

# £SOUTH KOREA

## @Prisoner of Conscience Lee Kun-hee

Amnesty International is calling for the immediate and unconditional release of Lee Kun-hee, 27-year-old Democratic Party worker who is serving a three-year prison term on charges under the National Security Law (NSL) and the Military Secrets Protection Law. It believes that he is held in violation of his rights to freedom of expression and association. It is also concerned at reports that he was deprived of sleep and beaten during interrogation. Before his arrest Lee Kun-hee was an office assistant working for the main opposition party, the Democratic Party. Part of his job was to handle documentation for his party's representatives on the National Assembly Defence Committee. The arrest of Lee Kun-hee, directly before the presidential election, appears to have been timed to damage the credibility of the Democratic Party's presidential candidate, Kim Dae-jung, and influence the outcome of the presidential election.

Lee Kun-hee was one of 67 people arrested in September and October 1992 for their alleged links with a "spy" ring operated by the North Korean Government. These prisoners were arrested without warrants by the Agency for National Security Planning (ANSP) and many were subjected to beatings and sleep deprivation during interrogation. All were denied access to their families for some 20 days and some were denied access to their lawyers. The prisoners were said to be linked to a large and complex "spy" ring, but to Amnesty International's knowledge there is no evidence that many of them, including Lee Kun-hee, had any connection with spying activities. Around 40 of the prisoners were later sentenced to prison terms ranging from one year to life imprisonment.

Lee Kun-hee with his wife

### *Arrest and Ill-Treatment*

Lee Kun-hee was arrested by seven or eight officials of the ANSP at around 9.00 pm on 26 September 1992. They did not have an arrest warrant and did not identify themselves. In certain circumstances officers may detain and question suspects for up to 48 hours before applying for an arrest warrant but in practice this provision is often used by police to hold suspects *incommunicado*. Lee Kun-hee's wife memorized the number plate of the car which her husband was taken away in and later found out that it belonged to the ANSP. This is how she knew where he had been taken.

Lee Kun-hee was taken to the ANSP interrogation facility for questioning. He says that he was deprived of sleep for the first few days and beaten. Interrogators accused him of possessing pro-North Korean literature and of giving secret information about the 1992 national defence budget to Hwang In-uk, one of the main defendants in this case. After repeated beatings he says he was forced to "confess" that Hwang In-uk was a spy.

Lee Kun-hee's wife was arrested on 14 October and held for 48 hours during which time she says she was threatened and hit. Interrogators apparently told her that she had helped a spy and that she might not see her baby son for a long time if she did not cooperate.

### *Pre-trial publication of ANSP investigation*

On 6 October the ANSP released a sensational "spy" story to the media. It said that it had uncovered the largest spying organization in South Korea since the 1950s and gave detailed descriptions of the case. A large exhibition was set up by the ANSP at Seoul Railway Station, with posters of some defendants, including Lee Kun-hee, who were labelled as crucial links in a large "spy" case. At this time, the defendants had been neither charged nor tried. South Korean law specifically prohibits the pre-trial publication of material related to court cases.<sup>1</sup> Some of the "evidence" exhibited by the ANSP and distributed to the media was eventually dismissed by the courts.

International standards also prohibit any attempt by public authorities to prejudge the outcome of a trial. Article 14(2) of the International Covenant on Civil and Political Rights states that: "*Everyone charged with a criminal offence shall have the right to be presumed innocent until*

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<sup>1</sup>Article 126 of the Criminal Code states that: "A person who, in the performance or supervision of, or in the assistance in, functions involving prosecution, police, or other activities concerning investigation of crimes, makes public, before request for public trial, the facts of a suspected crime which have come to his knowledge during the performance of his duties, shall be punished by penal servitude for not more than three years, or by suspension of qualification for not more than five years".

*proved guilty according to the law".* The Human Rights Committee in its commentary on Article 14 of the ICCPR states that *"It is . . . a duty for all public authorities to refrain from prejudging the outcome of a trial".* Amnesty International is concerned that the public disclosure of information by the ANSP may have compromised the fairness of Lee Kun-hee's trial and violated his right to be presumed innocent until proven guilty.

### *Unfair and Politically-Motivated Charges*

Lee Kun-hee was accused of passing information about the 1992 national defence budget to Hwang In-uk, knowing that he was a North Korean agent and that the information would be passed on to North Korea. According to the authorities, Hwang had received radio-broadcast instructions from North Korea and had joined the Central Regional Chapter of the North Korean Workers Party, an "anti-state" organization. The ANSP claimed that this Central Regional Chapter had been set up in July 1991 with the help of North Korean agents. However, the ANSP was later unable to prove its existence before the courts.

Lee Kun-hee admitted giving the information to Hwang In-uk, a former student friend, but he argued that the information was not a state secret and had already been published in the Ministry of Defence publication, *Defence News*. At his first trial in November 1992 Lee Kun-hee said:

*"It is true that I handed the national defense budget outline for 1992, a class two military secret, to Hwang In-uk, my college friend, but I thought that it was not a military secret because it had been reported in the newspapers earlier and I never imagined that the document would be sent to North Korea."*

Lee Kun-hee was also accused of possessing pro-North Korean literature and a video which praises the North Korean leader, President Kim Il Sung.

The authorities' description of the whole case is highly complex but to Amnesty International's knowledge, there is no evidence that many of the defendants had any involvement in spying activities. Many are held solely for belonging to pro-reunification groups, deemed to be "anti-state" organizations, or for passing information to friends and colleagues whom the authorities later accused of being North Korean agents.

Under the National Security Law the definition of "espionage" has been widely interpreted. The courts have ruled that a "state secret" can be any information which is useful to North Korea, even if it is publicly available in the South. The law has often been used to imprison people who met North Koreans in third countries or who disseminated information deemed to be useful to the North - even when this information had already been made public.

Under the National Security Law, an "anti-state" organization is defined as one, "with the structure of command and control, as organized for the purpose of assuring a title of the government or disturbing the State". This definition has been widely interpreted by the South Korean courts which have used the term to describe a variety of domestic organizations and even the North Korean Government. The law has frequently been used to imprison people with left-wing views and those with views considered similar to those of the North Korean Government. A group labelled as "anti-state" by a court becomes illegal *ipso facto*, and its past and present members are all liable to criminal charges under the NSL. In practice, such groups cannot legally challenge the official determination that they are "anti-state".

### *Prisoner of Conscience*

On 15 January 1993 Lee Kun-hee was sentenced to three years' imprisonment under the National Security Law and the Military Secret Protection Law, for giving state secrets to North Korea. Amnesty International has adopted Lee Kun-hee as a prisoner of conscience and is calling for his immediate and unconditional release. It is also concerned at reports that he was deprived of sleep and beaten during interrogation.

The alleged secret information which Lee Kun-hee gave to his friend had already been published by the Ministry of Defence, justifying his belief that this would not be considered secret information. There is no evidence to suggest that he knew the information might be passed to North Korea or used in any way to damage state security.

There is a widespread suspicion that the arrest and conviction of Lee Kun-hee and others were politically motivated. The arrests took place directly before a presidential election and damaged the standing of opposition groups. In particular, the arrest of Lee Kun-hee and the ANSP announcement that he was involved in a "spy" case may have damaged the credibility of the Democratic Party and its presidential candidate Kim Dae-jung.