

£SOUTH KOREA

@Prisoner of Conscience Kang Ki-hun

Amnesty International is calling for the release of Kang Ki-hun, a 27-year-old political activist who is serving a three-year prison term on charges of aiding and abetting the protest suicide of a colleague. Amnesty International believes that Kang Ki-hun is a prisoner of conscience, arrested on account of his peaceful political activities and wrongly convicted after an unfair trial which failed to prove him guilty.

Background Information

Kang Ki-hun's arrest and conviction should be seen in the context of widespread anti-government protests in May 1991. On 26 April 1991 student Kang Kyung-dae was beaten to death by riot policemen during an anti-government demonstration in Seoul. This incident sparked off weeks of mass protests across the country. Initially critical of riot police practices, the demonstrations developed into a more general anti-government movement. Nine young people publicly committed self-immolation, often by fire, as an extreme form of protest. The funerals that students and dissident groups organised for them led to further mass demonstrations. One of those who killed himself as a political gesture was 24-year-old Kim Ki-sol.

The dissident organization *Chonminnyon* (National Democratic Alliance of Korea) was one of the groups at the centre of the protests and street demonstrations. *Chonminnyon* was established in 1989 and since then many of its leaders have been arrested and imprisoned for their alleged anti-government views and activities. Kang Ki-hun and Kim Ki-sol were both staff members of *Chonminnyon*.

The arrest of Kang Ki-hun and the charges against him

On 8 May 1991 Kim Ki-sol, director of the Social Department of *Chonminnyon*, set himself on fire and jumped to his death from the rooftop of a building at Sogang University, Seoul. In a suicide note he said that his death was to protest at the police killing of student Kang Kyung-dae and he called for democratic reforms.

Immediately after Kim Ki-sol's death the prosecution authorities announced that someone had instigated and helped him to commit suicide. This echoed a statement by the Prosecutor General that someone had masterminded the series of protest suicides.

On 18 May, the day of the second funeral march for student Kang Kyung-dae, the prosecution announced that a certain "K" who worked for *Chonminnyon* was responsible for writing Kim Ki-sol's suicide note. In late May the police obtained a warrant for the arrest of Kang Ki-hun. Kang took refuge in Myongdong Cathedral with a number of other dissident leaders who were wanted for organizing the anti-government demonstrations in May. On 24 June he gave himself up to the police declaring "As I am innocent there is no choice for me but to turn myself in honourably". Dissidents and human rights groups claimed that the authorities had fabricated a case against Kang Ki-hun in order to damage the moral standing of *Chonminnyon* and the dissident movement at a time of serious social unrest. The warrants of arrest against Kang Ki-hun and dissident leaders had indeed the effect of halting the street demonstrations.

Kang Ki-hun was charged under the Criminal Code with aiding and abetting the suicide of Kim Ki-sol. The basis for the indictment was an alleged similarity between Kang Ki-hun's handwriting and that in Kim Ki-sol's suicide note. There was no evidence of the time or place when Kang Ki-hun allegedly wrote the suicide note, nor of any actions whereby Kang Ki-hun incited or helped Kim Ki-sol to commit suicide. Apparently Kang Ki-hun had an alibi for the days preceding Kim Ki-sol's death to prove that he was not involved in preparations for the suicide. Kang Ki-hun was also charged under the National Security Law with belonging to an "anti-state" group, *Hyoknomaeng*, whose members were rounded up and tried in mid-1990. The charges were based on the fact that police found at Kang Ki-hun's home a copy of the minutes of a meeting of *Hyoknomaeng*. The minutes did not record Kang Ki-hun's presence at the meeting in question and it is believed that the minutes had been given to him by a friend. Kang Ki-hun has denied being a member of the organisation.

On 20 December 1991 a Seoul district criminal court found Kang Ki-hun guilty and sentenced him to three years' imprisonment and 18 months' suspension of civil rights. The conviction and sentence were upheld by the High Court on 20 April 1992 and confirmed by the Supreme Court on 24 July 1992. The trial focused on the charges of aiding and abetting Kim Ki-sol's suicide and it is unclear if the charges under the National Security Law of membership of an "anti-state" organisation were substantiated.

An Unfair Trial

Amnesty International believes that the evidence used to convict Kang Ki-hun was inconclusive and unconvincing. It does not believe that Kang Ki-hun can be held responsible

for writing Kim Ki-sol's suicide note. Even if the evidence did indicate that he had written the suicide note, this in itself does not prove that he aided and abetted the suicide.

The court based its judgment on an analysis by the National Institute for Scientific Investigation (NISI) which concluded that Kang Ki-hun had written Kim Ki-sol's suicide note. The NISI analysis was commissioned by the prosecution and was conducted under the supervision of Kim Hyung-yong, Chief of the Document Analysis Department.

The defence lawyers challenged the NISI analysis and the district criminal court accepted that it was defective in some respects. For example, *Chonminnyon* staff members said that several people had made entries in an office diary and that those made by Kim Ki-sol concerned appointments and meetings only he would have known about. NISI's conclusion, however, was that all the entries in the diary were by the same person, the same who had written the suicide note, and that the diary had been fabricated. The court of first instance, in fact, accepted that there were several handwritings in the diary and that one of them was similar to that in the suicide note.

The Korean National Council of Churches had commissioned an independent handwriting analysis by a Japanese graphology expert, Yoshio Onishi, and this was presented in court on behalf of the defence. This analysis concluded that Kim Ki-sol had written his own suicide note and thus supported the defence claim that Kang Ki-hun was innocent. The analysis and a description of the methodology used were presented in court but were challenged by the prosecution on the grounds that the analysis contained some errors and because it had been prepared by a foreigner who was not fluent in the Korean language.

The defence lawyers asked Kim Hyung-yong what methodology had been used to conduct his analysis. He apparently replied that he had used his own judgement and experience, refusing to give details of how he had reached the conclusions presented in the analysis. This absence of any description of methodology made it difficult for the defence to contest the analysis results.

The defence lawyers submitted a large number of documents but the court insisted that they should have them analysed by handwriting experts. The lawyers declined to do so as they felt that none of the private or government experts in South Korea could be expected to give an impartial opinion. To underline their concern, as Kang Ki-hun's trial was progressing, Kim Hyun-yong was arrested on charges of accepting a bribe in return for endorsing a false authentication of a document in an unrelated case. The lawyers called on the court to compare the various handwritings themselves and use its common sense in reaching a judgement. In the end the court simply accepted the conclusion of the NISI analysis.

Other evidence was provided by Kim Ki-sol's girlfriend, but this too was inconclusive. Shortly after Kim Ki-sol's death, she disappeared and it was later learned that she had been questioned for two days by the prosecution. During that time she allegedly

said that Kang Ki-hun had forged Kim Ki-sol's handwriting in her diary. She withdrew her testimony during the trial.

The defence lawyers criticized the prosecution authorities for concealing a document written by Kim Ki-sol when he was discharged from military service and which showed both his printed and his cursive styles of writing. This document was also important because it came from a source that the prosecution and the court could not dismiss as untrustworthy, as they did with other documents submitted by people who had connections with the dissident movement.

The judges themselves appear to have had doubts about Kang Ki-hun's guilt. In early December 1991 newspapers reported that the court had told journalists that they would have to approach the case to find "relative" truth rather than the "whole" truth because neither side had conclusive evidence. When delivering his verdict at the first trial, the presiding judge is reported to have said that "we do not believe that our judgement is in accordance with the objective and absolute truth". Amnesty International is concerned that this conclusion goes against the well-established principle of justice that defendants in criminal cases should be proved guilty beyond reasonable doubt or acquitted. Lawyers and human rights groups were astounded that Kang Ki-hun could have been convicted in such circumstances. Some lawyers are reported to have said they had never witnessed such a biased trial. Many people have commented to Amnesty International that the court's verdict was likely to have been affected by the fact that the authorities were not prepared to accept the political implications of a verdict of innocence.

Many respected civil leaders in South Korea also came to the conclusion that Kang Ki-hun was innocent. Cardinal Kim Sou-hwan was one of the prominent people who sent an appeal to the High Court expressing concern that the lower court had ignored the principle that a defendant should be presumed innocent until proved guilty.

Kang Ki-hun

Kang Ki-hun comes from a Christian family and is a former student of chemistry at Dongguk University in Seoul. He is currently held in Taejon prison and his three-year prison sentence will expire in June 1994. His sentence has now been finalized but lawyers are seeking ways to reopen the case.

In a submission to the High Court Kang Ki-hun insisted that he was innocent. He said:

" The court would not sentence guilty someone who is innocent, would it? The court would not accept the sham handwriting appraisal of the NISI before all the evidence pointing to the clear truth and fact, would it? These were the thoughts that ran through my mind as I moved to and from the detention centre in the mountains of Poil-dong and the courthouses in Socho-dong for the first trial. I wanted to convince myself again and again that the trial would lead to a rational conclusion. However, the court accepted without altering one word the argument of the prosecution which was based on evil distortion of the facts and outlandish assertions. The moment that I heard the decision of the judge I felt despair falling on me with the weight of the sky caving in all around me. This land became a land struck with calamity, full of falsehood and deceit with no glimpse of truth."