

# £SOUTH KOREA

## @Resisting Police Abuse: the Case of Noh Tae-hun

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

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

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

### *1. Noh Tae-hun's first arrest*

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

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

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

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

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

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

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

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

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

*"I am feeling some physical pain [from the physical assault be the police] but I am feeling much greater pain and sorrow in my heart. As a lawyer I have tried to persuade the investigatory authorities to respect legal procedures... Korean investigatory authorities have been world-notorious for their disregard of legality and ill-treatment [of suspects] but they have pretended to keep legal procedures at least in the presence of lawyers. However what they have done in my room this evening was more than the total negation of legal procedures: if they can insult and assault the lawyer who requests them just to keep to legal procedures in the lawyer's own office... what meaning do the law and the legal profession have?"*

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

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

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

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

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

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

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

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

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

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

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

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

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

#### *4. Noh Tae-hun's indictment and trial*

Noh Tae-hun was indicted on 11 August 1993, almost a month after his arrest. He was charged with possession of publications "benefitting the enemy", an offence under Article 7 of the National Security Law. The publications in question, such as the book *Days and Nights in Prison*, were legally published in South Korea. According to the indictment, some parts of these books were harmful to South Korea and Noh Tae-hun possessed them "for the purpose of benefitting an anti-state organization". In practice, courts often assume that a defendant acts with the "purpose of benefitting an anti-state organization": the burden of proving otherwise effectively falls on the defendant.

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

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

### *5. Amnesty International's conclusions and recommendations*

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

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