

£SOUTH KOREA

@Summary of Amnesty International's Concerns

1) Amnesty International's Research on South Korea

Amnesty International visits South Korea regularly to investigate human rights concerns which fall within its mandate. It also monitors the human rights situation in South Korea throughout the year from its International Secretariat in London. Amnesty International bases its reports on a variety of materials it collects through its research. These include written and verbal testimony; legal texts, including court documents; interviews with human rights workers, legal scholars and other experts; and meetings with government officials. The organization also uses its experience and knowledge about human rights in South Korea, accumulated over a number of years.

In October 1994 Amnesty International sent a three-person delegation to South Korea to assess the current human rights situation. This report summarizes some of Amnesty International's findings from the visit, and also incorporates information gathered by the organization throughout 1994.

This report does not cover all issues of concern to Amnesty International. Instead, it highlights some of the most serious violations of civil and political rights, falling with Amnesty International's mandate.

2) An Overview of the human rights situation

South Korea is a democracy with an elected civilian government. Its citizens have better human rights protection than they did in past decades, under military rule. However, the South Korean Government continues to allow the arrest of citizens for exercising their rights to freedom of expression and association and it continues to hold some of the world's longest serving prisoners of conscience.

Amnesty International concludes that the human rights situation deteriorated throughout 1994 due to the extensive use of the National Security Law to detain prisoners of conscience. The organization has information about dozens of such people who were arrested, charged and convicted for the peaceful exercise of their rights to freedom of expression and association. In October 1994 there were reported to be some 500 political prisoners, around 70% of whom were held under the National Security Law.

Key reforms needed to improve human rights, such as amendment of the National Security Law, were not carried out. Amnesty International knows of at least 30 prisoners whose trials under previous governments appear to have been seriously flawed, and who continue to be held with no prospect of a review. Dozens of workers were imprisoned during a series of strikes. Some, who did not use or advocate violence, were prisoners of conscience. Executions were carried out for the first time in almost two years.

Amnesty International welcomes some moves towards reform, including the preparation of a revised Code of Criminal Procedure. However, it is concerned about an apparent lack of political will to tackle some of the most pressing problems, including a revision of the National Security Law.

3) Use of the National Security Law to detain prisoners of conscience

Dozens of prisoners of conscience were arrested under the National Security Law during 1994, including students, dissidents, political activists, publishers and academics. The arrests took place throughout the year but intensified in the period following the death in July of Kim Il Sung, President of the Democratic People's Republic of Korea (North Korea)¹. Many students and activists were arrested for trying to express condolences upon the death of Kim Il Sung and others were arrested in an apparent crackdown against leftist groups.

Individual cases of prisoners of conscience are too numerous to cite in this report, but a few examples may be given. All the prisoners listed below were in prison awaiting trial in October, at the time of Amnesty International's visit to South Korea. All were considered by the organization to be prisoners of conscience.

◆ Nine members of *Saminchong* (Union of Socialist Youth) were arrested in August and charged with publishing and distributing material deemed to be of benefit to North Korea. This organization has some 75 members, works openly and focuses some of its work on

¹Amnesty International's concerns on North Korea are described in reports issued by the International Secretariat. These reports, which include recommendations addressed to the government of North Korea, have been the subject of campaigns by Amnesty International members throughout the world. During 1994 the South Korean Government made public use of Amnesty International's material on North Korea. This included the unauthorized reproduction by South Korean Government agencies of two of the organization's recent reports on North Korea. Amnesty International expressed its regret about this selective use of its material by the authorities, which was potentially damaging to the organization's reputation for impartiality. Amnesty International urges the South Korean Government to improve its own human rights record and urges the North Korean Government to do likewise. Under Amnesty International's working rules the South Korean Section of Amnesty International and Amnesty International members in South Korea do not campaign or make public statements about North Korea on behalf of Amnesty International.

political education for workers. One other person associated with this group, Professor Yu Cho-ha, was forced into hiding to avoid arrest.

◆ Four members of a dissident pro-reunification group *Pomminyon* were arrested for alleged pro-North Korean activities. They include 70-year-old Reverend Kang Hui-chol who made a largely symbolic and public attempt to visit North Korea to offer his condolences following the death of Kim Il Sung.

◆ Nine members of a youth group called *SAM* were arrested in September and accused of attempting to indoctrinate high school students with North Korea's *Juche* philosophy. In October three remained in prison, awaiting trial. The group consists of young, former high school students who set up a forum to discuss and alleviate academic pressure on students.

◆ Dissident leaders Hwang In-sung and Lee Chang-bok were arrested in August under the National Security Law. They were accused of supporting North Korea's ideas on reunification and of expressing sympathy for the death of DPRK President Kim Il Sung. Supporters believe that the real reason for their arrest was to prevent them organizing a mass rally in favour of Korean reunification.

The Korean Bar Association has called for the abolition of the National Security Law, arguing that national security could be safeguarded by adding provisions to other criminal legislation and that the National Security Law could be abolished without any damage to state security. Others in South Korea calling for its abolition or revision include the Democratic Party (main opposition party), a number of legal scholars and many human rights organizations.

The Ministry of Justice has told Amnesty International that retention of the National Security Law in its current form is necessary because of the perceived threat from North Korea. Amnesty International is concerned that the government has used this threat to imprison people who posed no risk to state security. It is concerned that the government appears to be using the National Security Law as a bargaining chip in its negotiations with North Korea, refusing to revise the law until relations between the two countries are drastically improved. Amnesty International believes that the government has failed to meet the commitment it made when it ratified the International Covenant on Civil and Political Rights (ICCPR), a treaty which specifically safeguards the rights to freedom of expression and association.

In July 1992 the United Nations Human Rights Committee considered a report by the South Korean Government on its implementation of the International Covenant on Civil and Political Rights. In its recommendations to the South Korean Government the Committee stated that: "*A serious attempt ought to be made to phase out the National*

Security Law which the Committee perceives as a major obstacle to the full realization of the rights enshrined in the Covenant".

4) Failure to review the cases of long-term political prisoners

Amnesty International has documented the cases of some 30 political prisoners who were sentenced to long prison terms (over seven years' imprisonment) under previous governments after trials which fell short of international standards for fairness. Human rights groups in South Korea believe there some 40 such cases. The majority of these prisoners were arrested during the 1970s and 1980s and allegedly tortured during long periods of interrogation in incommunicado detention. Many were unable to hire lawyers to defend them in court and appear to have been convicted largely on the basis of their own coerced confessions.

Under South Korean law the criteria under which a new trial may be ordered are very specific and very difficult to fulfil. Lawyers working on behalf of these prisoners have told Amnesty International that they have so far found it impossible to obtain the evidence required to initiate a retrial of the prisoners concerned. Amnesty International has urged the South Korean Government to order a review of these cases, but there is no indication that it intends to do so.

Many of these prisoners are currently in poor health due to the long-term effects of imprisonment, past torture and poor medical facilities in prison. They include prisoner of conscience Yu Chong-sik who was sentenced to life imprisonment in 1975 and is now believed to be in poor mental and physical health. The families of some long-term prisoners who have spent over ten years in prison told Amnesty International in October that the prisoners are losing hope and that this is contributing to their poor health.

Two of the world's longest-serving prisoners of conscience are South Koreans. Kim Sun-myung and Ahn Hak-sop have both been held for over 41 years in conditions of virtually complete isolation and with little apparent prospect of release, except on the grounds of old age. The two were arrested during the Korean War (1950-53) and convicted of espionage but Amnesty International believes the sole reason for their continued incarceration is their refusal to sign a statement of "conversion" renouncing their communist views. In 1993 a lawyer who wished to work on behalf of the two prisoners was denied access by the prison authorities. This has effectively blocked all legal avenues of redress for them.

5) Flaws in arrest and interrogation procedures / ill-treatment of suspects

South Korea's arrest and interrogation procedures violate international human rights standards in several respects, some of which are described below. Amnesty International is concerned that flawed procedures have led to unfair convictions. Political prisoners are often arrested without a court-issued warrant, ill-treated during long periods of questioning and effectively presumed guilty before charge or trial.

In practice many political suspects are detained by use of an emergency arrest warrant, issued by a prosecutor without reference to a court of law. In such cases suspects may be held for up to 48 hours before a court-issued warrant is obtained. Amnesty International believes that the police and Agency for National Security Planning have sometimes used this 48 hour period to obtain "confessions" from detainees as grounds for obtaining a court warrant.

Judges are currently not entitled to question suspects when they issue arrest warrants. Under a revised Code of Criminal Procedure, the draft of which is currently before the National Assembly, a judge would be permitted in some cases to question selected suspects. Amnesty International is calling for this important safeguard to be made mandatory, so that all suspects appear before a judge.

National Security Law suspects may be questioned for up to 50 days before charge, an unreasonably long period. Amnesty International believes the police and the Agency for National Security Planning have used this long period of questioning to put excessive pressure on detainees in an attempt to extract "confessions" which may be used against them during their trial.

Amnesty International is disturbed by the widespread use of sleep deprivation during the questioning of suspects. In fact, the organization is not aware of any recent political suspect who was not deprived of sleep. In typical cases, suspects report that they were denied sleep for the first 48 hours of questioning and thereafter only allowed to sleep for two or three hours each night for up to 20 days. Some recent detainees (particularly those held and questioned by the Agency for National Security Planning) reported being beaten and threatened during questioning.

6) Illegal activities of the Agency for National Security Planning

The Agency for National Security Planning (ANSP) is empowered to arrest and investigate National Security Law suspects. In December 1993 new legislative provisions gave the National Assembly (parliament) powers of scrutiny over the ANSP's budget and in June 1994 a parliamentary Intelligence Committee was established to oversee of the ANSP's activities. Amnesty International welcomed this reform but fears that these checks on the

ANSP's daily activities may be insufficient with regard to the agency's powers to arrest and investigate political suspects.

In June 1994 the ANSP arrested 23 people who were later charged with "anti-state" (pro-North Korean) activities. They included 61-year-old former university professor, Ahn Jae-ku, who was charged with "anti-state" activities and "espionage" for North Korea and sentenced to life imprisonment. These charges were based on links between Ahn Jae-ku and an allegedly pro-North Korean group in Japan. Amnesty International believes the charges against him and others in this case are unfounded. It is concerned that the ANSP appears to have exaggerated the offences and that it may have provided exaggerated or false evidence to the prosecution.

These concerns were reinforced in October 1994 by the revelations of a man who used to work for the ANSP, referring to an earlier case of concern to Amnesty International. He said that in 1992 he had been mandated by the ANSP to make incriminating links between selected South Korean non-governmental organizations and a pro-North Korean group in Japan. He also said that he had been ordered to provide false evidence against a brother and sister, Kim Sam-sok and Kim Un-ju, who were arrested in September 1993. Kim Sam-sok, a prisoner of conscience, is serving a four-year prison term on National Security Law charges.

Amnesty International knows of two occasions in 1994 when the ANSP released to the media information about political detainees which branded them as guilty, although the people in question had not been tried or charged. In the case of Ahn Jae-ku (mentioned above) it published an organizational chart of an organization allegedly led by Ahn Jae-ku, listing all the principal suspects as members of an organization working for North Korea. Amnesty International believes this to be a violation of the presumption of innocence and may jeopardize the fairness of their trials. Amnesty International believes Ahn Jae-ku to be a prisoner of conscience and is calling for his immediate and unconditional release.

7) Increased use of the death penalty

Fifteen convicted criminals were executed on 6 October (no executions were carried out in 1993 and there were nine executions each year in 1991 and 1992). The Ministry of Justice said that further executions would be carried out. Some 50 prisoners convicted of murder remain under sentence of death.

Amnesty International opposes the death penalty in all cases, considering it to be the ultimate form of cruel and inhuman punishment. The death penalty is irreversible, may be inflicted on the innocent and is often imposed on the poorest members of society who are least well-equipped to defend themselves. The families of some prisoners currently under

sentence of death in South Korea could not afford to hire a lawyer to defend the prisoner. The death penalty also denies the possibility that prisoners may be rehabilitated. One of the prisoners executed in October, Suh Chae-taek, is said to have become a model prisoner since his arrest in 1987.

The latest executions were carried out in the wake of sensational media coverage about a series of murders and appear to have been inflicted both as a warning and as a means of appeasing public opinion. In October Ministry of Justice officials told Amnesty International that executions were necessary as a means of reducing the rate of violent crime in South Korea. They did not know, however, whether the government had carried out a survey into effect of the death penalty on the crime rate. To Amnesty International's knowledge, none of the surveys carried out in other countries have shown that use of the death penalty has a uniquely deterrent effect on violent crime.

8) Workers' human rights

During 1994 over 100 workers were arrested during disputes at seven different workplaces. Most were charged under labour legislation with taking illegal strike action, violence during confrontation with riot policemen and disruption of company business. Amnesty International is concerned that some of those currently held are prisoners of conscience. In one dispute concerning the Korean National Railroad, eight union officials, including Suh Son-won, were arrested in September during a peaceful sit-in protest at a temple. The eight railway workers and dozens of others belonged to the trade union *Chongilhyop* which is illegal because current legislation does not allow more than one trade union at a workplace. They were deemed to have taken illegal strike action because current legislation does not allow public employees to go on strike. Amnesty International believes that a charge of violence levelled at Suh Son-won is unfounded and is concerned that he faces conviction and imprisonment as a prisoner of conscience. It is also concerned that his wife and two small children have been evicted from public housing as a consequence of his arrest and subsequent dismissal from the Korean National Railroad.

South Korean labour legislation violates international standards in several respects. A ban on "third party intervention" in labour disputes effectively prevents umbrella trade unions from giving advice to affiliate unions; government employees and teachers are not permitted to belong to a trade union; only one trade union is permitted in each workplace, effectively denying workers the right to join a trades union of their choice; government employees are not allowed to take strike action. In October government officials told Amnesty International that the ban on third party intervention would be removed in the near future.

9) Amnesty International's Recommendations to the South Korean Government

◆ Amend the National Security Law

The government should ensure that the National Security Law is amended so that the rights to freedom of expression and association are fully protected. These fundamental rights are guaranteed by the International Covenant on Civil and Political Rights to which the South Korean Government is a party. They are rights which should not be dependent upon the achievement of better relations with North Korea.

◆ Release all Prisoners of Conscience

Amnesty International calls for the immediate and unconditional release of all prisoners of conscience in South Korea. It defines prisoners of conscience as those who are imprisoned for the non-violent exercise of their rights to freedom of expression and association. Amnesty International has documented the cases of dozens of prisoners of conscience, some arrested during 1994 and some arrested in previous years. The majority of such prisoners are held under the National Security Law.

Prisoners of conscience Kim Sun-myung and Ahn Hak-sop have been held in virtual isolation for over 40 years. Amnesty International believes they are only held because of their refusal to sign a statement of "conversion" to anti-communism. It is calling for their immediate and unconditional release.

◆ Review the cases of long-term political prisoners

Amnesty International is calling on the government to initiate a review of the cases of political prisoners who are believed to have been unfairly convicted under previous governments. Amnesty International has documented some 30 such cases, the majority of whom were sentenced to life imprisonment on charges of espionage.

◆ Ensure that procedures for arrest and interrogation comply with international human rights standards

Some current procedures for arrest and interrogation should be amended to comply with international human rights standards. All those detained must be brought promptly before a judge. Suspects should not be subjected to sleep deprivation or other ill-treatment during questioning and the period of questioning before charge of suspects held under the National

Security Law (currently up to 50 days) should be reduced drastically. Arrest and interrogation procedures should be brought into line with provisions of the International Covenant on Civil and Political Rights, The Convention Against Torture, the Standard Minimum Rules for the Treatment of Prisoners, the Code of Conduct for Law Enforcement Officials and other relevant international standards.

◆ **Abolish the death penalty and commute all death sentences**

The government should take steps towards abolition of the death penalty. Pending abolition it should reduce the number of crimes subject to the death penalty, cease carrying out executions and commute all death sentences.

◆ **Respect workers' rights to freedom of expression and association**

Workers should not be arrested and imprisoned for peacefully exercising their rights to freedom of expression and association. Current labour legislation should be amended to comply with international standards, including removal of the prohibition on "third party intervention" in labour disputes.