN human rights mechanisms and the international human rights organizations.

1995 Human Rights Conditions in Detention Facilities

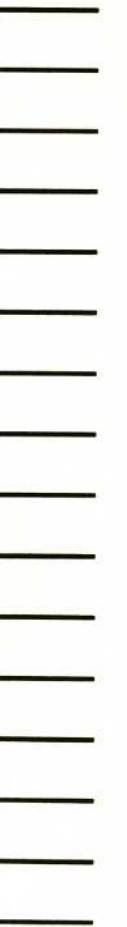
I. Detention Environment

The report on the human rights conditions in detention facilities in South Korea, which was presented to the UN Commission on Human Rights during its 52nd session, pointed out that the South Korean government, under the pretext of national security, misuses the NSL in the suppression of freedom of expression, at which the ANSP leads the way. The Special Rapporteur further stated that the system of ideological conversion for political prisoners must be repealed and that they should be considered for release on parole.

1995 Human Rights Conditions in Detention Facilities

The report on the human rights conditions in detention facilities in South Korea, which was presented to the UN Commission on Human Rights during its 52nd session, pointed out that the South Korean government, under the pretext of national security, misuses the NSL in the suppression of freedom of expression, at which the ANSP leads the way. The Special Rapporteur further stated that the system of ideological conversion for political prisoners must be repealed and that they should be considered for release on parole.

The report on the human rights conditions in detention facilities in South Korea, which was presented to the UN Commission on Human Rights during its 52nd session, pointed out that the South Korean government, under the pretext of national security, misuses the NSL in the suppression of freedom of expression, at which the ANSP leads the way. The Special Rapporteur further stated that the system of ideological conversion for political prisoners must be repealed and that they should be considered for release on parole.



1995 Human Rights Condition in Detention Facilities

1. Detention Environment

According to 1995 government information, there were a total of 59,333 prisoners held in 39 detention facilities in the country including prisons and detention centers as of September 1995. This breaks down to an average of 1,500 prisoners per facility. This is 3 times the number designated by the 'Standard Minimum Rules for the Treatment of Prisoners' of the United Nations, which is 500 detainees per facility. Moreover, the total number of personnel in charge of the rehabilitation and education of detainees was 11,728 (as of September 1995). This breaks down to a ratio of 5 prisoners for every officer, with Taegu Prison having a ratio of 8:1.

Consequently, the combination of over-populated detention facilities and the extremely insufficient number of rehabilitation personnel has led to a complete lack of any real rehabilitation or education programs. Putting aside the actual purpose of detention facilities, which is ultimately to reform and rehabilitate detainees to be productive members of society, the current detention facilities serve solely to isolate the prisoners from society without any hope for rehabilitation. This can be confirmed by the fact that in 1995, the parliamentary inspection of administrative offices within the Ministry of Justice pointed out that the management of detainees, handling of violations of prison regulations, inappropriate administration of prisoners' medical care, and other such problems were a result of the inability to deal with the prisoners on an individual basis due to the increase in the prison population.

Meanwhile, the conditions for those detained in jails at police stations are worse yet. According to the 1995 report compiled by the National Police Administration regarding the conditions of jail facilities of each police station in the country, as of September 1995 the combined total size of jail facilities was 8,422 pyong (1 pyong = 3.306 meters square) divided into 1,637 jail cells in which 19,135 detainees are designated per day by regulation. In other words, in a cell of 5.1 pyong, the space allotted to each prisoner is a mere 0.4 pyong.

Even this minimal space is reduced further on days with an excessive number of detainees. (According to the statistics compiled by the National Police Administration, the greatest number of persons detained in a single day was 23,860)

However, the inadequacy of the police department jail facilities seems to be even more serious. For instance, 71 detainees held at the South Cholla Province, Haenam Police Station appealed for the improvement in the jail conditions stating, "Since 1982, 50 persons were held in a space of 6.3 pyong (0.12 pyong per person), but now 80-90 persons are detained in the same space."

In addition, prisoners are under great risk of suffering from various diseases and illnesses due to continued isolation as well as unsanitary environment as a result of over-population. The proper cleaning and disinfection of all materials within the detention facilities is the minimum measure needed for the prevention of diseases. However, in the case of sleeping equipment, they are disinfected once a week, taken outside for air 2-3 times a month, and laundered only once every 4 months. In the case of eating utensils, they are not disinfected at all.

More importantly, it is imperative that the practice of criminal justice based solely on detention for the purpose of isolating prisoners from society be stopped, and begin incorporating the practice of socializing and rehabilitating prisoners. In order to do so, basic facilities for minimum living conditions of prisoners (such as cell structure, temperature, air, sunlight, electric light, and others sufficient for the maintenance of the prisoners' health) must be guaranteed, and the insufficiency in rehabilitation personnel must be met as a priority.

2. Visitations

On 5 January 1995, the Code of Criminal Procedures was revised, and on 2 August 1995, the enforcement ordinance for the latter was announced. Regarding the issue of visitations, it stated, "In the case of those prisoners awaiting trial, the recording or participation by any prison personnel during the

prisoner's legal counsel is prohibited, and visitations/communications with persons other than family is fundamentally permitted unless there are appropriate reasons otherwise concerning rehabilitation and treatment of the prisoner."

The visitations of family members as well as lawyers for prisoners of conscience, however, are still largely limited depending on the arbitrary judgment of the prison authorities. In February 1995, two attorneys, Choi Dong-bae and Yi Jong-gul, requested visitations with several long-term prisoners (Yoo Jung-shik, Kim Byoung-joo, Cho Sang-rok, Yi Song-woo) held at Ahndong Prison to prepare for the submission of an appeal for a re-trial, but the prison authorities rejected the visitation request.

Since such requests were repeatedly denied, a lawsuit was filed against the government and the Cheju Prison Director on 13 June 1995 by the attorney who's request to visit Nam Jin-hyun (detained for the violation of the National Security Law in August 1994) was denied.

Under prison regulations, prisoners are categorized from level 1 to 4 according to their conduct, level 4 being the lowest category. However, pregnant women, prisoners over 70 years of age, prisoners awaiting trial, and those who have 'rejected democracy' are exempted from such categories. The prisoners of 3 and 4 levels, constituting 86% of the total prisoners, are only allowed 2-3 visitations per month with time limitations of under 30 minutes. (Categorized Treatment Regulation article 46, Code of Criminal Procedures article 54)

Visitations are the only opportunities for prisoners to have contact with the outside world, and they can also serve as a supervisory role in preventing any unjust treatment by prison authorities. However, in spite of the small revisions in the legal system, the criminal code has not substantially changed, and contains many obscure and ambiguous phrases such as 'at the discretion of the warden' and 'if necessary for rehabilitation', leaving the prisoners' rights in the hands of the arbitrary judgment of prison authorities.

3. Library Facilities & Right to Freedom of Expression

Access to written materials/publications for prisoners is necessary and should be encouraged as a way of instilling character and humanity and preventing complete isolation from society. The Code of Criminal Procedures likewise points out that "Unless there is reasonable cause, access to library facilities must be allowed." (Code of Criminal Procedures article 33) However, the prison authorities of each prison have compiled a list of materials not allowed for prisoners from the outside based purely on individual arbitrary judgment, thereby violating the prisoners' right to know.

In February 1996, a human rights organization attempted to send a copy of 'Human Rights in South Korea' (It has been submitted to the UN Human Rights Committee, published by Historical Criticism Publishing Co.) to Kang Yong-ju (currently held in Andong Prison serving his 12th year), but was rejected in the inspection process. The prison authorities stated that "it was under the list of impermissible materials" as a reason for denial.

In cases of access to newspapers, the prison authorities also arbitrarily delete and limit certain articles stating that it is 'unfit for rehabilitation,' especially those articles related to prisons and prisoners.

The Ministry of Justice has stated in the past that beginning on 1 November 1994 "all prisoners will be allowed writing utensils to be kept personally in his/her cell for free use." Moreover, it stated that "all prisoners are allowed to submit letters or literary works to newspapers and magazines upon permission." However, even upon the formal announcement of such measures taken by the Ministry of Justice, most of the prisons continue to obstruct the free exercise of the prisoners' right to expression by such policies as the collection of all writing utensils after use.

These facts can be confirmed further in the report submitted by the UN Special Rapporteur on the Freedom of Expression, Mr. Abid Hussain, to the UN Commission on Human Rights on 21 November 1995. According to the latter report, in spite of the government authorities' claims of the guarantee of the right to write, it is clearly evident that such rights are continuously violated.

According to the report, when Hwang Suk-young, a writer currently held in Kongju Prison, requested for some paper to write a new preface for the re-publication of his book, the prison authorities demanded that he tell them the

quantity of what he wished to write. Although he had not yet written the preface and had no way to know how long it would be, the authorities stated, "If you are going to write 10 pages, we will give you 10 pages of paper; if you want to write 20 pages, we will give 20 pages of paper." Hwang Suk-young responded by saying that he would rather write, as if he was writing a letter, at which the prison authorities gave him 2 postcards. When Hwang Suk-young finished, the authorities demanded that he re-write it 3 times, and finally he wrote the preface using every available space on the 2 postcards given to him.

In addition, even in cases when the writing was of a personal nature not intended for publication, Hwang Suk-young had to report to the authorities on the subject of his writing, which had to be inspected by the Ministry of Justice and given permission by the prison authorities. Such procedures had to be taken everytime he wished to write, and any written material had to be inspected by the authorities. Finally, it is said that Hwang Suk-young decided to terminate all writing activities in such a situation of limited freedom of expression.

4. Right of Petition

"The right of petition serves as a remedial system for any possible violations of the prisoners' rights." "The right of petition allows the prisoners to directly address the Minister of Justice in demanding the revision or the cancellation of any illegal or unjust measures taken by the prison resulting in any real or possible violations of their rights."

On 20 March 1996, the Ministry of Justice announced in a state publication the above statements regarding the concept of the right of petition of the prisoner. In actuality the right of petition has failed to serve as 'a remedial system in redressing violations of rights,' and it is difficult to effectively utilize it. When prisoners submit a report to the prison authorities regarding their intention to write an appeal to the Minister of Justice, the authorities delay the permission to write or intimidate the prisoners into giving up their right of petition, thereby obstructing the exercise of the right of petition before it can

even be used.

In February 1995, Kim Sam-sok (currently held in Taejon Prison) tried to appeal to the Ministry of Justice regarding the unfavorable treatment of prisoners unwilling to submit to the system of ideological conversion. However, the prison authorities blocked the exercise of the right of petition on 3 accounts, upon which 3 prisoners of conscience, including Kim Sam-sok, went on a hunger strike for over 10 days in protest. In August of the same year, Eun Jae-hyoung (held in Jangheung Prison) tried to submit a petition regarding unsanitary prison conditions, but this was likewise rejected by the prison authorities. When the families of the prisoners began preparations to file a lawsuit, the authorities finally allowed the composition of the petition in mid-September. (Reported in Hankyureh Newspaper 11 March 1995)

Moreover, in the 11 March 1995 issue of the state publication, the Ministry of Justice announced limitations in exercising the right of petition stating, "Issues regarding prisoners other than oneself, personal opinions or vague hopes cannot be the subject of petition." The following is the result of the petitions submitted by national security offenders as documented by the parliamentary inspection in 1995 between January 1994 and September 1995.

Year	Contents of Petition	Result
1994	Request for the abolition of inspection/limitation of library/publications	Rejected
"	Request for explanation of the basis for labor by prisoners	Explained
"	Request for solitary prisoners to be allowed to attend church with other prisoners	Rejected
"	Request for re-investigation of cases or release on parole	Rejected
"	Request for transfer or release on parole	Rejected
1995	Request for the inclusion of the imprisonment period, while waiting for execution of those prisoners sentenced to death, as sentence served	Rejected
"	Request for more variety in materials available for sale for personal consumption within the prison	Rejected
"	Request for installation of exercise equipment and other improvements in treatment	Rejected

Not only are such petitions by prisoners of conscience rejected, but petitions by regular prisoners are also rejected. According to the parliamentary inspection report of September 1995, there were 15 petitions by regular prisoners processed by the Ministry of Justice in a period of one year between 1 September 1994 and 31 August 1995, all of which addressed the issue of treatment and all of which were rejected.

5. Medical Treatment

According to the same parliamentary report regarding the deaths of prisoners between January 1994 and August 1995, out of a total of 61 deaths, 46 deaths (75% of the total deaths) were the result of suicides, diseases, and fatal violence by inmates. Of those who died of illness, the main causes were high blood pressure, intestinal infection, and diabetes, all preventable by appropriate regular treatment.

However, there are merely 55 doctors and 3 pharmacists in the 39 prisons, detention centers, and other detention facilities in the country (as of September 1995). All of the above doctors run their own private hospitals, thereby allowing them only 1-2 days a week of medical work at the prisons. The number of prisoners that one doctor needs to look after is 300 in the case of smaller prisons, and 4,000 in the case of larger prisons. Also, the medical facilities in prisons are extremely inadequate, with an X-ray machine at the most, almost making it impossible for a medical check-up within the prison.

In addition, during holidays and at night, the detention facilities do not house certified nurses. Consequently, there is presently no way of dealing with emergency situations such as heart attacks or strokes during odd hours. In November 1995, Joo Myoung-soon (female, age 74), held at Songdong Detention Center, was suffering from spinal disk problems and hepatitis, both of which are chronic illnesses. She was not able to walk properly upon her detention as a result of muscular paralysis due to a hip gout (sciatic nerve) problem. Also, she was not able to consume much of the food in prison as it was much too spicy and salty for her condition. As a result of malnutrition she often suffered

from dizzy-spells and low levels of albumin. Meanwhile, the prison authorities ignored Joo's condition until March 1996, when she became unconscious and outside medical treatment was finally allowed.

Moreover, as a result of torture, Bang Yang-kyun (held at Ch'unju Prison) suffers from paranoia, neurosis, and angina pectoris (stricture of the heart). He also suffers from serious back pains and has to depend on a walking stick to maintain his 90 degree bent posture. Bang and his family repeatedly requested for medical treatment throughout 1995, but was denied any treatment. Unable to receive even the most basic treatment, Bang is currently maintaining himself with the help of yoga and pressure treatment by his fellow inmates.

In December 1995, Koh Ae-soon, at the time 8 months pregnant and held at Kwangju Prison, continuously requested a medical check-up after showing serious signs of skin-peeling and swelling, but the prison authorities merely measured her temperature once. The authorities allowed one outside medical check-up in order to obtain the expected date of delivery to determine the date of temporary release for delivery. Finally, Koh Ae-soon was temporarily released for delivery and had a still-birth on 5 February 1996.

The latter case of Koh Ae-soon brought about much attention to the condition of medical facilities in prisons as well as to the issue of treatment and facilities for pregnant prisoners. Currently, according to the Code of Criminal Procedures, "If acknowledged as necessary for delivery, the female prisoner may have a mid-wife." However, this has almost never been practiced in reality. With the already great shortage in medical personnel without any signs for improvement, there is little probability that personnel will be allocated for the benefit of the pregnant prisoners, who constitute a very small minority of the prison population. There is absolutely no system of treatment or care of females before and after delivery within the prisons, not to mention the lack of facilities for new-borns.

According to the parliamentary inspection report of 1995, "The current management of prison medical personnel is unreasonable, and the strengthening of medical professionals for the effective management of the prisoners' health is desperately needed." Thus, in order to improve the medical conditions of

prisons, each detention facility must enlarge the medical staff to more than 1 full-time professional medical doctor, and legal measures allowing the immediate permission of outside medical examination upon request should be instituted at the very least.

6. Disciplinary Action

According to the Code of Criminal Procedures regarding disciplinary action of prisoners, a formal request for disciplinary action must be written and submitted to the Disciplinary Action Committee for decision. Also, in cases of confining prisoners to disciplinary cells for punishment, it is stipulated that permission must be attained from the medical officer in charge, and the prisoner under such disciplinary action must obtain medical examination throughout the period of confinement. However, such regulations are not effectively carried out. Much too often, the prison authorities demand the Disciplinary Action Committee for approval or simply confine the prisoner to the disciplinary cell without formal announcement of the submission of the request for disciplinary action beforehand. Consequently, the prison authorities ignore the regulations stipulated in the Code of Criminal Procedures, and violate the rights of the prisoners.

On 15 February 1996 at Uijungbu Prison, when approximately 20 prisoners began protesting the beating of a prisoner by the prison director, the guards again beat the prisoners and put them under disciplinary action, forcibly transferring them to another prison. The latter case developed as a result of the unjust treatment of Bae Byoung-do by the prison director. Bae Byoung-do was transferred to Uijungbu Prison from Chongsong High Security Penitentiary in early January. Under the pretext of security, the prison director interfered and limited Bae's daily activities. Then, on 15 February, Bae was beaten for wearing a T-shirt with a pocket. When approximately 20 prisoners protested in anger, the guards battered the prisoners and placed them under disciplinary action for 2 months, confining them to punishment cells. After a few days, they were forcibly transferred to various prisons such as the Youngdeungpo Prison, Soowon Prison, and Ahnyang Prison.

No Disciplinary Action Committee met during this process, and neither

was there any medical examination. This case not only involves the unlawful violence imposed on prisoners, but also the complete disregard of the procedures for disciplinary action. In spite of the existing regulations of the Code of Criminal Procedures, this case is a clear example of the difference between de jure and de facto conditions, which result not in the prosecution of the perpetrator of violence but in the unjust punishment of prisoners.

According to the revised Code of Criminal Procedures, the system of reducing food rations, deprivation of exercise for up to 5 days, and deprivation of visitation/mail as disciplinary actions were abolished, and the use of gags as tools of punishment was prohibited. However, according to the 1995 parliamentary report regarding the conditions of disciplinary actions and punishments, of the total 4,055 cases of disciplinary action, 3,696 (91% of the total) cases involved the serious punishment of solitary confinement, deprivation of visitation, mail, exercise, library and work for up to 2 months. However, such relatively light actions as warnings and limitations in the use of library were carried out in only 0.05% of the total cases. It is evident that the use of disciplinary action most seriously violates the rights of the prisoners and is used without much regard to the original purpose of maintaining order within the prison.

According to a student who was released from Chongju Prison in March 1995, "Although the use of the gag is prohibited by the revised Code of Criminal Procedures, it continues to be used simply under a different name, 'facial protection device.' The authorities impose disciplinary actions without former approval by the Disciplinary Action Committee. It is clearly stated in the revised Code of Criminal Procedures that visitations and exercise cannot be deprived of during the period of disciplinary action, but they continue to do that as well."

7. Food & Malnutrition

Prisoners are under great risk of contracting diseases as a result of physical weakness due to isolation from society, over-population, and unsanitary prison conditions. Consequently, it is necessary to consume a balanced and

nutritious diet with plenty of exercise for the prisoners to maintain their health. According to the current Code of Criminal Procedures, the prisoners are to obtain such a diet by a combination of rice and barley as staples, with provisions of other necessary supplemental foods.

However, the current amount allotted by the Ministry of Justice for the daily diet of detainees is 1,332 WON (approximately US\$1.50), which is insufficient for even the most minimum provision of daily nutrition. Although prisoners demand improvements in the quality of the food, which consists of rice, soup, pickles, and one other side-dish, with limitations in the standard quantity, there is little possibility that such demands will be met. Moreover, in April 1995, the Ministry of Justice greatly limited the variety of supplemental food products available for sale in prisons for prisoners, stating that "In consideration of the fact that there is difficulty in maintenance of regulation among prisoners and the difficulty in maintenance of the expiration of foods, only the most necessary products without problems of expiration dates will be sold." Although such issues reflect some legitimate concerns, without the solution of the budget problem and the quality of the diet, such a policy only improves the administrative procedures at the expense of the prisoners' health.

In looking at the products for sale in prisons after the measures taken by the Ministry of Justice (as of August 1995), there are instant noodles, margarine, bread, milk, and yogurt. With such a limited variety of products, the prisoners are not even able to consume the necessary nutrients at their own expense.

According to a statement released by 71 detainees at the South Cholla Province, Haenam Police Department in August 1995, they appealed for the improvement in the jail conditions, diet, treatment of prisoners, and exercise time, stating that "We are only fed barley with beans and a pickled side-dish, incarcerated the entire day in a cell with no windows. It is difficult to obtain any newspapers or magazines, and we sleep on bedding which is laundered only once every 3 months." The police responded by saying that they will improve the conditions of the sleeping equipment and provisions of newspapers and magazines, but were unwilling to do anything about the improvement in the diet. This is inevitably due to the fact that without the increase in the dietary

budget provided by the government, there is no way in which such conditions can be improved.

In as much as the purpose of criminal justice is to rehabilitate the prisoners to be productive members of society and not to isolate them, it is an obvious necessity that an appropriate level of nutrition should be provided for the minimum maintenance of the prisoners' health.

8. Leave of Absence

According to article 44 (system of categorized treatment and leave from prison) of the Code of Criminal Procedures, it stipulates that, "The prison director must allow leave for detainees after an individual hearing of each detainee based on his/her classification." In clause 2 of the same article, it is explained that detainees who have served over 1 year or who have served more than half of his/her sentence and there is evidence of rehabilitation with demonstration of good behaviour, can be allowed leave from prison up to a period of 3 weeks in the period of the remainder of his/her sentence.

However, as this is left at the discretion of the prison director, it is in actuality extremely difficult to obtain such a leave. In June 1995, the family of former National Assembly member, Suh Kyoung-won (10 year sentence; currently in his 8th year of imprisonment at Chinju Prison), repeatedly appealed to the Minister of Justice and the prison director for Suh's leave from prison for him to be able to attend his mother's 80th birthday gathering, but the requests were all denied.

In January 1996, the family of Yang Jung-ho (life sentence; currently in his 28th year of imprisonment at Daejon Prison; age 67) requested his leave from prison to see his mother before she died as she was seriously ill. The authorities reply was, "There is no reason for leave," and failed to even accept the appeal for leave. On 23 January 1996, when Yang's mother died, the family again requested for Yang's leave in order for him to attend the funeral as the eldest son. However, they were rejected again. Both of the above prisoners have served more than 1 year and more than half of their sentence (life sentences are calculated as 20 years and allowed leave if more than 10 years

have been served), sufficiently meeting the conditions of leave stipulated by law, but the prison authorities rejected the requests saying that there were no clear reasons for leave.

According to article 5 of the 'Standard Minimum Rules for the Treatment of Prisoners' adopted by the United Nations in 1990, 'With the exception of the inevitable and necessary limitations that go with being imprisoned, all prisoners possess the fundamental freedom and human rights stipulated in the Universal Declaration on Human Rights, the International Covenant on Economic, Social, and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol.'

As evident above, it is a violation of the most fundamental human rights such as the pursuit of happiness and human dignity, to threaten, intimidate, and limit the rights of prisoners outside the boundaries of legal punishment imposed by such measures as imprisonment, which is already in itself a severe punishment of isolation from society. In spite of revisions in the Code of Criminal Procedures, prison conditions have gotten worse and the word of law is ignored by the arbitrary exercise of prison directors' discretion and bureaucracy within the Ministry of Justice. Such current realities inevitably leave the detention facilities as grounds of major human rights violations.

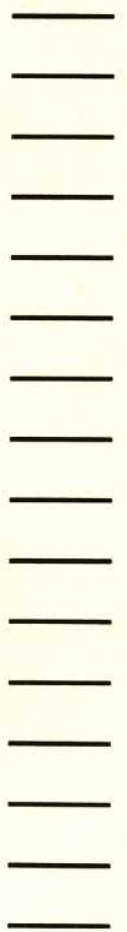
have been verified, sufficiently showing the conditions of those reported by law. But the person authorities reported the victims saying that there were no distinctive reasons for laws. The victim's statements are not supported by law. According to article 5 of the Standards Minimum Rules for the Treatment of Prisoners adopted by the United Nations in 1955, with the exception of the inevitable and necessary limitations thereon, all persons imprisoned, all persons possess the fundamental freedom and human rights stipulated in the Universal Declaration on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol thereto. As evident above it is a violation of the most fundamental human rights such as the pursuit of happiness and human dignity, to these standards, and more than the rights of prisoners outside the boundaries of legal punishment imposed by such measures as imprisonment, which is already in itself an severe punishment of isolation from society. Inspection revisions in the Code of Criminal Procedures, prison conditions have gotten worse and the word of law is ignored by the arbitrary exercise of prison directors' discretion and authority within the Ministry of Justice. Such current realities inevitably leave the detention facilities as grounds of major human rights violations. However, the Ministry of Justice has not yet reviewed. In the past, the Ministry of Justice has been asked to attempt to right wrongs by the collection of the exercise and the exercise of the rights. These rights are the basis of the collection of the rights. The Special Rapporteur on the Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Mr. Manfred Nowak, of the Human Rights Commission, visited South Korea in 1994. He visited the country and made a report. He has the right to write a report on his visit. According to the report, many human rights violations were reported in the Ministry of Justice, and the Ministry of Justice has not yet reviewed. The Special Rapporteur on the Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Mr. Manfred Nowak, of the Human Rights Commission, visited South Korea in 1994. He visited the country and made a report. He has the right to write a report on his visit. According to the report, many human rights violations were reported in the Ministry of Justice, and the Ministry of Justice has not yet reviewed.

1995 Conditions of Torture in South Korea

1995 Conditions of Torture in South Korea

1. 1995 Torture Situation

The 1995 torture situation in South Korea is characterized by the continued existence of a legal system and procedures that are based on a system of arbitrary detention and punishment. The Ministry of Justice has not yet reviewed the situation. The Special Rapporteur on the Question of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Mr. Manfred Nowak, of the Human Rights Commission, visited South Korea in 1994. He visited the country and made a report. He has the right to write a report on his visit. According to the report, many human rights violations were reported in the Ministry of Justice, and the Ministry of Justice has not yet reviewed.



1995 Conditions of Torture in South Korea

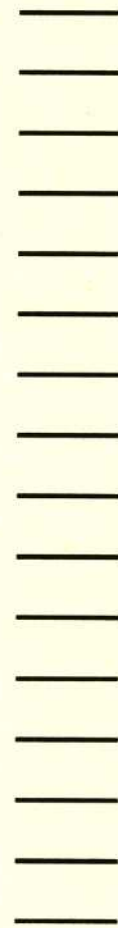
On 9 January 1995, the government of South Korea became a signatory to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which became formally effective on 8 February of the same year. This is an affirmation both nationally and internationally of the will of the government to improve the human rights situation by preventing any reoccurrence of torture and eradicating such extreme human rights violations as torture. Consequently, the South Korean government has come under direct obligation to prevent torture. Although the CAT was ratified, instances of torture have not been eradicated, and such instances of torture by the police and other government officials occur frequently. The government has not taken any fundamental steps to prevent these occurrences, giving the impression that there is no true desire for the eradication of torture. It is thus difficult to say that there has been any substantial improvement in the human rights situation in Korea since the ratification of the CAT. It is the purpose of this document to look into the trends and the most representative instances of torture in the year 1995, as well as possible counter-measures.

I. 1995 Torture Situation

Upon the investigation into instances of torture in 1995, the majority of the more serious cases is the violence exercised overtly by the police on regular citizens and protestors.

More specifically, the usual subjects of such violence are street vendors, laborers, individuals who have lost their homes in the process of 'industrialization' in the clearing of buildings, and other disadvantaged persons who hold rallies and protests demanding the right to life; and students who demonstrate and protest for social reform. In addition, there have been frequent reports of police brutality on regular citizens for the purpose of 'security' as

1995 Conditions of Torture in South Korea



shown by the incident of a policeman on duty who was checking for drunk drivers and fired upon a suspected drunk driver, resulting in serious injury.

Moreover, investigators have continued to use violence much similar in practice to past methods of torture in order to obtain confessions, and violence on prisoners and inmates by prison authorities has continued without much improvement.

1. Police Violence

According to Article 1 of the Convention against Torture, "the term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity."

Thus, not only does torture include any direct violence inflicted on an individual for the purpose of investigation by a public official or other person acting in an official capacity, but also includes all inhuman treatment or punishment resulting from acquiescence of a public official or other person acting in an official capacity.

However, there is little awareness on the part of the majority of citizens about the violence exercised by the police and public officials for purposes other than investigation, as many limit their understanding of torture simply as cruel and severe punishment in the process of investigation. Such a narrow conception of torture without properly understanding the issues involved are some of the obstacles in the prevention and eradication of torture in South Korea.

Some of the main cases of inhuman acts exercised upon the citizens by the acquiescence of the police and acts of violence upon citizens and protestors by the police during the year 1995 are as follows.

Violence during Eviction

a) On 25 April 1995, Ms. Chun, Chair of the Committee to Counter Eviction, was arrested after being brutally attacked by some 30 persons from an eviction specialist agency. At the time, not only did the men batter Chun with their fists and feet, but when she fell to the ground, they took off her trousers and stuffed coal ashes down her underwear. As a result of their brutality, Chun was hospitalized for abrasions and contusions, and needed to be hospitalized for 3 weeks for complete recuperation. She not only suffers from physical pain but also seriously suffers from the mental after-effects of the sexual violence inflicted upon her. However, the police from Kwanak Police Station, called to the scene at the time by the residents in the area, stood by passively without making any attempt to stop the violence, and instead of arresting those responsible, the police arrested Chun under charges of obstruction of official duties.

b) On 19 September, in the process of forcibly arresting those evicted in Amsadong, the Seoul Kangdong Police Station police officers arrested a resident, Ms. Moon, after stripping her completely naked, saying "Women listen only when you take their clothes off." After the police took Moon to the station, the police pushed her out on to the street parking lot in complete nudity.

c) In October, the police from Jongam Police Station battered Sul Young-duk (Hangsung University, industrial engineering student), who was trying to stop the forceful eviction of those in Bun 3-dong. They stripped him naked and dragged him around in handcuffs. When his fellow students asked them to release him, the police took an uncompromisingly tough measure in suppressing the students by firing tear gas and such at them.

Violent Suppression of Assemblies and Demonstrations

The following are some main examples of violent police suppression of assemblies and demonstrations during the year 1995.

a) On 20 May at approximately 2:00 p.m., the Incheon Jungbu Police Station showered tear gas bombs and did not hesitate to use batons upon some

1,500 students and Dukjuk Island residents, who were peacefully marching after a rally for the withdrawal of a nuclear waste site on Koolup Island. Also, at approximately 10:00 p.m. that same day, when some 200 students visited the police station to demand the release of those arrested during the day, the police surrounded the students and began to beat the students on their heads with batons, stabbing them with their shields when the students fell to the ground. The majority of the students who participated in the demonstration were injured in the head by rocks and police shields, and some suffered intestinal damage.

b) The majority of the participants of a rally urging the indictment of those responsible for the 1980 May 18 Kwangju Massacre were also injured by violent police suppression. On 16 August 1995, Suk Sang-hyun (Deagu University student) and Jang Won-ho (Dankuk University student) who were participating in the above mentioned rally, were both directly hit by tear gas bombs fired by the police, injuring Suk's ribs and Jang's eyes. As a result, Jang lost sight in his left eye. Also, 4 photo-journalists, including Jang Moon-ki (age 32, Central Daily News reporter) who were covering the demonstrations that day, were beaten by the police. They lost consciousness and were taken to the hospital. Chun Won-shik (Kunkook University student), also a participant in the rally, had to undergo surgery on 28 July for cerebral hemorrhage after being hit by a police baton during the violent suppression.

c) On 6 June, the police fired tear gas upon students who had escaped underground to a subway station during a protest rally in front of the Japanese Cultural Center for a remark made by the former Japanese Vice-premier. When the students escaped into a subway train, the police threatened the train operator and forcibly stopped the running train, firing tear gas into the train. The people inside the train had to evacuate and 48 glass windows were broken in the process. The police arrested 58 students on the scene.

d) On 19 April, Kyoungki Kwachun Police Station and Seoul Bangbae Police Station illegally arrested Na Hyun-kyun (age 34, Korea Tacoma dismissed worker). Na had been hospitalized at the time after being battered by the police in front of the Unified Government Building on his way to meet with the Minister of Labour concerning the reinstatement of dismissed workers. On 19 April at around 10:00 a.m., the police entered the hospital without showing an

arrest warrant, blocked the entrance to the fourth floor where Na was hospitalized, and stationed a police squad at the hospital main entrance to control the entrance of regular patients and visitors until 3:00 a.m. 20 April. Consequently, almost all medical administration came to a halt from the afternoon of the 19th. Moreover, in the process of entering the hospital, the police fired tear gas on regular patients and visitors. On 18 April, the police injured some 20 out of 41 dismissed workers in front of the Unified Government Building who were trying to see the Minister of Labour. Also, 32 of them were arrested by the police at the time, and others, including Na, were taken to the hospital. On 20 April, in spite of doctors' protests, the police arrested Na, carrying him by his arms and legs out of the hospital.

Police Abuse of Fire Arms

The police use of fire arms has been repeatedly criticized as going far beyond the purpose of defense. The police have fired upon suspects at point-blank range, often resulting in serious injury.

a) On 12 September 1995 at approximately 4:00 a.m., some 10 police officers from the South Cholla Province Jochiwon Police Station fired live ammunition upon Koryo University Suhchang campus students, who were escaping into school grounds after throwing paint bottles at the Jochiwon Police Sub-station. The students were demanding that the decision not to indict those responsible for the Kwangju Massacre be retracted.

b) On 5 November, a senior patrol officer from Changwon Police Station, Yoo Ji-won, fired upon a Mr. Um, who had tried to avoid being caught drunk-driving, with a 38-mm weapon from a point-blank range of 1.5 meters. Um was shot in his right arm, and was diagnosed with a 3-week recovery period.

c) On 18 November, a Mr. Baik, who was suspected of having stolen a automobile, was shot in his chin by police officer Ahn Kang-jin, from Soowon Nambu Police Station Kosaek Sub-station, in the process of his arrest.

Moreover, police violence continues even after suspects have been taken into custody. On 26 August 1995 at around 11:00 p.m., Park Young-saeng (secretary at National Association of Street-Venders), who was arrested with

some disabled street-vendors and held at Songdong Police Station, was stripped of all his clothes except his underwear in the underground interrogation room and tortured by being tied by his arms and legs behind his back (barbecue style). It is reported that he received such cruel treatment as a consequence of demanding to be sent to the hospital after being battered by the police earlier that same day in the process of his arrest.

2. Cases of Torture in the Process of Investigation

Torture frequently occurs in the process of investigation for the purpose of obtaining information or confessions from suspects/defendants or witnesses. The year 1995 was also a year in which the Agency for National Security Planning (ANSP) and other such investigative organs used torture to acquire false confessions and/or to fabricate and distort cases. Especially in National Security Law (NSL) cases, due to the fact that the detention period can be extended up to 20 additional days unlike regular criminal cases, there is a greater possibility that torture will be used during investigation.

It can be said that the two most representative torture cases in 1995 are the cases of Professor Park Chang-hee, a history scholar, and Park Chung-ryul, an opposition activist. However, such investigative practices as deprivation of sleep, beatings, and other such inhuman and cruel acts are carried out in the majority of cases. The cases of Park Chang-hee and Park Chung-ryul represent those in which torture was used as a way of formulating the charges against them.

a) Park Chang-hee (Professor of History at Korea Foreign Language University) was arrested on 26 April under charges of violating the NSL and falsely confessed that he had joined the Chosun Workers' Party after being deprived of sleep and seriously beaten. On 15 May, Park was taken to the Prosecutor's office and appealed to the prosecutor that he had made a false confession as a result of being tortured by ANSP investigators. The prosecutor, Yi Ki-bum, beat him 20-30 times in his thighs and knees. When the prosecution could not provide any evidence proving that Park had joined the Chosun Workers' Party, such charges were deleted in the process of indictment.

b) Park Chung-ryul (Deputy Secretary General of National Alliance for Democracy and Unification of Korea-NADUK) was arrested by the ANSP on 15 November under charges of violating the NSL by meeting and communicating with an anti-state figure and was deprived of sleep, battered, and verbally harassed for 21 days by ANSP investigators. Additionally, under the pretext of an on-the-scene investigation, the ANSP investigators took Park to Kyoungki Province Yasan from 30 November until 2 December for 3 days and removed his shirt, continuously battering him. Visitations by his family and lawyer were completely prohibited during this time. During this period, Park wrote a false confession at the demand of the investigators. On 5 December when Park was taken to the Prosecutor's Office, the contents of the arrest warrant of charges of communicating and meeting with an anti-state figure, and the contents of the false confession were not even mentioned or referred to. Park was indicted under charges of possessing anti-state material.

c) On 21 November, the South Cholla Province Police Department Security Division made an emergency arrest of 13 members of the Kwangju Section of the Progressive Politics Alliance under charges of violating the NSL, and deprived them of sleep during investigation. However, on 23 November, they were released because of insufficient evidence. This is a clear case of the abuse of the Code of Criminal Procedures, which stipulates that only those who carry the possibility of being sentenced to 3 years imprisonment can be placed under emergency arrest. Such abuses result in the arrest of many innocent victims without evidence. This case is an example of the use of torture for the purpose of acquiring false confessions in an attempt to build evidence, which fortunately failed in this instance.

Such instances of torture not only occur in political cases, but also occur in the investigation processes of ordinary criminal cases. According to statistics submitted by the Ministry of Justice in the parliamentary inspection report of 1995, which covers the period since inauguration of the present civilian government on 25 February 1993 until 31 August 1995, the number of civil petitions and law suits filed concerning human rights violations such as violence, detention, and torture by investigative organs such as the police, the ANSP, and

prosecutors, amounts to a total of 503 cases. However, this number only reflects those cases in which legal suits were filed, and it is estimated that the actual number is much higher. The effectiveness of legal redress in dealing with human rights violations is bleak at best and the public has little confidence in it.

3. Use of Violence and Inhuman Treatment of Detainees

According to Article 1 of the Convention against Torture, "pain or suffering arising only from, inherent in or incidental to lawful sanctions" is not included within the definition of torture. In other words, arrests and detentions in line with legal procedures are not acknowledged as torture. This means that detainees and prisoners who may have been initially arrested and imprisoned legally, may still be subjected to beatings and other such illegal punishment measures by the prison authorities upon imprisonment, which are clear cases of torture.

Not only are prisoners in South Korea frequently beaten and subjected to cruel punishments, but they are imprisoned in over-populated cells which do not even allot one pyong (1 pyong = 3.306 meters square) per person. Moreover, prisoners are not even given the freedom to freely speak with other prisoners, nor are they allowed to freely write letters or receive visitors. Such treatment can also be considered as a form of torture, and as cruel and inhuman treatment.

II. The Legal System Concerning the Crime of Torture

1. Evidence of Torture

Article 12 of the CAT states, "Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."

Article 13 of the CAT states, "Each State Party shall ensure that any

individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and have his case promptly and impartially examined by, its competent authorities."

However, the courts in South Korea make little attempt to make investigations into cases in which victims of torture make legal appeals. It is also very difficult to find instances in which the prosecution proceeds to a prompt and impartial investigation into cases against those responsible for torture.

According to Article 34 of the Code of Criminal Procedures, it stipulates that "A physically detained defendant or suspect has the right to legal counsel by an attorney or one who will eventually become an attorney, and the latter can have the defendant examined by a doctor." However, such rights to legal counsel and medical examination are continuously violated by the ANSP and other investigative organs.

On 5 December 1995, Yoon Ki-won, an attorney, went to the ANSP with a doctor to see Park Chung-ryul, who had appealed that he had been tortured by ANSP investigators, to conduct a medical examination. However, the ANSP rejected Yoon's request to see Park. Also, on 7 December, Yoon requested the Seoul District Court for the preservation of evidence of Park's physical injuries. However, the court only proceeded with such steps on 19 December when Park's torture injuries were almost completely healed.

2. Investigation and Punishment of Those Accused of Torture

According to the parliamentary inspection report submitted by the Ministry of Justice in 1995, since the inauguration of President Kim Young-sam on 25 February 1993 until 31 August 1995, the total number of reported cases of violence, imprisonment, and torture by such investigative organs as the ANSP, the police, and the prosecution was 503. As of 31 August 1995, with the exception of 29 cases which were under investigation at the time, a mere 8 out of a total number of 474 cases resulted in indictments.

According to the parliamentary inspection report, in August 1993, five police officers from Seocho Police Station, including Captain Jung Tae-soo,

falsely suspected Jin Seung-won as a thief in a burglary case, arrested him and beat him all over his body, resulting in tympanic (eardrum) rupture and a 3-week recovery period. However, the Seoul Police Administration, which handled Jin's civil petition, failed to bring any charges against Captain Jung, and the other officers were merely reprimanded or given punitive wage cuts.

On 20 January 1995, Yi Kwan-heung filed suit against the Seoul Police Administration Criminal Division officers, including officer Kang Han-chul, for police brutality. They were arrested and indicted by the Seoul District Prosecutor's Office on 11 February, but were later released on bail in March. Yi Kwan-heung was illegally arrested by the officers on charges of illegal drug sales, and was subjected to illegal detention and violence for 2 hours while blind-folded and in hand-cuffs.

As seen above, the prosecution fails to carry out fair and impartial investigations into torture cases. Moreover, in politically sensitive torture cases, the prosecution has repeatedly delayed and postponed investigation into those cases. For instance, when Park Chung-ryul filed suit in January 1989 against Yi Keun-ahn (a famous torture specialist) and several other police officers for torturing him in 1987, the prosecutor in charge of the case would not make a decision on whether to indict, and consequently the statute of limitations ran out on 30 November 1993. This case, which is considered corrupt violence, had a statute of limitations of 7 years since the perpetration of the crime. Consequently, criminal charges could no longer be brought against those responsible for the inhuman crime of torture. Under the current legal system in which only the prosecution is allowed to make an indictment in such criminal cases, any legal measure to address or compensate for the prosecution's negligence or lack of effort is completely nonexistent.

In addition, even the petition for an independent investigation into such cases (usually by the defendant's attorney), which is the sole redress procedure against the prosecution's monopoly of indictment, is ineffective when the investigation by the prosecution is inadequate. Currently, the number of cases in which investigators were legally punished through the submission of such petitions is extremely small, with the case of Kim Keun-tae in 1985 and the case of Kwon In-sook in 1986. These cases are the most representative of

torture cases in South Korea, and were the result of mass public uproar against the corruption of the then military regime.

Recently, on 26 August 1996, the Seoul District Court ruled against Yi Byoung-ho (former Captain of the Youngdeungpo Police Station Central Sub-station), who was involved in Kim Sang-won's torture case, sentencing him to 2 years imprisonment, reduced to 3 years probation. Although the court failed to pass an actual sentence of imprisonment in this case which involved the deaths of innocent citizens by police brutality, it is a rare occurrence that an officer accused of torture should receive a guilty verdict. However, this verdict was passed 10 years after the death of Kim Sang-won by police brutality, and 5 years after the petition for an independent investigation had been accepted by the courts. Yi Byoung-ho's trial on charges of corrupt violence lasted 5 years, in which the judges were changed 4 times and trials were postponed without reason.

Kim Sang-won was arrested in March 1986 for loitering under the influence of alcohol, and was then beaten by the police after being taken to the police station. He died the next day. Although his family filed suit against the officers responsible, it was decided in 1988 that charges were not to be brought against them. The family requested an independent investigation, and in 1990 the courts decided to try only Captain Yi Byoung-ho in court.

In spite of such dawdling investigation by the prosecution and charges being dropped against those responsible for torture, in 1995 there have been unprecedented guilty verdicts of torture cases. In a widely publicized torture case involving an elementary school student kidnapped and killed by the accused persons, the Pusan District Court ordered the physical examination of the 2 defendants, who claimed that they were tortured by the police in November 1995. Then, on 12 January 1996, the court ordered a re-investigation of the scene of the crime. On 23 January, in the final pronouncement, the court acknowledged that the police in fact had tortured the defendants. These same police officers had been accused of torture earlier in December 1994 when the Pusan Lawyers Association Human Rights Committee had filed suit against 14 officers of the Pusan Northern District Police Station for corrupt violence and other cruel acts at the Supreme Public Prosecutor's Office. Although the latter

ordered an investigation into the charges brought against the officers, the special division of the Pusan District Court in charge of the case failed to summon officers for investigation until the end of the first trial.

3. The Problem with the Statute of Limitations

Article 12, Clause 2 of the Constitution of South Korea stipulates that "All citizens shall be free of torture and shall not be forced to make any self-incriminating statements," and the Code of Criminal Procedures stipulates a statute of limitation for all crimes. Consequently, such stipulations of the statute of limitations also applies to corrupt violence, illegal arrest and detention, and torture. According to Article 4, Clause 2 (Arrest & Detention) of the Act Concerning Additional Punishment for Specified Crimes, crimes which pertain to a possible sentence of over 10 years imprisonment under Article 249, Clause 3 of the Code of Criminal Procedures have a statute of limitations of 7 years. Thus, if charges are not brought against the accused within 7 years from the date of perpetration, crimes, no matter how inhuman or cruel, cannot be brought to trial.

On 9 January 1995, Hwang Dae-kwon (currently in his 11th year of imprisonment) and 7 other long-term prisoners filed suit against the investigators who tortured them. However, the Prosecutor's Office failed to indict them stating the reason that the statute of limitations had run out. The prisoners, then, filed a constitutional appeal to the Constitutional Court, but the Court dismissed the appeal on 15 March. The Court gave the following as the reason for dismissal: "It is not possible to bring charges against allegations in which the statute of limitations has expired, and thus a constitutional appeal cannot reverse the prosecutor's decision not to make an indictment on such allegations. Consequently, constitutional appeals against allegations passed its' statute of limitation has no legal qualification for the protection of the rights in question."

On the other hand, the point of the submission of the constitutional appeal by Hwang Dae-kwon and the other long-term prisoners was whether it was appropriate to apply the statute of limitations on the crime of torture. In

effect, they were questioning the validity of the Code of Criminal Procedures, which places a statute of limitations on such inhuman crimes as torture, in spite of the higher law of the Constitution, which clearly contains principles against torture such as the right to be free of torture (Article 12, Clause 2 of the Constitution).

However, the Constitutional Court concluded that the statute of limitations as stipulated in the Code of Criminal Procedures was absolute, and without even examining the constitutionality of attaching a statute of limitations on the crime of torture or debating the issue in full court, dismissed the petition.

Meanwhile, many countries do not have a statute of limitations, and those that do have laid down special laws concerning such inhuman and cruel crimes as torture, either repealing or limiting the use of the statute of limitations in those instances. Moreover, such international laws as the International Covenant on Civil and Political Rights, the Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity (UN 1968), the European Human Rights Agreement, and the American Human Rights Convention have clearly shown that such inhuman and cruel crimes as torture cannot be dismissed by the application of the statute of limitations.

Thus, in order to redress the victims of torture and to eradicate all instances of torture, the statute of limitations on inhuman and violent crimes must be eliminated by the formation of special laws and revision of the legal system.

4. Compensation and Treatment of Torture Victims

Since past dictatorial regimes until the present period, there have been countless cases of cruel torture performed by public officials and investigators. However, there has been no organ to treat and redress the victims of torture who have been physically and emotionally destroyed by it.

Beginning in 1993, some of the torture cases which occurred under the past military dictatorships have been disclosed and reported. Although these

victims of torture have been suffering from mental illness and other such effects of torture, there has been almost no attempt to aid them.

Kim Young-bok, who had been mentally disturbed after being tortured, committed suicide in February 1995. Kim had been a student at Yonsei University in 1986, at which time he participated in a demonstration. He was arrested by investigators and tortured. For 10 years, he had been seriously suffering from mental disorders, and was hospitalized in mental institutions on various occasions. Since 1990, when Choi Dong, a torture victim, killed himself by setting himself on fire, there have been repeated cases of suicide by victims of torture who have been unable to receive any basic treatment.

There also has been a case of suicide by a torture victim under the current Kim Young-sam government. On 4 December 1995, Jang Hyun-koo, a student of Kyoungwon University who had been mentally disturbed after being tortured by sleep deprivation by the police, killed himself by setting himself on fire. In 1992, Jang was a student activist at the university and initiated various rallies and demonstrations demanding academic freedom when the school authorities filed a complaint against him. He was arrested by the Songnam Jungbu Police Station on 28 November 1992. When Jang exercised his right to silence upon his arrest, the investigators deprived him of sleep and water for 3 days. When Jang's parents went to visit him, they witnessed that he was under investigation in handcuffs tied to a chair. Although he was released in February 1992 on probation, he began showing signs of mental illness. He tried to find peace and a normal life as a laborer, but he could not last 3 months on a job due to serious headaches, and he had been in and out of mental hospitals with various unsuccessful suicide attempts.

However, the courts recently acknowledged the fact that Moon Kook-jin, who became mentally disturbed after being tortured and had filed suit against the government for compensation of damages, in fact had been suffering from the effects of torture, stating that "the statute of limitations shall be applied, not from the time of the perpetration of the crime, but from the time of knowledge of harm done as a result of torture." The court ruled that 140,000,000 won (approx. US\$175,000) should be paid in compensation of damages in favor of the plaintiff. However, this only amounted to 50% of the amount requested, and it

was hardly enough to compensate for the physical and emotional damages, not to mention the hospital bills for repeated hospitalization over the 10 year period.

III. The Revision of the Legal System for the Eradication of Torture

1. The Abolition and Limitation of the Jurisdiction of Investigation by the ANSP and other Security Investigative Organs

The ANSP, known as 'the epitome of torture investigations' behind closed doors, continues to use the ill-practice of torture during investigations after the inauguration of the civilian government under President Kim Young-sam. Although the ANSP Law was revised in December 1992 under the pretext of eradicating torture and political intervention by the ANSP, the only change enacted was limiting the ANSP's jurisdiction concerning Articles 7 and 10 of the NSL (ANSP Act, Article 3, Clause 3).

In November 1995, the ANSP made emergency arrests of Park Chung-ryul and Kim Tae-nyun, and requested a warrant for their arrest under charges of communicating and meeting with an anti-state figure in violation of the NSL. However, they were not able to prove such charges, and their use of torture during the investigation came to be disclosed. In December, Park and Kim were indicted for violating Article 7 (praise and encouragement of the North) of the NSL, which is not legally under the jurisdiction of ANSP investigations.

Moreover, on 15 December 1995, the Seoul District Court ruled that detentions at locations not specified in the arrest warrant were illegal in regards to Chun Chang-il's appeal that he had been detained at the ANSP rather than at the place designated in the arrest warrant. Chun Chang-il, who had been arrested under charges of violating the NSL in November 1995, was taken to the ANSP for investigation rather than the Seocho Police Station as designated in the warrant. As a result of this court decision, it was finally disclosed after years of such practice that it was illegal for the ANSP to carry out secret underground investigations by torture, after requesting the courts for arrest

warrants with police stations as the place of detention.

However, in February 1996, it was announced that the ANSP was planning to install an underground jail within its facilities, creating further worry of continued secret investigations by torture.

Thus, it is insufficient to merely partially limit the jurisdiction of ANSP investigations. In order to put an end to such abuses in ANSP investigation practices, the right to investigation itself must be repealed.

2. The Introduction of Special System of Prosecution and the Revision of the Legal System

Under the provisions of such laws as the criminal law, a victim of torture can demand the prosecution of an officer responsible for torture, and the prosecutor must complete all investigations in order to decide on the matter of indictment within 3 months of the date the suit was filed. (Code of Criminal Procedures Article 257) However, since this is interpreted as an advisory stipulation, there is no way to confront the prosecutor if s/he decides to delay the investigation.

Also, in cases of petitions for independent examination submissible by the defendant as the only means of countering the prosecution's monopoly of indictment, the High Court has stipulated 20 days as the period in which the matter of the petition must be decided. However, this is also interpreted as merely an advisory stipulation, and thus, there is no way of dealing with any delays which may take place in making the decision on whether to accept the petition.

Article 15 of the CAT stipulates that "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." The Code of Criminal Procedures and the Constitution of South Korea, likewise, stipulates that any confessions made under torture cannot be used as evidence.

Since torture is used by investigators to produce confessions as evidence, if said confessions fail to be acknowledged as evidence, then there

would be no motive for torture. Thus, any evidence obtained by torture must not be made acceptable regardless of its credibility or reliability.

However, the South Korean judiciary is passive in denying the acceptability of confessions made under torture, and there are many instances in which verdicts were made based on confessions rather than other material evidence.

Consequently, a special system of prosecution must be introduced, in which the prosecutor must have independent status, for an impartial investigation and prosecution concerning torture and other inhuman crimes. Moreover, an establishment of a special court separate from regular courts must be considered in light of the current reality that it is difficult to expect a fair trial in politically sensitive cases.

3. The Inapplicability of the Statute of Limitations on Torture and Other Inhuman Crimes

Although it can be said that there are legal measures to redress victims of torture in Korea, realistically these measures are ineffective due to the existence of the statute of limitations. In order to eradicate and prevent all forms of torture, criminal prosecution must be based on the justice of the law. Thus, the system of statutory limitations in Korea must be made to conform to that of international law, which carries no such limitations on the prosecution of inhuman crimes.

The right to legal counsel, the right to physical examination and protection of evidence, and the right to medical treatment as stipulated in the Code of Criminal Procedures must be made effective in guaranteeing the rights of detainees. In order to protect the rights of defendants and prevent occurrences of torture, investigation and interrogation of detainees in the presence of legal counsel must be guaranteed.

would be as motive for torture. Thus any evidence obtained by torture must not be made acceptable regardless of its credibility or reliability.

However, the South Korean judiciary is passive in denying the acceptability of confessions made under torture, and there are many instances in which verdicts were made based on confessions rather than other material evidence.

Consequently, a special system of prosecution must be introduced in which the prosecutor must have independent status for an impartial investigation and prosecution concerning torture and other inhuman crimes. Moreover, an establishment of a special court separate from regular courts must be considered in light of the current reality that it is difficult to expect a fair trial in politically sensitive cases.

3. The Inapplicability of the Statute of Limitations on Torture and Other Inhuman Crimes

Although it can be said that there are legal measures to redress victims of torture in Korea, realistically these measures are ineffective due to the existence of the statute of limitations. In order to eradicate and prevent all forms of torture, criminal prosecution must be based on the justice of the law. Thus, the system of statutory limitations in Korea must be made to conform to that of international law, which carries no such limitations on the prosecution of inhuman crimes.

The right to legal counsel, the right to physical examination and protection of evidence, and the right to medical treatment as stipulated in the Code of Criminal Procedures must be made effective in guaranteeing the rights of detainees. In order to protect the rights of detainees and prevent occurrences of torture, investigation and interrogation of detainees in the presence of legal counsel must be guaranteed.

A Case Study - The Case of Koh Ae-soon

--Still birth resulting from Detention complicated by Torture

1. Brief Case Description

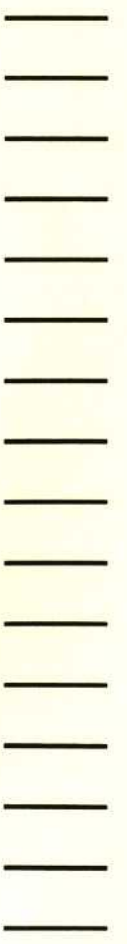
Koh Ae-soon, age 27, who was married in August of 1970 to the National Security Law (N.S.L.) in 1971, was arrested in Seoul on 4 December, 1975. Koh Ae-soon, eight months pregnant at the time, was arrested by the Intelligence Security Agency (I.S.A.) and transferred to the National Security Agency (N.S.A.) in Seoul. She was held in a prison in the community.

A Case Study - The Case of Koh Ae-soon

They appealed to the courts to question the legitimacy/legality of her detention, as well as requests for her release. Koh Ae-soon was released temporarily on 10 January 1976 on suspension of detention for the purpose of medical treatment. However, her release was not permanent. She was arrested again on 5 February 1976, which was the day she gave birth to a still born child.

2. An Appeal for Legitimacy/legality of Detention

As a result of her appeal, the court decided to suspend her detention for 30 days. She was released on 10 January 1976. However, she was arrested again on 5 February 1976, which was the day she gave birth to a still born child. She was held in a prison in Seoul for 6 months.



A Case Study - The Case of Koh Ae-Soon

--Still-birth resulting from Detention considered as Torture

1. Brief Case Description

Koh Ae-soon (age 28), who was arrested on charges of violating the National Security Law (NSL) in her eighth month of pregnancy, had a still-birth after having been detained for 2 months in police custody and prison detention. On 4 December 1995, Koh Ae-soon, eight months pregnant at the time, was arrested by the investigators from the South Cholla Province Police Administration Security Division. Upon her arrest, her family, attorney, religious community, women's community, school alumni, and the members of the municipal assembly made every effort to appeal for her release in consideration of her condition. They appealed to the courts for a hearing to determine the legitimacy/legality of her detention, as well as requesting for release on bail, but all requests were denied. Koh was released temporarily for 80 days by the courts on suspension of detention for the purpose of child delivery on 31 January 1996 after nearly 2 months since her arrest. However, Koh had serious pains in her lower abdomen on 5 February, upon which she went to the hospital, but her child was still-born.

2. All Appeals for legitimacy/legality Hearing & Release on Bail Denied

All suspects arrested on charges of violating the NSL can be held for upto 50 days - 20 days by the police and 30 days by the prosecution. Unlike regular criminal cases, investigation of such NSL cases can be extended for another 20 days. Also, arrested suspects can be detained for upto 6 months from the time of arrest, although the first trial may be over within the 6 months with a non-guilty verdict, in which case the suspect will be released before the 6 months. However, this happens rarely in practice as court

A Case Study - The Case of
Koh Ae-Soon

proceedings tend to take a prolonged period of time. According to the existing legal procedures, request for a hearing to determine the legitimacy/legality of detention or request for release on bail are the only two procedures available to appeal for the release of a detained suspect. The request for a legitimacy/legality hearing can be made to the judge before the indictment, and the request for bail can be made to the applicable court after the indictment.

On 13 December 1995, Koh's husband requested for a legitimacy/legality hearing. However, on 14 December, the Kwangju District Court Presiding Judge, Yi Sang-hoon, denied the request without reason. On the following 26 December, Koh's husband again requested for release on bail to the presiding court.

The following reasons were submitted in the request for bail. "The suspect is scheduled to give birth on 1 March 1996. Being in her 31st week of pregnancy, very close to the due date, it is difficult for her to continue with her detention in her present condition. Moreover, it is already difficult to expect a natural child birth due to the psychological and physical hardships of her long period in detention. Please also consider the fact that the new-born child will have to face spending its initial period in prison if the mother is not released."

In spite of these reasons, on 31 January 1996, the Kwangju District Court Presiding Judge, Yi Sang-hoon, denied the request stating that there is no special reason for bail.

Also on 26 December 1995, the Kwangju Northern District Administrator, Kim Tae-heung, appealed for permission of Koh's release on bail by stating, "I am the District Administrator of the district office in which Koh Ae-soon's husband, Park Jong-min, is currently employed. I will vouch for Koh's conduct in society, and take responsibility in making sure that she will be tried for the charges against her upon her release on bail." In addition, members of her school alumni, religious community, and women's community also appealed for her release, but their appeals were all denied.

3. Koh's Health

Five days after her arrest by the South Cholla Province Police

Administration Security Division, Koh Ae-soon was taken to the Kwangju Prison, upon which she began showing serious conditions of swelling, high fever, and peeling of skin tissue. She constantly suffered from high fever, and is said to have been afraid and worried about why she had such a fever and what she should do about it. Also, her feet, hands, and face were constantly swollen. Although it is true that many pregnant women tend to have a higher than average temperature with some signs of swelling, Koh's condition was beyond normal as she could hardly open her eyes in the mornings due to the swelling.

Koh's condition worsened drastically on 24 and 25 December. In addition to the above conditions, she was having large amounts of discharges of clear liquid. Upon being moved to Kwangju Prison, she had asked numerous times for a medical examination, but was not allowed one such occasion. Consequently, the only thing she could do during this time was refer to the book on pregnancy, which she had in her possession, and try to determine what her condition was. It seemed that she might be having a premature delivery.

When the situation became thus serious, the medical warden¹⁾ finally met with Koh for the first time on 26 December. However, he only measured Koh's blood pressure and stated, "I will arrange for you to receive a medical examination in early January." Koh never received any such medical examination while in detention, and was not seen by the medical warden again thereafter.

Beginning January, Koh had difficulty moving, but for the sake of the baby, Koh walked around with effort during the 30 minutes of exercise allowed daily in the exercise field²⁾. Such efforts at exercise would exhaust her fragile

1. "Medical warden" does NOT refer to an obstetrician. He/she may come from a variety of backgrounds, and the conditions of each prison differ slightly. There are no obstetricians within the prisons, and there are no medical experts of any other field of medicine. There are no professional medical facilities/equipment of any kind. The majority of prisoners in need of medical attention are not able to receive the care needed as there is a large number of prisoners suffering from various illnesses due to the prison conditions.

2. The "exercise field" is approximately 20 square yards, blocked by concrete walls on

condition, and very often she could not move after the 30 minutes of exercise.

There are several other clues to Koh's condition during this time. In mid-December, the prison director was making his round of inspections, when upon seeing Koh's serious condition he told the chief warden to get her to see the medical warden. Also, on 11 December when Koh was taken to the public prosecutor's office to be investigated by the prosecutor, Yi Yong-sung, she was tied up and placed in handcuffs. But beginning the second visit for the prosecutor's investigation, she was only tied up, without handcuffs, as her health seemed to be noticeably deteriorating.

4. Medical Examination Denied by the Prison Authorities

Koh Ae-soon continuously requested for a medical examination upon her detention at Kwangju Prison. The prison authorities denied the requests stating, "All women show such symptoms (high fever, swelling, peeling) during the end of their pregnancy. Pregnant women are not emergency patients, and thus cannot receive medical benefits." The authorities completely overlooked the fact that beginning the eighth month of pregnancy, one should be examined at least once every other week (twice a month), and then every week during the last month of pregnancy.

On 25 January 1996, the date of Koh's first trial, the judge postponed the trial stating, "In order for a suspension on detention, the expected date of delivery must be known and the recommendation of the prison authorities must be submitted. When such required documents are ready, the suspension on detention can be processed."

However, because the prison authorities had not once allowed for a medical examination since her detention, there was no way of knowing the expected date of delivery. Consequently, the prison authorities finally allowed Koh for a medical examination in order to submit to the court their recommendations based on the date of delivery.

all four sides with only the open sky. Although facilities for each prison have minor differences, generally only one prisoner is in the "exercise field" at a time.

On 29 January, 57 days since her arrest, Koh was able to receive a medical examination for the first time. She was examined by an obstetrician, Dr. Yim Jung-ran, at an obstetrics center, 'Yim Jung-ran Obstetrics Center', near Kwangju Prison. At this time, Koh only received a sonar examination. Internal examinations, including examination of the fetus' heart beat, blood pressure check, and weight check performed in an obstetric examination, were not given. The obstetrician diagnosed, "The fetus is about 2 weeks premature than normal, but this won't be a big problem."

Thus, the only examination in the 2 months of detention was a formality of determining the date of delivery.

5. Prison Conditions

The prison conditions in South Korea are inadequate, quite below the international standards, but facilities and prisons prepared for the detention of pregnant women are lacking completely.

Koh was detained in a prison cell of approximately 13 square yards, in which 4-6 persons were detained at any one time. Like the other criminal cells, Koh's cell had no heating. When human rights organizations criticized the fact that a pregnant woman was imprisoned in a cold room, the prison authorities installed a briquet/coal stove in Koh's cell in late December. This was a very rare occurrence. However, it was the work of the women in this cell to change the coal 4-5 times a day, inhaling the gas. Although the installation of the stove is considered a very special treatment, the temperature of the cell was not much different once they were outside the very vicinity of the stove.

The food provided in the prison was salty and spicy, which is considered unhealthy for the fetus. Koh had to dilute the food with water since prison facilities do not provide food specially for pregnant women.

Showers were allowed once a week for 10 minutes with only 5-6 small buckets of water. This is considered somewhat better than the conditions for the ordinary detained criminals as they were allotted less time and water.

Moreover, laundry and dish-washing had to be done in a squatting position, which was a difficult position in itself for a pregnant woman like Koh

Ae-soon. On 29 January, 57 days since her arrest, Koh was able to meet an obstetrician for the first time. She was examined by an obstetrician, Dr. Yim Jung-tan, at an obstetrics center, Yim Jung-tan Obstetrics Center, near Kwangju Prison. At this time, Koh only received a sonar examination.

6. Still-birth

On 31 January 1996, Koh Ae-soon was given a temporary suspension of detention for 80 days. Upon arriving at home on 1 February, there was continuous snowing for the next three days and Koh could not go to the hospital. On 5 February, Koh had a sudden attack of pain. She arrived at a hospital an hour later, but it was discovered that her unborn baby had already died. The doctor in charge diagnosed that the baby had died of early placental separation for reasons unknown. He advised that she give a natural delivery since her water had already broken and she had a high fever with no contractions. She was administered an accelerator and gave birth to a dead child.

7. The Opinion of a Professional Obstetrician

A professional obstetrician made the following comments regarding the case of Koh Ae-soon.

"High fever, swelling, and peeling of the skin are not ordinary symptoms of pregnancy. Although she may feel slightly warmer than usual, high fever is not a good sign for a pregnant woman. Also, towards the end of pregnancy, she may experience some swelling in her legs due to the weight strain, but it is a very serious problem if she should be so swollen so as to be unable to open her eyes. Moreover, symptoms of the skin peeling can be seen as a dangerous sign since it signals at the fact that cells are dying at a rather fast pace.

"The fact that Koh experienced heavy discharges of clear liquid on the 24 and 25 December indicates that her water might have leaked. This is very dangerous as the slightest break in the water allow infections to occur. This may have been the reason for her high fever. Also, pregnant women need to be careful about hygiene, but the fact that the prison conditions, including shower facilities, were not sanitary may have contributed to causes of infection.

"Thus, it is highly likely that Koh was toxicated while in prison. In

cases of severe swelling, one should consume foods high in protein and calorie, and low in salt. However, the fact that Koh consumed unhealthy foods high in salt may also have made a considerable impact on her condition. At the very least, she should have been taken to the hospital and kept under doctor's supervision for 24 hours when she showed such serious symptoms on 24 December. It should already have been evident that the fetus was under terrible strain when it was diagnosed as being 2 weeks premature on 29 January 1996.

"This is a clear case of murder. If in fact those were the conditions under which the fetus endured for 2 months, it is only too obvious that the pregnancy should result in a still-birth."

8. Charges against Koh

On 4 December 1995, Koh Ae-soon who was eight months pregnant was arrested and taken to the South Cholla Kwangju Province Police Administration Security Division. At the time, the charge was membership in Pomminnyon in violation of article 7, clause 3 (membership in anti-state organization) of the National Security Law.

However, she could not be indicted under the National Security Law, article 7, clause 3, because she was not a member of Pomminnyon. Difficult to make an indictment under the original charge, Koh was indicted by the prosecution on 27 December under completely different charges from what she was arrested for.

The main charges against Koh Ae-soon are the following:

-National Security Law Violations

(1) charges of distribution of the "1994 Pamphlet on the Kwangju NADUK (National Alliance for Democracy and Unification of Korea) Representatives' Conference" (55 pages) to 200 representatives of Kwangju NADUK on 26 March 1994;

(2) charges of distribution of the "1994 Kwangju NADUK Central Committee Meeting Resource Material" (32 pages) to 40 Kwangju NADUK Central Committee members on 24 March 1994;

- (3) charges of distribution of the "Kwangju NADUK Schedule for May" (6 pages) to 300 members who participated in the 'Kwangju NADUK Officers' Solidarity Conference' on 3 May 1994;
- (4) charges of distribution of Kwangju NADUK newsletter, 'Alliance News vol. 17', to 5,000 members;
- (5) charges of distribution of 10,000 copies of the Kwangju NADUK newsletter, 'Alliance News vol. 18', in front of the Kwangju South Cholla Provincial Office at the 'Fourteenth Annual Commemoration of the May 18 Kwangju People's Struggle' on 17 May 1994; and
- (6) charges of transmitting faxes to various media organs of the signature drive by the Kwangju NADUK expressing regret over the death of Kim Il-sung on 9 July 1994.

In such manners, the defendant praised, encouraged, and propagandized the activities of the Communist North Korea, which is an anti-state organization, in violation of article 7, clause 1 (praise and encouragement of the North) of the NSL, and produced and distributed the above materials for the purpose of supporting such anti-state activities in violation of clause 5 (production and distribution of anti-state materials) of the NSL.

-Violations of the Assembly & Demonstration Law and the Act Concerning Disturbance/Obstruction of Official Duties

- (1) charges of shouting slogans such as "Out with Kim Young-sam's government," "Stop the importation of rice," and "Stop the ratification of the Uruguay Round (UR)" at a demonstration (entitled "Solidarity Rally to Protest the Ratification of UR and Rice Importation, Renewing the Spirit of the 'June 10 Struggle'"), sponsored by Kwangju NADUK on 11 June 1994 with 500 other student and citizen participants;
- (2) charges of participating in a demonstration (entitled "Nation-wide Citizens' Rally to Crush the Suppression of the New Security Policy and Prevent the Ratification of the UR") on 25 June 1994 until 10:00 p.m. with 850 students and farmers, who shouted such slogans as "Stop the Suppression of the New Public Security Policy," "Release the Arrested Students," and "Out with the U.S. Demand for Rice Importation" and;

(3) charges of participating in a demonstration (entitled "Solidarity Rally of the Kwangju South Cholla Preparatory Committee for the Pan-National Rally") held on 27 August 1994 at Chosun University. As the student participants were leaving the campus through the main gate to carry the demonstration downtown, shouting such slogans as "Out with Kim Young-sam's government, Crush the Suppression of the New Security Policy," they were confronted by the riot police. Some students began waving metal pipes, and approximately 2,000 rocks were thrown at the South Cholla District Police Administration combat policemen, injuring 7 of them with contusions lasting up to 1-2 weeks. The defendant is charged with having shouted slogans and participated in a demonstration which clearly jeopardized the order and safety of the public, and which obstructed the duties of the police, resulting in their injury.

9. Koh's Statement against the Charges

Koh Ae-soon claims that she is not guilty pointing out the following unreasonable points of the above charges. Koh was an officer in the National Reunification Committee of the Kwangju NADUK between September 1993 and February 1995. The National Reunification Committee is in charge of the civilian reunification movement, and is composed of 2 persons, committee chairperson and officer.

The anti-state materials used in the charges of NSL violations were not produced for the purpose of praising, encouraging, or supporting the North, but were administrative materials produced by Kwangju NADUK, expressing its opinions in line with its democracy and reunification movement. Moreover, Koh did not personally produce these materials, but merely looked them over with other members who participated in the various activities sponsored by Kwangju NADUK.

Although it is true that Koh participated in the assemblies, demonstrations, and rallies mentioned above, she in no case violated the Assembly and Demonstration Law. During the "Solidarity Rally of the Kwangju South Cholla Preparatory Committee for the Pan-National Rally," a confrontation developed between the students and the police as the police tried to physically

stop the students from carrying the demonstration outside the campus, and many students were injured in the confrontation. However, Koh did not use violence during this demonstration, and it is thus a clear instance of abuse in power to apply the Act Concerning Disturbance/Obstruction of Official Duties for the sole reason that she attended such a demonstration. In addition, the above charges were used in 1994 and 1995 when 4 officers of the Kwangju NADUK were arrested under charges of violation of the NSL. Koh was indicted under the same charges for the sole reason that she was working as an activist at Kwangju NADUK.

10. Current Situation

Koh was temporarily released with a stay of detention for the purpose of child delivery between 31 January and 20 April, and was scheduled to be taken back into custody on 20 April. From the shock of still-birth, Koh was unable to sleep or eat, and suffered from psychological trauma. She had been reluctant to inform anyone of her case out of fear. She agonized greatly in gathering enough courage to bring up charges regarding this case. As a result of the international and national attention given to her case, the courts finally decided to allow her release on bail. Consequently, she was not taken back into custody on 20 April. Currently, Koh has filed a civil suit against the government for compensation of damages, and the trial is under way with no substantial developments to date. The criminal court proceedings against Koh for the NSL violation charges have not begun, and the trial date is yet to be set. Koh Ae-soon is presently residing in South Cholla Province, Kwangju with her husband, and is said to be doing fairly well.

Koh kept a diary addressed to her baby, which she continued to keep while in prison. However, when she was released, the prison authorities did not allow her to take the diary with her. The contents of this material may be of some help in understanding the kind of treatment she received. On three occasions, Koh wrote the diary on the pages of a book about pregnancy which she was able to keep in her possession. The following is a brief summary of

contents related to her treatment in prison:

--Tuesday, December 12th

Dear Baby,

It's been a while since we talked, hasn't it? The past 8 days, which I'm sure was very difficult and traumatic for you, have been overwhelming for me too.....I'm a bit worried because my face and body seem to be very swollen. Tomorrow I'll try to figure a way to eat the food here which is much too salty for you.....

--Thursday, December 14th

Dear Baby,

Today I'm very upset. Your father tries not to show it, but everytime he comes to visit and sees us in such a bad condition I'm sure he's in much pain. Everything else is bearable, but everytime I think of him I cry. I feel sorry and I worry.....Today was the worst. My face was swollen to the point where I couldn't open my eyes and I had such a high fever. I didn't know what to do and I was scared that something might be wrong with you. The medical officer here doesn't seem to care much since it's not his problem I suppose...He just measures my temperature when even my common sense tells me I should have my blood pressure checked...The assistant prosecutor I met this afternoon really made me angry. Why doesn't he believe the truth? The investigation made me upset, but I felt worse because you seem to be an object of pity....My emotions got a bit carried away. Were you surprised by my unusual temperament today?.....I'm afraid we'll have to stay here for a while...maybe until the end of February when we'll be able to meet....I'm sure we can fight this through.....I'm worried because you're not moving like you use to. You are OK, aren't you? Just hold on a little while longer....

--Saturday, December 16th

.....My face is still not doing so well. My face is peeling badly. Maybe it's the fever, or maybe it's because you're not getting enough nutrition. Honestly, I get upset when I look at myself but if it's because you're trying to absorb nutrition, then it's alright with me. So, go on eating...eat without rest.....I should be getting a lot of sun, but the conditions here don't allow it. I'll try my best to get some sun indoors. Your movements are still not like before. I'm trying to drink a lot of milk and eat a lot of yogurt because of my constipation, but it's pretty serious. I must be getting sensitive to your movements because I don't feel well....Finally we

have a heater now, but I worry that we might not be getting valuable sleep at nights for fear of gas leak...My constipation might get worse because of the cold, so maybe we should try taking naps during the day...Hang in there...

11. Recommendation

The case of Koh Ae-soon is a case of cruel and inhumane treatment, not far from torture. It is also a case of arbitrary detention, in which a pregnant woman was detained for no outstanding reasons. The police arrested and detained a pregnant woman during the last months of her pregnancy; the Ministry of Justice ignored the legal redress measures in denying release on bail and the legitimacy/legality hearing; and the prison authorities detained her under the worst of conditions, denying access to medical attention. This is a clear case of murder in which the police, the Judiciary, and the prison authorities all took part. It is not a problem which merely ends with a still-born child, but it reflects the serious problems within the South Korean society as a whole in dealing with human rights issues at all levels. This case serves as an example in illustrating the prevailing injustices against the people of South Korea, in suppressing the most basic rights for the purpose of maintaining the power of the government. Although South Korea became a signatory to the UN Convention against Torture on 9 January 1995, this case gives clear evidence to the fact that the international principle contained therein is not implemented in South Korea. The South Korean government must compensate for Koh's mental and physical pains suffered, and must formulate measures to prevent such further occurrences of human rights violations in the future. It is of utmost importance that the South Korean government carry out the international human rights agreements it promised to uphold by such agreements as the Convention against Torture.

What

MINKAHYUP

does...

● Solidarity / Campaign Programs

MINKAHYUP works in cooperation with progressive organizations, sectors, and individuals within and outside the country to generate awareness and concern for prisoners of conscience and human rights issues. MINKAHYUP strives to bring to national attention the plight of the prisoners of conscience and carry out numerous campaigns calling for their release, welfare in prison, and for the general promotion of human rights. There are weekly campaigns every Thursday called the "Thursday Rally," in which the mothers and families of the prisoners of conscience and other activists join in publicizing the injustices imposed on them along with various political and social issues that confront us.

● Information/Education Programs

MINKAHYUP works to generate awareness on human rights issues by conducting education programs for members and concerned groups. A periodical newsletter called "Supporting Committee News" is published every month to help disseminate information on Korean human rights and related issues. Moreover, independent and objective investigations into political detentions, especially the so-called 'espionage' cases, are carried out by gathering information from the families of detainees and other sources such as trial records and public documents.

● Counselling Programs

MINKAHYUP conducts daily counselling for families and relatives of political detainees and others whose rights have been violated, and records all reports concerning illegal arrests and detentions by the police authorities and other investigative organs. MINKAHYUP provides legal support and help in the setting up of counter-measures for the solution into the human rights violations, and mobilizes media publicity and organizes protests and campaigns outside prisons and police stations.

● Welfare/Finance Programs

MINKAHYUP provides financial support to political detainees by sending monthly funds directly to the prisons and also to needy families. We also raise funds for the provision of housing for released political detainees and for their livelihood.

● Cultural Programs

MINKAHYUP works to increase the awareness of human rights issues by promoting cultural programs and exchanges in various sectors and organizations. A public song contest and "The Night of Poetry and Song for Prisoners of Conscience" are held annually to raise funds and more importantly as a form of publicity on human rights issues.