

TABLE OF CONTENTS

| | |
|---|---|
| 1) INTRODUCTION | 1 |
| 2) ILLEGAL ARRESTS | 2 |
| 3) DENIAL OF ACCESS TO FAMILIES AND LAWYERS | 3 |
| 4) REPORTS OF TORTURE AND ILL-TREATMENT | 5 |
| 5) OUTLINE OF ACCUSATIONS IN THE CASE | 7 |
| 6) RECOMMENDATIONS TO THE GOVERNMENT | 8 |
| Illegal Arrests | 8 |
| Access to Lawyers and Families | 9 |
| Torture and Ill-treatment | 9 |
| Statement by ANSP Official | 9 |
| Operation of the ANSP | 9 |

£SOUTH KOREA

@REPORTED ILLEGALITIES AND ILL-TREATMENT IN THE LATEST "SPY"CASE

1) INTRODUCTION

In late August and September 1992 over 90 people were arrested and interrogated by the Agency for National Security Planning (ANSP). On 6 October the ANSP announced that it had uncovered the largest communist organization in the South since the late 1940s. It was allegedly led by a high-ranking North Korean official who, with the help of more than ten other undercover North Korean agents, had organized a southern chapter of the Workers Party of North Korea, formed the Minjung Party (People's Party), a legal party which was disbanded after two years when it failed to win any seats in the National Assembly elections in March 1992, and infiltrated various sectors of society. The operation's objectives, the ANSP said, was to support the election of an opposition candidate in the December presidential elections, establish a coalition government with the communists in 1993 and achieve the communization of the Korean peninsula during 1995. The ANSP did not report arresting any of the North Korean agents, but some 400 South Koreans were being investigated, among them leading politicians. Those arrested include three leading members of the Minjung Party, and workers and students believed to belong to political groups that align themselves politically with North Korea. They face charges under the National Security Law of belonging to or helping an "anti-state" organization, of illegal contacts with North Koreans and espionage, or failing to report North Korean spies.

Amnesty International is concerned about reports that some of the prisoners were tortured or ill-treated by the ANSP. It is also concerned about illegalities in their arrest and detention which may adversely affect the prisoners' rights not to incriminate themselves and the right to prepare their defence. Many people were arrested illegally without warrants of arrest and in many cases this amounted to abduction by unidentified agents of the ANSP; in most cases the prisoners were denied visits by their families for over 22 days, and the main suspects were denied the right to see their lawyers for 22 days or longer. Amnesty International is calling on the authorities to initiate impartial and thorough investigations into the reports of torture and ill-treatment and into the irregularities in arrest and detention procedures, and to bring to justice officials found to have broken the law or violated the prisoners' basic human rights.

2) ILLEGAL ARRESTS

Many prisoners were arrested or abducted by plainclothes ANSP agents who refused to identify themselves and had no warrants of arrest. The prisoners were either released within 48 hours or a warrant was subsequently obtained from a court within the legal limit of 48 hours.

Reported Illegalities and Ill-Treatment in the Latest "Spy" Case

Under the Code of Criminal Procedure arrests must be carried out in accordance with a warrant issued by a court. The only circumstances in which arrests may take place without a warrant are in cases of flagrant offenders and of "urgent arrests". "Urgent arrests" refer to situations where there are reasonable grounds to suspect that the person may otherwise escape or destroy evidence and, at the same time, "it is not possible to obtain a warrant of arrest from a judge of the competent district court because of the urgency". If a warrant is not obtained the suspect must be released immediately.

From the information available to Amnesty International it would appear that the arrests had been planned in advance and did not amount to "urgent arrests". Furthermore, in several cases where people were detained and interrogated for 48 hours and then released, the purpose of the detention appears to have been an attempt to obtain information about other prisoners rather than the investigation of an offence they were suspected of having committed.

Four members of Kim Nak-jung's family were arrested illegally without warrants of arrest. Kim Nak-jung, 61, a political writer and former co-president of the Minjung Party, was arrested in front of his home at 7am on 25 August 1992 by about eight men. After the house was searched and items seized, his wife and two daughters were forced into a car by some 15 men who refused to identify themselves or to show warrants of arrest. The three women were taken to the ANSP headquarters and interrogated for 48 hours. They were then taken to two hotels and held for eight more days before they were released. During these ten days the women were held incommunicado but upon release had to sign statements that they had stayed at the hotels of their own free will.

On 10 September Choi Ho-kyong, 36, a labour activist and the chairman of the Seoul chapter of the Minjung Party, received a telephone call from somebody he did not know asking for an urgent meeting. He left his house to meet this person and did not return. His wife did not suspect that he had been arrested until 14 September when some people who refused to identify themselves came to search the family home. She received official notification of her husband's arrest on 18 September, showing that a warrant of arrest had been issued on September 12.

Four members of another family were also illegally arrested without warrants of arrests. Hwang In-uk, a 27-year-old post-graduate student of history at Seoul National University, was forced into a car by six men on 10 September near Anyang. He was travelling to a family reunion with two nephews who were detained in the car for two hours. Passers-by who had witnessed the "kidnapping" reported it to the police; when the latter stopped the car the police officers were reportedly beaten by the ANSP agents. The car was later traced and found to belong to the ANSP. The family did not receive official notification of Hwang In-uk's arrest until 20 September; the warrant of arrest was issued on 12 September.

Hwang In-uk's mother, Chon Chae-sun, went to the ANSP headquarters in Namsan on 11 September to try and see her son. In the early afternoon she was approached by an ANSP official who said he wanted to talk to her and promised that she would be allowed to see her son. She accompanied him and was not seen again by her family who filed a missing persons report on 14 September. Her arrest was later confirmed by a radio report.

Song Hae-suk, the wife of Hwang In-oh (the brother of Hwang In-uk and also arrested in this case), was arrested on 9 September. She was meeting a friend in front of a restaurant in northern Seoul when six people took her and her three-year-old son and forced them into a car. Instead of identification she was

Reported Illegalities and Ill-Treatment in the Latest "Spy" Case

shown handcuffs. People nearby protested but to no avail.

3) DENIAL OF ACCESS TO FAMILIES AND LAWYERS

According to information received by Amnesty International all the prisoners detained in this case were reportedly denied visits from their families during the period they were interrogated by the ANSP, in most cases 22 days, and were allowed access only after their cases had been transferred to the prosecution authorities and they had been moved to a detention centre.

Some of the prisoners were allowed to see a lawyer during their detention by the ANSP, apparently after their interrogation had been completed. But lawyers who sought to meet the prisoners facing serious charges had several applications for meetings denied and in several cases had to ask the courts to order that the ANSP allow a meeting.

There are no restrictions under South Korean law to detainees' rights of access to a lawyer. This absolute right is guaranteed by the Constitution and has been confirmed by the Supreme Court. In practice lawyers are appointed by the relatives of a detainee. Unless a detainee refuses to see a lawyer appointed by his family, such a lawyer has the right to meet the suspect.

Detainees also have the right to see their relatives at any time after they are taken into custody, although a court may rule against access to family if it believes that this might result in the detainee escaping or in evidence being destroyed.

Kim Nak-jung was arrested on 25 August but was not permitted to see a lawyer until 7 September, after his lawyers appealed to a court against the ANSP refusal to allow them access to him.

Chang Ki-pyo, 46, Chairman of Minsahyop (Council for Democratic Reform and Social Progress) and former Chief Policy Spokesman of the Minjung Party, was arrested on 26 September with his wife, Cho Mu-ha, 42, Secretary General of Minkahyop (Council of Families for the Realization of Democracy). On 29 September lawyers requested a meeting with them but were refused access. They applied to a Seoul criminal court which ruled in their favour on 5 October. Only then were they allowed to meet the prisoners.

Lawyers were repeatedly denied access to six other prisoners and on 26 September they filed a petition with Seoul District Court which ruled in their favour. The six prisoners are: Choi Ho-kyong (arrested on 10 September); Hwang In-uk (arrested on 10 September); Hwang In-oh (believed to have been arrested on 9 September); Chon Chae-sun (arrested on 11 September); Choi Chin-sop, (arrested on 16 September); and Yong Hong-kwan, (arrested on 12 September). Following the court ruling, lawyers were allowed to see some of the prisoners but continued to be denied access to others. Choi Ho-kyong was only allowed to meet his lawyer on 1 October, some 22 days after his arrest; Hwang In-oh did not meet a lawyer until 7 October, some 28 days after his arrest. In these two cases the prisoners met their lawyers after they had been transferred to the prosecution authorities.

By 30 October 1992, Hwang In-uk, who had been arrested on 10 September, had still not been allowed to

AI Index: ASA 25/31/92 Amnesty International December 1992

Reported Illegalities and Ill-Treatment in the Latest "Spy" Case

see a lawyer, in spite of his lawyer having obtained a court order. Ministry of Justice officials told Amnesty International that the reason for this was that Hwang In-uk had not "appointed" a lawyer. This explanation is, however, unsatisfactory, as under the Code of Criminal Procedure lawyers appointed by either the suspect himself or his relatives or "a person who wishes to become a defence counsel" may meet with the detainee. On 28 October, Hwang In-uk's lawyer filed a complaint.

Commenting on the lawyers who had asked a court to give an injunction allowing them to meet Kim Nak-jung, Chong Hyong-kun, the Deputy Director of the ANSP is reported to have said "Spies such as Kim Nak-jung and his accomplices do not deserve the right to legal assistance while in detention for interrogation. Allowing lawyers of Minbyun (the Association of Lawyers for Democracy) to have an interview with Kim Nak-jung and the other spies is like giving a child a knife."

In the November edition of Monthly Chosun Chong Hyong-kun was reported to have remarked that in cases where prisoners are accused of espionage, the rights of access to lawyers and a public court review of the legality of detention were likely to hamper the progress of the interrogation. The report reads:

"When the arrested people return from their meeting with the lawyers they become like soldiers returning from a victorious battle, very bold and upright. Lawyers advise them not to make any confession. The flow of interrogation is interrupted from this moment. Furthermore, if an application for a review of legality of detention is recognized, then all investigation comes to nothing. If a review of legality of detention is held, then arrested people must be brought to the court. There are among the audience at the court members of their organization and the ensuing debate with the interrogators exposes all the information about the investigation. And this is inevitably reported in the media. Then it becomes impossible to carry on the investigation . . . I believe personally that in cases of spy rings, the special character of the case must be recognized, and considering this, that a review of legality of detention must be allowed to be held incommunicado on the basis of the principle of secrecy."

4) REPORTS OF TORTURE AND ILL-TREATMENT

Many prisoners reported that they had been systematically deprived of sleep by the ANSP and some said that they had been beaten, threatened or forced to do repeated strenuous physical exercises.

Kim Nak-jung was held by the ANSP from 25 August to 15 September. After his transfer to Seoul Detention Centre he revealed that he had been beaten all over his body and on his fingers by a group of ANSP agents using clubs. He had been deprived of sleep and had fainted during interrogation. Visitors saw a scar on his head and bruises on his arms. He told relatives that he had gone through "what no human being should be made to suffer".

Chun Hee-sik, 34, is a trade union activist and an official of the Preparatory Committee of the Progressive Party (PCPP). When an ANSP agent called at his office on 4 September Chun Hee-sik refused to write a statement that he had received money from Kim Nak-jung during the March 1992 National Assembly elections, in which Chun Hee-sik ran as a Minjung Party candidate. He confirmed orally that he had received money but refused to write this down as he was afraid it might be used against Kim Nak-jung. As he was leaving the office of a lawyer whom he consulted later that day, four people who refused to

Reported Illegalities and Ill-Treatment in the Latest "Spy" Case

identify themselves took him and put him in the back of a car and handcuffed him. They did not show a warrant of arrest and refused to identify themselves. They beat him when he shouted that their action was illegal and that they should release him. Chun Hee-sik was then taken to the basement of the ANSP facilities in Namsan. There he was made to change into a military uniform and continually beaten on the back, thigh and neck area by a group of seven or eight men for one hour. His head was also banged against a wall. He was then put under a hot shower and massaged. During his interrogation he saw two doctors who administered medication. He was only allowed to sleep for some four hours during the whole 48 hour interrogation period. After his release he was admitted to a Seoul hospital for treatment. Chun Hee-sik has filed a complaint with the Seoul District Prosecutor's Office about his treatment at the hands of the ANSP.

Son Byung-son, 52, who had been responsible for the reunification policy of the Minjung Party and had been a Minjung Party candidate in the March 1992 parliamentary elections, was arrested on 26 September at his family home in southern Seoul. He later told his family that he had been beaten continually for three days by a group of 13 men. On the fourth day he was forced to do repeated physical exercises, such as squatting with his arms stretched out and standing on his hands while he was asked to confess to the charges against him. He was only permitted to sleep for a few hours each day. On several occasions during this interrogation period a doctor treated him. This included massage and the administering of injections.

Song Hae-suk, the wife of Hwang In-oh, told her lawyer that she had been beaten, shown pictures of torture and threatened with sexual torture. This took place in the presence of her three-year-old son who had been abducted with her and was not released until 19 September. Song Hae-suk said that she had been coerced into signing a statement about her husband's alleged spying activities and had been promised that this would lead to her release.

Chang Chang-ho, a 33-year-old businessman, who was arrested on 11 September said that during his interrogation he was deprived of sleep and that pens and sticks were placed between his fingers which were then squeezed together.

Lee Hyong-du, a 31-year-old English language student arrested on 14 September, told his family that interrogators had hit him and poured cold water over him to prevent him sleeping.

Kim Hyon-chan, a chemistry student arrested on 13 September, told his family that he had been kicked, punched and threatened by interrogators. He was also forced to balance a pen on his outstretched arm and was beaten if the pen fell.

Shim Sang-deuk, a 20-year-old statistics student arrested on 17 September claims that he was deprived of sleep and forced to stand against a wall with his arms raised and to do repeated press ups.

5) OUTLINE OF ACCUSATIONS IN THE CASE

According to ANSP announcements to the press the central figure in the case is a 70-year-old North Korean woman, Lee Son-shil. She is described as being an alternate member of the Politburo of the

Reported Illegalities and Ill-Treatment in the Latest "Spy" Case

Korean Workers' Party (KWP) and a deputy to the Supreme People's Assembly, who lived and worked in South Korea for 10 years and returned to North Korea in 1990. She was allegedly helped by more than ten other North Korean undercover agents. The authorities have not reported arresting any of them.

The "spy ring" is made up of three sections. The ANSP said that among the items of evidence it had seized were three guns, over 80 rounds of ammunition, radio transmitters and code books, and funds.

Hwang In-oh, a former miner and a trade union activist, is accused of having visited North Korea in October 1990 where he reportedly joined the KWP and received instructions on setting up a branch of it in the South. Upon his return he allegedly enlisted the help of his brother, Hwang In-uk, a former student activist, and of Choi Ho-kyong, a labour activist and Minjung Party supporter. He is said to have recruited 12 people into the KWP and to have set up the Central Regional Chapter in July 1991 to which a number of workers or student groups which support North Korea were allegedly affiliated. The ANSP accuses the Hwang brothers of having received instructions from North Korea and of having sent reports to them, by radio communications or messages conveyed by visitors to Japan, and to have received operational funds from the North. Several of the prisoners and people apparently wanted by the authorities in this case have said that they were not aware that the discussion groups they belonged to at university or in their workplaces were part of the Central Regional Chapter of the KWP or that they did not know that it had links with North Korea.

Kim Nak-jung, 61, a political writer and former co-president of the Minjung Party, is accused of having met four North Korean agents between 1990 and 1992. He admits this and of having received money from them which he used to finance the Minjung Party. At the first hearing of his trial on 12 November, he said "I did not report [to the authorities] on my meetings with North Korean agents because I thought that so long as I did nothing to subvert the Republic of Korea, I would not be breaking the law". Kim Nak-jung is accused of being a member of the KWP and of leading a team of four people in various "espionage" activities.

Son Byung-son, 52, who was responsible for reunification policies in the Minjung Party and a Minjung Party candidate in the March 1992 parliamentary elections, is accused of being a member of the KWP and of having received instructions from North Korea, by radio and letters, on various aspects of activities and policies of the Minjung Party, including an instruction to set up an underground leadership of the party loyal to North Korea. The authorities say that Son Byung-son recruited his wife and his daughter. The latter, Son Min-yong, 31, has also been arrested.

Chang Ki-pyo, 46, Chairman of Minsahyop (Council for Democratic Reform and Social Progress) and former Chief Policy Spokesman of the Minjung Party, and his wife, Cho Mu-ha, 42, Secretary General of Minkahyop (Council of Families for the Realization of Democracy) are accused of not reporting Lee Son-shil to the authorities. Both deny knowing that she was a North Korean agent.

6) RECOMMENDATIONS TO THE GOVERNMENT

Illegal Arrests

Reported Illegalities and Ill-Treatment in the Latest "Spy" Case

The authorities should make public information showing in all the 90 cases of people taken into custody by the ANSP the dates of actual "arrest" and the date a court issued a warrant of arrest.

The authorities should prosecute the officials who arrested people in violation of the legal requirements on obtaining warrants of arrest.

The authorities should ensure that the practice of arrest without warrants is stopped in all cases except in the circumstances allowed by law.

Access to Lawyers and Families

The authorities should initiate prosecutions against the officials found to have violated detainees' right to meet with their families and lawyers.

The authorities should review detention procedures and implement such procedures as would prevent further instances of illegal denial of access to lawyers and relatives.

Torture and Ill-treatment

The prosecution authorities should initiate investigations into all the reports of torture and ill-treatment. The authorities should make public the nature and methods of their investigations into reports and complaints of torture and ill-treatment and publish their conclusions. Any officials found responsible for having committed or having ordered torture or ill-treatment should be brought to justice.

Statement by ANSP Official

An inquiry should be conducted into the reported comments by an ANSP official that the right of access to a lawyer and the right to a public court review of the legality of detention are likely to hamper the progress of interrogation of people suspected of "espionage" activities. Disciplinary or other action should be taken if the comments did indeed amount to the opinion that prisoners should not be granted some basic rights guaranteed by law.

Operation of the ANSP

In view of the irregularities and human rights violations committed by the ANSP in its investigation of this case, its powers to arrest and detain suspects should be suspended until measures to effectively protect the basic rights of detainees have been introduced.