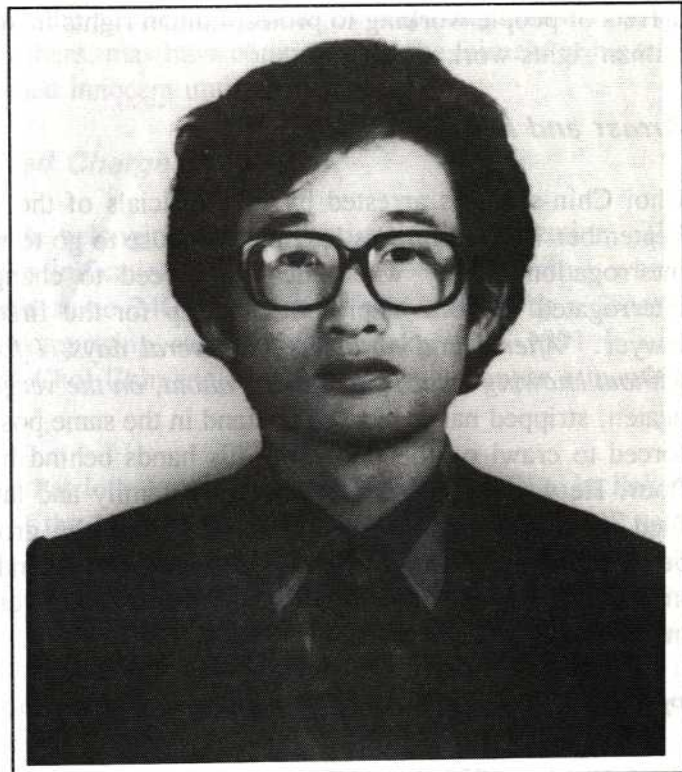


SOUTH KOREA

Journalist Choi Chin-sop Prisoner of Conscience

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 believes that he is held in violation of his rights to freedom of expression and association.

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 articles about human rights issues, including about the case of Im Su-kyong who had been imprisoned for making an unauthorized visit to North Korea in 1989; about human rights abuses in the military and about voting practices during parliamentary elections. Some of these articles were the basis for accusations that he had praised North Korea.



Choi Chin-sop.

Choi Chin-sop 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 large and complex "spy" ring, but Amnesty International believes there is no evidence that many of them, including Choi Chin-sop, had any connection with spying activities. Around 40 of the prisoners were later sentenced to prison terms ranging from one year to life imprisonment. The arrest of Choi Chin-sop and other prisoners in this case took place directly before a presidential election and may have seriously damaged the credibility of opposition groups.

The prisoners were arrested without warrants by the Agency for National Security Planning (ANSP) and many were subjected to beatings and sleep deprivation during interrogation. In certain circumstances officers may detain 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*. All the prisoners were denied access to their families for up to 20 days and some were denied access to their lawyers.

The arrest of Choi Chin-sop appears to be linked primarily to his published articles on political and human rights issues. Amnesty International is concerned at several recent arrests of people working to protect human rights in an apparent attempt to curtail their human rights work.

Arrest and Ill-Treatment

Choi Chin-sop was arrested by four officials of the ANSP at around 8.00 am on 14 September 1992 as he was leaving his house to go to work. He was taken to the ANSP interrogation facility where he was forced to change into a military uniform and interrogated. He was deprived for sleep for the first few days and later he told his lawyer: "After I had no sleep for several days, I found myself muttering something without knowing what I was talking about, on the verge of consciousness." He was also beaten, stripped naked, forced to stand in the same position for long periods of time and forced to crawl on the floor with his hands behind his back and his head against the floor. He was also denied access to his family and lawyer. On 26 September lawyers filed a petition with Seoul District Court on the grounds that they had been denied permission to visit Choi Chin-sop and five other defendants in this case. The court ruled in their favour and after this Choi Chin-sop's lawyer was permitted one five-minute meeting with him.

Pre-trial disclosure of ANSP investigation

On 6 October 1992 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 Choi Chin-sop, who were labelled as "spies". At this time, the defendants had neither been charged nor tried. South Korean law specifically prohibits the pre-trial publication of material related to

court cases¹. Some of the "evidence" exhibited by the ANSP and distributed to the media was eventually dismissed by the courts.

International standards prohibit any attempt by public authorities to prejudge the outcome of a trial. Article 14(2) of the International Covenant on Civil and Political Rights (ICCPR) 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 believes that the public accusations of "espionage" made by the ANSP against Choi Chin-sop and others, may have compromised the fairness of his trial and violated his right to be presumed innocent until proven guilty.

Unfair and Politically-Motivated Charges

Choi Chin-sop was charged with belonging to an "anti-state" organization. The organization in question was a pro-reunification group called the 1995 Committee, which had been established in 1990 with some 240 members. It was said to be a loosely structured organization, mostly comprising students and workers. In 1991 it was renamed the Patriotic League, but Choi Chin-sop was apparently no longer a member at that time.

The 1995 Committee and the Patriotic League were said by the ANSP to be linked to the Central Regional Chapter of the North Korean Workers Party. The ANSP said that this Central Regional Chapter had been set up in July 1991 with the help of North Korean agents, although the prosecution was later unable to prove its existence before the courts. Amnesty International believes that there is no evidence that many of the defendants, including Choi Chin-sop had any involvement with spying activities. It believes they are held solely for belonging to a group of people who wished to discuss reunification issues among themselves.

Choi Chin-sop was also charged with publishing information praising North Korea. During interrogation he was asked many questions about how he collected information for his articles, and about the organization and structure of *Mal*. The offices of *Mal* were searched and many books, diaries and pamphlets were confiscated. Most of this literature

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 the 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".

was reference data which Choi Chin-sop had gathered in order to prepare his articles. In his trial in January 1993 he said:

"I consider it a preliminary step towards the oppression of the press that I was investigated tenaciously about Mal magazine as well as on the matters concerning the 1995 Committee. . . I was interrogated on almost all the articles that I had written regarding any political issues and human rights. I was forced to confess in detail who had planned which article, what the article had been intended for, whom I had met for news gathering etc in detail. I had to recall even the names of the people I had left omitted from the articles to protect news sources. So I felt shame at being deprived of professional ethics as a reporter."

Some of the articles Choi Chin-sop had written were included in the list of charges against him. For example, he was accused of praising a theologian who had made an unauthorized visit to North Korea in 1991.

Under the NSL, 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, as well as 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".

Under the NSL the definition of "espionage" has also been widely interpreted. A "state secret" includes any information which may 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.

On 24 February 1993 Choi Chin-sop was sentenced to three years' imprisonment under the National Security Law, for belonging to an "anti-state" organization and for producing and disseminating material in support of North Korea. Amnesty International has adopted Choi Chin-sop as a prisoner of conscience and is calling for his immediate and unconditional release. It is also calling for a full and independent investigation into reports that he was deprived of sleep and beaten during interrogation.

Communication addressed to the Government of the Republic of Korea on 22 April 1994.

Concerning: Lee Kun-hee and Choi-Chin-sop, on the one hand and the Republic of Korea, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.
2. The Working Group notes with concern that till date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiration of more than ninety (90) days of the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect of the cases of alleged arbitrary detention brought to its knowledge.
3. With a view to taking a decision the Working Group considers if the cases in question fall into one or more of the following three categories:
 - I. Cases in which the deprivation of freedom is arbitrary, as it manifestly cannot be linked to any legal basis (such as continued detention beyond the execution of the sentence or despite an amnesty act, etc.); or
 - II. Cases of deprivation of freedom when the facts giving rise to the prosecution or conviction concern the exercise of the rights and freedoms protected by Articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and Articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights; or
 - III. Cases in which non-observance of all or part of the international provisions relating to the right to a fair trial is such that it confers on the deprivation of freedom, of whatever kind, an arbitrary character.
4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of the Republic of Korea. In the absence of any information from the Government, the Working Group believes that it is in a position to take a decision on the facts and circumstances of the case, especially since the facts and allegations contained in the communication have not been challenged by the Government.
5. The communication, a summary of which has been transmitted to the Government, concerned the following persons:
 - a) Lee Kun-hee, a 27 year old Democratic Party worker (main opposition party) was allegedly arrested without warrant by 7 or 8 officials of the Agency for National Security Planning (ANSP) on 26 September 1992. He 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. This information, however, had previously been published and was available to the general public. Lee Kun-hee was reportedly also accused of possessing pro-North Korean literature and a video which praises the North Korean leader, President Kim Il Sung. 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.

- 2 -

b) Choi Chin-sup, aged 33, a journalist working for the "Mal" monthly journal, who was allegedly arrested by four officials of the ANSP on 14 September 1992. It was reported that Choi Chin-sup was charged with belonging to an "anti-state" organization, a pro-reunification group called the "1995 Committee". In 1991, it was renamed the Patriotic League, but Choi Chin-sup was apparently no longer a member at the time of his arrest. Choi Chin-sup was also charged with publishing information praising North Korea. On 24 February 1993, Choi chin-sup was reportedly sentenced to three years' imprisonment under the National Security Law, for belonging to an "anti-state" organization and for producing and disseminating material in support of North Korea. It was alleged that in both cases the following elements relating to the rights of detained persons to a fair trial had not been respected:

- On 6 October 1992, the ANSP reported that it had uncovered the largest spying organization in South Korea since the 1950s. A large exhibition was set up by the ANSP at the Seoul Railway Station, with posters of some defendants, including Lee Kun-hee and Choi chin-sup, who were labelled as "spies". However, the defendants had neither been charged nor tried at this time.

- Both men were allegedly severely ill-treated: Lee Kun-hee was allegedly deprived of sleep and beaten during his interrogation. Choi Chin-sup was allegedly beaten, stripped naked and forced to stand in the same position for long periods of time during his interrogation. Both were also denied access to their families and lawyers.

6. Article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights guarantee the right to freedom of opinion and expression. The question remains of whether the restrictions placed on this freedom by national legislation correspond to article 19, paragraph 3 (b) of the Covenant. In the absence of information supplied by the Government, the Working Group considers that Mr. Lee and Mr. Choi did not employ, propagate or prepare for violence; nor, according to the same source, did they transmit to others secret information or information that could represent a threat to national security, since the Government has not specified the secret material in question or the reason for which it was considered to constitute a State secret.

7. In the light of the above the Working Group decides:

The detention of Lee Kun-hee and Choi Chin-sup is declared to be arbitrary being in contravention of Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights, to which the Republic of Korea is a Party and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

8. Consequent upon the decision of the Working Group declaring the detention of the above-mentioned persons to be arbitrary, the Working Group requests the Government of the Republic of Korea to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 29 September 1994

DECISION No. 30/1994 (REPUBLIC OF KOREA)

Communication addressed to the Government of the Republic of Korea on 3 August 1994.

Concerning: Hwang Suk-Yong, on the one hand and the Republic of Korea, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.
2. The Working Group notes with appreciation the information forwarded by the Government concerned in respect of the case in question within 90 days of the transmittal of the letter by the Working Group.
3. With a view to taking a decision the Working Group considers if the cases in question fall into one or more of the following three categories:
 - I. Cases in which the deprivation of freedom is arbitrary, as it manifestly cannot be linked to any legal basis (such as continued detention beyond the execution of the sentence or despite an amnesty act, etc.); or
 - II. Cases of deprivation of freedom when the facts giving rise to the prosecution or conviction concern the exercise of the rights and freedoms protected by Articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and Articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights; or
 - III. Cases in which non-observance of all or part of the international provisions relating to the right to a fair trial is such that it confers on the deprivation of freedom, of whatever kind, an arbitrary character.
4. In the light of the allegations made the Working Group welcomes the cooperation of the Government of the Republic of Korea. The Working Group transmitted the reply provided by the Government to the source that had submitted the information and the latter has provided the Working Group with its comments. In order to obtain additional information, on 25 May 1994 the Working Group requested the Government of the Republic of Korea to communicate to it the text of the court judgement concerning Hwang Suk-Yong. The Working Group noted with concern that to date the Government has not supplied this document. It notes with regret that the spirit of cooperation displayed in the Government's first reply (20 October 1993) has been called into question by the lack of subsequent reactions.
5. The Working Group believes that it is in a position to take a decision on the facts and circumstances of the case, in the context of the allegations made and the response of the Government thereto, as well as the comments provided by the source.
6. According to the communication, a summary of which has been transmitted to the Government, Hwang Suk-Yong, aged 50, a writer, was reportedly arrested on 27 April 1993 at Seoul Airport by officials of the Agency for National Security Planning (ANSP) and remained in detention ever since. It was reported that Hwang Suk-Yong travelled to North Korea in 1989 and subsequently went into self-imposed exile to avoid arrest in the Republic of Korea, and that he was arrested upon his return to Seoul from the United States of America. According to the source, Hwang Suk-Yong has been detained solely due to his non-violent exercise of his rights to freedom of expression and association.

7. In its reply of 20 October 1993, five days before Hwang Suk-Yong was convicted, the Government of the Republic of Korea confirmed that he had been arrested on 11 June 1993 under the National Security Act, on the following charges:

(a) Five unlawful visits to North Korea, during which he met members of the North Korean intelligence agency, to which he transmitted information regarding the domestic situation in the Republic of Korea.

(b) The handing over of \$250,000 by a high-ranking North Korean official to assist anti-South Korean organizations based in the United States.

(c) Illegal dissemination of North Korean propaganda hostile to the South.

The Government maintains that State terrorism is an instrument of North Korean foreign policy, but it does not indicate in what respect Hwang Suk-Yong's activities can be described as terrorism. Nothing in the text of the Government's reply testifies to violence perpetrated, premeditated, advocated or upheld by Hwang Suk-Yong. The Government's explanations concerning the scope of the National Security Law, protecting society against "illegal acts such as a violent attempt to overthrow the Government", do not as they stand appear to apply to the case of Hwang Suk-Yong, since the Government does not accuse him of such a violent attempt. The Government also considers that the proceedings against the accused are moving forward properly, without any violation of national legislation guaranteeing the right to a fair trial. The Government concludes by emphasizing that other institutions should not interfere in this matter.

8. The source states in its comments of 17 January 1994 that on 25 October 1993 Hwang Suk-Yong was sentenced to eight years' imprisonment by the court of first instance. It indicates (without specifying the figure of \$250,000) that the money represented copyright fees for the film which was made of his book Jankilsan. The source adds that Hwang Suk-Yong, who was interrogated for the first 17 days of his detention by ANSP, complained of having been deprived of sleep, interrogated for long periods and threatened.

9. The Working Group considers that the grounds for the detention and conviction of Hwang Suk-Yong lie in the personal contacts he has had with individuals originating from North Korea with the aim of publicly advocating dialogue with North Koreans.

10. The Working Group recalls that article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights guarantee the right to freedom of opinion and expression, with the proviso that restrictions of this freedom set out in national legislation must correspond to article 19, paragraph 3 (b) of the Covenant. The Government of the Republic of Korea has not proved that Hwang Suk-Yong used, advocated or premeditated violence; it does not even accuse him of having transmitted secret information or information likely to threaten national security. The Working Group does not regard the mere affirmation that Hwang Suk-Yong had contacts with the North Korean intelligence services as sufficient in itself to establish that Hwang Suk-Yong violated the law setting out restrictions necessary for the protection of national security.

11. In keeping with international standards relating to human rights, the international community has a duty to ensure the application of human rights in national legislation in conformity with international standards, their practical application and their evolution on the national and international levels. The Working Group on Arbitrary Detention is but one of many examples of machinery working in the cause of human rights.

12. It is apparent from the above that Hwang Suk-Yong was sentenced solely for having exercised his right to freedom of opinion and expression, which is guaranteed by article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights. It is also apparent that there is nothing to indicate that in doing so he had recourse to violence, incited violence or caused any threat to national security, public order or public health or morals and thereby violated a national law stipulating permissible restrictions aimed at the protection of those values.

13. In the light of the above the Working Group decides:

The detention of Hwang Suk-Yong is declared to be arbitrary being in contravention of Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant on Civil and Political Rights, to which the Republic of Korea is a Party, and falling within category II of the principles applicable in the consideration of the cases submitted to the Working Group.

14. Consequent upon the decision of the Working Group declaring the detention of the above-mentioned person to be arbitrary, the Working Group requests the Government of the Republic of Korea to take the necessary steps to remedy the situation in order to bring it into conformity with the provisions and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 29 September 1994

Tuesday, October 17

10:00 a.m.

Room 515

Sponsored by Amnesty International and the International Students Association

IN SOUTH KOREA FREE SPEECH IS A CRIME

인권 자료실		
분류	구분	자료번호
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On October 15-16, 1994, the South Korean Government arrested 24 members and supporters of the International Socialist Organization. Their "crimes" included selling socialist literature and helping to organize trade unions. These political prisoners are among the 1,234 people that South Korean President Kim Young Sam's government has imprisoned for political offences.

Twenty-four of those arrested were charged under the hated National Security Law, and five have been found guilty. Among those sentenced to 18 months in prison is Choi Il-Bung, a publisher of socialist and trade union literature, who was adopted as a "prisoner of conscience" by Amnesty International in 1993.

On October 23, NYU is planning to award Kim Young Sam a special degree from the Law School. If NYU really cares about free speech and diversity they should not praise an honor President Kim Young Sam.

Come to a meeting to discuss the South Korean governments blatant disregard for human rights and what we can do to make sure that Kim Young Sam knows how people at NYU feel about free speech.

Tuesday, October 17

8:00 p.m.

Loeb #515

*Sponsored by Amnesty International and the International Socialist Organization
at NYU*

Seamus O'Malley
Sophomore, CAS

October 8, 1995
International Socialists

On October 23rd, Kim Young-Sam, the president of South Korea, will be visiting New York University, where he will receive an honorary degree from the college. I was in shock when I heard this: I do not comprehend how NYU could even think of doing such a thing. President Kim, and the South Korean "democratic" government, has had a horrible record of using its power to abuse civil rights and free speech.

The most recent and extreme case of Kim violating civil rights involves the case of Choi Il-bing. Choi is a member of the International Socialists of South Korea (ISSK), an organization that is allowed to exist legally here in the US and all the European countries, and even in traditionally repressive countries like Poland and Brazil. However, Choi, and 36 other socialists, were arrested last October. Many were released because of lack of evidence, but Choi and several others have been found guilty and sentenced to 18 months in prison. The convictions were absurd: most of them involving the translation and distribution of socialist literature; literature allowed in any other "democracy". (Ironically, South Korea allows Hitler's *Mein Kampf*) Other allegations include participating in the non-violent May Day march, or organizing workers into unions.

These convictions are supposedly justified by the National Security Law (NSL), passed in 1959 by the military government that outlaws any activity that might be connected with the government's enemy, North Korea. Because North Korea is considered "communist", the ISSK has been convicted as acting in support of North Korea against the South.

This is an absurd allegation. One of the ISSK's slogans is "Neither Seoul nor Pyongyang" (the capitals of South and North Korea). In other words, the ISSK condemns both governments as oppressive and looks towards building a true democratic society. But President Kim's repression of free speech proves that he does not share this view of democracy, but rather wants to use his power to keep down any objection to his actions. His proclamation of democracy is completely hypocritical: when he was inaugurated, he said "Justice will flow like a river." And yet, two years later, his right-hand-man Choi Hyong Woo said in an interview "It's OK to torture political prisoners.", and Park Chang Sou, prosecutor in the case against Choi and the ISSK, said "Freedom of expression is not one of absolute basic rights, but a relative basic right that can be limited for the sake of national security." President Kim proved he was hypocritical once again when he promised the release of political prisoners; and he did: he released 3,169 prisoners, including generals who had carried out massacres and politicians and business convicted of corruption. Choi and three other socialists are still in jail today.

People may have seen in the news last week coverage of a student riot in South Korea. The students were protesting the government's acquittal of two ex-presidents, Chun Doo Hwan and Roh Taewoo, who organized a coup on December 12, 1979. They also slaughtered hundreds of insurgents in the city of Kwangju in May of 1980 during a mass protest of the government involving students and workers. President Kim sees it fit to acquit these types of criminals and send the military after student protestors, but will not release "criminals" who want to exercise their right to free speech.

I said before that I could not comprehend how NYU could accept President Kim and give him an honorary degree. This is not true, I am not surprised. NYU, by publicly advocating free speech and then doing something like this, is as hypocritical as the United States government proclaiming to uphold democracy abroad and then placing thousands of troops in South Korea to keep President Kim and his brutal regime in power. I therefore encourage all students to oppose NYU and President Kim's actions, and to fight for real free speech, real rights, real democracy.

NYU (1) [unclear] [unclear] 11/7/95

인권 자료실		
등록일	분류기호	자료번호
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amnesty international

SOUTH KOREA

Appeal for prisoner under sentence of death

DECEMBER 1994

AI INDEX: ASA 25/37/94

DISTR: SC/CO/GR

Amnesty International is concerned about the case of Kim Chol-oh, a 24-year-old prisoner under sentence of death in South Korea. It is calling on the authorities to commute his death sentence and to order a review of his case, following reports that he was ill-treated during police questioning and may have been denied a fair trial. Amnesty International opposes the death penalty in all cases, considering it to be the ultimate form of cruel and inhuman punishment. It is calling on the South Korean Government to commute all death sentences and abolish the death penalty in law.

The case of Kim Chol-oh demonstrates the unfair, arbitrary and cruel nature of the death penalty. Kim Chol-oh's father died in 1988 and his mother was unable to pay for his schooling. He took several temporary jobs and in August 1990, aged 19, he left home. In September he was arrested with four others on charges of rape and murder but he later claimed that during police questioning he had been beaten and forced to make a "confession". His mother could not afford to hire a lawyer and did not know where to seek advice. Kim Chol-oh was defended by a court-appointed lawyer who did not appear at all of the court hearings and apparently made little effort on his behalf. He was sentenced to death by Seoul District Criminal Court and in August 1991 his death sentence was finalized. Some of his co-defendants, at least one of whom had been able to hire a lawyer, were sentenced to life imprisonment. Kim Chol-oh is now awaiting execution in Seoul Detention Centre.

There are some 45 prisoners under sentence of death in South Korea, all convicted of murder. Amnesty International knows of several prisoners who claim to have been ill-treated during police interrogation and to have been represented by court-appointed lawyers because they could not afford to hire a lawyer of their choice. It is concerned that the death penalty is often imposed on the poorest members of society such as Kim Chol-oh who are least well-equipped to defend themselves. The death penalty is irreversible and may be inflicted on the innocent.

Fifteen men were executed on 6 October 1994, the first executions since December 1992. All fifteen had been convicted of murder and all were from poor families. In keeping

with general practice, the execution orders were made by the Ministry of Justice and neither the families nor the prisoners themselves were notified in advance. One prisoner in Seoul Detention Centre, where ten of the executions were carried out, wrote to a prison visitor about his intense fear on the morning of 6 October when he learnt that executions were taking place. The fear remained with him all day, until he knew that on this occasion he was not to be executed.

In October 1994 Ministry of Justice officials stated publicly that there would be further executions. Amnesty International is concerned that those prisoners who are still under sentence of death, including Kim Chol-oh, are living in a state of constant fear, never knowing when they will be executed.

Ministry of Justice officials told Amnesty International in October 1994 that executions were necessary as a means of reducing the rate of violent crime. However, the same officials did not know whether their government had carried out a survey into the effect of the death penalty on the crime rate. To Amnesty International's knowledge, none of the surveys carried out in other countries have shown that use of the death penalty has a uniquely deterrent effect on violent crime.

RECOMMENDED ACTION

Please send appeals:

- ◆ expressing Amnesty International's opposition to the death penalty in all cases, as the ultimate form of cruel and inhuman punishment and a penalty which is often inflicted on the poorest members of society who are least able to defend themselves;
- ◆ calling on the government to commute the death sentence imposed in Kim Chol-oh, to investigate reports that he was ill-treated during police interrogation and to review the fairness of his trial.

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

This appeal has been sent to groups with action files on the death penalty in South Korea

KEYWORDS: DEATH SENTENCE1 / CONFESSIONS / TRIALS / TORTURE/ILL-TREATMENT / EXECUTION /

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

차량방 자르

관 자르

인권 자료실	
03	43

EMBARGOED FOR 9 MARCH 1994

amnesty international

SOUTH KOREA

Human Rights Violations Continue under the New Government



One year ago, in February 1993, President Kim Young-sam... In his inaugural address the President promised a new era of law and order... He said '...justice will flow throughout the land.' Shortly after taking office the government announced... for prisoners, to ending... 41...

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

The new government also decided to shelve... the National Security Law and the Labour Dispute Mediation... rights to freedom of expression and association. It failed to... protect prisoners from torture... UN Convention Against... February 1994
AI Index: ASA 25/08/94
Distr: SC/CO/GR

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

[EMBARGOED FOR 9 MARCH 1994]

amnesty international

SOUTH KOREA

Human Rights Violations Continue Under The New Government

FEBRUARY 1994

SUMMARY

AI INDEX: ASA 25/08/94

DISTR: SC/CO/GR

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.

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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. Once 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.

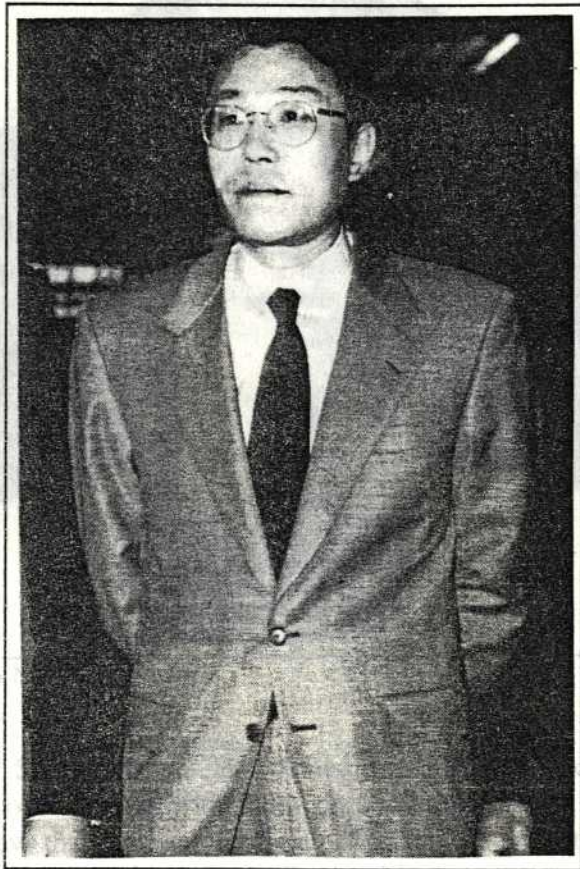
Imprisonment for making unauthorized visits to North Korea

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

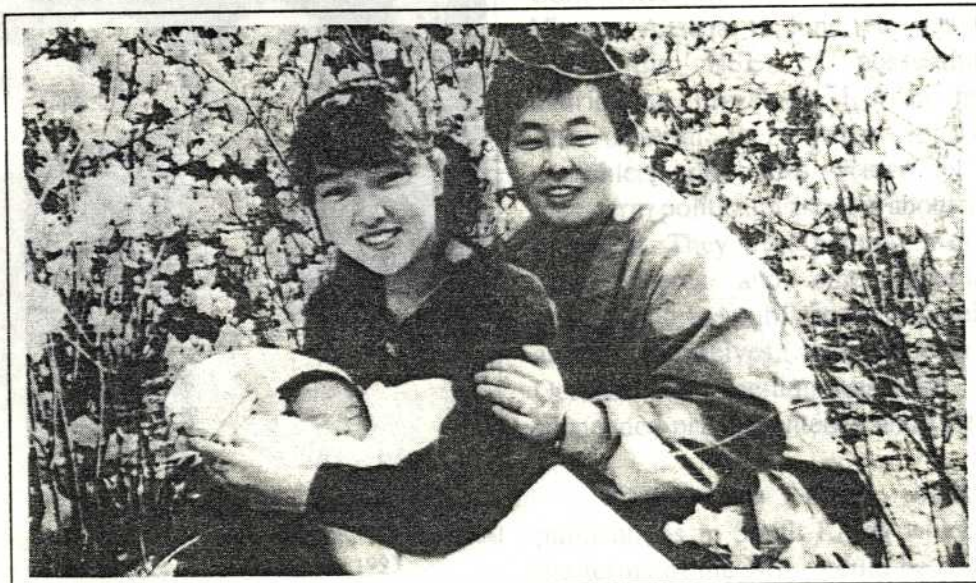
Kim Nak-jung admitted meeting North Korean officials but defended his actions as those of a peaceful activist wishing to see the reunification of North and South Korea. He denied passing any secret information to the officials he met, collaborating with them or accepting money for spying activities. 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;

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.

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.*

amnesty international

SOUTH KOREA

Death of Kim Il Sung leads to Arrests in South Korea

20 July 1994

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DISTR: SC/CO/GR

Amnesty International is concerned that dozens of people, including students and dissidents, have been arrested in South Korea under the National Security Law following the death on 9 July of North Korean leader Kim Il Sung. They are accused of holding or preparing mourning ceremonies; of expressing sympathy for the late North Korean leader or of attempting to travel to North Korea to attend his funeral. Amnesty International considers that South Koreans detained for attempting to visit North Korea or expressing sympathy for its late leader, without use or advocacy of violence, are imprisoned for exercising their rights to freedom of expression and association or movement and that they should be released. It also urges the authorities to refrain from ordering further arrests on these grounds.

Over 50 students were detained on 13 July in Seoul and some 30 on 16 July in Kwangju for allegedly preparing mourning ceremonies for Kim Il Sung. The arrests led to violent student protests, but many of those initially arrested do not appear to have used violence. Leaders of the student federation *Hanchongnyon* (Federation of Student Councils) said on 14 July that they would send a message of condolence to North Korea, an action which may lead to their arrest. On 19 July, the day of Kim Il Sung's funeral, over 100 students were reportedly detained to prevent them from mourning.

Two leaders of the dissident organization *Pomminnyon* (pan-national alliance for the reunification of Korea) were arrested on 16 July as they attempted to visit North Korea through the border village of Panmunjom to attend Kim Il Sung's funeral. They are 72-year-old former Prisoner of Conscience Reverend Kang Hee-nam and his assistant 29-year-old Ahn Hee-chan. Several other members of *Pomminnyon* were questioned about their involvement in the visit. Others facing arrest include Park Bo-hee, President of a daily newspaper *Segye Times*, who is reported to have travelled to North Korea. The South Korean authorities stated that Park Bo-hee may be arrested on his return to South Korea for holding unauthorized meetings with North Korean leaders.

The North Korean authorities issued a public invitation to South Koreans who wished to attend Kim Il Sung's funeral on 19 July but South Korea's National Security

Law prohibits unauthorized contact with North Koreans on penalty of imprisonment. The law also punishes actions which may be interpreted as siding with, encouraging or praising North Korea, a provision which has recently led to the arrest of prisoners of conscience including students, dissidents, writers, publishers and others.

Amnesty International has urged the South Korean government to amend the National Security Law to bring it into line with international human rights standards relating to freedom of expression and association.

On 20 July Amnesty International also published a statement calling on the North Korean authorities to commit themselves to respecting all internationally recognized human rights. In particular, the organization urged North Korea to release all prisoners of conscience, to review legislation which allows the imprisonment of people for exercising their fundamental rights, and to account for the whereabouts and legal status of all political prisoners.

RECOMMENDED ACTION:

Please send letters and faxes to the South Korean Government:

- ◆ *expressing concern about dozens of recent arrests in South Korea under the National Security Law;*
- ◆ *calling for the immediate and unconditional release of those detained solely for expressing sympathy about the death of Kim Il Sung, without use or advocacy of violence, and of those who attempted to visit North Korea to attend the funeral;*
- ◆ *urging the authorities to refrain from making arrests on these grounds.*

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.*

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

KEYWORDS: PRISONERS OF CONSCIENCE / BANNING / STUDENTS / POLITICAL
ACTIVISTS / RELIGIOUS OFFICIALS - PROTESTANT / AGED / EDITORS /