

Ref.: TG ASA 25/97.01

His Excellency President Kim Young-sam
The Blue House
Seoul
Republic of Korea

20 January 1997

PUBLIC PROTESTS, NATIONAL SECURITY AND HUMAN RIGHTS VIOLATIONS:

***OPEN LETTER FROM AMNESTY INTERNATIONAL
TO PRESIDENT KIM YOUNG-SAM***

Dear President Kim,

I have watched with growing concern the tense situation that has developed in the Republic of Korea, with protests against new legislation on labour matters and on the powers of the Agency for National Security Planning (ANSP).

Amnesty International is concerned that the new labour legislation will continue to limit freedom of expression and association and may lead to the imprisonment of trade union members for peacefully exercising these rights. The legislation contradicts commitments made by South Korea to the Organization for Economic Cooperation and Development (OECD) and to the International Labour Organization (ILO) to reform labour legislation in accordance with relevant international standards.

Amnesty International is also concerned that the new powers granted to the ANSP will lead to human rights violations against domestic opposition. The ANSP has been responsible for the surveillance, arbitrary arrest, torture and ill-treatment of political suspects and it lacks accountability for its actions.

In recent years South Korea has emerged as one of the strongest and most dynamic economic and political forces in the Asia-Pacific region. But these two legislative amendments represent a huge step backwards for human rights protection and the democratization process in South Korea. The South Korean people will never fully enjoy the benefits of security and prosperity if not afforded their most basic rights and freedoms.

In early January 1997, Amnesty International publicly urged your government not to arrest trade union leaders for organizing mass strike action against curbs on their rights to freedom of expression and association and expressed its concern that the new legislation could lead to human rights violations. Statements by your government that the trade union leaders are "pro-North Korean" have intensified Amnesty International's concern that trade unionists may now face arrest under the National Security Law. We urge you to ensure that law enforcement personnel exercise restraint and take precautions to avoid violent confrontation with protesters.

Amnesty International calls on your government to undertake the following specific steps to prevent further human rights violations at this time of tension.

1. Prevent human rights violations by the Agency for National Security Planning

The ANSP has long been responsible for human rights violations, including surveillance, arbitrary arrest, torture and ill-treatment of political suspects.

The new investigative powers vested in the ANSP are among those which were removed from the agency in 1994 because of its poor human rights record and the lack of democratic control over its activities. Since the 1994 revision, Amnesty International has documented cases of torture and ill-treatment of political suspects by ANSP officials and we are concerned that current controls over the ANSP's activities are inadequate to prevent the agency from using its new powers to carry out further human rights violations.

You have stated that the ANSP needs new powers to investigate people detained under Articles 7 and 10 of the National Security Law in order to counter North Korea's spying activities. However, it is difficult to see how the ANSP's increased powers will achieve this end since the vast majority of people detained under these two articles of the National Security Law have been South Korean citizens, arrested for the non-violent exercise of their rights to freedom of expression and association.

Article 7, which punishes those accused of "praising" and "benefitting" North Korea, is the most widely used provision of the National Security Law and is generally used to target people with left-wing ideas.

In practice the ANSP will now have the power to investigate any person detained under the National Security Law for up to 20 days. Amnesty International has documented cases of torture and ill-treatment by the ANSP, including sleep deprivation, beatings, threats and coerced "confessions". The organization is concerned that the ANSP's increased powers will lead to further ill-treatment of political suspects.¹

While your government has given assurances that the ANSP will not commit human rights violations against political suspects, Amnesty International is concerned at the lack of effective safeguards. We call upon your government to take the following steps:

- explain what practical steps have been taken to ensure that the new legislation cannot be used to commit human rights violations;

- ensure that those detained by the ANSP will not be subjected to unreasonably long periods of interrogation, deprivation of sleep, beatings or any other form of torture and ill-treatment; that detainees have prompt and regular access to a lawyer of their choice, to their families and to an independent medical doctor;

- ensure that the treatment of all detainees is in full compliance with international human rights standards.

2. Prevent human rights violations by riot police

In recent weeks, some protests have ended in violent clashes between demonstrators and riot police. Amnesty International does not in any way condone the use of violence by protesters and recognises your government's responsibility to maintain order. However, this must be done within the limits of

¹For further details, see Amnesty International's reported entitled *Republic of Korea: Summary of concerns on torture and ill-treatment* (AI Index: ASA 25/25/96), published in October 1996.

international human rights standards. Amnesty International is concerned that in some cases peaceful demonstrators and bystanders have been injured by riot police.

Amnesty International is concerned that the current climate of confrontation may lead to more violent clashes, and to a repeat of previous incidents, such as those of August 1996, when student demonstrators clashed with riot police. In this incident, Amnesty International documented many cases of human rights violations, including beatings and sexual harassment in the course of arrest and interrogation.²

While law enforcement personnel have a responsibility to maintain public order, they also have a responsibility to protect human rights. Amnesty International calls on your government to:

- issue clear instructions to the law enforcement agencies, consistent with international standards on the use of force by law enforcement officials;

- explain what steps your government has taken to ensure that riot police do not resort to beatings and other forms of ill-treatment of demonstrators;

- review and improve the human rights training of all law enforcement personnel responsible for the arrest and interrogation of detainees.

3. Do not arrest trade union members for the exercise of their basic rights

At the time of writing, at least five provincial leaders of the Korean Confederation of Trade Union (KCTU) have been arrested for organizing "illegal" strike activity and 16 others remain under threat of arrest. They include KCTU President Kwon Young-kil and Vice Presidents Dan Byung-ho and Kim Young-dae, all of whom were adopted by Amnesty International as prisoners of conscience after previous arrests.

Amnesty International opposes the arrest of trade union leaders solely for organizing strike action and protests, amounting to the non-violent exercise of their rights to freedom of expression and association.

Trade unions, individuals and other non-governmental organizations should have the right to communicate about and campaign against violations, free of persecution, arrest or harassment.

Amnesty International is also disturbed by unfounded government statements that the trade union leaders are "pro-North Korean" and may pose a threat to state security. The organization fears that such statements may lead to the arrests of government opponents under the National Security Law.

4. Ensure that labour legislation conforms to international standards

The new labour legislation will continue to limit freedom of expression and association and may lead to the imprisonment of trade union members for exercising this right. The legislation also contradicts commitments made by South Korea to the OECD and to the ILO to reform labour legislation in accordance with relevant international standards.

²See Footnote 1

Amnesty International is particularly concerned that the legislation extends the prohibition on the establishment of trade union organizations with the same potential membership as existing ones. In practice the KCTU will continue to operate as an illegal organization for several years and its leaders will continue to face harassment and possible arrest. The ban on "third party intervention" in labour disputes has not been removed and may still be used to imprison trade union leaders. Teachers and public employees will continue to be denied the right to form or join a trade union.

- Amnesty International calls on your government to immediately lift all restrictions on the exercise of freedom of expression and association which are not consistent with international human rights standards, and which may lead to the arrest of trade union members.

5) Ensure that the conditions of political prisoners conform to international standards

Amnesty International has received consistent reports from former political prisoners and relatives of current prisoners indicating that the conditions of detention of these prisoners frequently deteriorate during periods of social tension. This may result in less exercise time, restrictions on reading material, restrictions on the right to send and receive correspondence, restrictions on meetings with other prisoners and other sanctions.

Amnesty International urges you to remember the situation of political prisoners, several dozen of whom were tried unfairly many years ago and appear to have been forgotten by your government. We again urge you to review their cases and to ensure that their conditions of detention conform to international standards.

I look forward to receiving your response to the points raised in this letter at your earliest convenience.

I am sending copies of this letter to your government's Ambassador to the United Kingdom and Ambassador to the OECD; to the Secretary General of the OECD and to the Director General of the ILO.

Yours sincerely,

Pierre Sané
Secretary General