

REPUBLIC OF KOREA (SOUTH KOREA)

Time to reform the National Security Law

On 1 December 1998 hundreds of South Korean human rights activists marked the 50th anniversary of the National Security Law by holding a march and demonstration in central Seoul. They were protesting about the continued use of this law to arrest and imprison people for peacefully exercising their rights to freedom of expression and association. Amnesty International also believes the National Security Law must be reformed and calls on the South Korean Government to make this a priority for 1999.



Almost 400 people were arrested under the National Security Law during 1998, including students, political activists, trade unionists, publishers, religious figures and even Internet surfers. Most of these prisoners had done nothing to deserve arrest and imprisonment and were held solely for the non-violent exercise of their rights to freedom of expression and association. Some had formed study groups, distributed pamphlets or published books with left-wing political ideas; others had held

discussions about North Korea or disagreed with government policies on North Korea. Some were accused of contacting North Koreans without permission.

Most of those arrested under the National Security Law during 1998 were tried within six months of arrest and either released or given a short prison sentence, but some were given heavy sentences. A small number of long-term prisoners arrested 30 to 40 years ago were still held, making them some of the world's longest-serving political prisoners.

The National Security Law was adopted 50 years ago in the context of a divided Korea. Since the signing of an armistice agreement at the end of the Korean War in 1953, millions of Koreans on both sides of the divided peninsula have been separated from each other and the demilitarized zone which separates North and South Korea is one of the most heavily fortified borders in the world. South Korean officials have argued that the country needs the National Security Law to counter the military threat from North Korea. Amnesty International acknowledges South Korea's security predicament and the right of all states to maintain state security. But the National Security Law has been widely misused to detain people who posed no threat to security. South Korean governments have consistently used the law to remove people who pose a threat to established political

views, to prevent people from taking part in discussions surrounding relations with North Korea and as a form of control at times of social unrest.

President Kim Dae-jung, who took office in February 1998, was himself imprisoned under the National Security Law during the 1980s and has been sympathetic to calls for reform. He has committed his government to human rights protection and has taken some positive steps over the past year, including the release of over 150 political prisoners in two prisoner amnesties. In September 1998 he told Amnesty International that "poisonous clauses" of the National Security Law would be reviewed in the near future but did not make any firm commitments.

President Kim and his Minister of Justice also told Amnesty International that the country's economic crisis and political opposition were hampering their efforts to improve human rights. 1998 was certainly a difficult year for South Korea's government as it struggled to cope with the worst economic crisis in decades. The crisis itself resulted in an erosion of many rights as unemployment soared to around two million, while the country lacks a social safety net for the jobless. The government's difficulties were compounded by unpredictable developments in North Korea, including alleged border incursions and the test-firing of a long-rang missile or satellite. Discussion on amending or abolishing the National Security Law is a delicate political issue in South Korea where powerful groups within business, political circles, the law-enforcement apparatus and the media are opposed to reforms.

In spite of these difficulties, Amnesty International believes that respect for freedom of expression and association will be important for South Korea's long-term political, economic and social development. As a former political prisoner told Amnesty International: *"For South Korea to develop, we need people to be critical and to make creative proposals. It is a disgrace to arrest such people."* The economic situation and political opposition should not be used to justify further abuses under the National Security Law.

Amnesty International believes that many of those opposed to prisoner releases and law reform would be persuaded in an informed and open debate on the subject and the evidence suggests that public opinion would not oppose reforms in accordance with international human rights standards. A survey carried out by *Minbyun* (lawyers for democracy) and the *Hankyoreh* daily newspaper in November 1998 revealed that over 70% of respondents favoured an amendment to the law.

Further information about the National Security Law

The National Security Law provides long prison sentences and even the death penalty for "anti-state" and "espionage" activities but these terms are not clearly defined and have often been used to imprison people unfairly. Most arrests today are under Article 7 of the

law which provides up to seven years' imprisonment on vaguely-defined charges of "praising" and "benefitting" North Korea. The law also punishes those who have unauthorized contacts with North Korea or who fail to report such contacts. The majority of people arrested under the National Security Law are held for exercising their rights to freedom of expression and association.

After decades of military rule, South Korea held direct presidential elections in the late 1980s and has since developed a democratic form of government. But there is still an intolerance of left-wing or socialist views which are often regarded as being pro-North Korean. This sits uneasily with the government's new "sunshine policy" towards North Korea which actually encourages more civilian and business links with the North.

The National Security Law was amended in 1991, but these amendments were not far reaching and had little practical effect on arrests. President Kim and his Minister of Justice have assured Amnesty International that the law will not be misused, but they seem unable or unwilling to prevent new arrests from taking place.

Comments by United Nations bodies

- In July 1992 the UN Human Rights Committee made the following comment after examining South Korea's initial report under the International Covenant on Civil and Political Rights (ICCPR, ratified by South Korea):

". . . the Committee recommends that the State party intensify its efforts to bring its legislation more in line with the provisions of the Covenant. To that end, 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 and, in the meantime, not to derogate from certain basic rights".

- In November 1995 the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression made the following recommendation, after a mission to South Korea:

"a) The Government of the Republic of Korea is strongly encouraged to repeal the National Security Law and to consider other means, in accordance with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to protect its national security.

c) All prisoners who are held for their exercise of the right to freedom of opinion and expression should be released unconditionally. The cases of prisoners who have been tried under previous governments should be reviewed, due account being taken of obligations arising under the International Covenant on Civil and Political Rights. . ."

• In October 1998 the UN Human Rights Committee published its views on a National Security Law case submitted under the Optional Protocol to the ICCPR. It stated that the conviction of Park Tae-hoon in 1993 by South Korea's Supreme Court had constituted a violation of his right to freedom of expression, in accordance with Article 19 of the ICCPR. It called on the South Korean Government to provide a remedy to the former prisoner and to ensure that similar violations do not occur in future.

1998 arrests under the National Security Law

The following cases are typical of those arrested in 1998 under Article 7 of the National Security Law on charges of "praising" and "benefitting" North Korea. In February publisher Lee Sang-kwan was arrested for publishing books about the lives of long-term political prisoners and about women in North Korea; in April a young student called Ha Young-joon was arrested for posting a socialist text on a computer bulletin board; a group of youth activists were arrested in June for forming the "Anyang Democratic Youth Federation" which was alleged to be pro-North Korean and the group's leader, Kim Jong-bak, was sentenced to two years' imprisonment; a 78-year-old minister called Kang Hee-nam was arrested in August for organizing a rally on behalf of *Pomminyon*, a group alleged to be pro-North Korean; Catholic priest Moon Kyu-hyun was arrested for allegedly praising North Korea when he visited the country in August, even though his visit had been approved in advance by the government. Throughout the year student leaders belonging to the national student union *Hanchongnyon* were arrested simply for being affiliated to an organization which is alleged to support North Korea. In some cases, students were additionally charged for violent acts during clashes with riot police.

Some prisoners arrested over the past year were sentenced to long prison terms. They included 15 trade union and political activists arrested in July 1998 on charges of forming an "anti-state" organization. They were given sentences of between three and 15 years' imprisonment for establishing and joining the "Youngnam Committee" with alleged links to North Korea and spreading North Korean ideology throughout society. Amnesty International believes the charges are unfounded and is concerned that the 15 appear to have been arrested principally because of their opposition to government policies and as a means of curtailing anti-government protests. The arrests took place at the time of mass strike action in South Korea and those arrested were actively involved in the trade union movement and opposition to government economic and social policies. They included Pang Suk-soo, an education and publicity official working for the Korean Confederation of Trade Unions; Kim Myong-ho, a regional director of the Korean Metal Workers' Federation and Lee Eun-mi, the leader of a women's association.

Long-term political prisoners

During 1998 the new government released over 150 political prisoners in two prisoner amnesties, but only on condition that they sign a "law-abiding oath". For reasons of

conscience, some political prisoners refused to sign such an oath and they were not released. Those who agreed to sign and were released received a warning that certain anti-government and political activities could result in their re-imprisonment.

Seventeen National Security Law prisoners held for between 28 and 40 years were not released because they refused to sign the law-abiding oath. They included Woo Yong-gak, aged 69, who has been in prison since 1958; and Hong Yong-gi, aged 69, who has been in prison for 36 years. These elderly long-term prisoners were reported to be in poor health, having suffered decades of imprisonment in poor conditions and with little access to the outside world. Other prisoners who were not released included Cho Sang-nok and Kang Yong-ju who were convicted under the National Security Law in 1978 and 1985 respectively; and Ahn Jae-ku, aged 65, who was arrested and convicted in 1994.

Amnesty International has continued to call for the release of these and other long-term political prisoners. In early 1999 President Kim Dae-jung said there would be another prisoner amnesty in March 1999 but that once again prisoners would have to sign a "law-abiding oath" in order to qualify for release.

Amnesty International's recommendations to the government

- The National Security Law should either be substantially amended or abolished. Amendments to the law or any new security legislation must be in line with international human rights standards.
- All political prisoners held for the non-violent exercise of their rights to freedom of expression and association should be unconditionally released, including remaining long-term political prisoners who were not released in 1998 because they refused to sign a "law-abiding oath".
- The government should implement in full the recommendations made to it by the UN Human Rights Committee and other UN bodies with regard to the National Security Law.