
amnesty international

SOUTH KOREA

Appeal for the Release of Lee Jang-hyong 이장형

MAY 1994

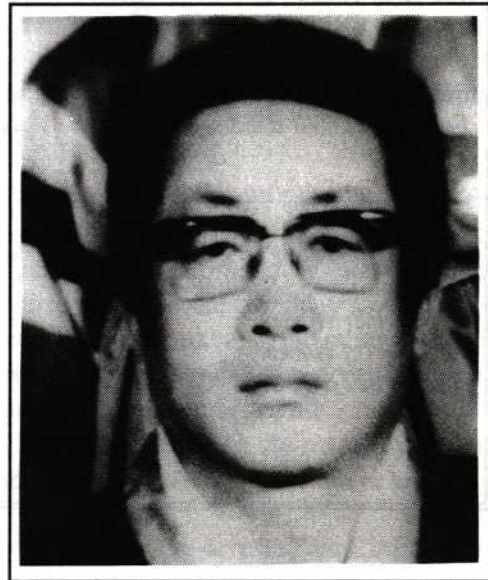
AI INDEX: ASA 25/20/94

DISTR: SC/CO/GR

Amnesty International is calling for the immediate and unconditional release of Lee Jang-hyong, 61-year-old former lieutenant and restaurant manager, who has been serving a life sentence under the National Security Law since 1984. Amnesty International has adopted Lee Jang-hyong as a prisoner of conscience as it believes that he was convicted unfairly, on the basis of a confession extracted from him under torture.

Lee Jang-hyong's case is similar to that of dozens of other prisoners in South Korea who were arrested during the 1970s and 1980s on charges of espionage. In many of these cases, the prisoners claim to have been held incommunicado, tortured and convicted largely on the basis of coerced confessions. Amnesty International and other human rights groups have urged the South Korean authorities to review these allegedly fabricated cases as a matter of urgency.

Lee Jang-hyong is a practising Catholic and is currently in Kwangju Prison. He was born on Cheju Island in South Korea but spent most of his childhood in Japan. During the Korean War (1950-53) he served as a second lieutenant in the Marine Corps and he later worked as a restaurant manager in Seoul. During the 1970s and early 1980s he went to Japan on several occasions to visit his relatives and to seek advice about setting up his own business.



On 15 June 1984 Lee Jang-hyong was arrested but a warrant for his arrest was not issued until 20 August. He was taken to the Anti-Communist Division of the Police Headquarters in Seoul where he is said to have been held incommunicado for 67 days. During this time Lee Jang-hyong says that he was tortured and forced to confess that he had spied for North Korea. He was tried in January 1985 and sentenced to life imprisonment on charges of spying.

According to the prosecution, Lee Jang-hyong was recruited as a spy by an uncle living in Japan, a charge which he says he was forced to admit under torture and for which there appears to be no reliable evidence. He is also accused of visiting North Korea in December 1982, but his family and friends claim that during this period he was staying with a cousin in Japan. Lee Jang-Hyong's family also maintain that during his trial they were intimidated by the authorities into not appointing a sympathetic lawyer. He was therefore defended by a court-appointed lawyer who apparently did little to counter the prosecution's charges.

RECOMMENDED ACTION:

please send letters and faxes:

- ◆ expressing concern that Lee Jang-hyong is a prisoner of conscience, convicted after an unfair trial on the basis of a confession obtained under torture;
- ◆ calling for the immediate and unconditional release of Lee Jang-hyong.

Appeals to:

- ◆ President Kim Young-sam
The Blue House
1 Sejong-no
Chongno-gu, Seoul
Republic of Korea
Fax: +822 770 0253
- ◆ Mr Kim Doo-hee, Minister of Justice
Ministry of Justice
1 Chungang-dong
Kwachon-myon, Shihung-gun
Kyonggi Province
Republic of Korea
Fax: +822 504 3337

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

KEYWORDS: PRISONERS OF CONSCIENCE1 / MILITARY AS VICTIMS / BUSINESS PEOPLE / RELIGIOUS GROUPS - CATHOLIC / TORTURE/ILL-TREATMENT / ESPIONAGE / CONFESSIONS /

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

amnesty international

SOUTH KOREA

National Security Law used to Silence Singing Troupe

27 MAY 1994

AI INDEX: ASA 25/22/94

DISTR: SC/CO/GR

Five members of the singing troupe *Heemangsae* (Bird of Hope) are currently on trial under the National Security Law. Amnesty International believes that they are prisoners of conscience, held for the non-violent exercise of their rights to freedom of expression and association and is calling for their immediate and unconditional release. It is also concerned at reports that some of the prisoners were ill-treated during interrogation.

Heemangsae singing troupe was established in 1992 by activists and students in the Pusan area. It was planning to stage a musical called *Shining Morning*, written by one of its members and based on the poem *Black Mountain Red Blood* by Oh Bong-ok. This poem has been published and sold in bookshops in South Korea. The five members currently on trial have been charged under Article 7 of the National Security for trying to stage a musical containing pro-North Korean elements and for sending parts of the poem *Black Mountain Red Blood* via a computer communications network.

At least 13 members of *Heemangsae* have been arrested and questioned under the National Security Law since February 1994, including the company's director, the author of *Shining Morning* and several of the company's lead singers. Some were later released. The first arrests took place in late February when police searched the company's offices and confiscated copies of its new musical *Shining Morning*. More members, including two lead singers, were detained on 24 March as they were protesting against the arrests of their colleagues. Despite protests from international and domestic human rights groups, three more singers were detained on 15 April, apparently for continuing with the company's plans to stage *Shining Morning*.

Three of the *Heemangsae* members currently on trial were arrested on 22 February in Pusan City. They are **Kim Tae-il**, 30-year-old Chairperson of *Heemangsae* **Cho Jae-hyun**, 27-year-old student and author of the musical *Shining Morning* and **Lee Chang-ryol**, 30-year-old Planning Director of *Heemangsae*. The two others, **Lee Yoon-jung**, aged 26, and **Lee Sang-yeop**, also aged 26, are female singers who were arrested on 24 March during

a peaceful demonstration to protest about the arrest of their colleagues. The prisoners were arrested and questioned by members of the Security Division of the Seoul Police Administration and are currently held in Seoul Prison. Their trial open at Seoul District Court on 13 May. In an opening statement, Kim Tae-il told the court that he had been stripped, threatened and beaten by police investigators.

The National Security Law, designed to protect state security, has often been used to curtail the rights to freedom of expression and association in South Korea. Its vague provisions prohibit activities deemed to be "praising" or "siding with" North Korea and enable the authorities to use the law to clamp down on people with socialist ideas or views considered to be similar to those of the North Korean Government. For many years Amnesty International and other human rights groups have urged the South Korean Government to amend the National Security Law so that it complies with international human rights standards on freedom of expression and association.

In recent months several other people have been charged for sending allegedly pro-North Korean information via a computer network in violation of the National Security Law. On 12 March senior prosecutors are reported to have decided to crackdown on the dissemination of leftist ideology through computer communications systems and the head of the Public Security Department of the Prosecutor General's Office is reported to have said: "There is a strong indication that the North is continuing to harbour ambitions of communizing the entire Korean peninsula and leftists are utilizing more discreet methods of spreading their belief". Amnesty International is concerned that the National Security Law is being used yet again to curtail the activities of people who are peacefully exercising their right to freedom of expression.



Lee Sang-yeop (left) and Lee Yoon-jung (right), taken shortly before their arrest on 24 March 1994

RECOMMENDED ACTION: please send immediate letters and faxes:

- ◆ expressing concern that imprisoned *Heemangsae* members are held in violation of their rights to freedom of expression and association;
- ◆ calling for the immediate and unconditional release of *Heemangsae* members currently on trial on charges under the National Security law

APPEALS TO:

- ◆ President Kim Young-sam
The Blue House, 1 Sejong-no, Chongno-gu,
Seoul, Republic of Korea Fax: +822 770 0253
- ◆ Mr Kim Doo-hee, Minister of Justice
Ministry of Justice
1 Chungang-dong
Kwachon-myon, Shihung-gun
Kyonggi Province, Republic of Korea Fax: +822 504 3337

COPIES TO:

- ◆ Chief Judge, Seoul District Criminal Court
1701-1 Socho-dong, Socho-gu
Seoul, Republic of Korea
- ◆ Diplomatic representatives of South Korea in your country

This appeal has been sent to all KOTARAN coordinators for action.

KEYWORDS: PRISONERS OF CONSCIENCE / MUSICIANS / TORTURE/ILL-TREATMENT / STUDENTS / WOMEN / DEMONSTRATIONS / CENSORSHIP / LEGISLATION / PHOTOGRAPHS /

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



April 30, 1994

President Kim Young-sam
The Blue House
1 Sejong-no
Chongno-gu
Seoul
Republic of Korea

Your Excellency,

Today I take the liberty of writing to you to express my deep concern about human rights in South Korea.

One year ago, in February 1993, President Kim Young-sam took office as the first South Korean President without a military background. In your inaugural speech the President promised a new era of freedom and democracy. Following a year of close monitoring of the human rights situation, however, Amnesty International (AI) concluded that the human rights situation has not substantially improved under the new government.

Freedom of expression and association

◇The continued use of the National Security Law (NSL) to imprison people for the non-violent exercise of their rights to freedom of expression and association is a major human rights concern. About 200 people are currently imprisoned under the NSL, including many prisoners of conscience. AI is urging the government to amend the NSL so that the rights to freedom of expression and association are protected.

◇The use of the ban on "third party intervention" in labour disputes continues to curtail the rights to trade union leaders to give advice to members. AI is urging the government to amend the Labour Dispute Mediation Act so that it may not be used to imprison trade union leaders for exercising their rights to freedom of expression and association.

◇The Social Surveillance Law should not be used to place restrictions on released prisoners of conscience, such as the requirement to report regularly to a local police station. AI believes that prisoners of conscience should be unconditionally released.

◇AI is calling for an end to the system whereby prisoners of conscience how have not "converted" (renounced their alleged communist beliefs) are not entitled to early release on parole.

Encl.

CC: Winkdayer
Astrangiang



◇Regarding military service, AI believes that all conscripts should be given the option of doing their military service in a civilian capacity and it calls on the government to recognise the right to conscientious objection to military service. It is calling for the release of conscripts imprisoned for deserting because they exercised their right to freedom of expression and/or because they objected to certain duties such as serving in the riot police.

Torture and ill-treatment

◇Torture and ill-treatment continue to be used by both the police and the Agency for National Security Planning. AI is particularly concerned about reports of beatings and routine sleep deprivation.

◇There is a current lack of safeguards to prevent torture and ill-treatment.

◇Reports of human rights abuse are rarely investigated adequately. There is no independent body to carry out such investigations.

◇The government has not ratified the UN Convention Against Torture, as it promised it would do before the end of 1993.

Violations under past governments

◇Political prisoners who were unfairly convicted under previous governments continue to be held. They include a number of long-term political prisoners who were reportedly held incommunicado, tortured and given unfair trials. Some are prisoners of conscience.

Death penalty

◇The death penalty is enforced and some 50 people remain under sentence of death. Most are permanently handcuffed.

I am sure that you share my concern as outlined above.
Thank you very much for your attention.

Faithfully yours,

石橋 理美子

ISHIBASHI RIMIKO

Encl.

CC: Minkahyop
Sarangbang

AMNESTY
INTERNATIONAL

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INTERNACIONAL

AMNISTIE
INTERNATIONALE

МЕЖДУНАРОДНАЯ
АМНИСТИЯ

منظمة العفو الدولية



國際特赦組織

AI INDEX: ASA 25/WU 02/1994
EMBARGOED FOR 9 MARCH 1994
NEWS RELEASE

한국 : 신정부하에서 계속되는 인권침해

최근 수십년동안 군부배경없이 집권한 한국의 첫번째 대통령인 김영삼 대통령정부는 한국의 인권상황을 본질적으로 개선함 없이 집권 일년을 마쳤다.

지난해 동안 수십명의 정치적 수인과 양심수들이 체포되었다. 한국에는 국제앰네스티가 인지하고 있는 바 세계에서 가장 오랜 기간 구금되어 있는 일련의 양심수들이 있다. 한국에서 고문과 가혹행위가 발생하였다는 새로운 보도가 있다.

1993년 2월 대통령 취임연설에서 김영삼 대통령은 그의 집권 기간동안 한국은 "더욱 자유롭고 성숙한 민주사회"가 될 것이며, "정의가 강물처럼 흐르게 될 것"이라 하였다.

1993년 6월 외무부장관은 유엔 세계인권대회에서 "한국에서 드디어 인권의 시대가 도래하였다"라고 연설하였다. "나는 자국에서 진실과 자유, 그리고 민주주의가 마침내 승리하였다고 자랑스럽게 이야기하는 한 민족과 한 국민을 대표하여 여러분들앞에 서 있습니다".

이러한 말들에도 불구하고 김영삼 정부는 인권침해를 종식시키기 위한 일은 거의 하지 않았다. 국가안전기획부의 권한은 다소 축소되었다. 그러나 국가안전기획부에서 영장없이 50일동안 정치적 혐의자를 구금할 수 있는 것과 같은 경찰의 권한은 그대로 유지되고 있다. 수백명의 양심수를 구금하는데 이용되었던 국가보안법의 개정은 무기한 연기되고 있다. 노동쟁의 과정에 노조간부들과 상담원들이 노조원에게 도움을 주는 행위를 금지하고 있는 노동쟁의 조정법내 제삼자 개입 금지조항도 개정되지 않았다. 1993년 말까지 유엔고문방지조약에 가입하겠다는 정부의 약속도 지켜지지 않았다.

이전 정부하에서 불공정 재판과 조작된 혐의로 구금된 수십명의 양심수들의 경우를 다시 검토하지도 않았다.

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

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amnesty international

SOUTH KOREA

Further Information about Detained Publishers

11 April 1994

AI INDEX: ASA 25/18/94

DISTR: SC/CO/GR

On 6 April Amnesty International issued an appeal for the release of three publishers arrested in March (See: *South Korea: Appeal for the Release of three Publishers*, ASA 25/17/94). Since then the organization has learnt that one of the prisoners, Kim Byong-hak, was released shortly after his arrest. The two others, Kim Yon-in and Lee Song-woo, are now held in Seoul prison on charges under the National Security Law.

Kim Byong-hak, Managing Director of *Ilbit* Publishing Company, was released without charge on 18 March after questioning. Lee Song-woo, owner of *Ilbit* Publishing Company, and Kim Yon-in, the owner of *Heem* Publishing Company, are still held under the National Security Law. They are accused of publishing and distributing material which benefits the enemy (North Korea). Amnesty International has adopted them as prisoners of conscience and is calling for their immediate and unconditional release.

RECOMMENDED ACTION: please send further letters and faxes expressing concern that publishers Kim Yon-in and Lee Song-woo are prisoners of conscience, held for the non-violent exercise of their rights to freedom of expression and calling for their immediate and unconditional release.

◆ President Kim Young-sam

The Blue House, 1 Sejong-no, Chongno-gu, Seoul, Republic of Korea Fax: +822 770 0253

◆ Mr Kim Doo-hee, Minister of Justice

Ministry of Justice
1 Chungang-dong, Kwachon-myon, Shihung-gun, Kyonggi Province, Republic of Korea Fax: +822 504 3337

◆ Mr Kim Hwa-nam, Director

National Police Administration
209 Mi Kun-dong, Sudaemoon-gu, Chongno-gu, Seoul, Republic of Korea Fax: (Ministry of Foreign Affairs): +822 720 2686

◆ and to diplomatic representatives of South Korea in your country

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

현재 약 200명의 수인들이 국가보안법하에 구금되어 있다. 장기간 복역하고 있는 일련의 정치적 수인들은 그들이 "전향"을 (그들이 실제 또는 소위 공산주의 견해를 포기하였다는) 하지 않았다는 이유로 가석방이 거부되고 있다. 이들중에는 한국전쟁 이후부터 구금되어 있는 양심수인 안학섭씨와 김선명씨가 포함된다

1993년동안 체포된 사람들중에는 정부에 의해 반국가조직이라고 명명된 소위 사노맹(사회주의 노동자동맹)의 회원 수십명도 포함된다. 어떤 사람들은 북한을 이롭게 할 출판물 - 문제의 출판물이 이미 한국에서 공개되어 있는 -을 소지 또는 배포하였다는 이유로 구속시킬 수 있는 국가보안법의 광범위한 남용조항에 의해 체포되었다.

지난해에 고문과 가혹행위에 관한 새로운 보도가 있었다. 평화운동가인 김삼석씨와 그의 여동생 김은주씨는 1993년 9월 국가보안법 혐의로 체포된 후 국가안전기획부에 의해 구타당하고 성적모욕을 당하였다. 또한 경찰이나 국가안전기획부에 의해 체포된 다른 정치적 수인들도 구타당하고 초기 심문과정에서 잠을 잘 수 없었다는 보도가 있었다.

인권보호에 있어 가장 긍정적인 발전은 새로운 정부가 사형을 얼마간 집행하지 않았다는 것이다. 그러나 약 50명의 수인들이 사형을 선고받고 있다. 그들 대부분은 국제앰네스티의 견해로는 잔인하고 비인간적이며 모욕적인 처우라고 생각되는, 구급하게서 항시 수감에 채워져 있다.

오늘 발간되는 보고서에서, 국제앰네스티는 한국 신정부 1년동안의 인권 침해를 종식시키지 못한 실책을 조명하였다.

국제앰네스티는 한국정부에게 모든 양심수를 석방하고, 명백히 불공정 재판을 통해 유죄로 선고받고 구금되어 있는 정치적 수인들의 경우에 대해 재검토 할 것을 촉구한다. 국제앰네스티는 국가보안법을 포함하여 표현과 결사의 자유를 제한하는데 이용되고 있는 법률의 개정을 요구한다. ; 고문과 가혹행위를 종식 하기 위한 ; 그리고 구금자들의 권리를 보호하기 위한 보호장치를 요청한다.

국제앰네스티는 또한 모든 사형선고자들을 감형할 것과 사형제도를 폐지 할 것을 한국정부에 요청한다.

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amnesty international

INTERNATIONAL SECRETARIAT
1 Easton Street, London WC1X 8DJ
United Kingdom

phone: +44 71 413 5500 (main switchboard)

TO: **KOTARAN Coordinators (Section offices are asked to forward to coordinators who do not have fax machines)**

FAX: Various

FROM: Korea Research Team, IS

FAX: +44 71 956 1157

PHONE: +44 71 413 5665 (please call this number if fax is illegible or incomplete)

DATE: 11 April 1994

PAGES: 2 (this cover sheet and one-page external appeal)

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UPDATE TO QUICK KOTARAN ACTION 03/94

SOUTH KOREA: FURTHER INFORMATION ABOUT DETAINED PUBLISHERS

Recommended action for sections

Please pass this update fax appeal as soon as possible to the KOTARAN coordinator in your section.

Recommended action for KOTARAN coordinators

This is a short update to the Quick KOTARAN action sent out to you last week. It contains the information that one prisoner was released.

amnesty international
KOTARAN ACTION, NETWORK

Korea NGOs' Network
for the UN World Conference on Human Rights

2nd Fl. Changlim Bldg. 816-3,
Yoksam-dong, Kangnam-gu, Seoul 135-089 KOREA
Tel 82-2-567-2316 Fax 82-2-568-3439

Urgent Appeal

25th June 1993

Vienna, Austria

On 23rd June 1993, 15 people, including Professor Cho Kuk and Hwang Ju-Suk, were arrested under the National Security Law in the Republic of Korea (South Korea).

They were abducted by security police belonging to a special security (the former 'anti-communist') section of the South Korean police administration without warrants of arrest. These were only obtained today.

Professor Cho is a prominent figure who has conducted major research on freedom of thought and the abolition of the National Security Law. He belongs to the Institute for Democratic Legal Studies which is a member organization of the Korea NGOs' Network for the UN World Conference on Human Rights (KONUUCH), which represents major Human Rights organizations in the Republic of Korea. Although the authorities have not yet revealed the grounds of their arrest, it is likely to stem from the research and writing that Cho and his colleagues have published. Their activities allegedly constitute anti-state and/or enemy-benefiting activities in violation of the National Security Law. Yet this constitutes nothing more than a blatant negation of the freedom of thought and freedom of expression. KONUUCH is also gravely concerned about the possible mistreatment of those detained.

KONUUCH last week organized a symposium on the National Security Law and obtained signatures from more than 100 NGOs in over 40 countries to a resolution demanding the abolition of the National Security Legislation in Asian countries.

KONUUCH is launching an appeal to all NGOs and government delegates at the World Conference on Human Rights to protest to the South Korean authorities, which in last week's plenary laid claim to great advances in Human Rights standards within the Republic of Korea, in the strongest possible terms at this infringement of basic human rights.

For more information, please contact KONUUCH.

amnesty international

SOUTH KOREA

Recent Human Rights Violations: Kim Sam-sok and Kim Un-ju

MARCH 1994

SUMMARY

AI INDEX: ASA 25/01/94

DISTR: SC/CO/GR

Amnesty International is calling for the immediate and unconditional release of Kim Sam-sok, sentenced to seven years' imprisonment under the National Security Law on 28 February 1994. His sister Kim Un-ju was released after being given a suspended prison sentence and Amnesty International is calling for her release to be unconditional. The organization is also calling for an independent inquiry into claims that the two were ill-treated during interrogation by the Agency for National Security Planning (ANSP) in September 1993.

This document describes Amnesty International's concerns about the arrest, interrogation and ill-treatment of Kim Sam-sok and Kim Un-ju.

KEYWORDS: PRISONERS OF CONSCIENCE1 / TORTURE/ILL-TREATMENT1 / ARBITRARY ARREST / INCOMMUNICADO DETENTION / CONFESSIONS / SEXUAL ASSAULT / SEXUAL HARASSMENT / PEACE ACTIVISTS / WOMEN / TRANSLATORS / RELIGIOUS GROUPS - CATHOLIC / CONDITIONAL RELEASE / ESPIONAGE / PHOTOGRAPHS /

This report summarizes a 5-page document (1913 words), *South Korea: Recent Human Rights violations: Kim Sam-sok and Kim Un-ju* (AI Index: ASA 25/01/94), issued by Amnesty International in March 1994. Anyone wanting further details or to take action on this issue should consult the full document.

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

SOUTH KOREA

Recent Human Rights Violations: Kim Sam-sok and Kim Un-ju

Amnesty International is calling for the immediate and unconditional release of Kim Sam-sok, sentenced to seven years' imprisonment under the National Security Law. His sister Kim Un-ju was released after being given a suspended prison sentence and Amnesty International is calling for her release to be unconditional. It is also calling for an independent inquiry into claims that the two were forced under torture to confess to "anti-state" activities and that they were convicted under the National Security Law in violation of their fundamental human rights.

Kim Sam-sok, aged 28, studied Russian language at Hankuk University of Foreign Studies. During 1992 he worked as a staff member of the Korean Alliance of Anti-Nuclear and Peace Movements and in 1993 he became Secretary General of the Pacific War Victims Committee. He has written a number of published articles on anti-nuclear and disarmament issues. In June 1993 Kim Sam-sok attended the World Conference on Human Rights, held in Vienna, Austria, as a delegate of KONUCH (Korean NGO Network for the World Conference on Human Rights). At the time of her arrest Kim Un-ju, aged 24, was preparing to study in Japan. She had worked for the Korean Council for Women Drafted for Sexual Slavery by Japan (during World War II) as a Japanese-language translator. She was also active in the Catholic youth movement.



Kim Un-ju



Kim Sam-sok

Arrests by the Agency for National Security Planning

Kim Sam-sok and Kim Un-ju were arrested on 8 September by some 15 men who did not have warrants of arrest and did not identify themselves. The arrest warrants were not issued until 10 September, two days later, and during these two days the prisoners were held without access to lawyers or family. Kim Un-ju was arrested outside Seoul Express Bus Terminal and Kim Sam-sok was arrested at his home. Their family knew about the arrests because witnesses saw Kim Sam-sok being taken away and because police came to search their parents' home. However, the family received no official notification of the arrests and were unable to find out where the two prisoners were held until 1.30pm on 10 September when a journalist at the prosecutor's office told them that the Agency for National Security Planning (ANSP) had applied for arrest warrants. Kim Sam-sok's wife and a lawyer went to the ANSP on the afternoon of 10 September but were denied access to the prisoners. The lawyer was therefore unable to see them until 11 September, three days after their arrest. By this time, they had already been ill-treated.

Torture and forced "confessions"

The two prisoners were held and interrogated by the ANSP from 8 to 24 September. Their arrest warrants stated that the two were held at Jungbu Police Station, but according to lawyers, the family and the prisoners themselves, they were held throughout this period by the ANSP¹. They were held *incommunicado* for two days and thereafter were only allowed brief meetings with lawyers and family. In Amnesty International's view, these conditions of detention often lead to torture and ill-treatment.

Kim Sam-sok and Kim Un-ju said that they were unable to talk freely of their treatment at the ANSP until after 24 September, when they were transferred to Youngdungpo and Seoul Prisons. However, a family member who saw them briefly on 10 September was alarmed to see how exhausted and dazed they looked. Kim Sam-sok did not appear to know where he was and said he had been unable to sleep. In later meetings with lawyers, family members and at their trial, the two prisoners said that they had been beaten, deprived of sleep and subjected to sexual abuse. They both said that ANSP interrogators had threatened to ill-treat the other if they did not make a confession.

¹South Korean officials have indicated that Kim Sam-sok and Kim Un-ju were detained in Jungpu police station, in accordance with the arrest warrant, but were taken for interrogation to ANSP premises. However, Amnesty International believes that the detainees actually remained on ANSP premises from 8 to 24 September.

Kim Un-ju said that she was deprived of sleep for three or four days after her arrest, forced to do repeated physical exercises, slapped, shaken and insulted. She also said that interrogators threatened to strip her naked and to abuse her sexually if she did not make a confession. She was told to confess to meetings with members of an "anti-state" group in Japan.

On 20 September and in the presence of his lawyer Kim Sam-sok continually banged his head against the wall, inflicting neck and back injury on himself. He later explained that as he was unable to speak about his torture, he wanted to show the outside world what had happened to him during interrogation. He said that he had been beaten, stripped naked and sexually assaulted. He was forced to put his thumbprint on a confession stating that he had met North Korean agents in Japan. He tried to avoid this by biting his thumb but was prevented from doing so.

Torture and ill-treatment are prohibited under South Korean law, but in practice there are insufficient safeguards to prevent such abuse. Amnesty International receives frequent reports that political prisoners are deprived of sleep and sometimes beaten by officials of the ANSP or the Police. Because these abuses leave little or no mark on the body, it is difficult and often impossible for prisoners to lodge formal complaints after the event.

Amnesty International has called for new safeguards to prevent *incommunicado* detention, torture and ill-treatment. It has also urged the South Korean Government to ratify the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The government has yet to implement these measures.

Pre-Trial Publication of ANSP Investigation

On 24 September, one month before the two prisoners were charged, the ANSP released the results of its investigations to the media in a 22-page news release entitled *The Kim Sam-sok and Kim Un-ju "spy case": a case connected with a North Korean espionage organization in Japan*. The report gave details of "operational funds" the two had allegedly received for spying purposes, how Kim Sam-sok was recruited as a spy, orders he received and details of their alleged activities as spies. This information was presented as fact, although the prisoners had been neither charged nor tried. In November 1993 officials of the Ministry of Justice told Amnesty International that the publication of such material was justified because the public and the media had a "right to know the truth".

South Korean law specifically prohibits the pre-trial publication of material related to court cases.² International standards also prohibit any attempt by public authorities to prejudice the outcome of a trial. Article 14(2) of the International Covenant on Civil and Political Rights states that: "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to the law". The Human Rights Committee in its commentary on Article 14 of the ICCPR states that "It is . . . a duty for all public authorities to refrain from prejudging the outcome of a trial". Amnesty International is concerned that the public disclosure of information by the ANSP may have compromised the fairness of Kim Sam-sok and Kim Un-ju's trial and violated their right to be presumed innocent until proven guilty.

Unfair charges under the NSL

On 23 October Kim Sam-sok and Kim Un-ju were charged under Article 4 of the NSL for meeting and passing "state secrets" to "agents" in Japan. Both denied the charges against them and said that during their 45-day interrogation they had been forced to make confessions. The agents in question are said to be members of a group called *Hantongnyon*, labelled as "anti-state" by the South Korean authorities. As far as Amnesty International is aware, *Hantongnyon* is a group of Korean residents of Japan working on human rights and democracy issues. It acquired its "anti-state" label in the 1970s when it was campaigning for the release of Kim Dae-jung, then a vocal opponent of South Korea's military dictatorship and recent presidential candidate in South Korea. The alleged state secrets comprised articles already published in newspapers and journals such as *Hankyoreh Shinmun*, *Mal* and a book written by Kim Sam-sok called *Youth and the Army*. This material was and still is publicly available in South Korea.

The ANSP also said that Kim Sam-sok had visited Japan twice to meet a North Korean agent who had ordered him to join dissident organizations in South Korea, to campaign for democracy in the military and to spy for North Korea. He denied this charge. Both prisoners are accused of receiving money from *Hantongnyon* members but Amnesty International understands that this money was a gift from friends who wanted to help out with Kim Un-ju's studies and to contribute to Kim Sam-sok's wedding.

²Article 126 of the Criminal Code states that: "A person who, in the performance or supervision of, or in the assistance in, functions involving prosecution, police, or other activities concerning investigation of crimes, makes public, before request for public trial, the facts of a suspected crime which have come to his knowledge during the performance of his duties, shall be punished by penal servitude for not more than three years, or by suspension of qualification for not more than five years".

Under the NSL the term "anti-state" has been defined very broadly to include groups with left-wing views, those which have views similar to those of the North Korean Government and other government critics. Any person having contact with such an "anti-state" group may be punished under the NSL. Similarly, the concept of "state secret" may be anything which could be useful to North Korea, even if it is publicly available in South Korea. For many years Amnesty International has called for the NSL to be amended so that it cannot be misused to detain people who were merely exercising their rights to freedom of expression and association. The government has failed to initiate such reform.

Trial and Verdict

Kim Sam-sok and Kim Un-ju were tried together before Seoul District Court. During the first trial hearing in December 1993 they told the court that they had been ill-treated by ANSP interrogators and both denied the charges against them. Kim Sam-sok also said that he was not informed of the accusations against him at the time of his arrest and that throughout his 45-day interrogation he had never been informed of his right to remain silent. On 28 February Kim Sam-sok was sentenced to 7 years' imprisonment. Kim Un-ju was given a three-year prison sentence, suspended for five years, and released.

Amnesty International is calling for the immediate and unconditional release of Kim Sam-sok and Kim Un-ju as it believes they are held for the non-violent exercise of their rights to freedom of expression and association. It is also urging the authorities to conduct an independent inquiry into reports that Kim Sam-sok and Kim Un-ju were subjected to serious abuse by the ANSP.

amnesty international

SOUTH KOREA

Ill-treatment of Prisoner of Conscience Park Seok-jin

1 February 1994

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Park Seok-jin, a prisoner of conscience serving an 18-month prison sentence for "desertion" because he opposes some forms of military service, has been removed to a punishment cell in Yongdungpo Prison, after being beaten by prison guards and tied up for 48 hours. According to his relatives, the prison authorities have imposed a one-month term of close confinement against Park Seok-jin because he showed "disrespect" to the director of the prison during an inspection on 19 January 1994. He had reportedly failed to stand to attention when the director entered his cell. According to his family, Park Seok-jin is now denied access to some visitors, cannot obtain any reading material, and is unable to exercise.

On 19 January, according to his lawyer, Park Seok-jin was beaten, tied with rope and ankle chains and put into a small "punishment" cell for 48 hours. He is now believed still to be in a punishment cell, but the rope and ankle chain have reportedly been removed.

Park Seok-jin was arrested in July 1993 and sentenced to one-and-a-half years' imprisonment for deserting after he had made a "declaration of conscience". The "declaration" expressed his objection to completing his compulsory military service as a riot policeman, a duty which forced him to suppress civilian demonstrations. Amnesty International is calling for his release as it believes that he is held for peacefully expressing his views and that the right to perform an alternative civilian service should be made available to those who, for reasons of conscience, are not willing to perform military service.

Amnesty International believes that the imposition of a term of close confinement on Park Seok-jin for showing "disrespect" to the director of Yongdungpo Prison, and the use of rope and chains to tie him up for 48 hours, could amount to cruel, inhuman and degrading treatment or punishment, prohibited under international human rights standards, including the International Covenant on Civil and Political Rights, ratified by South Korea. Article 33 of the United Nations Standard Minimum Rules for the Treatment of Prisoners states that "*Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment.*" The Standard Minimum Rules for the Treatment of Prisoners provide strict limits on punishment by close confinement and specify that such punishment may be carried out only under daily supervision by a medical officer.

Amnesty International has received other reports of political prisoners being subjected to such punishment. For example, in May 1993, prisoner of conscience Baik Tae-ung was apparently tied up and put in a small cell for 24 hours because he had protested about poor food. Amnesty International is concerned that South Korean prison regulations and laws do not protect prisoners from all forms of cruel, inhuman and degrading treatment or punishment. The organization is calling on the South Korean Government to end the confinement of Park Seok-jin and to ensure that no prisoner is punished in ways not consistent with international standards for the treatment of prisoners. Amnesty International reiterates its view that Park Seok-jin is a prisoner of conscience and renews its call on the South Korean Government to release him immediately and unconditionally.

RECOMMENDED ACTION: please send letters and faxes:

- ◆ *urging the South Korean Government to end the confinement of Park Seok-jin in a punishment cell;*
- ◆ *expressing concern at reports that Park Seok-jin was beaten and tied with rope and ankle chains for 48 hours, in contravention of international human rights standards;*
- ◆ *calling for Park Seok-jin's immediate and unconditional release.*

Appeals to:

- ◆ **Mr Kim Doo-hee, Minister of Justice**

Ministry of Justice

1 Chungang-dong

Kwachon-myon, Shihung-gun

Kyonggi Province

Republic of Korea

Fax: +822 504 3337

- ◆ **Mr Lee Hoi Chang, Prime Minister**

Prime Minister's Office

77 Sejong-no

Chongno-gu, Seoul

Republic of Korea

Fax: +822 739 5830

- ◆ **Director, Yongdungpo Prison**

102 Kochok-dong

Yongdungpo-gu, Seoul

Republic of Korea

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

KEYWORDS: PRISONERS OF CONSCIENCE1 / TORTURE/ILL-TREATMENT1 / CONSCIENTIOUS OBJECTORS / RESTRAINTS / PRISON STAFF /

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[EMBARGOED FOR 9 MARCH 1994]

amnesty international

SOUTH KOREA

Human Rights Violations Continue Under The New Government

FEBRUARY 1994

SUMMARY

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One year ago, in February 1993, President Kim Young-sam took office as the first South Korean President without a military background. In his inaugural speech the President promised a new era of freedom and democracy. He said: *"The New Korea will be a freer and more mature democratic society. Justice will flow like a river throughout this land."* Shortly after taking office the new government announced a large-scale amnesty for prisoners, including 144 political prisoners.

Following a year of close monitoring of the human rights situation, however, Amnesty International concluded that the human rights situation has not substantially improved under the new government. A small number of political prisoners were released in a series of amnesties in 1993, but many of them were already nearing the end of their prison terms. At the end of 1993 the number of political prisoners stood at around 280. Over 80% of these prisoners were held under national security legislation, many serving long prison terms. Dozens of prisoners of conscience were arrested throughout the year for exercising their rights to freedom of expression and association and new incidents of torture and ill-treatment were reported.

The new government also decided to shelve indefinitely proposed amendments of the National Security Law and the Labour Dispute Mediation Act, laws which curtail the rights to freedom of expression and association. It failed to introduce new safeguards to protect prisoners from torture and ill-treatment and to live up to its promise to ratify the UN Convention Against Torture before the end of the year.

The South Korean Government claimed at United Nations meetings that there were no longer human rights violations in South Korea. This document describes South Korean laws which have been used to imprison prisoners of conscience and outlines cases of such prisoners; it describes instances in which the new administration's failure

to rectify past human rights violations has resulted in the continuing detention of long-term prisoners of conscience and political prisoners.

This report also describes recent cases in which political suspects have been subjected to cruel, inhuman or degrading treatment at the hands of the authorities. It describes measures taken so far by the government to end such human rights violations and highlights further measures which Amnesty International believes should be implemented as a matter of priority.

A section of this report summarizes current information about the use of the death penalty in South Korea and sets out its concerns relating to this and to the conditions of detention and circumstances of execution of prisoners sentenced to death.

The final section summarizes measures which Amnesty International is urging the South Korean Government to take in order to end human rights violations in South Korea and to improve safeguards for human rights in accordance with international standards.

KEYWORDS: PRISONERS OF CONSCIENCE1 / POLITICAL PRISONERS1 / TORTURE/ILL-TREATMENT1 / LONG-TERM IMPRISONMENT1 / INCOMMUNICADO DETENTION / TRIALS / CONFESSIONS / POLITICALLY MOTIVATED CRIMINAL CHARGES / DETENTION FOR RE-EDUCATION / HOUSE/TOWN ARREST / SEXUAL HARASSMENT / ARBITRARY ARREST / IMPUNITY / DEATH PENALTY / BANNING / CENSORSHIP / POLITICAL GROUPS / POLITICAL ACTIVISTS / ACADEMICS / TRADE UNIONISTS / HUMAN RIGHTS ACTIVISTS / WRITERS / ARTISTS / CONSCIENTIOUS OBJECTORS / PRISONERS OF WAR / WOMEN / AGED / DEMONSTRATIONS / ESPIONAGE / ELECTIONS / LEGISLATION / GOVERNMENT CHANGE / INTERNATIONAL MEETINGS / UN / MISSIONS / ILO / PHOTOGRAPHS /

This report summarizes a 29-page document (10738 words), *South Korea: Human Rights Violations Continue under the New Government* (AI Index: ASA 25/08/94), issued by Amnesty International in February 1994. Anyone wanting further details or to take action on this issue should consult the full document.

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

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SOUTH KOREA

Human Rights Violations Continue under the New Government



February 1994

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SOUTH KOREA Human Rights Violations Continue Under The New Government

1) Introduction

One year ago, in February 1993, President Kim Young-sam took office as the first President of the Republic of Korea (South Korea) without a military background. In his inaugural speech the President promised a new era of freedom and democracy. He said: *"The New Korea will be a freer and more mature democratic society. Justice will flow like a river throughout this land."* His new government immediately embarked on an ambitious program of reform and "anti-corruption" drives. A number of lawmakers, government officials, members of the judiciary, police officials and others resigned amidst accusations that they had amassed wealth through illegal means. The new government announced a large-scale amnesty for prisoners shortly after it had taken office. On 6 March some 2000 prisoners were released, including 144 political prisoners.

However, some 400 political prisoners continued to be held. There were three further amnesties during the year which included a small number of political prisoners, but many of those released were already nearing the end of their prison terms. For example, of 44 political prisoners released in December some 40% had only two months left to serve and several others were due to serve only a few days more. At the end of the year the number of political prisoners stood at around 280. Over 80% of these prisoners were held under national security legislation, many serving long prison terms.

The new government decided to shelve indefinitely proposed amendments of the National Security Law (NSL) and the Labour Dispute Mediation Act, laws which curtail the rights to freedom of expression and association. It failed to introduce new adequate safeguards to protect prisoners from torture and ill-treatment and to live up to its promise to ratify the UN Convention against Torture before the end of the year. Dozens of political prisoners were arrested throughout the year for exercising their rights to freedom of expression and association and new incidents of torture and ill-treatment were reported.

In 1993 the South Korean Government claimed publicly at United Nations meetings that there were no longer human rights violations in South Korea. At the World Conference on Human Rights, held in Austria in June 1993, the Minister of Foreign Affairs said:

"As we gather here at the World Conference on Human Rights, I am happy to report to you that human rights have finally come of age in Korea. I stand before you representing a nation and a people who can proudly say that truth, freedom and democracy have at last triumphed in their country".

However, Amnesty International is concerned that the South Korean Government's own domestic record does not live up to its stated commitment to protect human rights. Eight days after the conference, on 23 June 1993, a leading South Korean academic, Professor Cho Kuk, was arrested under the NSL on charges of belonging to an "anti-state" organization. He had written many articles criticizing the NSL and his arrest was seen as an attack on NSL opponents. Professor Cho Kuk was tried, given a suspended prison sentence and released in December. Exactly one month after the conference human rights activist Noh Tae-hun was also arrested under the NSL for possessing and distributing publications allegedly benefitting the Democratic People's Republic of Korea (North Korea), all of which were publicly available in South Korea. He had been one of the key organizers of South Korean NGO participation in the World Conference on Human Rights and his arrest appeared to be an attempt to curtail the activities of South Korean NGOs who had returned from the conference with renewed strength. He was also given a suspended prison sentence and released after his trial in October.

Amnesty International believes that the human rights situation has not substantially improved under the new government of President Kim Young-sam. This document describes recent human rights violations in South Korea. It is based on Amnesty International's research over the past several years and includes information collected from a wide range of sources. It is not a comprehensive account of the human rights situation in South Korea, but is limited to the major areas of concern which fall within Amnesty International's mandate.

2) Prisoners of Conscience and Political Prisoners

2.1 The National Security Law: a major human rights concern

Most political prisoners in South Korea are imprisoned under the National Security Law (NSL). At the time of writing they number over 200. Many of these prisoners are held in violation of their rights to freedom of expression and association.

The NSL provides the death penalty or life imprisonment for those convicted of being the "ring leaders" of broadly defined "anti-state" organizations or for those who commit acts of "espionage". It provides for the imprisonment of other members and supporters of such organizations and for those who "praise" or "side with" North Korea.

In recent years the NSL has been used widely to imprison people who visited North Korea or met North Koreans without government permission and those who formed or joined alleged "anti-state" organizations.

Under the NSL, an "anti-state" organization is defined as a group, "with the structure of command and control, organized for the purpose of assuming a title of the government or disturbing the State". This definition has been widely interpreted by the South Korean courts. The NSL has frequently been used to imprison people with left-wing views or those with views considered to be similar to those of the North Korean Government. A group labelled as "anti-state" by a court becomes illegal *ipso facto*, and its past and present members are all liable to criminal charges under the NSL. In practice such groups cannot challenge the official determination that they are "anti-state".

Under the NSL the definition of "espionage" has also been widely interpreted. Passing "state secrets" to alleged agents for North Korea is considered espionage, but under the NSL a "state secret" includes any information which may be useful to North Korea, even if it has been published in newspapers, books and other publications which are publicly available in the South. People have been imprisoned on charges of passing alleged "state secrets" to North Korean agents. Others were imprisoned for meeting North Koreans in third countries, although they had not engaged in any espionage activity.

The South Korean Government uses the current state of tension between South and North Korea to justify its continued use of the NSL. Amnesty International believes, however, that the restrictions which the NSL imposes on the rights to freedom of expression and association go far beyond the limitations of these rights permitted by international human rights standards. It believes that a large number of prisoners held under the NSL are in fact held for peacefully expressing their views without there being any evidence that they endangered state security. It is concerned that the South Korean Government may continue to use the NSL to imprison people whom it simply considers to be a potential threat to its own authority.

In July 1992 the UN Human Rights Committee, considering a report by the South Korean Government on its implementation of the International Covenant on Civil and Political Rights (ICCPR), said:

"The Committee's main concern relates to the continued operation of the National Security Law. Although the particular situation in which the Republic of Korea finds itself has implications on public order in the country, its influence ought not to be overestimated. The Committee believes that ordinary laws and specifically applicable criminal laws should be

sufficient to deal with offences against national security. Furthermore, some issues addressed by the National Security Law are defined in somewhat vague terms, allowing for broad interpretation that may result in sanctioning acts that may not be truly dangerous for State security and responses unauthorized by the Covenant."

The Committee recommended:

"A serious attempt ought to be made to phase out the National Security Law which the Committee perceives as a major obstacle to the full realization of the rights enshrined in the Covenant".

Some examples of imprisonment of prisoners of conscience under the NSL are described below.

Imprisonment on charges of belonging to an "anti-state" organization

Many socialist groups in South Korea have been labelled as "anti-state" although no evidence is available indicating that they had used or advocated violence to achieve their aims, as the government has claimed. One such group is *Sanomaeng* (Socialist Workers League).

Since 1990 over 200 members of *Sanomaeng* have been arrested under the NSL. Some 60 members or alleged members remain in prison today, including the group's two leaders who are serving long sentences. The authorities have labelled *Sanomaeng* as an "anti-state" organization, seeking to overthrow the government. To Amnesty International's knowledge there is no evidence that *Sanomaeng* members were preparing for the "armed uprising" described by the authorities. During his trial in July 1992 *Sanomaeng* leader Baik Tae-ung said that his organization was seeking to establish a legal political party to give political power to the working class. He emphasized that the organization would not use violence to achieve this aim. He was sentenced to 15 years' imprisonment and his wife Chon Kyong-hee to three years' imprisonment. Amnesty International is calling for their release and that of dozens of other *Sanomaeng* members who it considers to be prisoners of conscience.

During 1993 dozens of prisoners of conscience were arrested and charged for trying to "reconstruct" *Sanomaeng*, which had been temporarily disbanded after Baik Tae-ung's arrest. They had placed advertisements in newspapers and in public places stating their organization's commitment to peaceful change. They included Baik Song-ki and Mun Yong-chan, arrested in May 1993 and sentenced respectively to three and two-and-a-half year prison terms. They also included 15 people suspected of forming a

Kangwon Province section of *Sanomaeng*. They were members of *Minjongryon* (People's Political Union of Korea) or friends of members.

In December six members of the *Socialist Academy*, said to be linked to *Sanomaeng*, were given tried and given suspended prison sentences. They had been arrested in May and June under the NSL on charges of belonging to an "anti-state" organization. One of them, Hwang Ju-suk, was given a two-and-a-half year prison sentence. The court labelled the *Socialist Academy* as an "anti-state" organization, although Amnesty International understands that it was merely a small group set up to study socialism and its application in South Korean society. Most of its members had been graduate students and the group had voluntarily disbanded in 1992. Those released with suspended sentences included Professor Cho Kuk, a leading academic and well-known critic of the NSL. He faced dismissal from his teaching position because of his conviction and made an immediately appeal against the decision. At the time of writing the outcome of this appeal was not known.



Professor Cho Kuk

Amnesty International believes that the continued imprisonment of members of *Sanomaeng* and other socialist groups constitutes a violation of their right to freedom of expression and association and that the NSL should be amended to exclude any possibility that people in South Korea can be arrested and detained in contravention of that right.

Imprisonment for making unauthorized visits to North Korea

During 1993 several people who had contacted North Koreans without government permission were arrested and imprisoned. Several others arrested in previous years continued to be held. Amnesty International is calling for their release as it believes that people who visit or try to visit North Korea, without there being any evidence that they engaged in espionage or violent activities, should not be imprisoned.

In June 1993 two workers were arrested for attempting to visit North Korea without government authorization. Under the terms of the South-North Exchange and Cooperation Law (1990), South Korean citizens may seek permission from the South Korean authorities to travel to North Korea or to meet North Koreans in third countries. This has led to increased contacts with North Koreans, but permission has consistently

been refused to people deemed to be dissidents or to be critical of government policy. Park Dong-su and Chong In-kun are labour activists and anticipated that they would not obtain official permission. They travelled to Berlin in Germany intending to visit North Korea as a means of involving workers in discussions about reunification. However their plan to visit North Korea was unsuccessful. They returned to South Korea where they were arrested one month later. They received sentences of two years' and one-and-a-half years' imprisonment respectively. Amnesty International is calling for their release.

Writer Hwang Suk-yong was successful in his attempt to visit North Korea in 1989 to discuss reunification with North Korean officials, motivated by his desire to bring together the peoples of North and South Korea. After a period of exile abroad he returned to South Korea in May 1993, was arrested, tried and sentenced to eight years' imprisonment under the NSL. When handing down his verdict the judge is reported to have said: *"Even though the defendant claims his actions came from a pure desire for reunification of South and North Korea, it is evident that he violated the law. . . . Considering the chaos that might be caused by people having similar thoughts to his own, his behaviour cannot be regarded as just"*. Amnesty International is calling for his release.



Hwang Suk-yong

"Espionage" and "state secret": ill-defined concepts

Under the NSL people who met North Koreans without government authorization, who made unauthorized visits to North Korea or who passed "state secrets" to alleged agents, have often been accused of espionage. The courts have ruled that a state secret may be any information which is of some use to North Korea. This means that any person who passes on publicly available information may be arrested and imprisoned under the NSL.

In many such cases Amnesty International believes that there is no evidence that the prisoners spied for North Korea. It believes that the broad definition of espionage has led to the imprisonment of people in violation of their rights to freedom of association and expression and is calling for their release.

Kim Nak-jung, a political writer and activist, was sentenced to life imprisonment in February 1993 on charges of meeting and receiving money from North Korean officials. Kim Nak-jung has written many books and articles on the subject of reunification, the labour movement and economic policy. He belonged to a number of citizens groups supporting reunification and was former Co-President of the *Minjung* (People's) Party. He had already spent many years in prison - in both North and South Korea - for his work to bring about reunification.



Kim Nak-jung

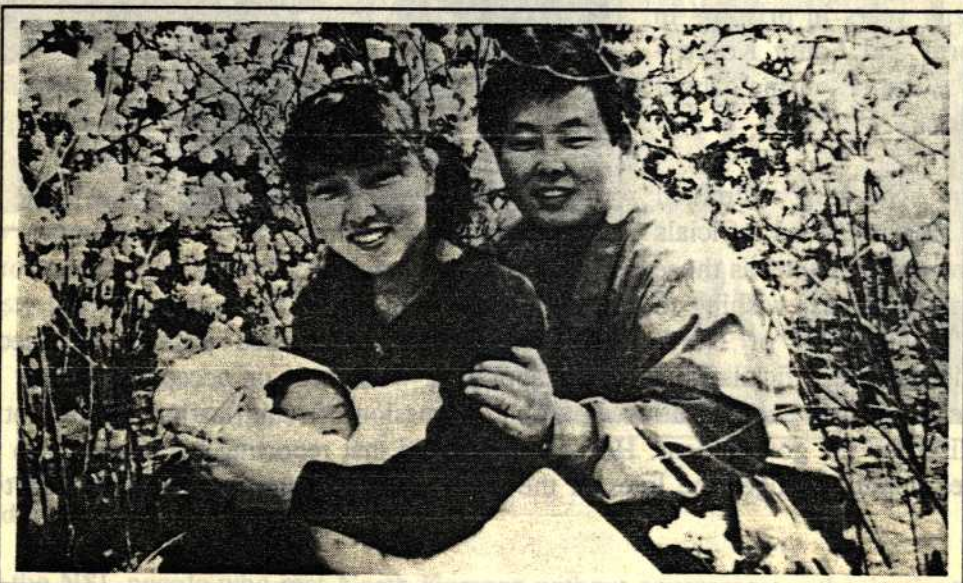
Kim Nak-jung admitted meeting North Korean officials but defended his actions as those of a peaceful activist wishing to see the reunification of North and South Korea. He denied passing any secret information to the officials he met, collaborating with them or accepting money for spying activities. He expressed the view that discussion of reunification should not be monopolized by the government. He was also afraid that reporting his meetings to the authorities might endanger the lives of the North Koreans whom he met. In court he said:

"Not only the people who have had personal contacts with me but also those who have read my books or listened to my lectures, speeches or discussions are well aware that I have been an adamant pacifist opposing violent revolution and one-party dictatorship, as well as a strong advocate of peaceful reunification of our nation . . ."

There was no evidence that he had damaged state security, but under the terms of the NSL he was found guilty of "espionage". Amnesty International is concerned that under the NSL a reunification and peace activist like Kim Nak-jung can be found guilty of espionage simply because he had unauthorized meetings with North Korean officials.

Lee Kun-hee, an office worker for the Democratic Party, was arrested in September 1992 and sentenced to three years' imprisonment for giving a "state secret" to an alleged North Korean agent. This was information about the 1992 national defence budget which he had given to a friend, Hwang In-uk, who was later arrested on charges of espionage. Lee Kun-hee admitted giving the information but argued that he could not have known that it was a state secret because it had already been published in the Ministry of Defence publication, *Defence News*. At his first trial in November 1992 Lee Kun-hee said:

"It is true that I handed the national defence budget outline for 1992, a class two military secret, to Hwang In-uk, my college friend, but I thought that it was not a military secret because it had been reported in the newspapers earlier and I never imagined that the document would be sent to North Korea".



Lee Kun-hee with his wife

Amnesty International believes that the arrest and conviction of Lee Kun-hee was politically motivated. His arrest took place directly before a presidential election and may have damaged the credibility of the Democratic Party and its candidate.

Imprisonment for "praising" North Korea

Under a widely-used provision of the NSL, people may be arrested for "praising" and "siding with" North Korea. In practice, this often means that they are accused of possessing or distributing pro-North Korean literature which is often publicly available. Amnesty International is concerned that this provision has been used to imprison suspected government opponents. It continues to call for the release of prisoners held under this provision whom it believes are held in violation of their rights to freedom of expression or opinion.



Noh Tae-hun talking about his arrest and detention during a meeting with Amnesty International representatives in Seoul in November 1993

Human rights activist Noh Tae-hun was arrested on 15 July 1993, several weeks after his return from the World Conference on Human Rights, held in Vienna, Austria, in June. He was accused under the NSL of possessing and distributing pro-North Korean material. The material in question consisted of pamphlets and books written by former long-term political prisoners about their life in prison. They were publicly available in South Korea and other people who possessed these publications, as well as the authors themselves, were not charged. In October Noh Tae-hun was tried, given a suspended prison sentence and released.

There are many books and publications in South Korea which, under the terms of the NSL, could be considered as pro-North Korean. Amnesty International believes the government has used the NSL selectively against people whom it considers to be a threat to its authority. Amnesty International is concerned that Noh Tae-hun's arrest appears to have been an attempt to curtail his human rights work.

In November 1993 he told Amnesty International: "The prosecutor, a few days before my indictment, said 'I know that [your detention is unreasonable] but through your arrest we give a symbolic warning to the long-term prisoners [who have been released and] who are now carelessly carrying out Red [pro-communist] activities again, [such as] lecturing students about their time in prison . . . Also, your arrest is a symbolic warning to the leftist movement, which hides behind the human rights movement. That is why we will indict you.'"

According to police documents obtained by Amnesty International, the investigation against Noh Tae-hun had started at least as early as September 1992. The investigation involved searches of Noh Tae-hun's possessions, wiretapping of telephone conversations and fax transmissions, including some made by Noh Tae-hun from the office of his lawyer, and investigations of his bank accounts. In March and May 1993, the police obtained details of sums paid in and out of Noh Tae-hun's bank account. In April, the authorities searched luggage he had checked into a flight to Bangkok, where he participated in a meeting of NGOs to prepare the World Conference on Human Rights. Noh Tae-hun told Amnesty International after his release that his interrogators in July and August 1993 questioned him about the transactions and documents mentioned in these police documents in an apparent attempt to indict him on charges of espionage.

Imprisonment for failing to report violations of the NSL

A person may also be arrested for failing to report a violation of acts prohibited under the NSL. Amnesty International is concerned that these provisions have resulted in the imprisonment of prisoners of conscience. At her trial in January 1993 Cho Mu-ha was given a one-and-a-half year suspended prison sentence for failing to report a violation of the law committed by her husband, Chang Ki-pyo. He was sentenced to a one-year prison term for meeting an alleged North Korean agent and was adopted by Amnesty International as a prisoner of conscience. Also in January 1993 Song Hae-suk was given a suspended prison sentence for failing to report the alleged spying activities of her husband Hwang In-oh. Amnesty International is investigating the case of Hwang In-oh and believes that he may be a prisoner of conscience.

2.2 "Third party intervention" in labour disputes

Trade union leaders continue to face arrest under legislation which curtails their rights to freedom of expression. Article 13(2) of the Labour Dispute Mediation act prohibits a "third party", that is anyone who has no immediate connection with a workplace where a dispute is taking place, from intervening in the dispute. The authorities regard as "third

party intervention" advice given to trade union members about their labour rights and about the conduct of wage negotiations. In practice this means that trade union leaders live with the constant threat of arrest under a legal provision which makes many of their ordinary trade union activities illegal. The law is used most frequently against leaders of umbrella trade unions and smaller trade union advisory bodies. It has been used recently to threaten the arrest of key trade union leaders.

In July 1993 the authorities issued arrest warrants for at least five trade union leaders of the Korea Trade Union Congress (KTUC) on charges of intervening in a dispute involving companies belonging to the Hyundai group. They included KTUC leader Dan Byung-ho who was accused of inciting workers in the Ulsan area to strike and of giving lectures to member unions. Dan Byung-ho went into hiding to avoid arrest and was still wanted by police at the time of writing. He had been arrested and imprisoned on two previous occasions for "third party intervention". Another KTUC leader Kwon Yong-mok was arrested in August - his third arrest on this charge.

For many years Amnesty International has urged the South Korean government to ensure that the rights to freedom of expression and association, including the right to instruct trade union members about activities such as wage negotiations and industrial action, are protected. In May 1993 the Ministry of Labour announced that it planned to lift the ban on third party intervention in labour disputes and that a draft amendment of the Labour Dispute Mediation Act to this effect would be presented to the next National Assembly session. However in August, after a dispute at companies belonging to the Hyundai industrial group, officials of the Ministry of Labour were reported to have said that the ban on "third party intervention" would remain in force because it had proved an effective means to control the dispute at Hyundai.

International organizations have advised the South Korean Government to remove the ban on third party intervention. In March 1993 the International Labour Organization (ILO) Committee on Freedom of Association said: "As the Committee is of the opinion that the ban on third party intervention in the settlement of disputes constitutes a serious restriction on the free function of trade union, it calls on the Government to repeal this ban".¹

¹This was part of a comprehensive report which included recommendations to permit the formation of multiple unions at a workplace, to permit teachers and other public employees to form trade unions, to release workers imprisoned for their labour activities and to reinstate dismissed workers.

2.3 The Social Surveillance Law: restrictions on released political prisoners

The Social Surveillance Law, enacted in 1989, is defined as a law "to take security observation measures upon such persons who have committed specific crimes in order to prevent the danger of their recommitting crime and promote their return to normal sound social life, and thereby to maintain national security and social peace". (Article 1).

Under the terms of this law certain released political prisoners are required to report on a regular basis and for up to two years to their local police station, giving details of their political activities, meetings, trips and other matters as deemed appropriate by the police station chief. Former prisoners who are subject to this law may also be prevented from associating with each other or from taking part in certain meetings or demonstrations at the discretion of the public prosecutor or local police station. Violation of the law may result in imprisonment.

Prisoner of conscience Lee Chong-whan was subjected to this law after his release in April 1993 after spending 43 years in prison. He is required to make a regular report of his activities to his local police station and to inform them if he wishes to travel outside the province where he lives. Once or twice since his release he has been forbidden to leave his house, apparently because a demonstration was taking place nearby. Now aged 71, he told Amnesty International that the surveillance made him feel like he was living in "a larger prison". Prisoner of conscience student Im Su-kyong was released under a presidential amnesty in December 1992, after serving three years of a five year sentence for making an unauthorized visit to North Korea in 1989. In January 1992 security officials were reported to be keeping a 24-hour watch around her home on the grounds that she was still "ideologically unconverted". A spokesman from Sodaemun Police Station is reported to have said: "We will watch her for two months or so and submit a report to the prosecution. The prosecution will then decide whether to stop the 24-hour watch".

Amnesty International considers such restrictions on former prisoners of conscience to be an unjustified extension of their punishment. It calls for the release of prisoners of conscience to be unconditional.

2.4 The "conversion" system

The system of "conversion" of political prisoners is used by the prison authorities as a means of putting pressure on political prisoners to renounce their real or alleged

communist beliefs. Over the years, a number of political prisoners have refused to comply and have been subjected to discriminatory treatment in prison as a result.

The basis for the "conversion" system is contained in a regulation issued by the Ministry of Justice in 1969. This classifies all prisoners into four classes. Most prisoners are in classes (A), (B) and (C) and receive various entitlements and benefits. Prisoners may work their way up to class (A) which is the group receiving most privileges. "Unconverted" prisoners are in class (D) and are not entitled to any of the privileges granted to other classes.

Former political prisoners have told Amnesty International that in order to show that they had "converted", they were required to write a statement explaining (a) how they became a communist; (b) the activities they carried out to promote communism; (c) why they now wanted to give up communism and (d) what they proposed to do in the future. Released prisoners said that during the 1970s and 1980s they were tortured to pressurize them to "convert". No such complaints have been received by Amnesty International recently and at present the main pressure is psychological. Those who refuse to convert are often denied privileges accorded to other prisoners such as the right to send and receive regular correspondence, to have visitors other than family members, to meet other prisoners, to work, etc.

Arguably the greatest restriction on "unconverted" prisoners is the denial of early release on parole. Political prisoners who refuse to "convert" are not permitted to apply for release on parole. In practice, "unconverted" prisoners serving life sentences have not been considered for release until they reach the age of 70, when they are generally released on health grounds. Two "unconverted" prisoners of conscience in South Korea, Kim Sun-myung, aged 69, and Ahn Hak-sop, aged 63, have been held for over 40 years in virtual isolation from other prisoners and from the outside world. They are among the longest-serving political prisoners known to Amnesty International anywhere in the world. The South Korean Government has told Amnesty International that these and other "unconverted" political prisoners pose a security risk to South Korea but Amnesty International believes that they were convicted unfairly and that they continue to be held solely on account of their imputed political opinions. It is calling for an end to the system by which prisoners of conscience who have not "converted" are not entitled to early release on parole.

There are many reasons for a refusal to "convert". Some prisoners view the requirement as a violation of their right to hold their own opinions. Some, like prisoner of conscience Kim Song-man, argue that they have never held communist views and that making a statement of "conversion" would be tantamount to an admission of guilt on their part for a crime of espionage that they did not commit.

2.5 Prisoners of conscience in the military

South Korean men are subject to a period of compulsory military service, usually before the age of 24 (with some exceptions, for example on grounds of ill-health). Most conscripts are assigned either to a regular army unit or to a division of the riot police. There is no alternative civilian service available in South Korea.²

In recent years some army conscripts deserted because they objected to specific aspects of their duties, such as the requirement to serve as riot policemen and to perform duties they disagreed with, such as suppressing civilian demonstrations. Most made a public "declaration of conscience" before they deserted. The content of the "declarations" concerned the reform of the military, including riot police, and the political and human rights situation in South Korea. Since 1987, 44 conscripts have made such a "declaration of conscience". Most were arrested and sentenced to several years' imprisonment.

Those arrested in 1993 included eight former army conscripts who were detained in August. In June the eight had come out of hiding and staged a peaceful sit-in protest at the offices of the Human Rights Committee of the Korean National Council of Churches. They had made "declarations of conscience" at different times between 1989 and 1992 and had been wanted on charges of desertion since then. Five of the eight men had served in the riot police and the other three had been assigned to army units. In their "declarations of conscience", they objected to the use of army conscripts to suppress civilian demonstrations and to beatings in the army; made demands that an investigation be carried out by the authorities into past human rights violations in the army and called for better human rights protection in the army. They also asked for the arrest warrants against them to be cancelled.

²The rare cases of exemption have sometimes resulted in a restriction of rights. Subject to written examination, a small number of conscripts are permitted to work in the "defence industry" rather than doing active military duty. Until January 1993 those who worked for five years or more in companies classified as "defence industry" were dispensed from active military service (in January 1993 the term was lowered to three years). These workers are not permitted to join trade unions or take part in strikes. For example Whang Young-bum and Cho Soo-won worked in a "defence industry" company which was part of the Daewoo industrial group. In 1992 they were dismissed for labour activities after four years' service. Because they had not completed the full five-year term they were then required to enter active service. The two men went into hiding and were still there at the end of 1993. Amnesty International is concerned that this form of military service is of punitive length and does not constitute a reasonable alternative to armed military service.

The eight were arrested in August on charges of desertion and put on trial. Four of them (Park Seok-jin, Koh Dae-song, Lee Dong-ik and Cho Chong-hui) were given prison sentences ranging from one-and-a-half years to three years. Amnesty International considers them to be prisoners of conscience, held for expressing peacefully their views about the reform of the military and about the political and human rights situation in South Korea. It believes that they should be released since making a declaration of conscience and deserting was the only means available to them to express these views. It also believes that the right to perform an alternative civilian service should be available to those who for reasons of conscience are not willing to perform military service. The four other prisoners were given suspended prison sentences and released. They, however, faced the prospect of being sent back to the same army or police divisions they had served in before to complete their term of military service.

3. Failure to Rectify Past Human Rights Violations

The new government in South Korea has not yet adequately addressed human rights violations committed under previous governments. Amnesty International is particularly concerned about the cases described below.

3.1 Long-term political prisoners imprisoned during the 1970s and 1980s

Today there are at least 25 political prisoners serving long prison sentences on charges which appear to have been fabricated during the 1970s and 1980s³. They were accused of spying for North Korea, but Amnesty International has obtained information to suggest that many of these prisoners were held *incommunicado* by the ANSP for up to 60 days after their arrest, subjected to extreme forms of torture, forced to make "confessions" and convicted after trials which did not conform to international standards for a fair trial. Amnesty International has urged the new government to review these cases as a matter of urgency. To date, it has not done so and the prisoners seem to have been "forgotten".

They include Yu Chong-sik, aged 53, who has been in prison since 1975 and is serving a life term. Human rights groups and his family say that he was tortured and forced to make a confession. Cho Sang-nok, arrested in January 1978, said that he was subjected to electric shock and water torture for 17 days by the ANSP. He was later sentenced to life imprisonment. Kim Tae-hong was arrested in September 1981 and held *incommunicado*. In court he said that he had been tortured and forced to make a

³For further information see *Unfair trial and torture: long-term political prisoners (ASA 25/33/93)*, issued by Amnesty International in October 1993.

confession, but he was also sentenced to life imprisonment (later reduced to 20 years). Ham Ju-myong, arrested in 1983, was held incommunicado for 60 days and tortured. Some of his friends were called to give evidence and they later said that they had been detained for several days before the trial and obliged to write statements saying that Ham Ju-myong was a communist. He is now serving a life term.



Kim Song-man



Yu Chong-sik

Kim Song-man and Hwang Tae-kwon were arrested in 1985 and are serving life and 20 years' imprisonment respectively on espionage charges. They were held incommunicado for some 60 days and both later said that they had been tortured in order to extract a confession. Their families were apparently intimidated into not appointing lawyers and they were defended by state-appointed lawyers who apparently made little effort on their behalf.

There are many similarities between these and other cases: illegal arrests, incommunicado detention, severe torture by the ANSP and unfair trials in which the prisoners were not properly defended and witnesses were intimidated. Human rights groups and lawyers in South Korea have sought to reopen the allegedly "fabricated" cases by seeking a new trial but to date they have been unsuccessful. This is because the criteria under which a new trial may be ordered are very specific and very difficult to

fulfil. In these cases there is simply insufficient new evidence to satisfy the required legal criteria. Concerns over the unfairness of trials are not in themselves acceptable grounds to apply for a retrial, according to South Korean law.

Amnesty International has called for the release of some of these prisoners, where there is sufficient information to demonstrate that they are prisoners of conscience, held in violation of their rights to freedom of expression and association. In other cases, where there is insufficient information available, it has called for a review of the conviction because the prisoners appear to have been convicted on the basis of evidence extracted under torture. Amnesty International believes that the government should review the convictions of political prisoners who were arrested under previous governments and appear to have been convicted unfairly, in clear contravention of both South Korean and international law.

3.2 Prisoners of conscience held for over 40 Years

Ahn Hak-sop, aged 63, and Kim Sun-myung, aged 69, were arrested during the Korean War (1950-53) and are still held today. They are among the world's longest-held prisoners of conscience. The two men were convicted of spying for North Korea but appear to have been simply prisoners of war who were convicted after unfair trials. Because they are "unconverted" the authorities will not consider them for early release on parole. The government appears only to consider the release of "unconverted" prisoners when they reach the age of 70. Human rights groups and lawyers have found it difficult to obtain information about the trial and conviction of these two prisoners, a fact which has hampered efforts to secure their release. Amnesty International believes that the South Korean Government should review immediately the cases of prisoners held since the Korean War. It is calling for the immediate and unconditional release of Kim Sun-myung and Ahn Hak-sop⁴.



Kim Sun-myung

⁴For further details see: *South Korea, Prisoners of conscience held for over 40 years (ASA 25/41/93)*, issued by Amnesty International in December 1993.

3.3 Kang Ki-hun: a politically motivated trial

The government has also failed to review the case of Kang Ki-hun who was sentenced to three years' imprisonment in 1991 after a highly politicised trial. He was accused of aiding and abetting the suicide of a colleague but Amnesty International believes that the real reason for his arrest was to weaken an opposition group (to which he belonged) which was at the centre of a series of anti-government demonstrations.⁵



Kang Ki-hun

The main evidence used to convict Kang Ki-hun was a handwriting analysis of a suicide note and other writings which concluded that Kang Ki-hun had written the suicide note of another activist called Kim Ki-sol. The handwriting analysis was carried out by a government-controlled institute, The National Institute for Scientific Investigation (NISI), and its findings were contested in court by an independent handwriting analysis by a Japanese graphology expert. As the trial was progressing the official who conducted the NISI analysis, Kim Hyun-yong was arrested on charges of accepting a bribe in return for endorsing a false authentication of a document in a different case. The NISI analysis was still used as the main evidence to convict Kang Ki-hun. The victim's girlfriend also provided evidence which was used to convict Kang Ki-hun.

She spoke out publicly in 1993 saying that she had been threatened and coerced by interrogators into identifying Kang Ki-hun's handwriting in Kim Ki-sol's notebook, although this was incorrect.

In June 1993 a group of junior judges mentioned this case in a public appeal for reform of the judiciary. In October Kang Ki-hun was called to testify before a National Assembly inspection of the prosecution. The government, however, failed to conduct its own investigation into the case and in October 1993 the prosecution authorities are believed to have pressurized a television network into not showing a documentary about the case. Amnesty International has adopted Kang Ki-hun as a prisoner of conscience and is calling for his release.

⁵ The demonstrations were sparked off in April 1991 when student Kang Kyung-dae was beaten to death by riot policemen during a demonstration. Nine people, including Kim Ki-sol, committed suicide as a form of protest. The dissident group Chonminnyon (National Democratic Alliance), to which Kang Ki-hun and Kim Ki-sol belonged, was one of the main groups organizing these demonstrations.

4) Torture and Ill-Treatment

4.1 Torture and ill-treatment continue

Until the late 1980s the use of water and electric shock torture was common. These methods appear to be no longer used but prisoners today continue to be subjected to different forms of torture or ill-treatment in order to extract "confessions" for use as evidence in court. All political prisoners arrested during the past year whose cases were brought to the attention of Amnesty International reported that they were deprived of sleep during the first few days of interrogation. Some were permitted no sleep at all for the first 48 hours and only one or two hours each night during the following days. Some prisoners reported that they were also subjected to other forms of ill-treatment such as beatings, threats, forced physical exercises and insults. Most reported that interrogation had taken on a form of extreme intimidation. The state agency under whose authority the most serious human rights violations were committed was the Agency for National Security Planning (ANSP), but ill-treatment in police custody was also reported.



Kim Un-ju

Kim Sam-sok, aged 28, and his sister Kim Un-ju, aged 24, were tortured after their arrest by the ANSP in September 1993. Kim Sam-sok told his lawyer that he had been beaten each day during his interrogation by ANSP officials. He also said that he had been stripped naked and sexually assaulted. He was forced to put his thumbprint on a confession, which he later retracted. Kim Un-ju said that she had been deprived of sleep for several days after her arrest, forced to do repeated physical exercises, slapped, shaken and insulted. She also said that interrogators had threatened to strip her and abuse her sexually. She too made a confession which she later denied.

The two were arrested on 8 September but warrants were not issued until 48 hours later. This enabled the ANSP to hold the two suspects incommunicado for two days. The family only discovered the prisoners' whereabouts on 10 September, two days after their arrest. The family and a lawyer then sought immediate access to the prisoners, but their first request was refused and the lawyer was unable to see the prisoners until 11 September, three days after their arrest. The two were held at the ANSP interrogation facility from 8 to 24 September and during this time they were interrogated by ANSP

officials. No record of the interrogation was available. They were not charged until 23 October, 45 days after their arrest.

4.2 Lack of safeguards to protect detainees from torture and ill-treatment

The experience of Kim Sam-sok and Kim Un-ju is a clear demonstration of the inadequacy of current arrest and interrogation procedures. Although most political prisoners arrested today are not subjected to the degree of torture experienced by Kim Sam-sok and Kim Un-ju, they are routinely deprived of sleep, threatened and sometimes beaten.

Hwang Ju-suk, arrested on 23 June 1993, said that he had been deprived of sleep, insulted and threatened during interrogation. An arrest warrant was not issued until 48 hours after he was detained, although his wife was informed by police shortly after his arrest. He was held at Nowon Police Station and interrogated at police headquarters, but some nights he was held for interrogation throughout the night. Noh Tae-hun, arrested in July 1993 by the police, was only allowed one-and-a-half hours' sleep during the first 48 hours of interrogation. He said that interrogators put him under extreme pressure to "admit" to links with North Korean agents - although there was no evidence of this and no such charge appeared in the indictment. Fifteen suspected *Sanomaeng* (Socialist Workers League) members, arrested between 18 and 31 August 1993 also reported that they had been deprived of sleep during interrogation. In these cases warrants of arrest were not issued until 48 hours after the suspects were detained and families were not informed of the prisoners' whereabouts during this period.

Sleep deprivation is of particular concern to Amnesty International because it is used frequently by interrogators as a means of extracting "confessions" and because some officials do not appear to consider it as a form of ill-treatment. Prisoners subjected to sleep deprivation have later reported not remembering what they did or said after a certain point. Choi Chin-sop, arrested on 16 September 1992 by the ANSP, was deprived of sleep for two or three days. He later told his lawyer "after I hadn't got any



Kim Sam-sok

sleep for several days, I found myself muttering something without knowing what I was talking about. [I was] on the verge of [losing] consciousness". Other released prisoners have told Amnesty International that sleep deprivation constituted an intolerable form of pressure which few were able to withstand.

The use of sleep deprivation appears to have been sanctioned by a member of the government. In an interview shortly before his appointment as Minister of Home Affairs, Choi Hyong-woo appeared to condone police ill-treatment of suspects involved in criminal cases of an "ideological" nature. Asked if it was "all right for 'ideological' criminals to be subjected to sleep deprivation", he was quoted as replying:

*"Of course. Again, it is not a matter of a specific government but of the security of the state."*⁶

Amnesty International has written to the Prime Minister to express its concern about the Minister's comments and to seek his assurance that the statements reportedly made by Choi Hyong-woo do not represent government policy. It urges the government to condemn and abolish the practice.

Amnesty International believes that sleep deprivation, beatings and threats often lead prisoners to make a "confession" which is then used as evidence in court, in contravention of international human rights standards⁷. South Korean law and international human rights standards forbid torture and ill-treatment but current detention and interrogation procedures contain few safeguards to protect prisoners. Legal provisions and safeguards that do exist are often not observed in practice and, in many cases, fall short of international human rights standards. Amnesty International is particularly concerned about the following practices:

◆ Under current procedures police or security officials often take a suspect without an arrest warrant for "voluntary submission into police custody". In such cases a court warrant must be obtained within 48 hours. In practice this provision is often abused by police and other security agencies to detain suspects by force and hold them incommunicado for 48 hours' interrogation without informing their families and friends that they have been arrested. Prisoners have reported that they were subjected to the

⁶Translation by Amnesty International of an interview published in the January 1994 edition of the monthly journal *Mal*.

⁷For example, Article 14(3) of the International Covenant on Civil and Political Rights states that "In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (g) Not to be compelled to testify against himself or to confess guilt".

greatest abuse during these first hours of interrogation when they had no access to family or lawyers. "Confessions" obtained during this 48-hour period have apparently been used as grounds upon which to apply for an arrest warrant.

◆ There is currently no legal requirement for prisoners to be brought promptly before a judge, although this is required under international human rights standards⁸. Under South Korean law suspects need only be brought before a judge when they are charged, which can take up to 50 days (see below).

◆ Suspects held under the National Security Law may be interrogated for up to 50 days before they are charged. This includes up to 20 days by the arresting agency (usually the Security Division of the National Police Administration or the Agency for National Security Planning (ANSP)) and a further 30 days by the prosecution. During this long period prisoners may be subjected to prolonged and exhausting interrogation. In July 1992 the UN Human Rights committee, considering a report by the South Korean Government on its implementation of the ICCPR, said: "The very long period allowed for interrogation before charges are brought, is incompatible with Article 9, paragraph 3 of the Covenant".

◆ Prisoners under interrogation are sometimes denied immediate and regular access to their lawyers and also to their families, in contravention of international standards⁹.

◆ Lawyers and defendants have told Amnesty International that they are unable to obtain accurate records of interrogations, because such records are kept by the investigating authorities and are not produced in court.

◆ In practice, political prisoners are often held and interrogated throughout by the same agency, a situation which in Amnesty International's experience facilitates the use of torture and ill-treatment. For example, the ANSP held and interrogated Kim Sam-sok and Kim Un-ju for 16 days. Ministry of Justice officials told Amnesty International that the two had been sent to a police station each night and also denied the existence of an ANSP detention facility. Lawyers, however, told Amnesty International that the two

⁸Article 9(3) of the International Covenant on Civil and Political Rights states that "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by the law to exercise judicial power . . ."

⁹Principle 18 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states: (1) A detained or imprisoned person shall be entitled to communicate and consult with his legal counsel. (2) A detained or imprisoned person shall be allowed adequate time and facilities for consultations with his legal counsel.

were held throughout their 16-day interrogation by the ANSP and the organization has received other similar reports in the past concerning other cases.

◆ Under South Korean law there appears to be no requirement for investigators to keep and make available to courts or lawyers official records indicating the times at which suspects are taken for interrogation and back to the place of detention. In the absence of such official records, there is no safeguard against abuses of the rights of detainees.

4.3 Lack of effective remedies for victims of violations

Few prisoners who claim to have been tortured or ill-treated have made a formal complaint about their treatment and in only a few cases have successful prosecutions been carried out. This is largely because:

◆ Prisoners who have been ill-treated during interrogation are sometimes afraid to make a statement to this effect in court. They believe that this will antagonize the tribunal and lead to a heavier prison sentence. Many prisoners expect a degree of ill-treatment when they are arrested and interrogated. Many appear to be unaware of their right to make a formal complaint. Furthermore it is extremely difficult for a prisoner to prove that he or she has been ill-treated. This is particularly true of sleep deprivation which leaves no visible trace on the body.

◆ The government has failed to provide an effective mechanism for redress. There is no independent body to investigate complaints of human rights violations. The Public Prosecutor's Office, which has the authority to decide whether or not a prosecution will take place, often appears not to act on complaints, dismissing them without further explanation on the grounds that they were investigated and proved to be unfounded. There is a consequent lack of faith in the investigation of complaints.

A recent example of the failure to prosecute on the issue of illegal arrest is that of Noh Tae-hun. He was arrested on 15 July 1993 by police officers who did not show a warrant of arrest and did not inform him of the reasons for his arrest. His arrest was witnessed by two lawyers who confirmed these facts. Noh Tae-hun made a complaint to the prosecutors office on the grounds that his arrest had been carried out illegally. The complaint was dismissed on 8 November 1993 on the grounds that correct procedures were followed. Privately, the prosecutor's office expressed surprise that he was bringing this complaint which was, in their view, not of a serious nature.

An example is that of artist Hong Song-dam who was tortured after his arrest on national security charges in 1989. Although he made a formal complaint, including drawings of his torturers, Ministry of Justice officials told Amnesty International in November 1992 that no prosecutions would be carried out because his torturers could not be identified. Park No-hae, arrested by the ANSP in March 1991, also made a complaint of torture and his case was also brought to the attention of the UN Special Rapporteur on Torture. In November 1991 the government wrote to Special Rapporteur that "He [Park No-hae] admitted spontaneously facts which constitute violations of the NSL, not only during the trial proceedings but also during investigation. Furthermore the court rejected the complaint concerning his alleged maltreatment". No further explanation was given.

The lack of criminal prosecutions against torturers has led to torture victims bringing civil complaints for damages. In December 1993 a former torture victim brought a civil law suit against the government to claim damages for the psychological illness resulting from torture he was subjected to in 1980 and 1986. Two doctors have attested that there is a strong possibility that Mun Guk-jin's illness was a direct result of torture. This is the first civil law suit seeking redress for the psychological effects of torture. Amnesty International believes, however, that it is the government's responsibility to ensure that all credible reports of human rights violations are investigated promptly and by an independent agency. It believes that the current system lacks substantive safeguards to protect human rights.



Mun Guk-jin

4.4 Steps taken by the authorities to protect human rights

During 1993 the authorities acknowledged on several occasions that current interrogation procedures had led to ill-treatment of detainees. In October the Prosecutor General's office was reported to have said that it was introducing guidelines to ensure that in future lawyers' visits to prisoners under interrogation were not obstructed. In November it announced plans to set up special inspection teams of prosecutors to investigate unlawful practices by interrogators and to take punitive legal action.

In November the Supreme Court established a Judicial System development Committee to examine reform of the judiciary. The Committee, comprising judges, prosecutors, lawmakers, lawyers, professors and journalists, was asked to present its findings and recommendations in February 1994.

In December 1993 the National Assembly passed an amendment to the Law on the Agency for National Security Planning. The amendment removed the Agency's power to investigate the cases of people accused of "praising" North Korea and those who fail to report violations of the NSL and prohibited it from illegally detaining and questioning suspects. It also sought to bring some of the ANSP's activities under the control of the National Assembly through the establishment of an Intelligence Committee. However, the amendment left intact the Agency's power to investigate "anti-state" and "espionage" offences and it was not clear to Amnesty International what measures, if any, would be taken to ensure that the ANSP did not continue to be used to violate the rights of detainees.

Amnesty International welcomes these preliminary steps in principle but it believes that current safeguards are inadequate. It urges the authorities to introduce a comprehensive set of measures to protect prisoners from torture and ill-treatment. See Section (6) below.

5. The Death Penalty

The death penalty is enforced in South Korea and at least 50 prisoners are currently under sentence of death. In 1991 and 1992 there were nine executions in December, but none were reported in 1993. In 1992 South Korea's Constitutional Court directly addressed for the first time the appropriateness of the death penalty as a punishment, by inviting four scholars to debate the issue before the court. The debate was prompted by a petition challenging the constitutionality of the death penalty brought by two convicted murderers. In November 1993 the Constitutional Court delivered a ruling rejecting this petition. Amnesty International opposes the death penalty in all cases, considering it to be a violation of the right to life and because it constitutes the ultimate form of torture and cruel, inhuman and degrading punishment. It is also concerned about the secrecy surrounding the use of the death penalty, about the arbitrary way it is enforced and about the conditions in which death row prisoners are detained.

The South Korean authorities carry out executions in secret, informing neither the relatives of prisoners, nor their lawyers, of impending executions. The decision to order an execution appears to be arbitrary. Some prisoners appear to be given a reprieve for an indefinite period while others are executed soon after their conviction. This means

that prisoners under sentence of death cannot know the date of their execution and live in perpetual fear.

Prisoners under sentence of death generally remain handcuffed throughout their imprisonment, in contravention of international standards on the treatment of prisoners which limit the use of instruments of restraint. Some prisoners spend months, sometimes several years, permanently handcuffed. The use of handcuffs is reportedly justified by the authorities on the grounds that they prevent suicide or escape. Amnesty International is concerned that virtually permanent handcuffing of many prisoners on death row amounts to cruel, inhuman and degrading treatment and should be immediately ended.

Prisoners themselves may not be informed of their impending executions until just a few hours before it takes place. In practice they are unable to meet relatives or a lawyer after being informed that they will be executed. In one case known to Amnesty International the parents of a prisoner executed in 1992 learnt of the execution through the press. Government officials have told Amnesty International that the aim of the secrecy surrounding executions is to avoid embarrassing the relatives of those executed, as they may not wish to be singled out in public. However, Amnesty International is concerned that the secrecy reduces safeguards for prisoners under sentence of death, as lawyers and relatives may be unable to make timely appeals for pardon or commutation of sentence.

The South Korean Government justifies the use of the death penalty by the need to deter violent crime and to maintain national security. It also argues that the public supports this form of punishment. To Amnesty International's knowledge it has never studied whether the death penalty has a uniquely deterrent effect against crime in South Korea.

6. Recommendations to the South Korean Government

Amnesty International believes that the South Korean Government should take the following steps as a matter of urgency:

- 1) All prisoners held for the non-violent exercise of their rights to freedom of expression and association, regardless of their political views or whether they have "converted", should be immediately and unconditionally released;
- 2) The National Security Law should be revised so as to remove from its scope provisions which punish non-violent political activities with imprisonment or the death sentence;

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Amnesty International February 1994

- 3) The provision in the Labour Dispute Mediation Act prohibiting third party intervention in a labour dispute should be revised to stop the imprisonment of trade unionists for giving advice about legitimate trade union activities.
- 4) The administrative provisions under which prisoners who have not "converted" are not entitled to early release on parole should cease to be applied to prisoners held for the non-violent expression of their political views;
- 5) The cases of political prisoners convicted in previous decades under national security legislation on the basis of confessions they say were extracted from them under torture should be reviewed;
- 6) Military conscripts should be given the opportunity to seek conscientious objector status and to complete an alternative service in a civilian capacity;
- 7) The government should demonstrate its commitment to the eradication of torture and ill-treatment by ratifying the UN Convention against Torture. It should also make declarations under Articles 21 and 22 recognizing the competence of the Committee against Torture to receive communications from States Parties and individuals about alleged violations of the Convention.
- 8) Anybody who is arrested should be brought promptly before a judge and should be granted immediate and subsequent regular access to lawyers and relatives and independent medical attention. There should be a clear separation between the authorities responsible for interrogation and those responsible for detention of suspects.
- 9) The government should ensure that statements obtained from prisoners as a result of torture are not admissible, and not admitted in practice, in legal proceedings. In cases where prisoners complain that their confessions were extracted under torture the burden should be on the detaining and interrogating authorities to prove that the confession was voluntary and that torture and ill-treatment did not occur.
- 10) All reports of torture and ill-treatment should be promptly investigated by an impartial and independent body which should have the power to obtain all information necessary for the inquiry and to compel those accused of torture to appear and testify. The results of all inquiries should be made public and those found to be responsible for inflicting torture and ill-treatment should be brought to justice. All victims of torture or ill-treatment should receive fair and adequate compensation and as full a rehabilitation as possible.
- 11) The government should abolish the death penalty and commute all death sentences.

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Appendix: List of Amnesty International reports on South Korea

General Issues

- ◆ *South Korea, Prisoners of Conscience Held for Over 40 Years (ASA 25/41/93)*, 4-page document issued in December 1993.
- ◆ *South Korea, Threat of Imminent Executions (ASA 25/42/93)*, 4-page document issued in December 1993.
- ◆ *South Korea, Unfair Trial and Torture: Long-Term Political Prisoners (ASA 25/33/93)*, 27-page document issued in October 1993.
- ◆ *South Korea, The test of Practice: The National Security Law and Human Rights (ASA 25/14/93)*, 6-page document issued in June 1993.
- ◆ *South Korea, Amnesty International Urges Ratification of the UN Convention Against Torture (ASA 25/15/93)*, 7-page document issued in May 1993.

Urgent Actions

- April 1993: *Hwang Suk-yong, prisoner of conscience/fear of ill-treatment. Follow-up actions issued in May and October.*
- July 1993: *Noh Tae-hun, prisoner of conscience/fear of ill-treatment. Follow-up actions issued in October.*
- September 1993: *Kim Sam-sok and Kim Un-ju, ill-treatment/prisoners of conscience. Follow-up actions issued in October.*

Prisoner appeals/case studies

- ◆ *South Korea, Prisoner of Conscience Lee Kun-hee (ASA 25/06/94)*, 4-page document issued in January 1994.
- ◆ *South Korea, Journalist Choi Chin-sop, prisoner of Conscience (ASA 25/05/94)*, 4-page document issued in January 1994.

- ◆ *South Korea, the Case of Son Pyong-son (ASA 25/07/94), 2-page document issued in January 1994.*
- ◆ *South Korea, Appeal for the Release of Noh Tae-hun (ASA 25/32/93), 2-page appeal issued in September 1993.*
- ◆ *South Korea, Urgent Appeal for the Release of Professor Cho Kuk (ASA 25/29/93), two-page appeal issued in August 1993.*
- ◆ *South Korea, Imprisoned Writer Hwang Suk-yong (ASA 25/30/93), 4-page document issued in August 1993.*
- ◆ *South Korea, Long-Term Prisoner Yu Chong-sik (ASA 25/26/93), 2-page appeal issued in July 1993.*
- ◆ *South Korea, Trade Union Leaders Face Arrest (ASA 25/25/93), 2-page appeal issued in July 1993.*
- ◆ *South Korea, Prisoner of Conscience Baik Tae-ung (ASA 25/24/93), 5-page document issued in June 1993.*
- ◆ *South Korea, Appeal for the Release of Kang Ki-hun (ASA 25/22/93), 2-page appeal issued in June 1993.*
- ◆ *South Korea, Prisoner of Conscience Kim Nak-jung (ASA 25/18/93), 5-page document issued in May 1993.*
- ◆ *South Korea, Appeal for the Release of Hwang Tae-kwon (ASA 25/13/93), 2-page appeal issued in April 1993.*
- ◆ *South Korea, Prisoner of Conscience Chang Ki-pyo (ASA 25/11/93), 3-page document issued in April 1993.*
- ◆ *South Korea, Appeal on behalf of Park No-hae (ASA 25/07/93), 2-page appeal issued in February 1993.*

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SOUTH KOREA

Prisoner of Conscience Lee Kun-hee

JANUARY 1994

SUMMARY

AI INDEX: ASA 25/06/94

DISTR: SC/CO/GR

Amnesty International is calling for the immediate and unconditional release of Lee Kun-hee, 27-year-old Democratic Party worker who is serving a three-year prison term on charges under national security legislation. It believes that he is held in violation of his rights to freedom of expression and association. It is also concerned at reports that Lee Kun-hee was deprived of sleep and beaten during interrogation.

Before his arrest Lee Kun-hee was an office assistant working for the main opposition party, the Democratic Party. His arrest, directly before the presidential election, is believed to have damaged the credibility of the Democratic Party's presidential candidate, Kim Dae-jung. Indeed, his arrest, along with that of scores of others, appears to have been timed to influence the outcome of the 1992 presidential election.

Lee Kun-hee was one of 67 people arrested in September and October 1992 for their alleged links with a "spy" ring operated by the North Korean Government. Around 40 of the prisoners were later sentenced to prison terms ranging from one year to life imprisonment. To Amnesty International's knowledge there is no evidence that many of them, including Lee Kun-hee, had any connection with spying activities.

KEYWORDS: PRISONERS OF CONSCIENCE / POLITICAL ACTIVISTS / ESPIONAGE / TRIALS / TORTURE/ILL-TREATMENT / WOMEN / FAMILIES / POLITICALLY MOTIVATED CRIMINAL CHARGES /

This report summarizes a 4-page document (1558 words), *South Korea: Prisoner of Conscience Lee Kun-hee* (AI Index: ASA 25/06/94), issued by Amnesty International in January 1994. Anyone wanting further details or to take action on this issue should consult the full document.

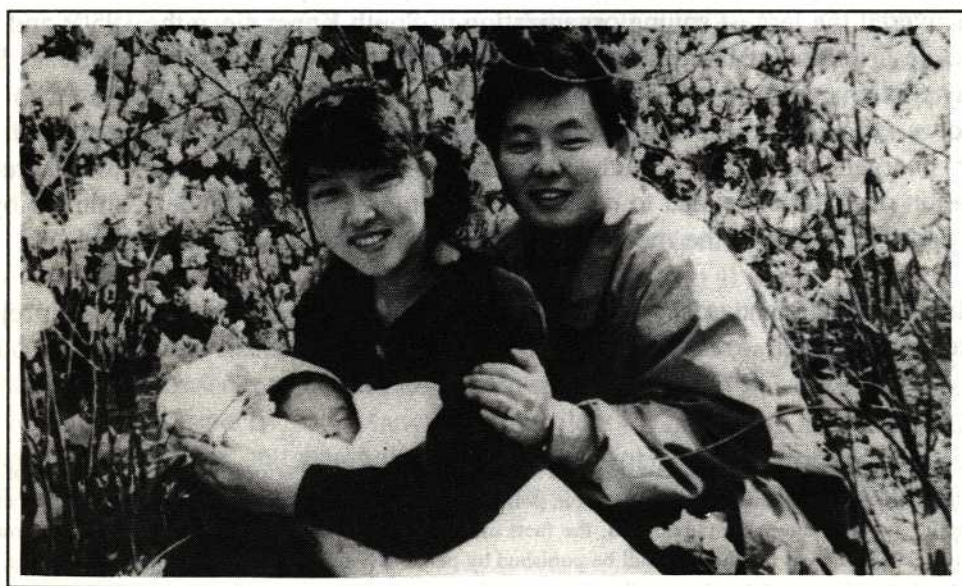
INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

SOUTH KOREA

Prisoner of Conscience Lee Kun-hee

Amnesty International is calling for the immediate and unconditional release of Lee Kun-hee, 27-year-old Democratic Party worker who is serving a three-year prison term on charges under the National Security Law (NSL) and the Military Secrets Protection Law. It believes that he is held in violation of his rights to freedom of expression and association. It is also concerned at reports that he was deprived of sleep and beaten during interrogation. Before his arrest Lee Kun-hee was an office assistant working for the main opposition party, the Democratic Party. Part of his job was to handle documentation for his party's representatives on the National Assembly Defence Committee. The arrest of Lee Kun-hee, directly before the presidential election, appears to have been timed to damage the credibility of the Democratic Party's presidential candidate, Kim Dae-jung, and influence the outcome of the presidential election.

Lee Kun-hee was one of 67 people arrested in September and October 1992 for their alleged links with a "spy" ring operated by the North Korean Government. These prisoners were arrested without warrants by the Agency for National Security Planning (ANSP) and many were subjected to beatings and sleep deprivation during interrogation. All were denied access to their families for some 20 days and some were denied access to their lawyers. The prisoners were said to be linked to a large and complex "spy" ring, but to Amnesty International's knowledge there is no evidence that many of them, including Lee Kun-hee, had any connection with spying activities. Around 40 of the prisoners were later sentenced to prison terms ranging from one year to life imprisonment.



Lee Kun-hee with his wife

Arrest and Ill-Treatment

Lee Kun-hee was arrested by seven or eight officials of the ANSP at around 9.00 pm on 26 September 1992. They did not have an arrest warrant and did not identify themselves. In certain circumstances officers may detain and question suspects for up to 48 hours before applying for an arrest warrant but in practice this provision is often used by police to hold suspects *incommunicado*. Lee Kun-hee's wife memorized the number plate of the car which her husband was taken away in and later found out that it belonged to the ANSP. This is how she knew where he had been taken.

Lee Kun-hee was taken to the ANSP interrogation facility for questioning. He says that he was deprived of sleep for the first few days and beaten. Interrogators accused him of possessing pro-North Korean literature and of giving secret information about the 1992 national defence budget to Hwang In-uk, one of the main defendants in this case. After repeated beatings he says he was forced to "confess" that Hwang In-uk was a spy.

Lee Kun-hee's wife was arrested on 14 October and held for 48 hours during which time she says she was threatened and hit. Interrogators apparently told her that she had helped a spy and that she might not see her baby son for a long time if she did not cooperate.

Pre-trial publication of ANSP investigation

On 6 October the ANSP released a sensational "spy" story to the media. It said that it had uncovered the largest spying organization in South Korea since the 1950s and gave detailed descriptions of the case. A large exhibition was set up by the ANSP at Seoul Railway Station, with posters of some defendants, including Lee Kun-hee, who were labelled as crucial links in a large "spy" case. At this time, the defendants had been neither charged nor tried. South Korean law specifically prohibits the pre-trial publication of material related to court cases.¹ Some of the "evidence" exhibited by the ANSP and distributed to the media was eventually dismissed by the courts.

International standards also prohibit any attempt by public authorities to prejudge the outcome of a trial. Article 14(2) of the International Covenant on Civil and Political

¹Article 126 of the Criminal Code states that: "A person who, in the performance or supervision of, or in the assistance in, functions involving prosecution, police, or other activities concerning investigation of crimes, makes public, before request for public trial, the facts of a suspected crime which have come to his knowledge during the performance of his duties, shall be punished by penal servitude for not more than three years, or by suspension of qualification for not more than five years".

Rights states that: "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to the law". The Human Rights Committee in its commentary on Article 14 of the ICCPR states that "It is . . . a duty for all public authorities to refrain from prejudging the outcome of a trial". Amnesty International is concerned that the public disclosure of information by the ANSP may have compromised the fairness of Lee Kun-hee's trial and violated his right to be presumed innocent until proven guilty.

Unfair and Politically-Motivated Charges

Lee Kun-hee was accused of passing information about the 1992 national defence budget to Hwang In-uk, knowing that he was a North Korean agent and that the information would be passed on to North Korea. According to the authorities, Hwang had received radio-broadcast instructions from North Korea and had joined the Central Regional Chapter of the North Korean Workers Party, an "anti-state" organization. The ANSP claimed that this Central Regional Chapter had been set up in July 1991 with the help of North Korean agents. However, the ANSP was later unable to prove its existence before the courts.

Lee Kun-hee admitted giving the information to Hwang In-uk, a former student friend, but he argued that the information was not a state secret and had already been published in the Ministry of Defence publication, *Defence News*. At his first trial in November 1992 Lee Kun-hee said:

"It is true that I handed the national defense budget outline for 1992, a class two military secret, to Hwang In-uk, my college friend, but I thought that it was not a military secret because it had been reported in the newspapers earlier and I never imagined that the document would be sent to North Korea."

Lee Kun-hee was also accused of possessing pro-North Korean literature and a video which praises the North Korean leader, President Kim Il Sung.

The authorities' description of the whole case is highly complex but to Amnesty International's knowledge, there is no evidence that many of the defendants had any involvement in spying activities. Many are held solely for belonging to pro-reunification groups, deemed to be "anti-state" organizations, or for passing information to friends and colleagues whom the authorities later accused of being North Korean agents.

Under the National Security Law the definition of "espionage" has been widely interpreted. The courts have ruled that a "state secret" can be any information which is useful to North Korea, even if it is publicly available in the South. The law has often been used to imprison people who met North Koreans in third countries or who disseminated information deemed to be useful to the North - even when this information had already been made public.

Under the National Security Law, an "anti-state" organization is defined as one, "with the structure of command and control, as organized for the purpose of assuring a title of the government or disturbing the State". This definition has been widely interpreted by the South Korean courts which have used the term to describe a variety of domestic organizations and even the North Korean Government. The law has frequently been used to imprison people with left-wing views and those with views considered similar to those of the North Korean Government. A group labelled as "anti-state" by a court becomes illegal *ipso facto*, and its past and present members are all liable to criminal charges under the NSL. In practice, such groups cannot legally challenge the official determination that they are "anti-state".

Prisoner of Conscience

On 15 January 1993 Lee Kun-hee was sentenced to three years' imprisonment under the National Security Law and the Military Secret Protection Law, for giving state secrets to North Korea. Amnesty International has adopted Lee Kun-hee as a prisoner of conscience and is calling for his immediate and unconditional release. It is also concerned at reports that he was deprived of sleep and beaten during interrogation.

The alleged secret information which Lee Kun-hee gave to his friend had already been published by the Ministry of Defence, justifying his belief that this would not be considered secret information. There is no evidence to suggest that he knew the information might be passed to North Korea or used in any way to damage state security.

There is a widespread suspicion that the arrest and conviction of Lee Kun-hee and others were politically motivated. The arrests took place directly before a presidential election and damaged the standing of opposition groups. In particular, the arrest of Lee Kun-hee and the ANSP announcement that he was involved in a "spy" case may have damaged the credibility of the Democratic Party and its presidential candidate Kim Dae-jung.

사랑방 자고

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SOUTH KOREA

The case of Son Pyong-son

JANUARY 1994

AI INDEX: ASA 25/07/94

DISTR: SC/CO/GR

Amnesty International is concerned about Son Pyong-son, a 53-year-old former politician who is now serving a life term under the National Security Law. It is calling for a full and independent investigation into reports that he was tortured severely during interrogation and believes that he may be a prisoner of conscience.

Son Pyong-son studied political science at Pusan University. He later took up floriculture as a trade and in 1980 he became President of the National Association of Floriculture. In 1990 he joined the *Minjung* Party (People's Party) and became Chairman of the party's reunification committee. At this time he also played an active part in peace and anti-nuclear activities. The *Minjung* Party was disbanded in March 1992 after it failed to win any seats in the parliamentary election.

On 26 September 1992 Son Pyong-son was arrested by six or seven officials of the Agency for National Security Planning (ANSP). They did not have a warrant of arrest and did not inform his family that he had been arrested. He said that he was taken to the ANSP interrogation facility, forced to wear a military uniform and questioned for 20 days about his alleged contacts with North Korea. He said he was beaten by teams of interrogators over a period of several days and forced to do repeated and strenuous physical exercises such as squatting with his arms stretched out, standing on his head and



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SOUTH KOREA

Resisting Police Abuse: the Case of Noh Tae-hun

FEBRUARY 1994 SUMMARY AI INDEX: ASA 25/02/94
DISTR: SC/CO/GR

Noh Tae-hun, a human rights activist, was detained in July 1993 and released in October after receiving a suspended prison sentence on charges under the National Security Law. He was a prisoner of conscience. After conducting extensive research into his case Amnesty International has concluded that the South Korean Agency for National Security Planning (ANSP) and police appear to have disregarded legal procedures in their investigations.

Amnesty International is concerned in particular at indications that Noh Tae-hun was under illegal surveillance before his arrest; that his arrest was not carried out according to legal procedures; and that he appeared to have been targeted because of his work in defence of human rights. This document details the case of Noh Tae-hun and sets out Amnesty International's concerns and recommendations to the South Korean authorities.

KEYWORDS: PRISONERS OF CONSCIENCE1 / ARBITRARY ARREST1 / REARREST / TORTURE/ILL-TREATMENT / TRIALS / HUMAN RIGHTS ACTIVISTS / LAWYERS / POLICE / ESPIONAGE / NON-GOVERNMENTAL ORGANIZATIONS / PRISONERS' TESTIMONIES / CONDITIONAL RELEASE / PHOTOGRAPHS /

This report summarizes a 6-page document (2357 words), *South Korea: Resisting Police Abuse: the Case of Noh Tae-hun* (AI Index: ASA 25/02/94), issued by Amnesty International in February 1994. Anyone wanting further details or to take action on this issue should consult the full document.

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

standing on his hands. He was only permitted a few hours of sleep each day. On several occasions during his interrogation he was treated by a doctor who apparently took his blood pressure and gave him injections. He was also threatened and insulted by interrogators who called him "spy Son" and said "people like you should be killed". He was not permitted to see his lawyer until 5 October, ten days after his arrest. He was denied access to his family members until he was transferred to a prison, on 17 October.

Son Pyong-son was accused of having received instructions from North Korea, via radio transmissions and letters. These included questions about the activities of the *Minjung* Party and an instruction to set up an underground leadership of the party loyal to North Korea. He was also accused of recruiting his daughter, Son Min-yong, as a spy. She was also arrested. Son Pyong-son denied that he had spied for North Korea and his supporters argued that he was not in a position to have access to any secret information. He was one of 67 people arrested in September and October 1992 for their alleged links with a "spy" ring operated by the North Korean Government. The prisoners were said to be linked to a South Korean branch of the North Korean Workers Party, but Amnesty International believes that many of them had no involvement with spying activities. Around 40 of the prisoners were later sentenced to prison terms ranging from one year to life imprisonment.

Son Pyong-son's trial opened in December 1992 and the prosecution sought a death sentence. In February 1993 he was sentenced to life imprisonment on charges of joining an "anti-state" organization and passing state secrets to North Korea. He is currently held in Chonju Prison.

Under the National Security Law, an "anti-state" organization is defined as one "with the structure of command and control, as organized for the purpose of assuring a title of the government or disturbing the State". This definition has been widely interpreted by the South Korean courts which has used the term to describe a variety of domestic organizations and also the North Korean Government. The law has frequently been used to imprison people with left-wing views and those with views considered similar to those of the North Korean Government. Under the National Security Law the definition of "espionage" has also been widely interpreted. The courts have ruled that "state secret" may include any information which could be useful to North Korea, even if it is publicly available in the South. The law has often been used to imprison people who met North Koreans in third countries or who disseminated information deemed to be useful to the North, whether or not this information was already in the public domain.

Amnesty International is calling for a full and independent investigation into the reports that Son Pyong-son was held incommunicado and tortured during interrogation. It is concerned that he may be a prisoner of conscience, held for the peaceful exercise of his rights to freedom of expression and association.

KEYWORDS: LONG-TERM IMPRISONMENT / TORTURE/ILL-TREATMENT / ARBITRARY ARREST / INCOMMUNICADO DETENTION / POLITICAL PRISONERS / POLITICIANS / HORTICULTURALISTS / ESPIONAGE / PHOTOGRAPHS /

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SOUTH KOREA

Resisting Police Abuse: the Case of Noh Tae-hun



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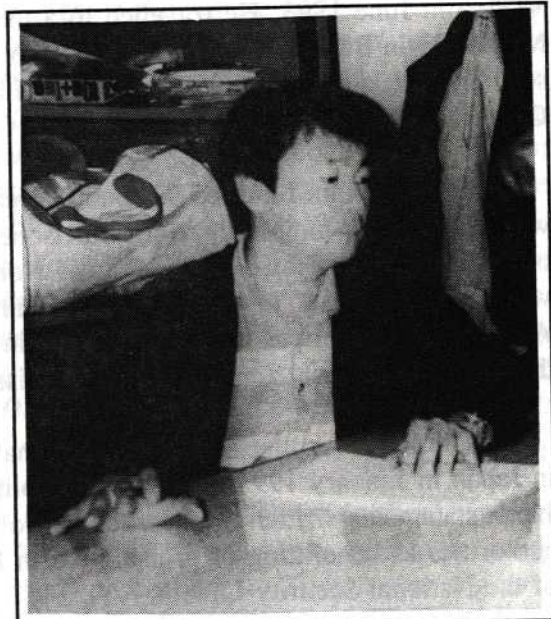
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SOUTH KOREA

Resisting Police Abuse: the Case of Noh Tae-hun

Noh Tae-hun, a human rights activist in South Korea, was detained in July 1993 and released in October after receiving a suspended prison sentence on charges under the National Security Law. He was a prisoner of conscience. Amnesty International has concluded that the South Korean Agency for National Security Planning (ANSP) and police appear to have disregarded legal procedures in their investigations of his case. According to reports obtained by Amnesty International, the authorities have attempted to use information obtained in the course of illegal investigations of Noh Tae-hun's mail, phone calls, bank accounts and possessions, in order to mount an accusation of espionage involving Noh Tae-hun and several others.

Noh Tae-hun was indicted in August 1993 on a charge of "possession of publications benefitting the enemy", which is a crime under the National Security Law of South Korea. This charge was the only one the authorities brought against Noh Tae-hun in court after the police tried unsuccessfully to build a case of espionage. The court accepted the charge and sentenced Noh Tae-hun to 18 months' imprisonment, with a two-year stay of execution. Amnesty International is concerned that Noh Tae-hun was detained, tried and sentenced for the peaceful exercise of fundamental human rights and that in the course of investigating, detaining and questioning Noh Tae-hun, the authorities committed violations of human rights.



Noh Tae-hun. Picture taken in November 1993 during a meeting with Amnesty International delegates visiting South Korea.

1. Noh Tae-hun's first arrest

Noh Tae-hun is a long-standing human rights activist. He has worked for several years at *Minkahyop*, a human rights organization set up to support political prisoners. In 1992, he also worked with former prisoners of conscience to establish the Korean branch of STIK (*Stop Torture in Korea*), a human rights organization based in the United States of America.

As part of his work for *Minkahyop*, he visited political prisoners, took part in public demonstrations calling for their release, and liaised with other human rights organizations, including some based outside South Korea, which also work on behalf of South Korean long-term political prisoners. He also helped organize an exhibition held in Japan in 1993, featuring calligraphies, photographs and voice recordings of political prisoners.

Noh Tae-hun was also involved in planning the work of Asian non-governmental organizations (NGOs) before and during the World Human Rights Conference, held in Vienna in June 1993. He travelled to a meeting of Asian human rights NGOs held in May 1993 in Bangkok, and contributed to the preparation of a workshop on "national security legislation and human rights", held in Vienna during the World Human Rights Conference.

Noh Tae-hun returned to South Korea from Vienna in early July 1993. Together with five former long-term political prisoners, he was arrested on 14 July on suspicion of violating the National Security Law. Noh Tae-hun and the five others were detained without being told of the charges against them. South Korean National Police Administration sources were later quoted in the press as saying that the six had violated the National Security Law because they disseminated material praising North Korea.

The basis for that accusation was that, when they helped organize an exhibition in Japan in January 1993 in support of political prisoners in South Korea, they sent to Japan statements written or recorded by political prisoners. These were deemed by the authorities as benefitting or praising North Korea, which is an offence under Article 7 of the National Security Law.

2. Noh Tae-hun's illegal re-arrest

All six detainees were released in the morning of 15 July. However, Noh Tae-hun was re-arrested in the evening of the same day, in the office of his lawyer, Cho Yong-whan, himself a respected human rights advocate. In an appeal he sent to Amnesty International

and other organizations on 15 July, hours after Noh Tae-hun was arrested, Cho Yong-whan said:

"Noh Tae-hun and others who had been arrested by the Security Division of the National Police Administration on 14 [July] in the morning were released this morning. He visited my office this afternoon around 6:00 pm and we were discussing the problem. Around 6:30 pm one investigator from the Security Division came into my room and replied, on my question "who are you?", that he was there to arrest Mr Noh. Upon my request, he showed me a photocopy of the cover of the warrant of arrest which said that Judge Joo Kyung-jin permitted his arrest under the National Security Law.¹ Under Articles 72, 75, 85 and 209 of the Code of Criminal Procedure, the warrant of arrest should state the name and address of the detainee, the nature of the crime, summary of charges and place of detention, as well as the date of issue and period of the warrant's validity, and the suspect is entitled not to be arrested unless he is informed of the summary of charges against him, the reasons for his arrest and told that he is entitled to the receive the assistance of a legal counsel of his choice..."

"However the photocopy which the investigator showed me lacked a summary of charges and did not indicate a place of detention and the man refused to state the summary of the charges. Therefore I refused to let him take Mr Noh and requested him to produce a certified copy of the warrant including the summary of the charges. During this dispute two or three others joined them and after my repeated requests, one of them went out of my office saying that he would bring the warrant. After a short while, three or four policemen suddenly rushed into my office again and tried to drag out Mr Noh... I and Baik [Seung-hun, a lawyer sharing Cho Yong-whan's office] tried to prevent them from taking Mr Noh by requesting them to keep to legal procedures and be courteous. They insulted us repeatedly, threatened us and even physically assaulted us. They finally succeeded in forcibly dragging out Mr Noh after handcuffing him. Among them were some policemen who were in the Security Division of the Police when I met Mr Noh there on 14 July [upon his first arrest]."

"I am feeling some physical pain [from the physical assault by the police] but I am feeling much greater pain and sorrow in my heart. As a lawyer I have tried to persuade the investigatory authorities to respect legal procedures... Korean investigatory authorities have been world-notorious for their disregard of legality and ill-treatment [of suspects] but they have pretended to keep legal procedures at least in the presence of lawyers. However what they have done in my room this evening was more than the total

¹ The cover (first page) of arrest warrants does not contain all the information required by the law. To Amnesty International's knowledge, there is no provision in South Korea legislation which authorizes the use of a photocopy of a warrant to carry out an arrest.

negation of legal procedures: if they can insult and assault the lawyer who requests them just to keep to legal procedures in the lawyer's own office... what meaning do the law and the legal profession have?"

During his first period of detention, Noh Tae-hun told Amnesty International that the police appeared to be attempting to build a case of espionage involving him and former long-term political prisoners. According to Noh Tae-hun, investigators took the view that money collected after the exhibition in Japan and brought back to Korea by Noh Tae-hun and distributed by him to the former prisoners whose works were featured at the exhibition, had actually come from North Korea or supporters of North Korea in Japan.

3. The police investigation of Noh Tae-hun's case

According to police documents obtained by Amnesty International, the investigation against Noh Tae-hun had started at least as early as September 1992. The investigation involved searches of Noh Tae-hun's possessions, wiretapping of telephone conversations and fax transmissions, including some made by Noh Tae-hun from the office of his lawyer, and investigations of his bank accounts. There is no indication in any of the documents obtained by Amnesty International that the investigators had sought or obtained from the judiciary permission to carry out searches. The South Korean Constitution and other laws protect the confidentiality of private mail, communications and bank transaction.

In March and May 1993, the police obtained details of sums paid in and out of Noh Tae-hun's bank account. In April, the authorities searched luggage he had checked into a flight to Bangkok, where he participated in a meeting of NGOs to prepare the World Conference on Human Rights. Noh Tae-hun told Amnesty International after his release that his interrogators in July and August 1993 questioned him about the transactions and documents mentioned in these police documents.

In an interview with Amnesty International, Noh Tae-hun gave other examples of his meetings and activities which he said the police suspected were related to espionage activities. Noh Tae-hun told Amnesty International:

◆ "Police had names of people I met in Japan, including the name of a Japanese photographer, who had come to Korea several times without problems with the police. Investigators told me he was a pro-North Korea spy and that I met him knowingly because I wanted to be a spy myself (...) They checked records of his phone communications and told me when and where he had phoned me."

◆ "In *Minkahyop*, I helped support long-term prisoners, including ones who had not converted [renounced their alleged communist beliefs]. They asked me why I did it. I said I did this to help [protect] their human rights. They said that in fact I wanted to report their situation to North Korea."

◆ "I had recorded greetings from long-term prisoners for an exhibition in Japan [of paintings by political prisoners]. They said these greetings were an oath of loyalty to [North Korean leader] Kim Il Sung by these prisoners. They wanted me to confess to that."

◆ "The investigators had my personal bank account details: they asked me about each transfer of money. Many of these transfers I did not remember, because they came from various NGOs. They said all that money was operational funds [for espionage activities, obtained] from Japan."

◆ "The prosecutor, a few days before my indictment, said "I know that [your detention is unreasonable] but through your arrest we give a symbolic warning to the long-term prisoners [who have been released and] who are now carelessly carrying out Red [pro-communist] activities again, [such as] lecturing students about their time in prison (...) Also, your arrest is a symbolic warning to the leftist movement, which hides behind the human rights movement. That is why we will indict you."

Noh Tae-hun was deprived of sleep during lengthy interrogation sessions. His lawyer told Amnesty International that, when they met, Noh Tae-hun spoke little, appeared dazed and clearly in need of sleep. In the first 48 hours of his detention, Noh Tae-hun said he was allowed less than 2 hours's sleep.

There were many signs that the police attempted to mount an accusation of espionage against Noh Tae-hun. During interrogation, he was accused by investigators of activities which in South Korea are deemed to amount to espionage (see above). The police is also reported to have contacted selected journalists who cover police affairs and informed them in advance that Noh Tae-hun would be arrested together with several others in connection with a large espionage case related directly to Kim Jong Il, son of North Korean leader Kim Il Sung.

4. Noh Tae-hun's indictment and trial

Noh Tae-hun was indicted on 11 August 1993, almost a month after his arrest. He was charged with possession of publications "benefitting the enemy", an offence under Article 7 of the National Security Law. The publications in question, such as the book

Days and Nights in Prison, were legally published in South Korea. According to the indictment, some parts of these books were harmful to South Korea and Noh Tae-hun possessed them "for the purpose of benefitting an anti-state organization". In practice, courts often assume that a defendant acts with the "purpose of benefitting an anti-state organization": the burden of proving otherwise effectively falls on the defendant.

On 20 September 1993 Noh Tae-hun was tried before the Seoul District Criminal Court. He was found guilty as charged and sentenced to 18 months' imprisonment. The sentence was suspended for two years and Noh Tae-hun was released.

In July 1993 Noh Tae-hun's lawyer Cho Yong-whan had filed a complaint before the Seoul District Prosecutor, alleging that Noh Tae-hun's arrest on 15 July was illegal due to failure by the police to produce a completed arrest warrant. On 8 November the District Prosecutor's Office notified Cho Yong-whan of its decision not to prosecute, stating that the Code of Criminal Procedure allowed arrest without warrant in certain circumstances, including in cases such as that of Noh Tae-hun. The Prosecutor's Office also stated that the police had read to Noh Tae-hun a summary of the charges against him, a statement which Cho Yong-whan, who witnessed the arrest, denies.

5. Amnesty International's conclusions and recommendations

Amnesty International welcomed Noh Tae-hun's release but is concerned that he was given a suspended sentence. It is calling on the authorities to review his case and to ensure that his release is unconditional. The organization urges the South Korean authorities to ensure that Noh Tae-hun is not re-arrested in connection with the suspended prison sentence he received in September 1993.

Amnesty International is also concerned at indications that Noh Tae-hun was under illegal surveillance before his arrest; that his arrest was not carried out according to legal procedures; and that he appeared to have been targeted because of his work in defence of human rights. Amnesty International is concerned that current procedures continue to make possible the detention, investigation and imprisonment of prisoners of conscience on unsubstantiated charges under the National Security Law. It is reiterating its call on the South Korean Government to revise the National Security Law and ensure that the investigation of suspects is carried out legally and under judicial supervision in all cases.

amnesty international

SOUTH KOREA

Journalist Choi Chin-sop

Prisoner of Conscience

JANUARY 1994

SUMMARY

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Amnesty International is calling for the immediate and unconditional release of 33-year-old journalist Choi Chin-sop who is serving a three-year prison term on charges under the National Security Law (NSL). It is also concerned at reports that he was deprived of sleep and beaten during interrogation.

Before his arrest Choi Chin-sop was a journalist working for *Mal*, a monthly current affairs journal established in 1985. It is one of the few publications in South Korea to have published detailed analyses of human rights issues. Choi Chin-sop had written a number of articles about human rights issues, some of which were said by the authorities to be pro-North Korean. He was also accused of belonging to an "anti-state" group, alleged to be linked to a "spy" ring operated by the North Korean Government. Amnesty International believes that Choi Chin-sop's alleged "anti-state" activities amount to no more than the non-violent exercise of his rights to freedom of expression and association. It is also concerned that his arrest appears to be linked to his published articles on political and human rights issues.

This report summarizes a 4-page document (1587 words), *South Korea: Journalist Choi Chin-sop, Prisoner of Conscience* (AI Index: ASA 25/05/94), issued by Amnesty International in January 1994. Anyone wanting further details or to take action on this issue should consult the full document.

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