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REPUBLIC OF KOREA (SOUTH KOREA) Novelist Kim Ha-ki sentenced after visiting North Korea

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Amnesty International is calling for the immediate and unconditional release of Kim Ha-ki, 38-year-old novelist who has been sentenced to three-and-a-half years' imprisonment under the National Security Law for making an unauthorized visit to the Democratic People's Republic of Korea (DPRK, North Korea) and divulging "state secrets". Kim Ha-ki's imprisonment appears to be politically motivated and in violation of international standards protecting freedom of expression and the right not to be detained arbitrarily.

While Kim Ha-ki was visiting the People's Republic of China (PRC, China), in July 1996, he inadvertently crossed the border into North Korea. He was detained by the North Korean authorities for two weeks, then sent back to China where he was held for two days. Finally, he was returned to South Korea where he was arrested, charged and convicted under the National Security Law.

Kim Ha-ki is a popular novelist and a deacon in the Presbyterian Church. He was imprisoned as a prisoner of conscience from 1981 to 1988 for his student activities and during this time he became acquainted with several long-term political prisoners in Chunju Prison. After his release, Kim Ha-ki wrote several books about the lives of long-term political prisoners. These books, *Complete Encounter* and *Living Tombs*, have been reprinted several times in South Korea and have also been used for theatre production.

The story of Kim Ha-ki's visit to North Korea

On 30 July 1996 Kim Ha-ki went on a holiday/study trip to Yanji City in China's Jilin Province.¹ He was travelling with his father, a cousin and some 60 other South Koreans.

¹Yanji City, Jilin Province, is situated in the northeastern corner of China, close to where the borders of China, North Korea and Russia meet. It has a population of some 300,000, including many ethnic Koreans. Since South Korea established diplomatic relations with China in 1992, South Korea has invested heavily in Yanji which now has a number of South Korean businesses. The city's proximity to North Korea has also resulted in trade links with that country and a number of Yanji's hotels and restaurants are owned by North Korea.

On the evening of 30 July, Kim Ha-ki and other members of his party dined in a restaurant in Yanji City. According to other members of the party, Kim Ha-ki got involved in a discussion with one of the waitresses, who came from North Korea. He is reported to have talked of his wish to see North Korea. As the evening went on, he became very drunk.

At around 10.30pm he is reported to have left the restaurant and asked a taxi to take him to the shores of the Tumen River, which runs along the border between China and North Korea. The taxi driver, though reluctant to help, apparently showed him a shallow part of the Tumen river and he remembers wading across into North Korea.

Kim Ha-ki said that when he arrived on the opposite side of the river, five or six North Korean soldiers appeared. They tied him up and took him to a small lodging called the *Hweryong Yogwan*, where he slept.

The following day he regretted his actions. He was interrogated by several North Koreans and he told them that he had crossed the river inadvertently, under the influence of alcohol. The North Koreans asked him many questions about his family and his life in South Korea. They asked him to write an account of his prison life in South Korea. They asked him if he was familiar with the writings of Kim Il Sung (former North Korean leader). Two weeks later, on 14 August, he was sent back to China, where he was held for two days and fined for violating border regulations.

Arrest, interrogation and trial in South Korea

On 17 August Kim Ha-ki was returned from China to South Korea where he was arrested and questioned by the Agency for National Security Planning (ANSP, South Korea's intelligence agency). ANSP officials asked him many questions about his visit to North Korea. They also asked him about his novels and about his former period of imprisonment in South Korea during the 1980s. ANSP officials are also said to have searched his home in Pusan and to have confiscated several books about North Korea.

During their investigation the ANSP released several statements to the media about the case. They are reported to have said that Kim Ha-ki cooperated with the North Korean authorities. For example, he had allegedly read and made favourable comments about books written by the former North Korean leader Kim Il Sung. He had also visited the birthplace of the current leader Kim Jong Il and received gifts from the North Koreans. The ANSP also claimed that Kim Ha-ki had joined the Workers Party of [North] Korea during his previous imprisonment when he had come into contact with long-term political prisoners convicted of spying for North Korea. This accusation was not included in the charges against Kim Ha-ki, but appears to have been used in his trial as background information to present him as a person likely to support North Korea.

In September Kim Ha-ki was formally charged under the National Security Law on several different counts: for making an unauthorized visit to North Korea; for meeting and communicating with North Korean officials; for "praising" and supporting North Korea; for receiving materials from North Korea and for divulging "state secrets" to North Korea.

Kim Ha-ki was tried before Seoul District Criminal Court. On 11 February 1997 he was found guilty of "revealing national secrets during [questioning] by North Korean authorities after illegally entering North Korea". He was sentenced to three-and-a-half years' imprisonment.

Why AI has adopted Kim Ha-ki as a prisoner of conscience

The National Security Law punishes those who make unauthorized visits to North Korea and those who "praise" or "benefit" North Korea, with the knowledge that it will damage state security. It also punishes those who divulge "state secrets" to North Korea.

However, there is no evidence to suggest that Kim Ha-ki's visit posed a threat to state security or that he intended to do so. The alleged "state secrets" were information which is public knowledge in South Korea. Amnesty International is concerned that Kim Ha-ki appears to have been punished because of his former political activities, including the content of his writings about long-term political prisoners.

Kim Ha-ki admitted that he made an unauthorized visit to North Korea but he did so inadvertently. He had also expressed a desire to see North Korea, as have many South Koreans who have been denied the possibility of contacting friends and family in North Korea.

Since Kim Ha-ki was detained by the North Korean authorities, he had no choice but to meet officials and to receive from them dry clothes and provisions for his daily needs during his period of detention in North Korea.

Kim Ha-ki was also accused of divulging "state secrets" to North Korean officials about everyday life in South Korea and about his experience as a political prisoner, from 1980 to 1988. The term "state secret" has been widely interpreted by the courts in South Korea and it is sometimes difficult for a person to know what it means. In some cases tried under the National Security Law, information already in the public domain was considered by the courts to be a "state secret". This interpretation has led to people being imprisoned for passing to others information which was widely available in South Korea, in violation of their rights to freedom of expression and association.

There appears to be no evidence to suggest that Kim Ha-ki's statements while in detention in North Korea posed South Korea any security threat of a kind which would justify imprisonment. His detention for divulging "state secrets" appears to be politically motivated and in violation of international standards protecting freedom of expression and the right not to be detained arbitrarily.

For many years Amnesty International has called for the National Security Law to be amended, in accordance with international standards. Many of the law's vaguely-worded provisions have been used to imprison people for the non-violent exercise of internationally-recognized rights to freedom of expression and association. During 1996, some 490 people were detained under the National Security Law, many of whom were considered by Amnesty International to be prisoners of conscience.