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REPUBLIC OF KOREA (SOUTH KOREA)

Summary of Concerns on Torture and Ill-Treatment

1) Introduction

In November 1996 the United Nations Committee against Torture will examine South Korea's Initial Report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). In its report the South Korean Government describes the measures it has taken to give effect to its obligations under the Convention against Torture. To assist the Committee, Amnesty International has prepared this summary of its current concerns about torture and ill-treatment in the Republic of Korea (South Korea). Further information may be obtained from documents listed in the Appendix of this document.

Torture and ill-treatment are prohibited by the South Korean Constitution and other domestic laws.¹ Since the late 1980s the South Korean authorities have taken a number of measures to prevent the occurrence of torture. Generally political prisoners now have access to their lawyers earlier; a small number of police officers have been prosecuted and tried for torturing detainees; and there have been cases in which the courts have ruled that confessions obtained under duress during interrogation were inadmissible as evidence at trial.

In practice, however, legislative, administrative, judicial and other measures in place have not been effective in preventing torture and ill-treatment. Amnesty International believes that changes are urgently needed in pre-trial detention practices, training of law enforcement officers and in the traditionally heavy reliance by police and judicial officials on confessions obtained during interrogation. There needs to be a more effective system for investigating complaints and reports of torture and ill-treatment and for compensating victims. The South Korean Government should make a declaration under Article 22 of the Convention against Torture, recognizing the competence of the Committee against Torture to consider individual complaints.

2) Torture and Ill-treatment by the Police

a) Summary of concern

The use of sleep deprivation and threats during police interrogation appear to be routine. In most cases of arrest for political offences reported to Amnesty International, detainees are only allowed to sleep for a few hours each night. They are generally subjected to unreasonably long sessions of questioning, without the presence of lawyers, during which they are often threatened. In some cases detainees are also beaten. According to information available to Amnesty International, in political cases ill-treatment appears to be inflicted with the aim of obtaining confessions.

¹Article 12(2) of the Constitution of the Republic of Korea: No citizen shall be tortured or compelled to testify against himself in criminal cases.

b) Example: arrests of students in August 1996

Over 5800 South Korean students were arrested between 12 and 22 August 1996 following a violent confrontation with riot police on the campus of Yonsei University in Seoul. On the basis of reports and testimonies gathered by Amnesty International and other human rights groups, human rights violations in the course of arrest and interrogation appear to have been widespread. These included beatings, threats, and sexual assault.

Amnesty International does not condone the use of violence by students. But in many respects it believes the police action was excessive and resulted in human rights violations. From 12 August the police deployed over 20,000 officers at Yonsei University and from 15 August they sealed off part of the campus, blocking the delivery of food and arresting any student who tried to leave. An average 1000 tear gas canisters were dropped each day on the campus by helicopter. Thousands of students who were trapped on the campus suffered from skin blisters as a result of exposure to tear gas, some sustaining more serious burns.

On 20 August the police stormed onto the campus and arrested over 3000 students.

Amnesty International received numerous reports that students were beaten during arrest. Reports of ill-treatment were received from eye-witnesses and victims themselves. Many female students told human rights groups that they had been ill-treated in a sexual manner. They said that police had touched their breasts, shouted insults of a sexual nature and threatened to rape them. Many male and female students said they were hit by police with batons, kicked and threatened.

According to reports received by Amnesty International, students were also systematically ill-treated while they were held at police stations throughout Seoul. Most were forced to sit or kneel in the same position for several hours without a break and some were beaten and threatened during interrogation sessions. Most were not allowed to telephone their families and were not allowed to see their families or a lawyer until their release, up to 48 hours after arrest. Many were forced to write a statement of "confession".

Students who appeared to be seriously injured were taken to a police hospital for treatment. Those with less serious or less obvious injuries were taken to police stations and received no medical attention until their release, some 48 hours later. One injured student told Amnesty International that he had received no medical attention at a police station in spite of repeated requests for help. When he was released he went to hospital where he underwent surgery for an injury to his foot.

Some of those detained had no apparent connection with the demonstration and had simply been walking in the area surrounding the campus. They were also placed in police buses and beaten. One such student told Amnesty International he needed two weeks' medication to recover from bruising and back pain he sustained as a result of beatings by the police.

The number of students who were ill-treated is unknown. However, on the basis of testimonies and eye-witness accounts, the abuse appears to have been widespread. A group of human rights activists in South Korea interviewed a random selection of over 100 students, the majority of whom reported that they were subjected to some or all of the abuses listed above. Out of 70 female students interviewed by the group, 41 said they had been subjected to sexual harassment during arrest. The following accounts were related

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to Amnesty International by students who were detained by the police.

Mr Im was arrested on 15 August near to the university, on his way to a part-time teaching job.² As he walked along, police stopped him twice and asked to see his identity card. He was in a hurry and on the second occasion he refused to show the card. He was then detained by six policemen who forced him into a car. When he protested, he was hit with a baton on his shoulders and back. The police refused to say where he was being taken. He was taken to Sudaemun Police Station where he was interrogated from 11pm until 4am the following morning. He was beaten when he tried to exercise his right to remain silent. One policeman said “only reds exercise their right to remain silent”. He was interrogated again the following day and this time he decided to answer questions. He made the following statement: “I exercised my right to silence and for this reason I was beaten”. He noticed that the police did not include this statement on their investigation report, and when he mentioned this, they beat him again. He was released without charge 47 hours after his arrest and went to see a doctor. He needed two weeks’ of medication to recover from his injuries.

When she was arrested on 20 August, Ms Kim was on the fifth floor of the administration building at Yonsei University. There were other female students with her and they were told to walk down the stairs to the ground floor. Police stood on either side of the staircase and grabbed at the women’s breasts and other parts of their bodies as they descended the stairs. The students were also beaten as they were put into a police bus and taken to Tongdaemun Police Station. Inside the bus, policemen were abusive and threatening, making insults of a sexual nature. Ms Kim was released without charge the following morning.

Mr Kim was on the roof of the administration building when he was arrested on 20 August. He and other students were then told to walk down the staircase to the ground floor. Policemen stood on either side of the staircase and hit the students with batons as they descended. When they reached the ground floor they were handcuffed and were again beaten as they were escorted to police buses. Mr Kim was taken to Kangnung police station where he was interviewed for two hours. During interrogation he was beaten when he denied having used firebombs or steel pipes. At one point police made him stand on his head for ten minutes, in an attempt to make him say that he had used firebombs and steel pipes. He was released without charge, less than 48 hours after his arrest.³

3) Torture and ill-treatment by the Agency for National Security Planning (ANSP)

a) Summary of concern

In September 1996 the South Korean Government announced plans to strengthen the role and powers of the Agency for National Security Planning (ANSP). Amnesty International is concerned that increasing the powers of this agency, which has been responsible for human rights violations in the past, may lead to further human rights violations.

²Some students told Amnesty International that they did not wish their full names to be used, in order to protect their privacy. For this reason, the full names of students detained in this case are not given in this report.

³For further information, including student testimonies, please refer to *Mass ill-treatment of students in August 1996* (AI Index: ASA 25/26/96), published by Amnesty International in October 1996.

AI Index: ASA 25/25/96 Amnesty International October 1996

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The ANSP has for decades been responsible for the investigation of many people suspected of national security offences and it has committed numerous human rights violations, including torture and ill-treatment. In January 1994, the role and powers of the ANSP were restricted by law with the passing of an amendment to the National Security Planning Agency Act (ANSP Act).⁴ The reasons for the amendments included the need to ensure the Agency's political neutrality and to strengthen the control over it by the legislature.

The 1994 revision introduced two new provisions prohibiting ANSP officials from violating the rights of detainees. Officials were required to observe legal procedures for the investigation of offences and to notify detainees of their rights.⁵ The revised act also removed from the ANSP the power to investigate offences under Article 7 of the National Security Law (praising, encouraging and siding with an "anti-state" organisation) and Article 10 of the same law (failing to report to the authorities a person who has violated specified offences under the National Security Law).

However, the ANSP has continued to have, and exercise, the power to investigate offences under other articles of the National Security Law and to interrogate suspects. Although the number of arrests carried out by the ANSP has decreased since 1994, Amnesty International has received reports which indicate that the agency has continued to be responsible for serious human rights violations committed against detainees.

In September 1996 the South Korean Government announced plans to strengthen the role and powers of the ANSP, restoring its rights to investigate cases of people held under Articles 7 and 10 of the National Security Law. Since the majority of people arrested under the National Security Law are held under Article 7, the proposed amendment would give the ANSP powers to investigate cases of most detainees held under the National Security Law. Given the ANSP's poor human rights record, this proposal is of deep concern to Amnesty International.

Descriptions of two cases of alleged ill-treatment by the ANSP follow.⁶

b) Example: the case of Park Chung-ryol

Park Chung-ryol, Deputy Chairman of the National Alliance for Democracy and Unification of Korea (NADUK), was arrested at 2.30am on 15 November 1995 by the ANSP. Officials identified themselves and showed him an arrest warrant but they did not allow him to read the warrant and did not tell him the reason for his arrest. He was taken to Socho Police Station where he signed a document which apparently recorded that he was detained there. However, he said he was then taken to the ANSP's interrogation facility at Naekukdong where he was held and questioned for the next 21 days.

Park Chung-ryol told Amnesty International that when interrogation started he was told of his right to

⁴The ANSP Act was amended in December 1993. The amended law came into effect in January 1994.

⁵Article 11(1) of the ANSP Act prohibits members of the ANSP from "abusing their authority by arresting or confining a person without following the procedures specified in law or compelling other organizations or persons to perform a duty beyond the scope of their position or which hinders the exercise of a person's rights". Article 11(2) requires members of the ANSP to observe the legal procedures for the investigation of offences, including notification of the right to a lawyer and the right to see a medical doctor.

⁶For information about other cases of alleged ill-treatment by the ANSP, see: *International standards, law and practice: the need for human rights reform* (AI Index: ASA 25/25/96), published in November 1995. Amnesty International October 1996 AI Index: ASA 25/25/96

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remain silent and his right to see a lawyer, but officials started to hit him immediately after they had said this. In practice throughout the period of interrogation by the ANSP he was not permitted to exercise his right to remain silent. He said that he was not permitted to contact his lawyer or family, but they found out where he was being held and in the afternoon of 15 November he saw a lawyer. After this he was allowed to see a lawyer for ten minutes each day, except for a three-day period when he was denied access. He was permitted to see his family on two occasions throughout the period of interrogation by the ANSP.

Park Chung-ryol said that each day he was questioned in a small room by a team of about 15 people who tried to make him “confess” that he had spied for North Korea. Questioning would start in the early morning and continue until late evening. In a 24-hour period he was allowed to sleep for less than one hour, usually in the morning. After this he was deprived of sleep and interrogators would pull his hair and pour cold water over him if he tried to sleep. Each day he was forced to wash and shower in cold water for almost one hour. He was often beaten and forced to stay in the same position for several hours (for example, he was forced to kneel down and hold a chair above his head).

For a three-day period, between 30 November and 3 December, he said he was taken to places outside Seoul, including two burial places and a mountain area where the officials told him to look for a radio transmitter they said that he had hidden. During these three days he was severely beaten by about 20 officials who also threatened to kill him unless he said that he had joined the Workers Party of [North] Korea. On one occasion he was stripped and forced to stand in the cold for about five hours. During this three day period he was denied all access to his lawyer.

After 21 days he was sent to Seoul Detention Centre. There, he faced 30 days’ questioning by the Prosecution before charges were laid. He said that he was threatened and intimidated by the Prosecution during daily interrogation sessions which lasted from mid-morning until late evening.

Although he had been questioned in relation to espionage, he was actually charged under Article 7 of the National Security Law for “praising” and “benefitting” North Korea. On 12 July 1996 he was acquitted of all charges against him and released. In September 1996 Park Chung-ryol told Amnesty International that he had made a formal complaint about his treatment but had received no response from the authorities.

c) Example: the case of Professor Park Chang-hee

Professor Park Chang-hee, aged 63, was arrested at midnight on 26 April 1995 by some 20 ANSP officers. The officers carrying out the arrest identified themselves but did not tell his family where he was being taken. Later the family were informed that he was held at Chongbu Police Station, but when they telephoned the police station they were told that Park Chang-hee was not there. In fact, Park Chang-hee was held at the ANSP interrogation facility at Namsan but the family were not informed of this fact until three days after his arrest. According to information available to Amnesty International it is alleged that the following occurred while he was held in custody by the ANSP.

Park Chang-hee was questioned by the ANSP for 20 days, during which time he was beaten, threatened and deprived of sleep. Ill-treatment which he suffered included being hit about the head with a book, being pushed against a wall and repeatedly threatened. He was told that his family and friends would be arrested unless he made a confession. In an apparent attempt to break his will, investigators showed him a

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suicide note which had been written by one of his children who had committed suicide. His other children had never shown him this note, fearing he would blame himself for the tragedy. Under such pressure, he signed several statements admitting to charges of espionage.

On 15 May he was transferred to Seoul Detention Centre and he was questioned for a further 25 days by the Prosecution. On 15 April he was forced to kneel on the floor and beaten for several hours by investigators. On 8 June Park Chang-hee made a formal complaint about his treatment but by September 1996 he had received no response from the authorities. Park Chang-hee was charged with espionage and sentenced to seven years' imprisonment. His sentence was reduced to three-and-a-half years on appeal to the High Court in February 1996 after some of the charges were dropped.

4) Current Procedures which Facilitate Torture and Ill-treatment

a) Arrest procedures

Although arresting officials generally show a warrant of arrest, they do not always inform the detainee and his/her family of where he or she is being taken. After arrest, detainees are not always permitted to make a telephone call to inform their families and friends of their arrest. Detainees are generally informed of their right to see a lawyer, but are not always permitted to exercise this right immediately. This leads, in many cases, to prisoners being held in incommunicado detention, facilitating the use of torture and ill-treatment.

Detainees are denied access to lawyers during questioning. There are no procedures whereby detainees are promptly brought before a judge, in accordance with Article 9(3) of the International Covenant on Civil and Political Rights. Under current procedures, judges decide whether to issue an arrest warrant after examining the written application and documentation submitted to them by the prosecution. Under an amendment to the Code of Criminal Procedure, to take effect in January 1997, judges will also have the right to call suspects to appear before them. But such appearances will be at the discretion of the judge and may only apply to a small number of detainees.

b) Length of interrogation before charge

Under South Korean law the maximum length of time a suspect can be detained prior to indictment on an ordinary criminal offence is a total of 30 days after the issue of an arrest warrant. The National Security Law extends this period to 50 days for people suspected of some offences. (This allows for questioning by the police or the ANSP for up to 20 days and by the Prosecution for up to 30 days). Amnesty International believes the long period of detention for interrogation before charge facilitates the use of torture and ill-treatment to extract confessions.

c) The use of confessions

A person charged with a criminal offence in South Korea has the right to be presumed innocent until proven guilty, but there is a law enforcement and judicial culture that expects defendants to admit during their interrogation and at trial that they are guilty. Because a confession in court is deemed to be important, investigation officials may be tempted to extract coerced confessions from suspects.

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Although under international standards, pre-trial detention should not be the general rule, judges appear to routinely authorize detention of political prisoners for interrogation purposes. South Korean law recognizes the right of a suspect to remain silent, but prisoners' testimonies show that, on the contrary, pressure is applied on them to answer questions. In practice few detainees find it possible to remain silent throughout their interrogation and many report being compelled by interrogators to sign a "confession" after torture and ill-treatment. Such "confessions" are used as evidence at their trial.

The right of a suspect not to be compelled to testify against himself or herself is guaranteed by the Constitution. The Constitution and the Code of Criminal Procedure recognize the link between torture and ill-treatment and the collection of evidence and they contain detailed provisions restricting the admissibility of confession evidence at trial. However, the courts' failure in the past to apply the law strictly has encouraged a culture where a confession is regarded as the best evidence. Amnesty International knows of many cases over the years in which defendants have claimed before the courts that they had been coerced into signing confessions after torture or ill-treatment, but these claims have often been disregarded by the courts without significant further inquiries. Until the courts examine the voluntariness of confessions when there are allegations of coercion, and exclude evidence established to have been gathered unlawfully, there will remain an incentive for the police and the prosecution to use improper and unlawful means to obtain confessions.

d) Access to lawyers and family

South Korean law guarantees the right of a suspect to the assistance of counsel from the moment of arrest. But many political prisoners interviewed by Amnesty International say that upon being arrested they are not informed of their right to see a lawyer or that they are not able to exercise this right immediately. In many cases under the National Security Law involving accusations of "anti-state" activities or "espionage", the interrogating agencies have denied detainees their rights to prompt access to their lawyers and families or have hampered contacts. Lawyers in South Korea are not allowed to be present during a suspect's interrogation.

As a result of the scarcity of lawyers in the country, the lack of a comprehensive state-sponsored legal aid scheme and the high fees charged by lawyers, many people are unable to exercise their rights to assistance of counsel in early pre-trial stages. This is precisely the stage when detainees are at most risk of torture or ill-treatment.

The importance of access to relatives as a safeguard against ill-treatment is heightened in view of the limited number of lawyers in the country and the lack of a comprehensive legal aid scheme. But Amnesty International has learnt of many cases where families were not promptly informed about arrests and were denied prompt access to detainees.

e) Access to doctors

A few detainees who were subjected to ill-treatment during interrogation told Amnesty International that they were examined by a doctor before the interrogation started and periodically throughout the period of interrogation. However, detainees are not routinely given a medical examination after they are taken into custody, unless they appear to be seriously ill, or medically examined regularly throughout the period of interrogation. Detainees who wish to make a complaint of ill-treatment do not have access to independent

medical attention, making it very difficult for them to obtain documentation about their treatment.

f) No separation of interrogating and detaining authorities

There is a lack of formal separation between interrogating and detaining authorities. For example, a person arrested under the National Security Law may be detained and questioned by the police or the ANSP for up to 20 days. The ANSP claims to have no detention facility but Amnesty International has received reports that some detainees have been held in ANSP facilities and interrogated by the ANSP, while police records stated that the detainee was held at a nearby police station.

g) Police training

In its report to the Committee against Torture the government gives details of human rights education programs provided for officials in the Public Prosecutor's Office, the National Police Agency and the Agency for National Security Planning. However, Amnesty International has received recent testimonies from detainees who allege that they have been subjected to torture and ill-treatment by officials from these agencies. The organization is concerned therefore that human rights training for law enforcement officials may be ineffective and should be reviewed.

5) Cruel, Inhuman and Degrading Treatment in Prisons

a) Summary of Concern

Amnesty International is also concerned that the conditions in which some political prisoners are held may amount to cruel, inhuman and degrading treatment. For example, the political prisoners held in Block 15 of Taejon Prison are over 60 years of age and some have spent over three decades in prison. They are reportedly not allowed any contact with other prisoners and are held in small, unheated cells, although temperatures in winter often drop to below freezing. Most are reported to be in poor health but receive little medical attention. Throughout the prison system, medical provision is extremely poor. Most prisons only have one part-time doctor and medical facilities are basic. Prisoners with serious illnesses have experienced great difficulty in obtaining permission to visit a doctor outside the prison.

b) Example: the case of Koh Ae-soon

On 4 December 1995 Koh Ae-soon was arrested under the National Security Law. She was in her 28th week of pregnancy but was reportedly not examined by an obstetrician until 57 days after her arrest. She later had a still birth. Amnesty International does not know whether the still birth was a result of inadequate medical treatment in prison, but is concerned that the medical care given to Koh Ae-soon may have been inadequate, in violation of international human rights standards.

Upon transfer to Kwangju Prison on 9 December Koh Ae-soon is reported to have felt unwell - suffering from a fever, swollen feet, hands and face - but received no medical attention. On 24/25 December she reported large amounts of a clear vaginal discharge and on 26 December she was finally examined by a prison medical officer who apparently did no more than measure her blood pressure. She was not examined by an obstetrician until 29 January - 57 days after her arrest. The obstetrician is reported to have used sonography in order to determine the estimated date of delivery and does not appear to have given any further examination. Upon his recommendation Koh Ae-soon's detention was suspended on 31 January in order for her to give birth. On 5 February her baby was still born.

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The prison authorities do appear to have made some concessions for Koh Ae-soon's condition. They apparently gave her a small stove to heat her cell (South Korean prison cells are virtually unheated and are very cold in winter). However, she was only permitted to shower once a week and is reported to have had difficulty eating the standard prison food. There appears to be no special provision for the care of pregnant women at Kwangju Prison.

6) Ineffective Remedies

Under South Korean law any person who believes that his or her rights have been violated has a right to make a complaint. Until the late 1980s, political prisoners who had been subjected to human rights violations had little chance of obtaining redress but in recent years lawyers advising victims of human rights violations have more aggressively challenged the authorities responsible for human rights violations. When they successfully obtained a measure of redress, it was often due to their perseverance against official inactivity, obstruction or delays.

However, in practice the procedures for obtaining redress are complex, lengthy and expensive. This means that they are inaccessible to many people. Many victims of human rights violations under previous governments have been left without a remedy at all. In South Korea there is no independent body or individual responsible for the protection of human rights and the investigation of reports of human rights violations.

a) Problems with the complaints procedure

Under South Korean law, both the victim of an offence and a third party who believes that an offence has been committed may lodge a complaint or accusation. A prosecutor investigating a complaint is required to decide whether to institute a public prosecution within three months of the complaint or accusation being made.

In practice, however, prosecutors often fail to take action against officials, leading to a lack of public confidence in the system. Many former prisoners with credible testimonies of human rights violations have told Amnesty International that they do not intend to seek redress from the authorities because they do not think the government or the courts will give them redress and they believe they will not be able to prove their claims. Many people simply do not trust that the Prosecution will bring charges. Amnesty International knows of at least one case where reprisals were taken against a victim because he had made a formal complaint of torture.

The South Korean Government often cites a few well-publicized cases to show that the complaints system is effective. These include the case of Kim Keun-tae (1986), in which police officers were successfully prosecuted for inflicting torture. However, such cases are exceptional. In its report to the Committee against Torture, the government itself admits that since 1990 only 13 officials have been punished for "violent or cruel acts" during investigations. This number seems low in view of the hundreds of allegations of ill-treatment reported to Amnesty International during this period.

It would appear that the authorities do not initiate investigations of their own accord into reported

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violations of human rights. Reports of torture and ill-treatment are investigated only when the victim has made an official complaint. But Amnesty International's understanding of South Korean law is that there is no requirement for a formal complaint by a victim to trigger the investigation of a criminal offence. Investigation should be carried out when there are reasonable grounds to believe that an act of torture or other cruel, inhuman or degrading treatment or punishment has taken place.

b) Examples

Professor Park Chang-hee (see page 6) made a formal complaint of torture on 8 June 1995 but received no response. He has now filed a civil action against the government.

Baik Tae-ung was arrested in April 1992 and interrogated for 22 days by the ANSP for offences under the National Security Law. At his trial he testified that he had been deprived of sleep and subjected to drug injection and beatings but Amnesty International does not know of any investigation by the authorities into these allegations. In November 1993 the South Korean government informed the United Nations Special Rapporteur on Torture that *"the allegation of maltreatment was unfounded. It had not been substantiated during the trial and Mr Baik had not filed a complaint."*

Hong Song-dam was arrested in August 1989 under the National Security Law. He said that he had been deprived of sleep for several days, stripped naked and beaten. Although Hong Song-dam made a formal complaint, and provided drawings of those responsible, Ministry of Justice officials told Amnesty International in November 1992 that no prosecutions would be carried out because his torturers could not be identified. In the summer of 1993 Hong Song-dam applied for a passport to visit Germany but was told informally by an ANSP official that he would not receive a passport because of the action he had taken against ANSP officials. Since then he has had great difficulty obtaining permission to travel abroad and was recently denied a passport to visit the UK at the invitation of Amnesty International.

c) Long-term political prisoners convicted under previous governments

For many years Amnesty International has called for a review of the cases of long-term political prisoners who were arrested during the 1970s and 1980s and sentenced to long prison terms on charges of spying for North Korea. Amnesty International believes that at least 20 prisoners were convicted during this period after unfair trials and that they were the victims of torture and ill-treatment. In most of these cases there is evidence of illegal arrest, incommunicado detention for a long period of time; claims by the prisoners that they were forced to confess under torture or ill-treatment; lack of facilities in the preparation of the defence and conviction mainly based on confession. In some of these cases the information available to Amnesty International strongly supports the view that they are prisoners of conscience and should be released. In the other cases Amnesty International is seeking additional information and is calling on the authorities to review their cases.

These prisoners were arrested and tried at a time when human rights violations were widespread. They have now been left without an effective remedy. For several years human rights lawyers in South Korea have sought retrials for some long-term political prisoners. Under the Code of Criminal Procedure a retrial may be granted if it is proved that evidence was forged, testimony was false and when new "clear evidence" is discovered. The requirements for a retrial have proved to be extremely difficult to meet and as far as Amnesty International is aware, no long-term political prisoner has secured one. In one case, that of Shin Kui-yong (now released), The Pusan High Court ordered a retrial but the court's decision was

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overturned by the Supreme Court in August 1995.

In addition, the statute of limitations on public prosecutions means that it becomes impossible to prosecute those responsible for human rights violations after a certain period has passed. In many cases of long-term political prisoners, the violations occurred too long ago for those responsible to be brought to justice under South Korean law.

Long-term prisoners who have been left without a remedy include Lee Jang-hyung who was arrested in June 1984 under the National Security Law and sentenced, in January 1985, to life imprisonment on charges of espionage. He was interrogated by the security division of the National Police Administration for 67 days after his arrest. He alleges that he was tortured and forced to sign a "confession". Another example is Yu Chong-sik, arrested on 2 March 1975 and held incommunicado for one month by the ANSP, during which time he says he was tortured and forced to "confess" that he had spied for North Korea. He was sentenced to life imprisonment.

d) Impunity

In 1995 the government introduced legislation which extended the statute of limitations for certain crimes, including mutiny and treason. This led to the successful prosecution of two former presidents, Roh Tae-woo and Chun Doo-hwan, and 13 other former army officials on charges which included the killing of civilians at Kwangju in May 1980. While Amnesty International welcomes the fact that some people have been brought to justice in relation to this incident, the organization is concerned that there has never been a full and impartial investigation into the killings in Kwangju in May 1980 and that only a small number of officials believed to have been involved have faced prosecution. The government has stated, however, that there will be no further investigation and no further prosecutions.

Other human rights violations carried out under past military governments have also gone unpunished. There has been no investigation into thousands of cases of torture and unfair trial and imprisonment under former governments. This means that many officials responsible for past human rights violations have escaped prosecution. It also means that many victims of past human rights violations have not received redress.

7) Recommendations

Amnesty International urges the authorities to ensure that all acts which constitute torture, ill-treatment and other cruel, inhuman or degrading treatment or punishment are prohibited in practice. To this end Amnesty International urges the authorities to do the following:

- introduce procedures to ensure that all detainees are brought before a judicial authority promptly after being taken into custody.
- ensure that all detainees are given prompt access to lawyers, including during interrogation;
- ensure that all detainees are given prompt and regular access to relatives;
- ensure that all detainees and prisoners have access to adequate and independent medical attention;
- amend legal provisions which permit suspects to be held for up to 50 days before charge and ensure that all suspects are either charged promptly with a recognizable offence or released;

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- ensure that the ANSP is not given any further powers to interrogate detainees, in view of recent reports of human rights violations by this agency;
- introduce a clear separation of authority between bodies responsible for detention and those in charge of interrogation;
- ensure that statements obtained from detainees as a result of torture and ill-treatment are not admitted in practice in legal proceedings, except as against the alleged perpetrators of torture;
- ensure that all reports of torture and ill-treatment are promptly investigated by an independent body, regardless of whether or not a formal complaint has been made;
- ensure that people are aware of their right to make a complaint of torture and ill-treatment and that they have a practical means of exercising this right;
- ensure that any official found responsible for human rights violations is brought to justice and that victims receive fair and adequate compensation;
- review and improve the human rights training of all law enforcement personnel responsible for the arrest and interrogation of detainees;
- establish effective remedies for victims of human rights violations committed under previous governments;
- make a declaration under Article 22 of the Convention against Torture, recognizing the competence of the Committee against Torture to receive individual complaints.

Appendix: Amnesty International's Reports on South Korea

Further information about Amnesty International's concerns about torture and ill-treatment may be found in the following documents, published in the 1995/96 period:

- *International Standards, Law and Practice, the need for Human Rights Reform* (AI Index: ASA 25/25/95), published in November 1995.
- *Open letter from Amnesty International to political parties on the occasion of the April 1996 National Assembly elections* (AI Index: ASA 25/06/96), published in March 1996.
- *Update on National Security Law arrests and ill-treatment* (AI Index: ASA 25/09/96), published in March 1996.
- *Amnesty International Report 1996* (see entry on South Korea)
- *Mass ill-treatment of students in August 1996* (AI Index: ASA 25/26/96), published in October 1996