

# £SOUTH KOREA

## @Recent Human Rights Violations: Kim Sam-sok and Kim Un-ju

Amnesty International is calling for the immediate and unconditional release of Kim Sam-sok, sentenced to seven years' imprisonment under the National Security Law. His sister Kim Un-ju was released after being given a suspended prison sentence and Amnesty International is calling for her release to be unconditional. It is also calling for an independent inquiry into claims that the two were forced under torture to confess to "anti-state" activities and that they were convicted under the National Security Law in violation of their fundamental human rights.

Kim Sam-sok, aged 28, studied Russian language at Hankuk University of Foreign Studies. During 1992 he worked as a staff member of the Korean Alliance of Anti-Nuclear and Peace Movements and in 1993 he became Secretary General of the Pacific War Victims Committee. He has written a number of published articles on anti-nuclear and disarmament issues. In June 1993 Kim Sam-sok attended the World Conference on Human Rights, held in Vienna, Austria, as a delegate of KONUCH (Korean NGO Network for the World Conference on Human Rights). At the time of her arrest Kim Un-ju, aged 24, was preparing to study in Japan. She had worked for the Korean Council for Women Drafted for Sexual Slavery by Japan (during World War II) as a Japanese-language translator. She was also active in the Catholic youth movement.

Kim Sam-sok

Kim Un-ju

### *Arrests by the Agency for National Security Planning*

Kim Sam-sok and Kim Un-ju were arrested on 8 September by some 15 men who did not have warrants of arrest and did not identify themselves. The arrest warrants were not issued until 10 September, two days later, and during these two days the prisoners were held without access to lawyers or family. Kim Un-ju was arrested outside Seoul Express Bus Terminal and Kim Sam-sok was arrested at his home. Their family knew about the arrests because witnesses saw Kim Sam-sok being taken away and because police came to search their parents' home. However, the family received no official notification of the arrests and were unable to find out where the two prisoners were held until 1.30pm on 10 September when a journalist at the prosecutor's office told them that the Agency for National Security Planning (ANSP) had applied for arrest warrants. Kim Sam-sok's wife and a lawyer went to the ANSP on the afternoon of 10 September but were denied access to the prisoners. The lawyer was therefore unable to see them until 11 September, three days after their arrest. By this time, they had already been ill-treated.

### *Torture and forced "confessions"*

The two prisoners were held and interrogated by the ANSP from 8 to 24 September. Their arrest warrants stated that the two were held at Jungbu Police Station, but according to lawyers, the family and the prisoners themselves, they were held throughout this period by

the ANSP<sup>1</sup>. They were held *incommunicado* for two days and thereafter were only allowed brief meetings with lawyers and family. In Amnesty International's view, these conditions of detention often lead to torture and ill-treatment.

Kim Sam-sok and Kim Un-ju said that they were unable to talk freely of their treatment at the ANSP until after 24 September, when they were transferred to Youngdungpo and Seoul Prisons. However, a family member who saw them briefly on 10 September was alarmed to see how exhausted and dazed they looked. Kim Sam-sok did not appear to know where he was and said he had been unable to sleep. In later meetings with lawyers, family members and at their trial, the two prisoners said that they had been beaten, deprived of sleep and subjected to sexual abuse. They both said that ANSP interrogators had threatened to ill-treat the other if they did not make a confession.

Kim Un-ju said that she was deprived of sleep for three or four days after her arrest, forced to do repeated physical exercises, slapped, shaken and insulted. She also said that interrogators threatened to strip her naked and to abuse her sexually if she did not make a confession. She was told to confess to meetings with members of an "anti-state" group in Japan.

On 20 September and in the presence of his lawyer Kim Sam-sok continually banged his head against the wall, inflicting neck and back injury on himself. He later explained that as he was unable to speak about his torture, he wanted to show the outside world what had happened to him during interrogation. He said that he had been beaten, stripped naked and sexually assaulted. He was forced to put his thumbprint on a confession stating that he had met North Korean agents in Japan. He tried to avoid this by biting his thumb but was prevented from doing so.

Torture and ill-treatment are prohibited under South Korean law, but in practice there are insufficient safeguards to prevent such abuse. Amnesty International receives frequent reports that political prisoners are deprived of sleep and sometimes beaten by officials of the ANSP or the Police. Because these abuses leave little or no mark on the body, it is difficult and often impossible for prisoners to lodge formal complaints after the event.

Amnesty International has called for new safeguards to prevent *incommunicado* detention, torture and ill-treatment. It has also urged the South Korean Government to ratify the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The government has yet to implement these measures.

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<sup>1</sup>South Korean officials have indicated that Kim Sam-sok and Kim Un-ju were detained in Jungpu police station, in accordance with the arrest warrant, but were taken for interrogation to ANSP premises. However, Amnesty International believes that the detainees actually remained on ANSP premises from 8 to 24 September.

### *Pre-Trial Publication of ANSP Investigation*

On 24 September, one month before the two prisoners were charged, the ANSP released the results of its investigations to the media in a 22-page news release entitled *The Kim Sam-sok and Kim Un-ju "spy case": a case connected with a North Korean espionage organization in Japan*. The report gave details of "operational funds" the two had allegedly received for spying purposes, how Kim Sam-sok was recruited as a spy, orders he received and details of their alleged activities as spies. This information was presented as fact, although the prisoners had been neither charged nor tried. In November 1993 officials of the Ministry of Justice told Amnesty International that the publication of such material was justified because the public and the media had a "right to know the truth".

South Korean law specifically prohibits the pre-trial publication of material related to court cases.<sup>2</sup> 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 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 Kim Sam-sok and Kim Un-ju's trial and violated their right to be presumed innocent until proven guilty.

### *Unfair charges under the NSL*

On 23 October Kim Sam-sok and Kim Un-ju were charged under Article 4 of the NSL for meeting and passing "state secrets" to "agents" in Japan. Both denied the charges against them and said that during their 45-day interrogation they had been forced to make confessions. The agents in question are said to be members of a group called *Hantongnyon*, labelled as "anti-state" by the South Korean authorities. As far as Amnesty International is aware, *Hantongnyon* is a group of Korean residents of Japan working on human rights and democracy issues. It acquired its "anti-state" label in the 1970s when it was campaigning for the release of Kim Dae-jung, then a vocal opponent of South Korea's military dictatorship

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<sup>2</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".

and recent presidential candidate in South Korea. The alleged state secrets comprised articles already published in newspapers and journals such as *Hankyoreh Shinmun*, *Mal* and a book written by Kim Sam-sok called *Youth and the Army*. This material was and still is publicly available in South Korea.

The ANSP also said that Kim Sam-sok had visited Japan twice to meet a North Korean agent who had ordered him to join dissident organizations in South Korea, to campaign for democracy in the military and to spy for North Korea. He denied this charge. Both prisoners are accused of receiving money from *Hantongnyon* members but Amnesty International understands that this money was a gift from friends who wanted to help out with Kim Un-ju's studies and to contribute to Kim Sam-sok's wedding.

Under the NSL the term "anti-state" has been defined very broadly to include groups with left-wing views, those which have views similar to those of the North Korean Government and other government critics. Any person having contact with such an "anti-state" group may be punished under the NSL. Similarly, the concept of "state secret" may be anything which could be useful to North Korea, even if it is publicly available in South Korea. For many years Amnesty International has called for the NSL to be amended so that it cannot be misused to detain people who were merely exercising their rights to freedom of expression and association. The government has failed to initiate such reform.

### *Trial and Verdict*

Kim Sam-sok and Kim Un-ju were tried together before Seoul District Court. During the first trial hearing in December 1993 they told the court that they had been ill-treated by ANSP interrogators and both denied the charges against them. Kim Sam-sok also said that he was not informed of the accusations against him at the time of his arrest and that throughout his 45-day interrogation he had never been informed of his right to remain silent. On 28 February Kim Sam-sok was sentenced to 7 years' imprisonment. Kim Un-ju was given a three-year prison sentence, suspended for five years, and released.

Amnesty International is calling for the immediate and unconditional release of Kim Sam-sok and Kim Un-ju as it believes they are held for the non-violent exercise of their rights to freedom of expression and association. It is also urging the authorities to conduct an independent inquiry into reports that Kim Sam-sok and Kim Un-ju were subjected to serious abuse by the ANSP.