

인권정보자료실  
NSL2.8

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Campaign for Human Rights

Gross Violations of Human Rights  
under National Security Law

May 1999



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## 1. What is the National Security Law?

The National Security Law(NSL) has cast a dark shadow of oppression on countless people since its enactment on December 1, 1948. Through seven revisions, the history of NSL symbolizes the tumultuous modern history of Korea in the context of the country's division, dictatorships, and the democracy movement. Since its beginning, the NSL has played the most critical role in the maintenance of dictatorial regimes in South Korea by casting a pervasive net of fear and oppression. The concerns expressed by those legislators who opposed the original enactment of the NSL became too painfully materialized, and too many innocent people have been sacrificed on the altar of national security. Countless activities have courageously challenged the NSL, and due to their struggle, the NSL has lost some of its hard edge. However, despite the much talked-about reforms in the recent days and the government's claim of clean human rights record, the NSL continues its fearful presence by limiting and violating very basic human rights of the Korean people.

### 1-1 The National Security Law

The NSL was first enacted on December 1, 1948, immediately after the establishment of two separate governments in south and north Korea, which were backed and supported by the U.S.A. and the U.S.S.R., respectively. At the time, a series of people's uprisings in the South threatened the newly established government. Consequently, the new law, which was composed of six articles, was promulgated as a temporary law to cope with the virtual civil war situation of the time. This law prohibited such activities as organizing or supporting an "anti-State organization." Originally, "anti-State organization" meant North Korea; but in reality it was so broadly constructed as to include all the organizations which opposed the South Korean government. This relatively simple NSL, even after the termination of the civil war situation, the Korean War and the restoration of peace, has been increasingly proliferated and reinforced through a series of military coups d'etat, and still exists today.

The NSL has been amended seven times. The main frame of the present NSL was set up through the amendments of 1958, 1961 and 1980. In 1958, the bill to revise this law to 40 articles was passed in the National Assembly by members of the ruling party only after the members of the opposition parties were dragged out by armed police troops. In 1961, the "Supreme Council for National Reconstruction" (See Paragraph 14) enacted the "Anti-Communist Law." In 1980, the "National Security Legislative Council" (See Paragraph 14) instituted by General Chun, promulgated the new reinforced NSL by absorbing the main contents of the then repealed "Anti-Communist Law" into the NSL. The NSL and the Anti-Communist Law were the most important instruments for the maintenance of the

dictatorial regimes.

The NSL is, as its name suggests, a law which restricts the basic rights of the people in order to keep "national security." Because this law restricts human rights in all respects, and because it has been enforced with such great authority and efficacy, this law may be safely regarded as the "Constitution in the real sense" as far as human rights are concerned. The gravity and intimidating power of this law can be seen in that the people who have been punished under this law, and their families, are unable to resume a normal life in the society.

#### 1-2. The National Security Law: Excerpts

##### ● Praising, Encouraging, Etc. (Article 7)

A. Persons who have "benefitted an anti-State organization by way of praising, encouraging, propagating, or siding with the activities of an anti-State organization, its members or the persons who have received directives from such organization, or through any other means" or who have "praised, encouraged, propagated or sided with the activities of an anti-State organization, its members or the persons who have received directives from such organization or have propagated or instigated the disruption of the State with the knowledge that it will endanger the national security or survival or the basic liberal democratic order" shall be punished with up to seven years of imprisonment (Paragraph 1).

B. Persons who have formed an organization for the purposes of conducting the activities listed in Paragraph 1 (enemy-benefiting organization), or who have joined such organization shall be punished with no less than one year of imprisonment (Paragraph 3).

C. Persons who have "produced, imported, duplicated, possessed, transported, disseminated, sold or acquired documents, drawings or any other means of expression for the purpose of the above listed actions" (enemy-benefiting expressions) are liable to the punishment stipulated by the corresponding Paragraph (Paragraph 5).

##### ● Meeting or Communication (Article 8)

A. Actions of meeting, or establishing liaison with, through communication or any other means, a member of an anti-State organization or a person who has received directives from it "knowing that such contact might benefit the anti-State organization" or "knowing that it will endanger the national security or survival or the basic liberal democratic order" shall be punished with imprisonment for up to 10 years.

B. The courts construe the "person who has received directives from an anti-State organization" very widely and have found such a person without any substantial evidence. For example, in the case of Ms. Im Su-kyung, the court acknowledged Rev. Chung Ki-Yul who lives in the U.S. as such a "person who has received directives from North Korea."

However, the court failed to clarify when, where, how and from whom Rev. Chung received directives and what the contents of the directives were. Rev. Chung was responsible for the organizing of the International Peace March held in Pyongyang in 1989. The Court asserted the fact that this march could only be held with the cooperation of North Korean authority was the basis for declaring him a person who received directives from North Korea.

C. The court has, without sufficient evidence, defined several overseas Korean associations or individuals as anti-State organizations or persons who have received directives from North Korea, and has punished people who have come into contact with them. In most cases, such allegations are based on the fact that said organizations or individuals have been critical of the South Korean government or have made some favorable comments about North Korea, or on consular reports from overseas South Korean embassies. Such consular reports are made by officers stationed at the embassy who are believed to be officers of the Agency for National Security Planning and contain their assertions that, based on the monitoring of the actions of various organizations and individuals, they conducted speeches and actions which were seen as "siding with" North Korea. These reports have been accepted as evidence by the courts without giving the accused and their defense attorneys opportunity to test the validity of the claims in the reports. The following are some examples of persons and organizations that the courts have deemed to be under the directives of North Korea.

##### ● Failure to Inform (Article 10)

A. Any person who has failed to inform an investigative or intelligence agency despite the knowledge of other particular person's committing a crime under the NSL shall be subject to imprisonment for up to five years and/or fines. The amended law slightly reduces the range of the application of this article and specifies that the penalty can be reduced or exempted in case the person in question is a family member or a relative of the original criminal.

B. This article violates the freedom of conscience, i.e., the freedom to be silent, guaranteed in Article 18 of the Covenant.

## 2. The First Year of Kim Dae-jung Government: Report on the Application of the National Security Law

President Kim Dae-jung, at the time of taking office in February 1998, promised that his government will never abuse the NSL though he cannot abolish it. Also, Lee Jong-chan, as the chief of the Agency for National Security Planning(ANSP), ensured that the application of the NSL should be more strictly and flexibly considered.

On Sep. 10, 1998, the Minister of Justice told Amnesty International, at the meeting with Pierre Sane, the Secretary General of AI, that even though the country's economic crisis and political opposition were hampering their efforts to improve human rights, they would try their best for strict application on the NSL to stop its abuse.

However, the reality of the application of the NSL during the first year of Kim Dae-jung government tells a different story from their words and promises.

413 people were arrested under the NSL during the first year of Kim Dae-jung government from February 25, 1998 to February 24, 1999(MINGAHYUP reported), most of them were arrested under Article 7 of NSL, and over 90% of them were released at their first trial. It says that the number of the arrest under the NSL is 3 times more than that of the previous governments of their first year figures('80, '88, '93, respectively).

### 2-1. The First Year of Kim Dae-jung Government: Applications of the NSL

ed. by MINGAHYUP

MINGAHYUP reported that the number of the arrest under the NSL during the first year of Kim Dae-jung government is 413. The monthly based figure(Table 2-1) shows that the number has been greatly increased in May, a total of 53, compared to 7 in March and 20 in April. The number increased more up to 71 in July.

<Table 2-1 The number of the arrest under the NSL (Feb. 1998-Feb. 1999)>

Month	2/98	3	4	5	6	7	8	9	10	11	12	1/99	2	Total
NSL	1	7	20	53	56	71	58	29	34	16	41	20	7	413

\*sources: MINGAHYUP

It is because of the continuous arrest of anti-state organization members in violation of the NSL, started from May, such as "International Socialists(17, May 7)", "Northern Workers

Association(7, May 13)", "ANMINCHUNG(9, June 2)", "National Students Solidarity(7, June 9)", "JINBOMINCHUNG(6, June 24)", "Youngnam Committee(15, July 25)", etc. Students who were the member of a national student union "Hanchongnyon" had also been arrested mostly during the month of July and August, 37 and 33 each.

Compared to the number of the arrest under the NSL with the previous 5th('80), 6th('88), and Kim Young-sam Government('93) of their first year figures(Table 2-2), it has been increased 2.6 times more than that of the 5th Republic(159), 3.95 times more than the 6th Republic(104), and also 3 times more than the Kim Young-sam Government.

<Table 2-2 The number of the arrest under the NSL and ACL>

Year	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97
NSL	23	169	171	153	93	176	318	432	104	312	414	357	342	136	403	226	413	674
ACL	136	65	13	-	3	2	5											

\*sources: Court Administration Office, Yearbook of the Courts, 1980-1997

\*ACL(Anti-Communist Law): It has been abolished on Dec. 30, 1980.

The case analysis of the violation of the NSL can be shown in the following Table 2-3.

<Table 2-3 Case analysis of the number of the arrest under the NSL>

Article	Number
7. Praise, Encouragement, Etc.	381
3. Formation of Anti-State Organization	15
4. Performance of Objectives	2
6. Escape and Infiltration	3
8. Meetings, Communication, Etc.	8
9. Providing Convenience	4

\*sources: MINGAHYUP

\* Only one main article is selected where several articles were applied.

It shows that 92.3% of the arrest(381/413) during the year have been accused of the breach of Article 7, which is in violation of the right to freedom of expression, among others, as the UN Human Rights Committee called for its remedy.

And the detailed indictments of those 381 arrests seem to have failed to produce the firm

evidence of their action to "threaten the nation's existence and security and the order of liberal democracy", or "concerning such matters which will likely cause social disorder."

Therefore, it seems that the mass arrest of Kim Dae-jung government under the NSL is in flagrant abuse of the NSL by the relative agencies.

## 2-2. Case 1: The suppression of the Assembly of Young People For Progress in Seoul (AYPS)

written by the Committee Against the Suppression of AYPS (tel:82-2-838-0905)

### 2-2-1. The situation and the essence of the suppression of AYPS

4 members of former AYPS were arrested by police officers on 13th of April. AYPS decided to dissolve in public on 22th of Jan. 1999 after their General Meeting. After the disassociation of AYPS, the former members were arrested, working hard for their companies and social organizations making their efforts for democracy and progress in our society. In addition, most important staff of AYPS, first and second president of AYPS, who founded AYPS, had already been sentenced and set free.

① The suppression of AYPS is the extension of the suppression of Assembly of the Young for Progress (AYP).

The suppression of AYP started with the case of the Federation of the Young for Social Progress. AYPS is the 8th case related with AYP. The number of convicts engaged in AYP is over 70. Most of them were put on probation by the verdict of the state courts except the people who were arrested again during the term of their probation. Despite the name of 'President for Human Rights', President Kim Dae-jung suppressed progressive groups, composed especially of the young in worse way than the former governments during the military dictatorship. This fact shows how paradoxical is the policy on human rights under the present government called 'Government of Human Rights'. When President Kim Dae-jung was not in power, he always said, "National Security Law(NSL) should be abolished" but after the last presidential election, he forswore his opinion, "NSL is necessary for public security" It shows the policy towards NSL under Kim Dae-jung government. Like many civic groups, we think NSL should be abolished immediately as it makes many young people convicts and the rate of probation is over 98%.

② The history of AYP's suppression clearly shows the problem of NSL

When the UN Human Rights Committee required the Korean government to abolish NSL, Ministry of Justice said, "Under the 'Government of People', the application of NSL will be minimized and abuse of it will be prevented. Therefore it won't make any problem"

On the contrary, it is applied and abused under the 'Government of People' more than under military dictatorship. The number of convict is three times under present government than under the last government.

The application of NSL have extended not only to secret organizations but also to open and popular organizations which are the target of suppression. Therefore, we can't trust the government's proclamation that NSL will be revised or alternated. Last March, Justice Minister announced that he will make an alternative legislation or amend NSL in part. The Minister of Foreign Affair and Trade and the ambassador in Geneva expressed government's opinion that they are going to revise NSL and delete draconian stipulations in it. While announcing the amendment to NSL, they conducted the suppression of progressive groups like AYPS. Through 8 cases engaged in AYP's suppression, it is revealed that NSL is not the law for national security but the law for the suppression and repression of critical groups to the government.

③ The suppression of AYPS is a struggle of public service officials to keep their interests and privilege

The voice for abolition and amendment of NSL is higher than any other times in the past. UN human rights committee regarded NSL as an 'evil law' and pointed out it contradicts the International Covenant on Civil and Political Rights. International organizations on human rights including Amnesty International also submit a report in which they claimed that NSL and the written pledge to obey national laws are against human rights and the condition of human rights have not been improved even under the 'Government of People'

Public opinion on NSL is that 70% of Korean people is for abolishment or amendment to it according to the latest research. We take seriously the situation that the government are ready to revise or alternate NSL under the pressure of domestic and international public opinion, at the same time they arrest and suppress progressive organizations and people under the name of NSL. The fact that the public security authorities now accused many progressive organizations of benefiting enemy on the basis of the past information got by political suspects and wire tapping may be regarded as a kind of demonstration to make their voice in order to sustain NSL and their privileges. The public security officials shows

their nostalgia of the military dictatorship, their golden era, through the case of AYPS. Therefore we claim the suppression of AYPS is not just a matter of an organization of the young but the provocation of public security officials to retain the situation against human rights. The tide to oppose to them should be made.

#### 2-2-2. Profile of convicts engaged in AYPS

- ① Kim Su-ja (29)
  - former president of AYPS/ editor of Ku-ro newspaper
- ② Kim Yong-shin (32)
  - former director of education at AYPS
  - a member of the committee to organize a progressive party.
- ③ Ko Kyung-sub (31)
  - Chief of Cham-Tue free legal advice office
  - a qualified consultant on labour management
  - a member of the committee to organize a progressive party
- ④ Park Sung-ah(29)
  - former secretary general of AYPS
  - former chief counselor of Alliance of Female Organization

#### 2-2-3. History of suppression of AYP

- ① 94.3. Federation of the Young For Social Democracy(a section of AYP at that time)
  - 10 members were convicted in accordance with NSL(esp. to form an organization and publish books, newspaper etc. in favor of enemy)
  - All of them were put on probation according to the verdict of state court
- ② 94.12. Uh-Ri Assembly of the Young (a section of AYP at that time)
  - 6 members were convicted in accordance with NSL(esp. to form an organization and publish books, newspaper etc. in favor of enemy)
  - All of them were put on probation according to the verdict of state court
- ③ 97.4. Federation of the Young For Social Democracy(a section of AYP at that time)
  - 20 members were convicted with the same reason as two cases above.
  - 16 people were put on probation and 4 people were sentence to imprisonment according to the verdict at state court. Two of four people were sentenced imprisonment again at the High Court.
- ④ 97.10. Assembly of the Young labours for Democracy in Bu-cheon (a section of AYP at that time)
  - 11 members were convicted with the same reason as two cases above.
  - 1 person was sentenced to imprisonment according to the verdict at state court but he was put on probation according to the verdict of High Court
- ⑤ 98.2. Kwan-Ak Assembly of the Young labours (an organization engaged in AYP)

- 8 members were convicted with the same reason as two cases above.
  - 2 people were sentenced to imprisonment according to the verdict at state court but they were put on probation according to the verdict of High Court
- ⑥ 98.6. Assembly of the Young for Democratic movement in An-Yang (a section of AYP at that time)
    - 9 members were convicted with the same reason as two cases above.
    - 1 person was sentenced to imprisonment according to the verdict at state court but he was put on probation according to the verdict of High Court
  - ⑦ 98.6. Central executive committer of AYP
    - 6 members were convicted with the same reason as two cases above.
    - 2 people were sentenced to imprisonment according to the verdict at state court but they were put on probation according to the verdict of Higher Court
  - ⑧ 99.4. Assembly of the Young for Progress in Seoul (a section of AYP in the past)
    - 6 members were accused of the violation of NSL and 4 of them were convicted. The rest one have not arrested yet.
    - The trial is on process

#### 2-3. Case 2: The Case of so-called Youngnam Committee on Appeal

##### 2-3-1. The Process of the Trial on Appeal of the Case of so-called Youngnam Committee

- ① The 1st Hearing on the Appeal Case(Mar. 22 and 29, 1999)
- ② The High Court 2nd Division : Park Gyung-sun, Kim Yi-kyung, Kim Myong-ho, Bang Suhk-soo, Lee Eun-mee, Hong Jeung-ryun  
The court read the main points of the accused's reason for the appeal.  
All of the accused gave testimonies.  
The court stated its position about the suspension of executing confinement of Lee Eun-mee.  
Attorneys conducted cross-examinations and adopted 8 witnesses.  
Members of the MINBYUN Lawyers for a Democratic Society, Go Young-goo and Han Taek-geun attended.  
Ms. Lee Eun-mee entered the courtroom on a stretcher.
- ③ The High Court 1st Division :  
Kim Chang-hyun, Jeong Dae-yeon, Lim Dong-shik, Cheon Byeong-tae, Lee Jung-hee, Lee Chul-hyun, Lee Hee, Kim Seung-nam, Kim Yong-kyu  
The court announced the main points of the accused's reason for the appeal case.  
The accused demanded the early suspension of executing confinement of Lee Eun-mee.  
Attorneys gave cross-examinations and adopted 4 witnesses.  
Members of the MINBYUN Lawyers for a Democratic Society, Jo Jun-hee and Kim Do-hyeong attended.

④ Mar. 31, 1999 The Court Decided the suspension of executing confinement of Lee Eun-mee who then was hospitalized in Pusan University Hospital.

⑤ Apr. 12, 1999 The High Court 1st Division examined the seized disks.  
The court decided to appoint 4 court employees as the examiners.  
The examiners took oaths.

In accordance with the lawyers' demand, the court decided to insert it into the report of the examination that they could not rule out the possibility of tampering with disks and the fact of restoring the erased file.

The court decided to examine the notebook computers and disks of Lim Dong-shik, Lee Hee and Lee Jung-hee.

⑥ The 2nd Hearing on the Appeal Case(Apr. 12 and 15, 1999)

⑦ The High Court 2nd Division(Apr. 12, 1999)

It heard 8 witnesses(including Security Investigation Dept. inspectors Kim Sang-doo and Kim Dong-ho, 9 persons in total)

- With the witness testimonies of inspectors, it was revealed that the bugging of Park, Gyung-soon's house was done without regard to time and person.

- With the testimony of 6 witnesses, it was revealed that the main points of the accusation are not true.

⑧ The High Court 1st Division(Apr. 15, 1999)

It heard 4 witnesses.

The witnesses stated that the facts do not support the accusation.

The court asked the accused to submit their position and idea of our society.

⑨ Apr. 16, 1999 The High Court 2nd Division examined the seized disks.

It decided to appoint 6 court employees as the examiners.

The examiners took oaths.

With the lawyers' demand, it decided to insert it into the report of the examination that they could not rule out the possibility of tampering with disks and the fact of restoring the erased file.

The court ordered the report of the examination to be submitted.

On Park Kyung-soon's disks, many 'asv' files are found, which shows the police's manipulation after the arrest.

Besides, many files are found which were dated in the year 1980.

(No computers were supplied in Korea in 1980)

⑩ Apr. 19, 1999 Held the censure rally on the disk manipulation of the Pusan Police Headquarters(in front of Pusan Court)

⑪ Apr. 20, 1999 Held the news conference on the disk manipulation(Ulsan)

⑫ Apr. 21, 1999 The 3rd Hearing on the Appeal Case

The court adopted the examiners as witnesses on the result of disk examination.  
Lawyers heard witnesses.

Lawyers pleaded last.

The accused gave the last statement.

The public prosecutor's prosecution sought the following sentences:

Park Gyung-soon Imprisonment for life

Kim Yi-kyung Imprisonment for 10 years

Bang Suhk-soo Imprisonment for 7 years

Kim Myong-ho Imprisonment for 7 years

Lee Eun-mee Imprisonment for 7 years

Hong Jeung-lyun Imprisonment for 7 years

2-3-2. Open Letter to President Kim Dae Jung

-Marking the 50th Anniversary of the Universal Declaration of Human Rights

Honorable President Kim Dae-jung

About this time last year, we sang of a song of victory celebrating the end of dictatorship which has suppressed the aspiration for democracy and national independence through coups, massacres, violence and human rights violation. We were overjoyed with hope for the new age.

We placed a special hope on President Kim because you have continuously fought against the military regimes and fought for democracy, and you know too well how anti-democratic laws and regulations, security police and intelligence organizations are easily manipulated by the ruling regimes and reduced to the means of oppression and maintenance of power because you have suffered, in person, numerous violations of human rights under house arrest, and imprisonment, torture and kidnapping.

President Kim!

We would like to deliver a number of heart-felt advice to bring about true democracy and progressive reforms.

First of all, we ask that the National Security Law be abolished. It is a vicious law that

restricts the freedom of thought, conscience, organization, assembly, religion, and expression and hinders peaceful reunification. We urge you to restore the conviction you had as the president of the opposition party, and your own words against the law that "it serves no purpose because the criminal law is enough to maintain law and order." Outrageous things continue to happen. "Hanchongnyon," the national association of student unions, remains on the list of "communist-sympathizing" organizations, giving grounds for arresting members of student unions upon election.

We still bear dubious cases of subversive and communist-sympathizing organizations including the infamous "Youngnam Committee," which was a figment of the imagination of the police forces who have mastered the art of rigging communist organizations out of nothing over the past few decades.

We would like to bring it to your attention that prisons are full to the brim with prisoners of conscience, half of them being there for the offense of NSL. The recent arrest of Father Mun Kyu-hyun on the charges of violating NSL, for instance, was a clear revelation of the hypocrisy of the current regime. We urge you to release conscience prisoners across the country unconditionally and as soon as possible.

Your government doubts itself "the Government of People." How, then, do you explain the fact that there are more prisoners of conscience under your government than the past? Can't you see that you were making the same mistake past military regimes made when you forced prisoners of conscience to sign an agreement to abide laws in return for their release? How does the agreement differ from the past practice of requiring prisoners to relinquish their political beliefs in exchange for freedom? What makes you stick to the Protection and Monitoring Law as a bear wouldn't let go of a honeycomb? Don't you see that this is a vicious legacy of the Japanese colonial rule that gives the legal ground for day-to-day intrusion into citizens' lives?

President Kim!

Consider the plight and suffering of the families of those on the wanted list simply because they stood up for their political beliefs, and remind yourself of those days when you too were victims of political persecution, living in exile in Japan for your fight against dictatorship, being abducted and then expelled to the United States, separated from your beloved family against your will.

The morally right course is to remove them from the wanted list and let them go back to their families. And then there are the victims of deaths whose cause have never been identified or investigated. You must shed light on the causes of the deaths and put to rest the spirit of the victims and begin the healing process for the bereaved families.

Last but not least, we would like to talk about the reality of our existence, of those correction and detention centers across the country, where human rights is an alien concept,

where dozens of people sleep like packed sardines in a cell that holds two to three times many people than its capacity due to the increase of thefts in the aftermath of the IMF bailouts, where the time allowed for visiting families are less than five minutes, where sick inmates fall victim to illegal medical practice in the absence of resident doctors and pharmacists, where people are malnourished, where physical and verbal violence is rampant, and where cold and frost-bites have become part of life in winter, where inmates appear in court in ropes and handcuffs and have to force their families to this humiliating sight, and where you, too, lived in for six years. Please remember those humiliating condition of existence, which remain astonishingly the same after all these years.

President Kim!

There is only one way. The way of bold and fundamental reforms and social progress. You must learn from the mistakes of your predecessor, Kim Young-sam, and try not to forget how the first "civilian government" that enjoyed 90% approval put its foot into its mouth, and why the political stunts and retaliation led to the repression of students and workers, and ended in economic collapse.

Reform by nature is a firm and bold struggle. We are disturbed by the way things are going. If you don't change course now, people will take to the streets in massive resistance to vent their pent-up angers and frustrations. And your government will go down in history as yet another failure, and you as yet another failed president.

President Kim!

Please make the right choice. That alone is what prisoners of conscience want to tell from the deepest bottom of our heart as we wait for the 50th anniversary of World Human Rights Declaration.

Sincerely, Prisoners of conscience who love the nation and pursue true democracy and progressive reforms

Open Letter to President Kim Dae-jung

This letter was given by the prisoners of Youngnam committee to the Human rights organization dated on December 1, 1998.

## Human Rights Violations under National Security Laws

Delivered by Dr. Cho Si-hyun

Madame Chair,

I would like to draw the attention of the Commission on Human Rights to gross human rights violations committed under national security laws in the world, particularly in Asia and Latin America such as South Korea, China, Indonesia, Malaysia, India, Burma and Peru.

National security laws<sup>1)</sup> are special laws enacted for the ostensible purpose of protecting national security, which permit state organs to take measures in violation of international human rights law, whether or not in states of emergency, during armed conflict or under military occupation. Modeled on outdated notions of national security rather than "people's security", these laws originate from the colonial and the cold war period and have been widely and systematically abused by military dictatorships.<sup>2)</sup>

Human rights violated under the national security law regime include, but are not limited to, the right to life and physical integrity (by, for example, enforced and involuntary disappearances, arbitrary killings, torture and other inhuman acts<sup>3)</sup>), the rights to freedom of association and assembly, and the rights to freedom of expression, thought and conscience. These violations are committed with impunity,<sup>4)</sup> with no guarantees of fair trial in the

- 1) Various terms are used to describe those laws, such as the Internal Security Act, the State Protection Law, the Anti-Communism Act, the Anti-Terrorism Act and the like.
- 2) In Peru, for instance, the government authorities have established a system in some areas in the framework of the State's struggle against subversion, by which the civil and political rights of citizens have been effectively abolished having been put under the control of the armed forces. This is unconstitutional. Despite the fact that violence has diminished significantly, 20% of the Peruvian population are still living in the so-called "emergency zones" which has continued for a number of years without interruption. The populations under these territories are ruled by political military commanders who undermine the elected civil authorities. In these areas, civilians have lost some constitutional rights such as the freedom of assembly, the freedom of movement, the right to habeas corpus (amparo). They are facing a permanent source of arbitrary detentions and other serious violations of human rights.
- 3) For instance, the Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms. Asma Jahangir, implicitly acknowledges this problem. E/CN.4/1999/39 (1999), para. 67. The Special Rapporteur on Torture, Sir Nigel S. Rodley, also expressed concern: "A further source of impunity is the existence of special legal norms, procedures where State security forces are involved." E/CN.4/1999/61 (1999).

absence of judicial independence and contrary to the basic principles of the rule of law and democracy. Human rights defenders who fall victims to national security laws also need protection.

The typical example can be found in South Korea. In the first year of the Kim Dae-jung government since its inauguration in February 1998, 413 persons have been taken into custody and tried on charges of breaches of the National Security Law, three times higher than under the previous government. In particular, 381 cases have been brought under Article 7 of the National Security Law, which prohibits "praising, encouraging and propagandizing of activities of an anti-State Organization" and the possession of "materials benefiting the enemy". Despite the recent amnesty in last February, which released many political prisoners and 'long-term prisoners', there remain 206 prisoners of conscience.<sup>5)</sup> This shows clearly that the misuse of national security law continues unabated under the presidency of Kim Dae-jung, who claims to be a 'life-long champion of democracy and human rights'.<sup>6)</sup>

Madame Chair,

The current economic crisis under the IMF in many places has also given a pretext for the application of national security laws in violation of economic, social and cultural rights, especially those of foreign migrant workers, social minorities and various categories of vulnerable groups under severe threat. In an effort to suppress labour rights, a number of trade unionists have been imprisoned for violations of national security laws. The police and the security agencies have also resorted to various measures of surveillance such as wire-tapping.<sup>7)</sup>

- 4) Particularly serious is the problem of "deaths under suspicious circumstances" as widely practiced in many countries including South Korea. These deaths have occurred not only during custody, but also to the conscripted and military personnel under the hands of the armed forces in the abuse of the National Security Law. Despite the obligation of the government to investigate violations of human rights promptly, to bring perpetrators to justice and to provide adequate compensation to the victims, no effective measures have been taken until now. See, e.g., Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, E/CN.4/1999/39/Add.1 (1999), para. 202; Report of the Special Rapporteur on torture and detention, E/CN.4/1999/61 (1999), paras. 596. See further the Korean Council for Democratic Martyrs (KCDM) and the Korean Association of Bereaved Families for Democracy (Yougahyup), Summaries on Suspicious Deaths in South Korea (1999).
- 5) They include 146 students (associated with the 'Hanchongryuen', a student organization alleged to be an anti-State organization), 4 'long-term prisoners', 4 soldiers/policemen, and 24 dissidents/others. 74.3% of them were charged under the National Security Law. MINGAHYUP Human Rights Group, The First Year of the Kim Dae-jung Government: Report on the Application of the National Security Law (1999) (in Korean).
- 6) Statement by the H.E. Mr. Hong Soon-young, Minister of Foreign Affairs and Trade of the Republic of Korea, 55th Session of the Commission on Human Rights, Geneva, 25 March 1999.
- 7) For example, the so-called 'Youngnam Committee' case (appeals on the earlier sentence now

Human rights problems related to national security laws are not confined to the existence of legislation giving wide and unchecked powers and discretion to the state authorities. In the case of Peru, the immeasurable growth of the intelligence services without any institutional control and the power of military courts to judge civilians for treason or terrorism have aggravated the grave human rights situation under the state of emergency.<sup>8)</sup> Efforts to deal with those human rights violations should be accompanied with the establishment of democratic control over the working of the police, security agencies, and the military. There is a clear need in this respect that state institutions buttressing the national security law regime should be dismantled or reorganized to ensure full respect for human rights.

It is regretful that the Korean Government still refuses to comply with various recommendations of the Human Rights Committee<sup>9)</sup> and the Special Rapporteur on the freedom of opinion and expression<sup>10)</sup> with respect to national security laws.<sup>11)</sup> It is

pending).

8) The Inter-American Commission on Human Rights, the Special Rapporteur on the Independence of Judges and Lawyers, the Working Group on Arbitrary Detentions of this Commission as well as human rights NGOs at national and international levels have widely analyzed, documented and criticized this phenomenon. So far this has not effected any change in the situation.

9) In 1998, the HRC requested the government to take effective remedies, including monetary compensation and to prevent similar cases from taking place again, finding that the punishment under Article 7 of the NSL violated the freedom of expression under the ICCPR. See, e.g., Communication No. 574/1994 (3 Nov. 1998), CCPR/C/64/D/574/1994 (1998). The only action that the Ministry of Justice has taken so far was to publish the views of the HRC in Korean on 14 March 1999. In this respect, the following made by the Korean government at this Commission will be noted: "Given our security situation as a divided nation, we cannot simply do away with our National Security Law. However, in the light of the views of the Human Rights Committee regarding the compatibility of some of the provisions with freedom of expression, and to prevent the law from being exploited as a pretext for human rights abuses, my Government is now preparing to amend the law in a forward-looking manner."

After reviewing the initial State report required under the ICCPR, the HRC expressed concern over the continued operation of the National Security Law, stating that "ordinary laws and specifically applicable criminal laws should be sufficient to deal with offences against national security. Furthermore, some issues addressed by the National Security Law are defined in somewhat vague terms, allowing for broad interpretation that may result in sanctioning acts that may not truly be dangerous for State security". The Committee recommended that "the State party intensify its efforts to bring its legislation more into line with the provisions of the Covenant. To that end, 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 and, in the meantime, not to derogate from certain basic rights." CCPR/C/79/Add. 6 (1992).

10) The Special Rapporteur, Mr. Abid Hussain, requested the government to "repeal the National Security Law and to consider other means, in accordance with the Universal Declaration of Human Rights and the ICCPR to protect its national security." E/CN.4/1996/39/Add.1 (1995). As to Malaysia, he also urged the Malaysian Government to repeal the Internal Security Act. E/CN.4/1999/64/Add.1 (1998).

11) While acknowledging that the present National Security Law, with its ambiguous content, is likely to violate human rights by punishing acts not related to security, the Minister of Justice, Sang-chun

imperative that all governments should repeal or revise existing legislation and policies adopted for the purpose of protecting national security laws in order to be in conformity with international human rights standards and to ensure that security-related measures fulfil all the requirements for the protection of human rights and respect the rule of law in a democratic society.

Madame Chair,

Taking note of the need to integrate concern about the adverse human rights impacts of the existence and the application of national security laws into the UN procedures for the protection of human rights, we would like to suggest the following:

1. We urge once again that the South Korean Government to repeal the National Security Law as recommended by the Special Rapporteur on the freedom of expression.

2. We request the Special Rapporteur on the independence of the judiciary to visit in situ South Korea and other countries affected by national security laws.

3. We request the United Nations High Commissioner for Human Rights to consider the issue of national security law within the existing UN machinery with a view to preventing human rights violations justified on the ground of national security.

4. We also request the Commission on Human Rights to appoint a Special Rapporteur on National Security Laws, to endorse the Johannesburg Principles on National Security, Freedom of Expression and Access to Information,<sup>12)</sup> and to develop further international standards and mechanisms for the protection of human rights under national security laws.

5. We further request the appointment of a Special Rapporteur on Human Rights Defenders and further call for the inclusion in his mandate in clear and express terms of the issue of the protection of human rights defenders under national security laws.

6. We request the Special Rapporteur on the freedom of expression to undertake a study on gross violations of human rights under national security laws for his report to the next session of the Commission on Human Rights.

I take this opportunity to express the hope that by repealing the National Security Law, the Korean Government will establish a model for those States that have not taken similar steps to follow to place human rights on firmer ground.

Thank you Madame Chair.

Park, on 25 March 1999, opposed its repeal, stating: "If the National Security Law is repealed completely, there is a problem not to be able to punish acts of propaganda and instigation by the anti-State organization aiming at the overthrow of the regime as long as it does not resort directly to violence."

12) E/CN.4/1996/39, Annex (1996).

## 4. Statements on the 50th Anniversary of the National Security Law

### 4-1. Statement to Abolish the National Security Law

Emphasizing that 1 December 1998 is the 50th Anniversary of the enactment of the National Security Law in South Korea ;

Recognizing that the National Security Law is modeled after the 'Public Order and Security Law' used under Japanese colonialism to oppress and punish Korean independence activists ;

Recognizing furthermore that in the background of the history of the cold war and the Korean historical environment of the division of the Korean peninsula, the National Security Law has been the main law contributing to maintaining the division of the Korean peninsula and the power of past dictatorships ;

Convinced that the National Security Law has been used to cause the suffering of people who promote democracy and are devoted to reunification,

Convinced furthermore that the government and investigation agencies (the Agency for National Security Planning, law enforcement authorities, and the military security investigation authorities, etc.) responsible for the enforcement of the National Security Law, violate the basic rights of citizens in the name of the National Security Law,

Stressing that each advent of new dictatorial powers brought about negative revisions in the National Security Law, giving more power to government agencies, which in turn gave legitimacy and permanence to the dictatorship,

Emphasizing that the existence of the National Security Law and the government agencies that were empowered by it, led to violations of not only civil and political rights, but also social, economic, and cultural rights of the Korean people, and acts as a major hurdle to the dignity of human beings, generally preventing the positive development of Korean society,

Acknowledging that the Cold War has virtually ceased worldwide, and relations between south and north Korea is marked by a new atmosphere of reconciliation,

Considering that the current president of Korea was imprisoned by the National Security Law in past dictatorships,

Considering also that the slogan of the new government is a 'new government of human rights,' the new president promised the world that human rights would be protected in south Korea;

We, particularly the south Korean people and people of other Asian countries, remember the promise of then opposition leader Kim Dae-jung that he would abolish the National Security Law because it violates human rights, and his insistence on the need to enact an alternative law on national security which does not violate the rights of Korean people.

We, the undersigned, affirm that the repeal of the National Security Law and the absolute guarantee of democracy and human rights is the best way to attain true national security, based on the ideology of people's security. For this reason, we cannot be satisfied with the proposal for an alternative law on national security, and the human rights community expected the phasing out of the National Security Law and the application of human rights according to international standards, without reservations, with the inauguration of the new president.

However, in the close to one year since the new government in Korea has been in power, we cannot help but be disappointed by the lack of positive measures to deal with the National Security Law.

Furthermore, after the inauguration of the new government, the majority of political prisoners imprisoned for violating the National Security Law were not granted amnesty. In reality, almost 300 people have already been arrested under the NSL this year.

During the past elections, even though the then presidential candidate Kim Dae-jung promised that he would not abuse the National Security Law, we cannot help being enraged and disappointed that the NSL is continuously being used to violate human rights.

We feel that the current south Korean government is not different from past dictatorships in using the National Security Law to maintain political power, and we can only conclude that there is a possibility that this slogan of human rights is being used to suppress or conceal this reality.

#### DEMANDS :

Half a century has passed since the enactment of the National Security Law, and we, the undersigned, affirm the need for the abolishment of the National Security Law.

We, the undersigned, announce our full support for all efforts to fight for the abolishment of the National Security Law in South Korea.

We, the undersigned, also reconfirm our efforts to struggle in solidarity to abolish national security laws and other unjust laws in other countries in Asia and the world.

We, the undersigned, demand that the current government in South Korea observe the international standards of human rights set in the Universal Declaration of Human Rights, and immediately release all political prisoners who were arrested under the National Security Law, and demand the democratic reform of investigative agencies empowered by the National Security Law.

1 December 1998

### **Korea Human Rights Network**

People's Solidarity for Participatory Democracy  
Korean Confederation of Trade Unions  
Intellectuals for a Democratic Society  
National Alliance for Democracy and Reunification of Korea (NADUK)

### **Asian Human Rights Organizations**

Amnesty International, Japanese Section / Asian Cultural Forum on Development(ACFOD) / Asian Center for the Progress of Peoples(ACPP), Hong Kong / Asian Forum for Human Rights and Development(FORUM ASIA) / Asian Human Rights Commission(AHRC), Hong Kong / Asia Students Association(ASA), Hong Kong / Australian East Timor Association(AETA) of NSW, Australia / Australian Council for Overseas Aid(ACFOA) / Catholic Justice and Peace, Yokohama Diocese / Committee for Asian Women, Hong Kong / Documentation for Action Groups in Asia(DAGA), Hong Kong / East Timor International Support Center(ETISC), Australia / Free Burma Coalition / Movement for Defence of Democratic Rights(MDDR), Sri Lanka / Philippines Alliance of Human Rights Advocates(PAHRA) / Suara Rakyat Malaysia (SUARAM), Malaysia

### **International Human Rights Organizations**

World Association Against Torture(OMCT) / International Centre for Human Rights and Democratic Development / Pax Romana / MIICMICA / Ignacio Martin-Baro Fund for Mental Health and Hurights, USA / International Pen

### **Korean Overseas Organizations**

Young Koreans United, USA / Korean Youth and Student Union(KYSU), Los Angeles / Support Group for Prisoners of Conscience, Germany / Korean German Womens' Group, Germany / KoreanGerman Labor Education Institute, Germany / Korean Rights Group Japan(KRGJ), Japan / Save the Prisoners of Conscience in Korea(SPOK), Osaka / Korean Resource Center in Sydney, Australia / Young Koreans United in Australia / South Korea Human Rights Action in Australia

### **4-2. Message of Support to KOHRNET(Korea Human Rights Network) on the 50th Anniversary of the National Security Law**

Pierre Sane

Dear Friends,

On this historic day, and on behalf of Amnesty International members throughout the world, I am sending you this message of solidarity and support. I wish you every success in your National Security Law campaign throughout the coming months.

On 10 December human rights activists throughout the world will celebrate the 50th anniversary of the Universal Declaration of Human Rights(UDHR), a document which sets out the rights and freedoms of every person in every country. We hope that human rights groups in South Korea will join us in commemorating this important declaration which laid the foundation for development of worldwide human rights protection.

But South Korea also marks a less happy anniversary on 1 December, the 50th year of the National Security Law. The very rights granted in the UDHR were taken away by a succession of South Korean Governments through use of the National Security Law to limit freedom of speech and assembly.

South Korea has gone through profound changes since 1948. It has developed into an open and more tolerant society, with a former political prisoner as its President. But the National Security Law is still being used, as it was in past decades, to imprison hundreds of people each year for their peaceful political thoughts and actions. Reform of the law is long overdue.

In September President Kim told me that "poisonous clauses" of the law will be reviewed soon. I reminded him that the law is being constantly abused and that every day of delay adds new victims - not just prisoners but also their families and loved ones. Long-term political prisoners are among those who continue to be held under the National Security Law, simply because they will not sign a "law-abiding pledge".

The government has a moral responsibility to protect the rights of these and other victims of the National Security Law. It should also remember its international commitments. The National Security Law is in violation of the International Covenant on Civil and Political Rights, which South Korea has signed up to. South Korea is rightly proud of its achievements, but the National Security Law has earned South Korea a reputation as a country which jails hundreds of political prisoners each year. The government could win new international respect by releasing political prisoners and either abolishing or substantially amending the National Security Law.

This is a difficult time for South Korea, as it grapples with the economic crisis which has affected the country this year. During this period it is vital that key economic and social rights are protected but one set of rights cannot be viewed in isolation from others. The

Universal Declaration of Human Rights is an important reminder that economic, social, political and civil rights are closely linked; they cannot be separated and prioritised over each other. South Koreans should continue to seek all the rights to which they are entitled, including freedom of speech and assembly.

I would like to join with human rights activists, prisoners and their families in calling for an end to abuses under the National Security Law. Throughout the coming year, Amnesty International hopes to add its efforts to those of many Asian NGOs who will be campaigning for reform of national security legislation in countries throughout the region. We believe Korean human rights groups can play a strong and leading role in this campaign. We wish you every success.

With best wishes,

Pierre Sane

Secretary General

#### 4-3. Solidarity message by the Prisoners of so-called Youngnam Committee

Dated on December 1, 1998

The Position of so-called "Youngnam Committee" Case-related People on the Occasion of the 50th Anniversary of the National Security Law

Dear Citizens who hope for the peaceful reunification and democracy of this nation! Members of civic organizations and leaders who strive for the progress and reform of this society, and economic justice and equality! And the world citizens who work hard for the universal value and ultimate virtue, promotion of human rights! We salute you from the bottom of our heart on the 50th anniversary of the National Security Law.

We are on trial on charge of organizing an anti-establishment "Youngnam Committee" after having been urgently arrested by Pusan Police Station. We have been suffering serious defamation and human rights' violation because of fabrication by the security police which is taking place under the current administration which ironically claims to be the government of the people and protector of human rights.

We are not to overthrow the state. We were whisked away by security officers of the Pusan Police Station against our will in the wee hours of July 22, 1998. Kim Chang-hyon (county chief), Governor of Dong-ku, Ulsan was arrested in his office at four p.m. on the

next day. The charges against us is that we organized an anti-establishment organization to subvert and give rise to social disturbances. The organizations each of us belonged to are all legal and open entities including Ulsan headquarters of KCTU, Ulsan chapter of the Metal Workers' Union and the Alliance for Democracy and National Unification(NADUK branch in Ulsan), and Ulsan Women's Organization.

It is true that we have staged a campaign to help Northern brethren to save children dying of hunger and protested against layoffs and revision of the labor law which only threatens workers' rights and survival. And we have led a movement to object the bus fare raise and been actively involved in various local citizens' movement. As a result of these activities, citizens and workers of Pusan and Ulsan area have voted for many KCTU-endorsed candidates for Local government, city council, and Local council in the latest local government election in early June.

We have never concealed our ultimate goal that is to cultivate political forces by legally forming a progressive political party. We were shocked during the interrogation process, however. The legal activities carried out by labor and opposition organizations to which we belong were described as anti-state activities and civic work was denounced as instillation of communist ideology and instigation. Also, the establishment of a progressive political party was labeled the formulation of an underground political party for revolution, our charity work for Northern brethren a fight to protect Kim Jong-il.

We accuse the security police of fabrication and human rights violation. Two people, members of he alleged anti-establishment organization, who was urgently arrested on July 22, 1998 was released on the following day. It is a showcase of preposterous mistake of the police, which asserts that it has detected and watched the anti-establishment organization for years. The security police had drawn up the table of organization and tried to make their case by superimposing us onto their made-up organization chart. That led to such a mishap on their part.

The name of the so-called anti-establishment organizations changed from "Youth's Union against Imperialism" to "Hanminjon Youngnam Committee", and then to "Youngnam Local Chapter of Chosun Workers' Party." The Youth's Union against Imperialism disappeared in the early 1990s and Hanminjon is an indistinct broadcast propaganda organization. The police and the prosecutor have found it impossible to use the name of Chosun Workers' Party so they gave up this labeling and came to call it "Youngnam Committee." Without common evidence of a platform, regulations, bylaws, sub-organizations, short wave radios, coded messages, etc., we were branded as members of an "anti-establishment" organization. All the evidence they presented were illegally tapped and recorded tapes. The illegal eavesdropping issue was raised during the National Assembly's interpolation, but that was just the tip of the iceberg compared with what we've been through for the past three years.

For more than three years, our telephones were tapped and all the conversations taking place in our houses including even bedrooms were recorded. A camera was installed near

our houses to watch over us. Our rights as human beings have been brutally violated. Phone tapping and shadowing was done on a daily basis and investigators have frequently sneaked into our houses and stole books and computer diskettes. When this became a problem in the court, they blatantly perjured that they put their hands on them with an insider's cooperation. That figures why the police want closed testimony. They are afraid that the fallacy of evidence illegally obtained and fabricated will come to light.

There are too many cases of human rights violation. The police arrested husbands and wives of two families, rendering their children virtually orphans. The security police officers blind with vanity separated wailing children from their parents and handcuffed them in front of their children. Two children, age four and eight, were left in an empty house without anyone's care.

In addition, they apprehended a ku governor despite a slim chance of his fleeing or evidence destruction. They went as far as to break the door and searched the house when nobody was home. Among the detained are those who have serious medical conditions. Two of them have back disk ruptures and have difficulty of standing up. A person suffers a terminal disease, liver cirrhosis. Despite illness, they were denied bail and only one person receives treatment only after a life-threatening fast.

We are innocent and, therefore, call for immediate release. We are dumb founded that we are accused of formulating a North Korea-related anti-establishment organization. We are not megalomaniacs dreaming of overthrowing the government with violent measures and deny the establishment.

If the police once sets an eye on an organization and watches for years, it can distort any organization to fit the description of anti-establishment organizations at its whim. The police waited throughout the general election, presidential election, rallies against the revised labor law and local government election until they targeted the strike against the layoff of Hyundai Motors employees. We are victimized by a police scheme aimed at quelling the strike and distracting public attention from the workers' demand for the right to survive.

We love our nation and the people more than anyone else and cherish our community. We have shared the pains of workers and grassroots and fought with them. That is why the prosecutor cannot bring any witness other than the security police and so many colleagues and friends of us are willing to take the stand for us. We firmly believe that justice and truth prevail. No one will undermine our dream to share the pain of workers and grassroots and live a just life.

We demand strongly that the bad law such as the National Security Law, which is an obstacle to the reunification of the Korean Peninsula, should be abolished at a time when a ferry boat is headed for Mountain Kumgang and the North and the South are set for reconciliation. That is the only way to prevent other people from becoming victims. The National Security Law has only served as the legal base for misleading the public in times of elections and other major national events.

We appeal to your love so that we may return to our beloved family soon and contribute to the development of our nation in a real sense.

All the prisoners involved with the so-called "Youngnam Committee"

Kim Myong-ho, KMWF Ulsan Regional office, Policy Director  
Kim Seong-ran, Pusan workers Association, former secretary general  
Kim Yong-kyu, Pusan Workers Association, Organizer  
Kim I-kyong, Wife of Park Kyung Soon  
Kim Chang-hyon, East County Chief in Ulsan  
Park Kyong-soon, Owner of a bookstore  
Bang Soek-soo, KCTU Ulsan Regional Council, Education- Publicity  
Lee Eun-mee, Chairperson for preparing Open Women's Association in Ulsan  
Lee Jung-hee Advance 2001, Chariperson  
Leem Dong-sik Advace 2001 General Secretary  
Lee Chul-hyon NADUK Ulsan branch, Youth group  
Lee Hee KMWF Ulsan Regional Office, Publicity Director  
Jung Dae-yeon NADRK Ulsan branch, former leader of the office  
Hong Jeong-neon Workers Families Association in the Hyundai Heavy Industries

- \* KCTU: Korea Council of Trade Unions
- \* KMWF: Korea Metal Workers Federation
- \* NADRK: National Alliance for Democracy & Reunification of Korea
- \* Advance 2001: Labour Education Center for Hyundai Auto workers

## 5.

### Amnesty International Report: Time to Reform the National Security Law

AI Index: ASA 25/03/99  
Amnesty International February 1999

On 1 December 1998 hundreds of South Korean human rights activists marked the 50th anniversary of the National Security Law by holding a march and demonstration in central Seoul. They were protesting about the continued use of this law to arrest and imprison people for peacefully exercising their rights to freedom of expression and association. Amnesty International also believes the National Security Law must be reformed and calls on the South Korean Government to make this a priority for 1999.

[ Families of political prisoners protest against the National Security Law in Seoul. © AI ]

Almost 400 people were arrested under the National Security Law during 1998, including students, political activists, trade unionists, publishers, religious figures and even Internet surfers. Most of these prisoners had done nothing to deserve arrest and imprisonment and were held solely for the non-violent exercise of their rights to freedom of expression and association. Some had formed study groups, distributed pamphlets or published books with left-wing political ideas; others had held discussions about North Korea or disagreed with government policies on North Korea. Some were accused of contacting North Koreans without permission.

Most of those arrested under the National Security Law during 1998 were tried within six months of arrest and either released or given a short prison sentence, but some were given heavy sentences. A small number of long-term prisoners arrested 30 to 40 years ago were still held, making them some of the world's longest-serving political prisoners.

The National Security Law was adopted 50 years ago in the context of a divided Korea. Since the signing of an armistice agreement at the end of the Korean War in 1953, millions of Koreans on both sides of the divided peninsula have been separated from each other and the demilitarized zone which separates North and South Korea is one of the most heavily fortified borders in the world. South Korean officials have argued that the country needs the National Security Law to counter the military threat from North Korea. Amnesty International acknowledges South Korea's security predicament and the right of all states to maintain state security. But the National Security Law has been widely misused to detain people who posed no threat to security. South Korean governments have consistently used the law to remove people who pose a threat to established political views, to prevent people from taking part in discussions surrounding relations with North Korea and as a form of control at times of social unrest.

President Kim Dae-jung, who took office in February 1998, was himself imprisoned under

the National Security Law during the 1980s and has been sympathetic to calls for reform. He has committed his government to human rights protection and has taken some positive steps over the past year, including the release of over 150 political prisoners in two prisoner amnesties. In September 1998 he told Amnesty International that "poisonous clauses" of the National Security Law would be reviewed in the near future but did not make any firm commitments.

President Kim and his Minister of Justice also told Amnesty International that the country's economic crisis and political opposition were hampering their efforts to improve human rights. 1998 was certainly a difficult year for South Korea's government as it struggled to cope with the worst economic crisis in decades. The crisis itself resulted in an erosion of many rights as unemployment soared to around two million, while the country lacks a social safety net for the jobless. The government's difficulties were compounded by unpredictable developments in North Korea, including alleged border incursions and the test-firing of a long-rang missile or satellite. Discussion on amending or abolishing the National Security Law is a delicate political issue in South Korea where powerful groups within business, political circles, the law-enforcement apparatus and the media are opposed to reforms.

In spite of these difficulties, Amnesty International believes that respect for freedom of expression and association will be important for South Korea's long-term political, economic and social development. As a former political prisoner told Amnesty International: "For South Korea to develop, we need people to be critical and to make creative proposals. It is a disgrace to arrest such people." The economic situation and political opposition should not be used to justify further abuses under the National Security Law.

Amnesty International believes that many of those opposed to prisoner releases and law reform would be persuaded in an informed and open debate on the subject and the evidence suggests that public opinion would not oppose reforms in accordance with international human rights standards. A survey carried out by Minbyun (lawyers for democracy) and the Hankyoreh daily newspaper in November 1998 revealed that over 70% of respondents favoured an amendment to the law.

#### Further information about the National Security Law

The National Security Law provides long prison sentences and even the death penalty for "anti-state" and "espionage" activities but these terms are not clearly defined and have often been used to imprison people unfairly. Most arrests today are under Article 7 of the law which provides up to seven years' imprisonment on vaguely-defined charges of "praising" and "benefitting" North Korea. The law also punishes those who have unauthorized contacts with North Korea or who fail to report such contacts. The majority of people arrested under the National Security Law are held for exercising their rights to freedom of expression and association.

After decades of military rule, South Korea held direct presidential elections in the late 1980s and has since developed a democratic form of government. But there is still an intolerance of left-wing or socialist views which are often regarded as being pro-North Korean. This sits uneasily with the government's new "sunshine policy" towards North Korea which actually encourages more civilian and business links with the North.

The National Security Law was amended in 1991, but these amendments were not far reaching and had little practical effect on arrests. President Kim and his Minister of Justice have assured Amnesty International that the law will not be misused, but they seem unable or unwilling to prevent new arrests from taking place.

#### Comments by United Nations bodies

\* In July 1992 the UN Human Rights Committee made the following comment after examining South Korea's initial report under the International Covenant on Civil and Political Rights (ICCPR, ratified by South Korea):

". . . the Committee recommends that the State party intensify its efforts to bring its legislation more in line with the provisions of the Covenant. To that end, 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 and, in the meantime, not to derogate from certain basic rights".

\* In November 1995 the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression made the following recommendation, after a mission to South Korea:

"a) The Government of the Republic of Korea is strongly encouraged to repeal the National Security Law and to consider other means, in accordance with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, to protect its national security.

c) All prisoners who are held for their exercise of the right to freedom of opinion and expression should be released unconditionally. The cases of prisoners who have been tried under previous governments should be reviewed, due account being taken of obligations arising under the International Covenant on Civil and Political Rights. . . "

\* In October 1998 the UN Human Rights Committee published its views on a National Security Law case submitted under the Optional Protocol to the ICCPR. It stated that the conviction of Park Tae-hoon in 1993 by South Korea's Supreme Court had constituted a violation of his right to freedom of expression, in accordance with Article 19 of the ICCPR. It called on the South Korean Government to provide a remedy to the former prisoner and to ensure that similar violations do not occur in future.

#### 1998 arrests under the National Security Law

The following cases are typical of those arrested in 1998 under Article 7 of the National Security Law on charges of "praising" and "benefitting" North Korea. In February publisher Lee Sang-kwan was arrested for publishing books about the lives of long-term political prisoners and about women in North Korea; in April a young student called Ha Young-joon was arrested for posting a socialist text on a computer bulletin board; a group of youth activists were arrested in June for forming the "Anyang Democratic Youth Federation" which was alleged to be pro-North Korean and the group's leader, Kim Jong-bak, was sentenced to two years' imprisonment; a 78-year-old minister called Kang Hee-nam was arrested in August for organizing a rally on behalf of Pomminyon, a group alleged to be pro-North Korean; Catholic priest Moon Kyu-hyun was arrested for allegedly praising North Korea when he visited the country in August, even though his visit had been approved in advance by the government. Throughout the year student leaders belonging to the national student union Hanchongnyon were arrested simply for being affiliated to an organization which is alleged to support North Korea. In some cases, students were additionally charged for violent acts during clashes with riot police.

Some prisoners arrested over the past year were sentenced to long prison terms. They included 15 trade union and political activists arrested in July 1998 on charges of forming an "anti-state" organization. They were given sentences of between three and 15 years' imprisonment for establishing and joining the "Youngnam Committee" with alleged links to North Korea and spreading North Korean ideology throughout society. Amnesty International believes the charges are unfounded and is concerned that the 15 appear to have been arrested principally because of their opposition to government policies and as a means of curtailing anti-government protests. The arrests took place at the time of mass strike action in South Korea and those arrested were actively involved in the trade union movement and opposition to government economic and social policies. They included Pang Suk-soo, an education and publicity official working for the Korean Confederation of Trade Unions; Kim Myong-ho, a regional director of the Korean Metal Workers' Federation and Lee Eun-mi, the leader of a women's association.

#### Long-term political prisoners

During 1998 the new government released over 150 political prisoners in two prisoner amnesties, but only on condition that they sign a "law-abiding oath". For reasons of conscience, some political prisoners refused to sign such an oath and they were not released. Those who agreed to sign and were released received a warning that certain anti-government and political activities could result in their re-imprisonment.

Seventeen National Security Law prisoners held for between 28 and 40 years were not released because they refused to sign the law-abiding oath. They included Woo Yong-gak, aged 69, who has been in prison since 1958; and Hong Yong-gi, aged 69, who has been in

prison for 36 years. These elderly long-term prisoners were reported to be in poor health, having suffered decades of imprisonment in poor conditions and with little access to the outside world. Other prisoners who were not released included Cho Sang-nok and Kang Yong-ju who were convicted under the National Security Law in 1978 and 1985 respectively; and Ahn Jae-ku, aged 65, who was arrested and convicted in 1994.

Amnesty International has continued to call for the release of these and other long-term political prisoners. In early 1999 President Kim Dae-jung said there would be another prisoner amnesty in March 1999 but that once again prisoners would have to sign a "law-abiding oath" in order to qualify for release.

#### **Amnesty International's recommendations to the government**

- \* The National Security Law should either be substantially amended or abolished. Amendments to the law or any new security legislation must be in line with international human rights standards.
- \* All political prisoners held for the non-violent exercise of their rights to freedom of expression and association should be unconditionally released, including remaining long-term political prisoners who were not released in 1998 because they refused to sign a "law-abiding oath".
- \* The government should implement in full the recommendations made to it by the UN Human Rights Committee and other UN bodies with regard to the National Security Law.

## **6. Korea Human Rights Network (KOHNET)**

KOHRNET is a national coalition body which is composed of nine local human groups and organizations in South Korea. The member organizations are diverse in character as well as in activity.

KOHRNET took organizational shape on June 30, 1994 as the permanent coordinating body to replace the Korea Human Rights Network for the UN World Conference on Human Rights (KONU) formed for the joint participation of Korean human rights organizations to the Vienna UN World Conference on Human Rights in June, 1993.

KOHRNET believes that all individuals and peoples are entitled to their basic human rights and fundamental freedoms upholding their human dignity and worth. KOHRNET also believes that all human rights are universal, interdependent, and interrelated as reaffirmed by the Bangkok NGO Declaration and Vienna Declaration and Program of Action 1993. KOHRNET spares no efforts to implement the spirit and principles of the Universal Declaration of Human Rights, the two International Human Rights Covenants and other human rights conventions.

KOHRNET is committed to the realization of true democracy and human rights, having inherited the people's unyielding courage for self-determination and decades-long resistance against military dictatorships.

#### **KOHRNET - The Member Organizations**

- Buddhists' Committee for Human Rights
- Catholic Human Rights Committee
- Democratic Legal Studies Association
- Human Rights Committee of National Council of Churches in Korea (NCCC)
- Human Rights Committee of the National Alliance for Democracy and Unification of Korea (NADUK)
- MINBYUN (Lawyers for a Democratic Society)
- MINKAHYUP Human Rights Group
- National Council of Bereaved Families for Democracy
- SARANNBANG Center for Human Rights

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