

# REPUBLIC OF KOREA (SOUTH KOREA)

## @Prisoners of conscience Ahn Jae-ku and Ahn Young-min

Ahn Jae-ku, aged 62, was sentenced to life imprisonment in November 1994 on charges under the National Security Law of the Republic of Korea (South Korea). He was convicted of forming an alleged "anti-state" and pro-North Korean organization, *Kukukchonui* (National Front for the Salvation of the Fatherland). Ahn Jae-ku is a prisoner of conscience, imprisoned solely for the peaceful exercise of his rights to freedom of expression and association. This document contains information about the arrest and trial of Ahn Jae-ku and of his son Ahn Young-min, also a prisoner of conscience.

### *Ahn Jae-ku*

In 1971 Ahn Jae-ku was appointed professor of mathematics at Kyongbuk University and achieved renown as a mathematician. He lost his position in 1976 when he refused to report student activities to the authorities. He then became actively involved in opposition to the then military government of President Park Chong-hee and in 1979 was arrested on charges of "anti-state" activities. Sentenced to life imprisonment, he was released in 1988 under a presidential amnesty and took up a position as lecturer of mathematics at Kyunghee University in Seoul. In June 1994 Ahn Jae-ku was arrested again under the National Security Law on charges of "espionage" and "anti-state" activities. Amnesty International believes that the charges are unfounded and that he was convicted unfairly. It is calling for his immediate and unconditional release.

*The National Security Law should reflect our true democratic ideals. Therefore it should not be employed to punish us. We have done nothing seditious to the Republic of Korea, nor do we have any such intentions. Ironically, South Korea, equipped with such a law, is touted as a liberal democratic country. A liberal democratic country guarantees freedom of speech, freedom of the press, freedom of assembly and freedom of conscience. We did not have any seditious intention, the only thing we have done is discuss with the young and assist them in their desire to let the nation explore its own fate so as to put an end to the division [of Korea], achieve national reunification and cherish national sovereignty. For this we are subject to punishment. How can a society like this be called a liberal democracy?*

Statement by Ahn Jae-ku at his trial before Seoul District Court, 28 September 1994.

### *Ahn Young-min*

Ahn Young-min, aged 26, is the son of Ahn Jae-ku and a student of mathematics at Kyongbuk University in Taegu. He was active in student politics and in 1991 he went into hiding to avoid arrest. The warrant for his arrest was cancelled in 1993 and in March 1994 he was permitted to return to his studies at Kyongbuk University. He was determined to study and to graduate at the end of 1994, making up for the time he had lost while in hiding. But in June 1994 he was arrested on charges of meeting and communicating with a "spy" - his father. In November 1994 Ahn Young-min was sentenced to 14 months' imprisonment. Amnesty International believes he is a prisoner of conscience and is calling for his immediate and unconditional release.

*Through my detention and imprisonment the goals that I had for this year have been crushed. . . My father has his own beliefs which he acts on and although I don't know exactly what they are, I admit that I respect him. What angers me is that they tried to punish my father's activities by law and that to make that easier they abused our father-son relationship and arrested and detained me. This arrest destroyed my youth and my future, but I no longer wish to give in to despair. I am determined to lead a full and dignified life.*

Statement by Ahn Young-min at his trial before Seoul District Court, 4 October 1994.

### *Amnesty International's concern*

This case is an example of how the National Security Law is used by the South Korean authorities to violate the rights to freedom of expression and association. It also shows that, in spite of recent attempts to bring its activities under parliamentary supervision, the Agency for National Security Planning (ANSP, the main South Korean intelligence agency) is still abusing its powers of investigation under the National Security Law. It also shows that ill-treatment of political suspects by the ANSP, the police and the prosecution continues, including the use of sleep deprivation, threats and coercion.

The National Security Law may be used to imprison people who peacefully exercise their rights to freedom of expression and association under charges that they are members of "anti-state" organizations. Under provisions of the National Security Law an "anti-state" organization is defined as a group, "with the structure of command and control, organized for the purpose of assuming a title of the government or disturbing the State". This definition has been broadly interpreted by the courts and the law has been used to imprison people with alleged leftist views, deemed to be similar to those of the government of the Democratic People's Republic of Korea (DPRK, North Korea). The definition of "espionage" has also been widely interpreted and in practice any information which is useful to North Korea, even if it has been made publicly available in South Korea, may be considered by prosecutors and courts to constitute a "state secret": such loose use of incriminating legal provisions has led to the imprisonment of dozens of prisoners of conscience in recent years.

Amnesty International believes that the restrictions which the National Security Law imposes on the rights to freedom of expression and association go far beyond those permitted under international human rights standards. Dozens of prisoners of conscience were arrested under the National Security Law during 1994. The case of Ahn Jae-ku and his co-defendants was, however, one of the most disturbing cases to emerge during the year. The prisoners were charged with "anti-state" and "espionage" activities and the prosecution sought the death sentence for Ahn Jae-ku, the only such case under the National Security Law in 1994.

The central role of the ANSP in this case is also a cause of concern to Amnesty International. In the past this agency has been responsible for widespread abuse of the rights of political suspects and there is credible evidence that it has tried to "frame" suspects on espionage charges under the National Security Law. In spite of new but limited parliamentary control over the ANSP's activities, it still appears to be in a position where it is able to abuse its powers of investigation, arrest and interrogation under the National Security Law. Ill-treatment of suspects by the ANSP and the police continues - particularly sleep deprivation, threats and intimidation and long periods of interrogation. Some prisoners are subjected to beatings.

#### *The arrest and ill-treatment of Ahn Jae-ku and Ahn Young-min*

In June 1994 a total of 23 people were arrested by the police, the ANSP and the Military Security Command (MSC) and accused of being members of *Kukukchonui*. The authorities said that this organization had been formed by Ahn Jae-ku in order to spy for North Korea.

Ahn Jae-ku was arrested by the ANSP on 14 June at 2:00am, as he was working in his own private office (he was writing a book and had been working through the night). His family were not informed of his arrest. On 15 June a neighbour told the family that Ahn Jae-ku had been taken from his office in the night and on 16 June the family telephoned the police to find out where he was being held. They were, however, not permitted to see him until 17 June in the afternoon.

Ahn Jae-ku later said that he had been questioned by the ANSP in the afternoon and evening each day for 20 consecutive days and that he had been deprived of sleep for several days. Probably on account of his advancing age, he was not subjected to further ill-treatment. However, the long periods of interrogation without sleep, combined with ill-health, were difficult to withstand. By his own admission he became confused by the questioning and was upset by threats and intimidation from the interrogators. He told the court:

*"It was the rainy season when I was being questioned at the ANSP. The dampness in the ANSP basement aggravated my neuralgia and chronic rheumatism. It was so painful*

*that I could not sit for questioning in the morning. So, I usually stayed in bed after taking medication and questioning would start in the afternoon and continue until late evening. Questioning like this, during which I did not have enough sleep, lasted for 20 days."*

Coercion and threats continued while he was questioned by the prosecution. Ahn Jae-ku maintains that during one session of questioning he was tricked into admitting that the manifesto and working rules of *Kukukchonui* contained reference to the Workers' Party of [North] Korea. He and his lawyers were also concerned that a computer diskette containing the organization's rules and manifesto appeared to have been altered by investigators and that the diskette used in court as evidence was an incorrect version.

Ahn Young-min was arrested on 13 June at his home by about 10 officers of the National Police Administration and taken to Hongjae Police Station in Seoul. He was not shown an arrest warrant or informed of the reason for his arrest. The officers carrying out the arrest called him a "robber" and he thought at first that this was the reason for his arrest. His mother went to the police station to try and see him in the afternoon and was permitted to see him at around 7pm.

Ahn Young-min told his family and lawyers that he was questioned for 48 hours without any sleep. He said that police officials had used threats and intimidation in order to extract a "confession" from him. They told him that his father had been arrested as a "spy"; they accused Ahn Young-min of belonging to *Kukukchonui* and of being in charge of the Taegu regional section of this organization. During interrogation he was told that if he did not cooperate other members of his family, his girlfriend and fellow students who had been involved in student activities with him at university would be arrested. He also felt that interrogators were using his detention to extract confessions from his father. Ahn Young-min was accused of meeting and communicating with a "spy" (his father) and of belonging to an "anti-state" organization. At his trial he told the court:

*"Finding it impossible to stand any more threats and conciliatory tactics, including the threat to arrest my girlfriend and older sisters, I had no choice but to make a false statement, saying that I had joined the organization. From that moment on, meetings between me and my father were made out to be assemblies and our conversations twisted into reports and instructions.*

*I had of course met my father on a few occasion since 1993. Because I was still on the wanted list for my activities as President of the student body at the university, it was almost impossible to meet freely my family members except on such special occasions as my parents' 60th birthday celebrations. Our conversations were mainly about what was going to happen to me, and about the health and general state of each family member. we discussed the same subjects any normal father and son would. So, if such conversations are regarded as assemblies, all the fathers and sons in the country who*

*exchange their views while watching the nine o'clock TV news would be seen as violating the provisions of the National Security Law on forming assemblies and setting up communications."*

Later, when he denied the accusations against him, he was subjected to further ill-treatment. He said:

*"When I continued my disobedience they both tried to befriend me and threatened me, working through the night and sometimes beating me to make me admit things I hadn't done. They went so far as to offer me alcohol to make me drunk . . ."*

### ***Pre-trial disclosure of investigation***

Press releases issued by the ANSP and the police on 16 June, 2 July and 28 July clearly suggested that Ahn Jae-ku and his co-detainees were guilty of espionage, even though they had not yet been tried. For example, the press statement of 2 July included a diagram of the organization *Kukukchonui*, giving the names and positions of Ahn Jae-ku and others as members of an organization working for North Korea. The disclosure of incriminating allegations by the prosecuting authorities may have damaged Ahn Jae-ku's chances of receiving a fair trial, and was contrary to the principle of presumption of innocence, enshrined in South Korean law and in international standards. Article 126 of South Korea's Criminal Code specifically prohibits the pre-trial publication of material related to court cases.

International standards 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 (ICCPR) 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*".

### ***The trial of Ahn Jae-ku***

Ahn Jae-ku was accused of establishing *Kukukchonui* in order to spy for North Korea. The authorities said that he had recruited other people to work for this organization, including his son Ahn Young-min, and that he had received money from North Korea. Furthermore, they said that Ahn Jae-ku had joined the North Korea's ruling Korean Workers' Party (KWP) while he was in prison in the 1980s.

At his trial, Ahn Jae-ku admitted that since 1991 he had been in contact with an allegedly pro-North Korean organization in Japan called *Kwang Myung* and that this group had persuaded him to establish a study group in South Korea to study North Korea's *Juche*

(self reliance) ideology. Ahn Jae-ku was interested in learning more about North Korea and his words indicate a degree of sympathy for its political principles. However, this amounted to no more than the exercise of his rights to freedom of expression and opinion. At his trial, Ahn Jae-ku said:

*"Kim Il Sung's [former President of North Korea] Juche idea has been formed in the unique situation of North Korea. What attracted me was an ideology designed to embody national independence, an ideology that I believe can play a role in creating a self-reliant national economy and independent national culture in South Korea.*

*I am totally against the idea that the socio-political systems in South Korea should be overthrown. Nor do I agree with the idea that the socialist system in North Korea should be dismantled and replaced with capitalism. We should recognize that two different political systems exist in the South and North and that the two sides constitute a community destined to jointly embody national independence. This means that we are in a community where we seek what we have in common and respect differences. How to create such a community is our task."*

Ahn Jae-ku had apparently discussed his ideas with several friends and some of them had agreed to join his organization, *Kukukchonui*. However, he denied that they intended to spy for North Korea. He realised that the formation of this organization might violate the National Security Law since it supported some of the ideas put forward by the North Korean Government; for this reason, he said, he was forced to operate as an "underground" organization.

*Kukukchonui* appears to have been a small loosely-organized group which did not have an extensive plan of activities or an active membership. To Amnesty International's knowledge it had not used or advocated the use of violence. There is no evidence that Ahn Jae-ku or any other members of the organization had passed secret information to North Korea. Ahn Jae-ku told the court:

*"Kukukchonui is an independent South Korean organization with the Juche idea as its guiding ideology and its headquarters in Japan. After I was arrested by the ANSP, I explained the nature of Kukukchonui. However, they kept ignoring my statement and assumed it was an organization of the Workers' Party of [North] Korea, operating in South Korea. Even the prosecutors who interrogated me ignored my explanation. . .*

*I have always told interested youths that the movement was not a revolution aimed at the South Korean social system, but one designed to realize reunification between the South and North as a single people. I told them that we should view it as a national liberation movement for the embodiment of national independence, and that toward this end, an independent democratic government must be founded. So, if one persists in viewing the Kukukchonui movement as an organized movement, it was an*

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*organization for independence, democracy and reunification, but not one designed to violently or unlawfully change or undermine the Republic of Korea."*

Ahn Jae-ku stated that he did receive money from friends in Japan which was used for his own well-being and for the democracy movement. Amnesty International knows of no evidence from the prosecution that this money was used for spying.

As evidence to support their accusations, the authorities presented several items. These included a "report" of activities which Ahn Jae-ku had apparently sent to *Kwang Myung* in Japan. The authorities claimed that this report proved the existence of the organization *Kukukchonui*. It did not, however, include information which would constitute evidence of spying activities. Another piece of evidence consisted of a computer diskette obtaining the *Kukukchonui* manifesto. Lawyers and family members have told Amnesty International that some parts of the computer diskette appeared to have been altered by investigators after they were seized. Ahn Jae-ku's own "confession" and the confessions of other detainees in this case, were also used as incriminating evidence.

During his trial Ahn Jae-ku was forced to wear handcuffs 24 hours a day. Amnesty International expressed its concern that this constituted an arbitrary additional punishment, amounting to cruel, inhuman and degrading treatment. In a letter to Amnesty International, written in December 1994, his daughter said:

*"Two hours after the prosecution demanded the death penalty for my father, he was handcuffed and was forced to wear these handcuffs 24 hours a day. Later, he was rarely able to stretch his body from lack of exercise. I cannot help but think that such harsh treatment imposed on a man over sixty virtually amounts to a form of torture. . ."*

In October Amnesty International delegates visiting South Korea attempted to visit Ahn Jae-ku in Youngdungpo Prison. They were denied access by the Director of Youngdungpo prison who argued that such a visit would not be good for the prisoner's "re-education". On 30 November Ahn Jae-ku was found guilty and sentenced to life imprisonment. His son, Ahn Young-min, was also found guilty and sentenced to 14 months' imprisonment. Ahn Young-min is held in Seoul Detention Centre.

#### ***Related cases: Yu Rak-jin and Jong Hwa-ryo***

Several other people involved in this case were given long prison sentences. They include Yu Rak-jin and Jong Hwa-ryo, each sentenced to 10 years' imprisonment and also adopted by Amnesty International as prisoners of conscience. Yu Rak-jin, aged 67, spent 19 years in prison on political charges before his release in 1990 in a presidential amnesty. He was also arrested in June 1994 and accused of belonging to *Kukukchonui* and of "reporting" to Ahn Jae-ku. Yu Rak-jin said that during questioning by the ANSP Yu Rak-jin said he was subjected to sleep deprivation, threats and intimidation. He also denied the charges against

him. Jong Hwa-ryo, aged 30, was arrested by the ANSP in June 1994. He claims to have been beaten, threatened and deprived of sleep by ANSP interrogators who forced him to sign a "confession". His confession was used in court to convict him of belonging to *Kukukchonui* and acting as a "messenger" for Ahn Jae-ku.

*Amnesty International's action*

Soon after the arrests of Ahn Jae-ku and others involved in this case Amnesty International issued an Urgent Action expressing concern that they may be ill-treated during interrogation. It issued a separate appeal on behalf of Ahn Jae-ku when it received the information that he faced a death sentence. In December 1994 Ahn Jae-ku's daughter wrote to thank Amnesty International members who had appealed on behalf of her father. She wrote:

*"The warm concern you have shown for my father and others involved in the same case have consoled my family and others. My father has especially asked me to convey his message of thanks to you all, and says that your devotion and efforts have helped imbue him with a sense of strength. . ."*