

£SOUTH KOREA

@Amnesty International Urges Ratification of The UN Convention Against Torture

In February 1993 Kim Young-sam was inaugurated as president of the Republic of Korea (South Korea). In his inaugural address to the nation, the President stated his commitment to democracy and freedom and the birth of a "new Korea". He said "The new Korea will be a freer and more mature democratic society. Justice will flow like a river throughout this land."

Amnesty International welcomes the new President's commitment to greater democracy and freedom but is concerned that human rights abuses may still occur in South Korea because of a lack of effective safeguards to protect the rights to freedom of expression and association, the right to a fair trial and protection from torture and ill-treatment. Amnesty International believes that all governments can and should demonstrate their commitment to the protection of human rights through ratification of international human rights treaties. It welcomed South Korea's accession to the International Covenant on Civil and Political Rights in April 1990 and is now urging the government to demonstrate its commitment to end torture and ill-treatment in South Korea through early ratification of the United Nations Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (hereafter referred to as the Convention Against Torture).

Why should the government ratify the Convention Against Torture?

Amnesty International believes that past governments have failed to take effective steps to end torture and ill-treatment in South Korea. Ratification of the Convention Against Torture would demonstrate the new government's firm commitment to eradicate such practices.

Article 12 of the Constitution of the Republic of Korea prohibits all forms of torture and ill-treatment, as does article 7 of the International Covenant on Civil and Political Rights, ratified by the Republic of Korea in April 1990. However, Amnesty International has received reports of prisoners being beaten, deprived of sleep and forced to do repeated physical exercises during interrogation. In very few cases has the government instituted independent and impartial investigations and few cases have led to prosecution of law enforcement officials. Some examples of recent abuses are described in this document.

Abuses by the Agency for National Security Planning

Most recent abuses were carried out by the Agency for National Security Planning (ANSP). The ANSP may detain and interrogate prisoners for up to 20 days before charges are made -

a period of time which Amnesty International believes is excessive and may easily lead to the abuse of prisoners' rights. In August and September 1992 over 60 prisoners were detained by the ANSP for their alleged involvement in a "spy ring" said to have been operated by the North Korean Government. Most of the prisoners said that they had been systematically deprived of sleep during interrogation by the ANSP and some said that they had been beaten, threatened or forced to do repeated physical exercises. Some of the main suspects were denied the right to see a lawyer for 20 days or longer.¹

The ANSP official responsible for investigation of this case 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. Amnesty International is concerned that his words betray a belief that the ANSP can operate above and beyond the law. Some examples of human rights abuse in this case are given below.

Kim Nak-jung, 61-year-old political writer and former co-president of the *Minjung* (People's) Party, was held by the ANSP from 25 August to 15 September 1992. He said that he had been beaten all over his body and on his fingers by a group of ANSP agents using clubs. He said he had been deprived of sleep and had fainted during interrogation. He told relatives that he had gone through "what no human being should be made to suffer". His wife and two daughters were also detained and held *incommunicado* for ten days. They were threatened and deprived of sleep. In February 1993 Kim Nak-jung was sentenced to life imprisonment on charges of espionage.

Chun Hee-sik, 34-year-old trade union activist, was arrested by ANSP officials on 4 September 1992 without a warrant of arrest and held for 48 hours. He said that he had been forced to change into a military uniform and was beaten on the back, thigh and neck by a group of seven or eight men for one hour. During his interrogation he saw two doctors who administered medication. He was only allowed to sleep for four hours during the whole interrogation period. After his release he was admitted to a Seoul hospital for treatment.

Song Hae-suk, the wife of one of the main suspects, was arrested on 9 September 1992 by ANSP officials. She 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. She said that she

¹See *South Korea, Reported Illegalities and Ill-Treatment in the Latest "Spy" Case* (ASA 25/31/92), issued by Amnesty International in December 1992.

had been coerced into signing a statement about her husband's alleged spying activities. She was given a suspended prison sentence and released after her trial in early 1993.

Noh Jung-son, 53-year-old Secretary General of the Association for the Study of Peace and Reunification was also interrogated by ANSP officials after his arrest on 27 August 1992. During his trial he told the court: "I was illegally and forcibly arrested. . . The statements were coerced [from me] by means of humiliating and brutal forces which destroyed the humanity of a man. It was not until I submitted and admitted all the things the investigation agency wanted that I was allowed to have an interview with a lawyer. After the interview with my lawyer, I was forced to tell them the contents of the interview". Noh Jung-son was given a suspended prison sentence and released after his trial in early 1993.

In March 1993 the ANSP's new director announced that the agency would be reorganized. He said that it would no longer conduct surveillance of political activists and would limit its future activities to the investigation of "espionage" activities. However, to Amnesty International's knowledge he did not give any guarantee that the ANSP's powers of arrest and interrogation would be curtailed or subject to review, neither has the agency replied to any of Amnesty International's written communications expressing concern about the abuse of prisoners' rights.

Abuses committed by the police

The police have also been responsible for the abuse of prisoners' rights. Reports of beatings administered to both political and ordinary prisoners are sometimes passed to Amnesty International or reported briefly in the South Korean media. One well-documented instance of abuse occurred in March 1992 when five members of *Chunkyojo* (Korean Teachers' and Educational Workers' Union) claimed to have been beaten by police officers at Yongdungpo and Nambu Police Stations in Seoul. The five were arrested after a protest meeting on 2 March and were released after questioning. **Pae Choon-il**, 51-year-old Vice President of *Chunkyojo*, said he was forced to lie on the floor while a group of officers trod on his neck, pulled his hair, pulled his arms and legs behind him and punched him in the back and shoulder. **Kim Sang-chol**, aged 41, alleged that he was repeatedly hit in the head and chest and dragged down two flights of stairs.

Lee Jong-chon, aged 35, said that he was hit in the chest and head by several officers, made to lie on the floor while officers trod on his back and was forced to stand up and sit down repeatedly. Other officers blindfolded him, pulled his hair, twisted his legs and wrenched his neck. The five members filed official complaints against the police officials involved but, to Amnesty International's knowledge, no independent investigation was carried out and no prosecutions were ordered.

Convictions said to have been based on confessions extracted under torture

A further area of concern involves some 25 prisoner who were sentenced to lengthy prison terms under previous governments for alleged espionage activities and who are said to have been convicted on the basis of a confession extracted under torture. The authorities have consistently refused to review these convictions, although South Korean human rights groups and Amnesty International have documented a consistent pattern of irregularities in the trial proceedings, including the use of torture.

These prisoners include 60-year-old **Ham Ju-myong** who was arrested in February 1983 and sentenced to life imprisonment. He claims to have been deprived of sleep and subjected to electric shock and water torture for some 60 days after his arrest.

Hwang Tae-kwon, aged 37, was arrested in June 1985. In 1988 he wrote from prison ". . . after 60 days of torture and beatings in the basement of the ANSP and after three years' of imprisonment for a crime I did not commit, having been silenced all those years, I hope my story will expose the crimes that were committed against me by the powers-that-be in order to extract my 'confession'." He remains in prison today.

Another prisoner, 49-year-old **Park Dong-oon**, and several members of his family were arrested in March 1981. They told Amnesty International that they were forced to make false statements under torture which led to the conviction of Park Dong-oon who is currently serving a life term.

Investigations and prosecutions

Most reports of torture and ill-treatment do not appear to have been investigated adequately and Amnesty International knows of very few cases in which law enforcement officials were prosecuted for inflicting torture. In October 1992 the Director of the Human Rights Division of the Ministry of Justice told Amnesty International that a report of torture or ill-treatment is only investigated if the victim makes an official complaint. He conceded that very few complaints are made and concluded that people did not trust the authorities. This was

confirmed by victims and their families who told Amnesty International that there is little point in making a complaint because, in their view, justice will not be done. Some examples of complaints which do not appear to have been adequately investigated are given below.

Hong Song-dam, a 38-year-old artist, claimed to have been beaten severely and deprived of sleep following his arrest in July 1989 under the National Security Law. During his trial in September 1989 a forensic pathologist told the court that he had carried out a medical examination of the defendant and had ascertained that he still bore bruises that were the direct result of "battery and kicking". In late 1989 Hong Song-dam filed a complaint with Seoul District Prosecutor's Office but by October 1992 he had received no information about his case. The Ministry of Justice were aware of the complaint but were unable to provide Amnesty International with any information about what investigation had been carried out.

Pang Yang-kyun, 38-year-old secretary to National Assembly member Suh Kyung-won, was arrested in July 1989 under the National Security Law. During his trial Pang Yang-kyun alleged that he had been subjected to beatings, death threats and sleep deprivation by the ANSP and the prosecution. He said that he had been forced to sign a statement agreeing not to disclose his treatment by the ANSP. In its verdict the court conceded that: "In Pang Yang-kyun's case the court cannot rule out the possibility that he was tortured while being interrogated by the ANSP. But it cannot be viewed that such duress continued while he confessed to prosecutors." In spite of this ruling, Pang Yang-kyun was sentenced to seven years' imprisonment and there appears to have been no independent investigation into the allegations of torture.

Several members of *Sanomaeng* (Socialist Workers' League) claimed to have been tortured following their arrest under the National Security Law in October 1990 and March 1991. They included **Park No-hae** who told his lawyers that during interrogation by the ANSP he had been systematically beaten and deprived of sleep. The United Nations Special Rapporteur on Torture raised these cases with the South Korean Government on 6 August 1991. In its reply, dated 14 November 1991, the government said that the court had rejected the complaint of torture. No further information was given about the nature of the investigation carried out or why the complaint was rejected.

What are the obstacles to ratification?

For many years Amnesty International has urged the South Korean Government to ratify the Convention Against Torture and as long ago as 1988 the then Prime Minister Lee Hyun-jae announced that his government was preparing to sign the treaty. In October 1992 an official of the Ministry of Justice told Amnesty International that inter-ministerial discussions were taking place with a view to ratification. However, the treaty remains unsigned and the government has yet to make any specific commitment to ratify.

In order to comply with the terms of the Convention Against Torture, Amnesty International believes that the South Korean authorities will need to make changes to current arrangements for custody and interrogation of suspects and to strengthen domestic safeguards against torture.

For example, to comply with Article 11 of the Convention Against Torture the authorities will need to conduct a systematic and regular review of the current detention and interrogation procedures used by the ANSP. Although the Code of Criminal Procedure states that all places of detention should be subject to regular inspection by the prosecution authorities, this procedure does not appear to be enforced with regard to the ANSP. In October 1992 the Ministry of Justice failed to respond to a query from Amnesty International as to whether the ANSP had been subject to any such inspection during the previous three-month period.

The ANSP is responsible for both the detention and the interrogation of suspects. In Amnesty International's experience of documenting torture and ill-treatment throughout the world and seeking to prevent such abuses, the formal separation of authorities responsible for interrogation of suspects from the authorities responsible for their detention and welfare is one effective safeguard against the practice of torture and ill-treatment.

The investigation of complaints is another area in which current practice needs to be reviewed. In order to comply with Article 12 of the Convention Against Torture, the authorities will need to ensure that every report of torture or ill-treatment (not only formal complaints) is investigated promptly.

Amnesty International's recommendations

International human rights guarantees

1) The government should ratify the Convention against Torture immediately and without making any reservations. It should make a declaration under Articles 21 and 22 of the Convention recognizing the competence of the UN Committee against Torture to receive communications from states parties and individuals about alleged violations of the Convention.

Review of domestic safeguards:

2) The role of the ANSP in the detention of all political prisoners should be reviewed. Its powers of arrest and interrogation should be suspended until effective measures to protect the basic rights of detainees have been introduced.

3) An impartial examination should also be made into the prosecution authorities' handling of individual complaints of human rights abuses filed by political prisoners.

Strengthening of domestic safeguards:

3) The government should ensure that there is in future a clear division between the authorities responsible for interrogation and those responsible for the detention of suspects.

5) All reports of torture or ill-treatment should be promptly investigated by an impartial and independent body. The absence of an official complaint by the victim or relatives should not deter investigation.

6) The results of all inquiries should be made public and should include a full report of the inquiry's findings, conclusions and recommendations.

7) Law enforcement officials found to be responsible for inflicting torture should be brought to justice and victims should receive fair and adequate compensation.

8) The government should ensure that all law enforcement personnel receive adequate training in both domestic and international human rights standards.