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# £NORTH KOREA

## @Summary of Amnesty International's Concerns

### 1. Introduction

Tens of thousands of people, including prisoners of conscience, appear to have been detained since the 1960s under various forms of arbitrary detention in the Democratic People's Republic of Korea (DPRK, or North Korea), according to former detainees. Thousands more appear to have been victims of "disappearances", torture or summary execution.

Those reportedly detained included foreign nationals; Koreans repatriated from foreign countries; intellectuals and students; government officials; members of the ruling Workers' Party of Korea (WPK); and the relatives of these people and of people who have sought asylum abroad. Many have "disappeared"; there has been no news about them for years, sometimes decades, and the North Korean authorities have not admitted having any knowledge of the fate of these victims.

Officials in North Korea have strongly denied the accuracy of reports that there were tens of thousands of political prisoners held in at least twelve camps around the country. In 1991, an official of the Ministry of Public Security told Amnesty International that there were about 1,000 people held in three "re-education through labour" centres nationwide, and that an unspecified number of prisoners were detained in separate detention centres for "anti-state" activities. The official did not supply the names of any of these detainees or the charges against any of them.

The North Korean authorities have repeatedly accused those publishing reports of human rights violations in North Korea of making "groundless" allegations and of being inspired by political motives. However, the authorities have never allowed independent observers to visit places of detention or to investigate reports of human rights violations.

On the basis of its information Amnesty International is deeply concerned that violations of human rights are widespread in North Korea. The organization is calling on the authorities of the DPRK to account publicly for the fate of all those mentioned in the present report, to publish the names of all political prisoners and detainees, and the charges under which they are held, and to reform its Constitution and laws to bring these into line with international human rights standards.

This document summarizes cases of "disappearance" and imprisonment of prisoners of conscience reported to Amnesty International, as well as reports of torture in detention and information concerning the use of the death penalty. It also outlines the political, social and economic context in which formal safeguards for human rights appear to have been systematically disregarded.

This document is based on reports received by Amnesty International from relatives of political prisoners and victims of "disappearance", and on information from other North Korean sources, including former prisoners. It also draws on information given by North Korean officials to Amnesty International in the North Korean capital Pyongyang in 1991.

### ***The Political and Social Context***

The Korean peninsula was divided in 1945 into two military zones (respectively controlled by the USSR and the USA) at the end of 50 years of colonial rule by Japan. The Korean War (1950-53) resulted in very heavy damage over most of the peninsula. It is estimated that at least one million Koreans died, and several million were displaced during the war. Since 1953, North and South Korea have been almost completely cut off from each other. There has been virtually no traffic across the 1953 cease-fire line. To this day, it is still impossible to travel, write or telephone directly between North and South Korea. Citizens on both sides of the demarcation line have been imprisoned for meeting, or attempting to meet, people from the other side. It is estimated that up to 20 million Koreans on the whole peninsula have been separated from close relatives since 1953.

Kim Il Sung has headed the Government of the DPRK since its establishment in 1948. He gradually reinforced his powers during the 1950s and 60s and he currently remains State President and Grand Marshal. The ruling Workers' Party of Korea has monopolized political power since its establishment in 1949. The Constitution, last amended in 1992, specifies that North Korea "conducts all activities under the leadership" of the WPK. Several political parties other than the WPK exist but have no effective role in government.

The WPK reportedly has about three million members (North Korea's population is about 22 million). Kim Il Sung is the General-Secretary and his son Kim Jong Il is one the three members of the Presidium of the Political Bureau. A high level of personal loyalty to Kim Il Sung and to Kim Jong Il appears to be demanded by the Party, from both members and non-members. In effect, the government is accountable only to the WPK leadership.

The Administration Council (council of ministers) is led by a Premier and Vice-Premiers. Policies are set, and the work of the Administration Council is directed, by the Central People's Committee, led by the President of the DPRK. The Premier and Vice-Premiers of the Administration Council, as well as the State President and the other members of the Central

People's Committee, are elected by the Supreme People's Assembly (SPA), defined by the 1972 Constitution (amended in 1992) as "the highest organ of state power in the DPRK". The 692-member assembly meets once or twice a year, for a few days. State organs, including the judiciary, are nominally responsible to the SPA.

The military is led by the National Defence Commission of the DPRK, since April 1993 headed by Kim Jong Il. Kim Jong Il is also since 1991, with the title of Marshal, the Supreme Commander of the Korean People's Army.

North Korea has diplomatic relations with over 130 countries. It became a full member of the United Nations (UN) in 1991, at the same time as South Korea. However, North Korea remains relatively isolated, partly because foreign travel by North Koreans and foreigners' access to the country are limited by the government. Ideological differences and concerns about defence policies have also led to tense diplomatic relations between North Korea and other countries.

The North Korean economy has been affected by shortages in recent years, according to foreign trade sources and Korean visitors to North Korea. Energy shortages have reportedly had severe consequences in some regions and for certain categories of citizens, including detainees. Visitors to Hamgyong South Province have reported that shortages of food and energy resulted in increased mortality in some villages in the late 1980s. Former prisoners have stated that inmates have died of hunger and cold.

Rationing of food, clothing and energy appears to continue in most parts of the country. There were unconfirmed reports in 1992 and 1993 of civil unrest in some cities, related to protests against food shortages. According to recent Korean visitors to Pyongyang, an increasing number of death sentences have been imposed since 1992 on economic offenders accused of illegally importing and selling goods.

An Amnesty International delegation visited North Korea in 1991 and met a number of officials from the Ministry of Foreign Affairs, the Ministry of Public Security, as well as judges, lawyers, and legal scholars. In 1992, Amnesty International submitted a memorandum to the North Korean authorities, outlining the organization's concerns on constitutional and legal safeguards for human rights in North Korea. The authorities did not respond to Amnesty International's memorandum, and have so far failed to respond to Amnesty International's repeated requests to visit North Korea again.

## **2. Prisoners of Conscience and Political Prisoners**

This section contains information about prisoners of conscience reportedly held in North Korea, and about people Amnesty International believes may be prisoners of conscience -- people imprisoned or otherwise physically restricted because of their conscientiously-held beliefs or

because of their ethnic origin, sex, colour or language, who have not used or advocated violence. Amnesty International is calling on the North Korean Government to account for the whereabouts of each of these individuals and that of their families, who in several cases appear to have been detained with them, and to release them immediately and unconditionally.

### **2.1 "A" and his family**

"A" was born in 1942 in Osaka, Japan. Relatives have asked Amnesty International not to disclose his name because they fear he may risk reprisals in North Korea if his name is published. As a Korean resident in Japan, he studied and graduated in Osaka, Japan. In 1965, he travelled to North Korea and settled there with his wife. They reportedly lived in Pyongyang.

In 1973, "A", his wife and their two children were reportedly sent into internal exile, apparently because one of them was accused of having made remarks disparaging the North Korean Government. They were reportedly assigned to Oro County, in South Hamgyong Province.

One night in early December 1982, according to unofficial sources in North Korea, the whole family was forced into a lorry by officials believed to belong to the Ministry of State Security and taken away to an unknown destination. In 1992, the sources indicated to visiting Korean residents in Japan that "A" and his family were detained in a prison or "re-education through labour" centre in South Hamgyong Province.

The North Korean authorities have never responded to requests by relatives for information about "A" and his family. Amnesty International is concerned that "A" and his family appear to be prisoners of conscience. The organization is also concerned at reports which suggest that for several years "A's" wife's health has been deteriorating due to rheumatism.

### **2.2 *Shin Sook Ja and her daughters***

Shin Sook Ja, a 50 year-old radio announcer, and her two daughters, Oh Hae Won (aged 17) and Oh Kyu Won (aged 14) were reportedly detained in November 1986, after Shin Sook Ja's husband Oh Kil Nam requested political asylum in Denmark. According to unofficial North Korean sources, Shin Sook Ja and her daughters are held in a detention centre in Yodok district, in Hamgyong South Province.

Shin Sook Ja was born and educated in South Korea. In 1970, she moved to Tübingen, Germany, where she worked as a nurse. In 1972 she married Oh Kil Nam, a South Korean, then a student in economics. Their two daughters, Oh Hae Won and Oh Kyu Won, were born in Germany in 1976 and 1979 respectively. During the 1980s, Oh Kil Nam was involved in political activities against the then military dictatorship in South Korea.

In December 1985, Shin Sook Ja, Oh Kil Nam and their two daughters travelled to North Korea, apparently after Oh Kil Nam had been invited to work in Pyongyang as an economist. After they arrived in North Korea, however, they were at first held for several months in a guest house near Pyongyang, where, according to Oh Kil Nam, they were made to study the official North Korea *Juche* (self-reliance) ideology.

In June 1986, Shin Sook Ja and Oh Kil Nam started working in a radio station broadcasting to South Korea. In November 1986, Oh Kil Nam, according to his own account, was asked to travel back to Germany to encourage South Korean students there to resettle in



**Shin Sook Ja and her two daughters, Oh Hae Won and Oh Kyu Won (seated front). This photo was given to Shin Sook Ja's husband Oh Kil Nam by North Korean sources in January 1991.**

North Korea. He requested asylum in Denmark on his way to Germany. Oh Kil Nam remained in Europe until 1992, when he moved to South Korea.

Shin Sook Ja and her two daughters were reportedly requested to remain in North Korea during Oh Kil Nam's trip to Germany. They were apparently taken into detention shortly after Oh Kil Nam's request for asylum. A North Korean source in Germany reportedly told Oh Kil Nam in 1987 that his family would face "unavoidable difficulties" if he failed to return to North Korea. Official North Korean intermediaries gave Oh Kil Nam letters from his family in 1988 and 1989, and photos in 1991. However, he has never been able to contact his family since 1986, or to obtain official confirmation of their current whereabouts.

According to a former North Korean prisoner, Shin Sook Ja and her two daughters were taken in November 1987 to a "re-education through labour" detention centre in Yodok District in South Hamgyong Province. They were reported still to be held there in 1989.

On the basis of all the available information, Amnesty International believes that Shin Sook Ja and her two daughters were detained because of Oh Kil Nam's request for political asylum abroad. Amnesty International considers Shin Sook Ja and her daughters to be prisoners of conscience and calls on the North Korean authorities to release them immediately and unconditionally.

### **2.3 The Shibata Family**

If he is still alive, Shibata Kozo is now 62 years-old. He has been imprisoned as a prisoner of conscience since October 1964. He was reportedly still held in a "re-education" camp in late 1990 but there has been no news about him since then. His wife, Shin Sung Suk, and their three children, may have been imprisoned as well, but there is no information about their fate.

Shibata Kozo is Japanese and Shin Sung Suk was a Korean resident in Japan. They travelled to North Korea in 1960, with Shin Sung Suk's two children from a previous marriage, and settled in Pyongyang. A third child was born to Shibata and Shin in 1961. The family remained in occasional contact by letter with their relatives in Japan.

In a letter to his relatives in Japan dated 5 October 1964 Shibata Kozo wrote that he was in good health and mentioned his intention to visit Japan in the near future. That was the last letter his relatives received from him.

In January 1965, Shin Sung Suk wrote to her relatives in Japan that on 7 October 1964 her husband had been taken to a "sanatorium" but did not specify why. She stated that she herself had become ill and had to stay at home. She said she would write more later and,

specifically, that she would write as soon as her husband came back. This was her last letter to reach Japan.

In 1973, following inquiries made by the relatives in Japan, an official of the General Association of Koreans in Japan told them that Shibata was "alive and safe" in North Korea.<sup>1</sup> For 19 years thereafter the relatives of Shibata and Shin in Japan had no further information.

In December 1992 a Japanese magazine, the *Bunshun Weekly* (*Shukan Bunshun*) published a report based on information provided by former prisoners in North Korea who had subsequently been able to leave the country. According to these former prisoners, Shibata had been held since at least 1984 in a detention centre for political prisoners in Sungho Township, and was still imprisoned there as of December 1990. There has been no news about him since December 1990. There has also been no news about Shin Sung Suk and her three children and Amnesty International is concerned that they also may be detained.

### **What happened to Shibata Kozo?**

After his arrival in North Korea in 1960, Shibata was employed as a Japanese-language editor in a publishing unit in Pyongyang. In 1962, some of the Japanese spouses of former Korean residents in Japan who had settled in North Korea demanded permission to return to Japan to visit their relatives.<sup>2</sup> Shibata was apparently accused of having encouraged these Japanese women to make a public protest about their demand. An official investigation was started against him, which apparently established that, while working for the Japanese Ministry of Labour in Kagawa Prefecture in 1958 and 1959, Shibata had stayed at the home of an employee of the local police office.

Apparently on this sole basis and because he had allegedly encouraged the Japanese women's protest, Shibata was formally arrested on 7 October 1962 and apparently charged with spying. A former prisoner in North Korea who was familiar with Shibata's case told the *Bunshun Weekly*:

"Accused of spying, Shibata was forced by means of inhumane interrogation to make a confession... [He was] confined to a solitary cell about the size of a dog kennel in which

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<sup>1</sup> The General Association of Koreans in Japan (*Chongryun*) groups the Korean residents in Japan who are North Korean nationals. It officially represents the positions of the North Korean Government. Some of its leading members are delegates to the Supreme People's Assembly in Pyongyang.

<sup>2</sup> According to Japanese government statistics, about 1,800 women married to Korean residents in Japan travelled to North Korea with their husbands in the late 1950s and early 1960s. Many of them are believed to have been subsequently imprisoned in North Korea, and some to have died in prison (see below).

he could not move freely or even lie down, and with insufficient food. [He was] unable to endure such conditions. Anybody would have confessed to anything the authorities might say. In the case of Shibata, because his Korean was not very good, even if he was shown a [confession] record he could not understand it. It seems that just about everything [in his confession] was extracted by force."

From about 1966 to about 1970, Shibata was reportedly imprisoned in Pyongsan, south-east of Pyongyang. He was then transferred to Kaechon, north of Pyongyang, and later to Sungho Township, about 70 kilometres east of Pyongyang. He was reportedly made to work in a quarry or stone-cutting workshop for some years, although in later years he was not given work, apparently because of his deteriorating state of health.

In October 1984, Shibata's original 20-year sentence expired (the two years he spent in detention prior to sentencing being counted as part of the sentence). However, he remained in detention. The detention centre authorities reportedly stated that he would remain in detention because it was impossible to give him employment elsewhere.

In late 1990, while he was still detained, Shibata's health was reportedly poor. He could barely walk and could not eat all of his small food ration, according to the former detainees. They said he was emotionally withdrawn and "without normal responses or interest in life".

Attempts since December 1992 by Shibata and Shin's relatives in Japan to obtain further information from North Korean officials have been fruitless. Amnesty International is concerned that Shibata Kozo is a prisoner of conscience and should be released immediately and unconditionally. Amnesty International also urges the North Korean authorities to account for the fate of Shin Sung Suk and her three children.

#### **2.4 *Reported detention of foreign trade department employees***

Amnesty International has received unconfirmed reports that North Korean employees of two foreign trade organizations in Pyongyang were detained in March 1993 and accused of spying. It appears that the employees were accused of having sent faxes abroad disclosing information which the authorities deemed to be restricted. The number of people detained and their names are not known. Amnesty International understands that those detained were employed at the two Pyongyang branches of a Japanese and North-Korean joint-venture company. Amnesty International is concerned that those detained may be political prisoners. It is calling on the authorities to publicly account for their whereabouts and to ensure that they receive a fair trial in accordance with international standards.

#### **2.5 *Reports of Unacknowledged Detention***

People whose detention is unacknowledged by the authorities are extremely vulnerable to suffering further grave human rights violations, including torture or extrajudicial execution. In North Korea, cases of unacknowledged detention have been reported by Koreans living abroad. It is almost impossible to confirm these reports independently because of the silence of the government and restrictions on communications in and out of the country. Several Koreans who live outside Korea told Amnesty International that they have been openly warned not to discuss the situation of their North Korean relatives with anyone.

Those feared to be in unacknowledged detention include a number of former Korean residents in Japan who have resettled in North Korea since the late 1950s. Some were taken into custody in the mid-1960s. Their relatives in Japan have been unable to re-establish contact with them or to obtain from North Korean authorities any information about their fate.

Other reports of possible detention concern relatives of North Koreans who went into exile. According to official figures of the South Korean Government, 632 North Koreans have settled in South Korea for political reasons since the end of the Korean War. A smaller number have gone into exile in other countries. Most of these exiles appear to have been unable to contact their North Korean relatives after leaving North Korea. Former North Korean prisoners have reported that some of the detainees in North Korea are the relatives of "defectors" to other countries. Amnesty International would consider as prisoners of conscience anyone detained solely because of their family relations with North Koreans who have requested asylum abroad.

In one case, the wife and child of Kim Myong-se, a 43 year-old geophysicist at Kim Il Sung University, may have been detained when he requested asylum in Russia in 1992. Kim Myong-se was studying for a doctoral degree at Moscow University. In October 1991, he was reportedly asked by the North Korean authorities to return to Pyongyang -- apparently because he had failed to report his contacts with South Korean students in Moscow. He refused to return and applied for political asylum in Russia in June 1992, and went on to study theology. Amnesty International understands that Kim Myong-se has not been able to receive any news since mid-1992 about his wife, young son and other family members, who are still in North Korea. The family appears not to reside at their former home in Pyongyang; their present whereabouts are not known.

Some possible victims of unacknowledged detention are among the estimated 1,800 Japanese women married to Korean residents in Japan, who resettled in North Korea since the 1960s. Many of these women remained in contact by letter with their relatives in Japan, or met them when they visited North Korea. However, the relatives of other women have been unable to contact them for years, and fear that they may have been detained. Amnesty International is currently seeking further information on them and other reported detainees.

### 3. The Death Penalty: Summary Executions

The death penalty is reported to be widely used in North Korea as a penalty for a variety of crimes, including political offences. The Criminal law (Article 22) describes the death penalty as one of the two kinds of "basic penalties" to be imposed on criminal offenders, the other form of penalty being "reform through labour". North Korean officials have told Amnesty International that the death penalty is used only "in rare circumstances", but they refused to provide information on the number of death sentences and executions imposed.

Witnesses at public announcements of death sentences, former detainees and visitors to North Korea report that the death penalty is used frequently, and has been increasingly used in recent years against alleged economic offenders. Reports suggest that dozens of prisoners are executed each year.

Executions are carried out either by shooting or hanging. In some cases, prisoners sentenced to death are displayed at public meetings attended by workers and students, including school-age children. At these meetings, the alleged crimes of the prisoners, and their sentence, are read out by officials. Executions have reportedly been carried out in front of these meetings, although in some cases it appears that the prisoners were taken away for execution. In places of detention, detainees have reportedly been executed in front of assembled inmates.

In 1983, Kim Ji-su, aged 37, and two other miners, were reportedly publicly executed at the Umdok Mine in Hamgyong South Province. They were reportedly accused of taking part in a "rebellion" by miners in November 1982. The miners, some of whom were apparently conscripts, had reportedly protested about bad working conditions and against a two-year arbitrary extension of their conscription period.

In November 1992, according to foreign students in North Korea, a man whose name is not known was publicly executed before a large crowd of onlookers in the city of Hamhung. The execution had reportedly been announced in advance by posters in the streets of Hamhung. The man had reportedly been accused of "hooliganism" and "ideological divergence".

### 4. Conditions of Detention

There are few confirmed reports on conditions of detention in North Korea. There are reports of at least 12 detention centres used to detain political prisoners. According to officials, there are no "prisons" as such in North Korea. Officials told Amnesty International in 1991 that detention facilities consisted of local police facilities for detainees awaiting trial, and "re-education through labour" detention centres for sentenced prisoners. In 1991, an official of the Ministry of Public Security confirmed the existence of three "re-education through labour" detention centres in the

vicinity of Pyongyang, but Amnesty International was not permitted to visit any of these locations. (However, Amnesty International was shown empty cells at the Central Pyongyang Public Security Office, a police station. Officials there said that only seven or eight people are detained in those cells every year.)

Conditions of detention in one detention centre in Yodok District, Hamgyong South Province, have been described in some detail by Kang Chol-hwan and Ahn Hyok, both aged 25, who went into exile in South Korea in 1992. According to them, thousands of prisoners are held at Yodok, among them political prisoners and their families, including children. They said that prisoners were subjected to a harsh daily schedule of forced labour, such as logging or tending crops. Clothing was issued to prisoners only once in three years. They stated that food was insufficient, medical facilities were virtually non-existent and that some prisoners had died of cold and hunger.

Other former prisoners have reported that places of detention have "punishment cells" in which prisoners may be detained as a punishment for breaking prison rules. These "punishment cells" are reportedly very small, too low for standing upright and too small for lying down flat. Prisoners have reportedly been detained for weeks on end in such cells, in conditions that amounted to torture or cruel inhuman or degrading treatment or punishment prohibited under international human rights standards.

#### **4.1 Detention of Workers in the Russian Far East**

An estimated 20,000 North Koreans currently work in the forest industry in the Khabarovsk Territory and Amur Region of the Russian Federation, under the direction of North Korean officials and pursuant to an agreement between the Russian Government and the Government of the DPRK. Amnesty International understands that this agreement, which was last negotiated in July 1991, is due to expire in December 1993 and will not be renewed in its current form by the Russian authorities.

Amnesty International has received reports that some North Korean workers in Russia have been detained by North Korean officials in makeshift prisons located in the living quarters of the workers. According to these reports, those detained include North Korean workers who have attempted to leave logging camps without the authorization of North Korean officials and workers accused of offences against camp rules. Amnesty International is concerned that those detained appear to be held without charge or any form of judicial supervision, and to have no judicial recourse against their detention. It is also reported that conditions of detention are harsh and may amount to torture or cruel, inhuman or degrading treatment or punishment.

In September 1993, it was reported in Russian media that the Human Rights Committee of the Russian parliament had conducted an enquiry into alleged human rights violations in the North Korean logging camps. North Korean security personnel reportedly admitted to Russian investigators that North Korean workers had been detained within the camps, for "re-education", for periods of six days to six months. Those detained are held without the approval of Russian judicial authorities, according to Sergei Kovalyov, Chairperson of the Human Rights Committee of the Russian Parliament.

According to Russian journalists, 63 North Korean workers left logging camps without authorization in 1992. At least 19 of them were reportedly apprehended by North Korean officials and subsequently detained within logging camps or sent back to North Korea. Of those who successfully escaped from logging camps in 1992, at least 15 reportedly requested political asylum in South Korea.<sup>3</sup>

Amnesty International is concerned that some of the North Korean workers detained by North Korean authorities in camps in Russia may be prisoners of conscience, detained solely because they attempted to seek protection from another government. The organization is also concerned that no one should be detained without formal judicial supervision and in accordance with international human rights standards. Amnesty International calls on the North Korean authorities in Russia to release all North Koreans detained under their authority, and on the

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<sup>3</sup> See *Far Eastern Economic Review*, 9 September 1993, p. 21.

Russian authorities to ensure that no-one is detained by North Korean officials within Russian jurisdiction in contravention of international human rights standards and applicable Russian law. Amnesty International also calls on the Russian authorities to ensure that no North Korean worker who might be at risk of human rights violation in North Korea is returned there against their will. North Korean workers who fear such return should be given an effective opportunity to apply for protection to the Russian authorities.

## **5. Constitutional and Legal Background**

### **5.1 *Ratification of International Human Rights Treaties***

North Korea ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in September 1981. North Korean officials have stated that both Covenants have force of law in the DPRK by virtue of the 1981 ratification. It is unclear, however, how the provisions of the Covenants are enforced when they conflict with provisions of the Constitution, the Criminal Law or the Criminal Procedure Law.

Amnesty International is concerned that the Covenants have not fully been put into practice. In its initial report to the United Nations Human Rights Committee on North Korea's implementation of the ICCPR, the North Korea Government stated in October 1983 that:

"Fundamental rights and freedom of people in the DPRK are effectively guaranteed by the Socialist Constitution of the DPRK... [where the citizens are] practically provided with genuine political rights and freedom in socio-political activities as well as with the most democratic right to elect and be elected and with the freedom of speech, the press, assembly, association, demonstration, etc, in the field of socio-political life."

The report also stated that in North Korea "no one is subjected to torture or cruel, inhuman or degrading treatment or punishment", adding that the Criminal Law punishes "a person who illegally puts a person under restraint or forces him to make a statement" by a sentence of up to one year "reformatory labour".

Even without considering the practice, the letter of these constitutional and legal safeguards falls far short of the detailed safeguards set down in the ICCPR. Amnesty International is concerned that the North Korean Government has not yet taken appropriate steps to ensure that the ICCPR is fully enforced in North Korea. North Korea's report to the Human Rights Committee gave no information on the practical enforcement of the safeguards it mentioned.

North Korea has so far failed to submit its second report on its implementation of the ICCPR to the Human Rights Committee, although this has been overdue since 1987. To date, the Human Rights Committee has sent at least 10 reminders to the Government of the DPRK, to no avail.

## **5.2 Constitutional Guarantees of Basic Civil and Political Rights**

North Korea's current Constitution was adopted by the Supreme People's Assembly on 27 December 1972. It was revised in April 1992, primarily to modify the structure of the senior military leadership. Chapter V contains guarantees of rights such as freedom of speech, of the press, of assembly, demonstration and association (Article 67) and freedom of religious belief (Article 68).

However, Article 80 states that "citizens shall firmly safeguard the political and ideological unity and solidarity of the people", and Article 63 states that "the rights and duties of citizens are based on the collectivist principle 'one for all and all for one'". Further, Article 81 stipulates that citizens shall "strictly observe the laws of the State and the socialist standards of life". It is unclear whether these provisions have precedence over the rights mentioned elsewhere in Chapter V of the Constitution or whether Article 63 in any way limits the breadth of the guarantees implied in other constitutional provisions.

## **5.3 The Criminal Law: Political Offences and Forms of Punishment**

"Socialist law" has been described by senior North Korean Government and Party leaders as "a weapon" of "class struggle" and "proletarian dictatorship". Speeches by senior leaders stating that "violations of the law, whether serious or not" were "crimes against the state" were published in the mid-1980s, while the Criminal Law of 1950 was being revised. The publication of these speeches at that time raised concerns that the new Criminal Law would remain highly repressive. The revised Criminal Law was adopted by the Standing Committee of the Supreme People's Assembly on 5 February 1987. A Korean-language edition of the Criminal Law was made available to Amnesty International in 1991 and an official English translation was published in 1992.

The Criminal Law, which in translation is a 29-page text, contains 161 articles organized according to eight chapters:

- The Fundamental Principles of Criminal Law (eight articles);
- General Regulations for Offences and Punishment (35 articles);
- Crimes against the State (12 articles);
- Crimes of Encroachment on the Socialist Economy (41 articles);
- Crimes of the Impairment of Socialist Culture (six articles) ;

- Crimes of the Violation of the Order of General Administration of the State (28 articles);
- Crimes of the Violation of the Order of Socialist Collective Life (10 articles);
- Crimes of the Impairment of the Life and Property of Citizens (21 articles).

A number of provisions of the Criminal Law relate specifically to political offences. Amnesty International is concerned that they are phrased in a vague manner and could be used to arrest and convict people for the non-violent exercise of their rights of freedom of expression, opinion and association. Moreover, when read in conjunction with Articles 80 and 81 of the Constitution (see above), some articles of the Criminal Law may criminalize many non-violent activities, or the failure to act in accordance with official orders.

The following articles of the Criminal Law are of particular concern to Amnesty International because they could be interpreted as prohibiting the non-violent expression of opinions not sanctioned by the state, the exercise of the right to association, or non-violent acts such as strikes. Crucial formulas undefined in the Criminal Law are given below in italics:

- Article 44: A person who takes part in a plot to overthrow the Republic or *who is in revolt* shall be committed to a reform institution for between five and 10 years. The instigator of, the mastermind behind and the principal culprits in such a plot shall be given the death penalty and the penalty of confiscation of all property, or shall be committed to a reform institution for not less than 10 years.
- Article 46: A person who *encourages others to attempt the overthrow, the disruption or the undermining of the Republic* or to commit *other anti-state criminal acts* shall be committed to a reform institution for up to seven years.
- Article 50: A person who commits *subversive acts against the state* shall be committed to a reform institution for not less than five years.
- Article 53: A person who is not a citizen of the Republic and who commits the hostile act of *attempting to suppress and persecute the national-liberation struggle of the Korean people... and the struggle of overseas Koreans for their democratic national rights...* shall be committed to a reform institution for not less than five years.
- Article 103: A person who *causes such disturbances as the collective non-compliance with the instructions of a state organ or the serious disruption of public order, without anti-state motives*, shall be committed to a reform institution for up to five years.

Article 105: A person who causes *social disruption* by spreading false or unconfirmed rumours that might cause social disorder or discredit the state shall be committed to a reform institution for up to one year.

In May 1992 Amnesty International asked the authorities for additional information on these and a number of other provisions of the Criminal Law, in particular how they have been interpreted and applied by the courts. In December 1992, Amnesty International was informed that an Institute for the Research of Human Rights had been set up in Pyongyang and was consulting "different national organs" to answer Amnesty International's queries about the Criminal Law and other issues. Despite a promise of "positive reply" by the Institute, no response had been received by Amnesty International by the time the present report went to press.

A revised Criminal Procedure Law was reportedly adopted in late 1991. Despite repeated requests, the North Korean authorities have also failed to provide Amnesty International with a copy of that law.

#### **5.4 The Death Penalty**

The death penalty is described in Article 22 of the Criminal Law of 1987 as one of the two "basic" punishments. It may not be imposed on those under 17 years of age at the time they committed the offence, or against pregnant women. Amnesty International has pointed out to the DPRK authorities that the ICCPR requires that the death sentence not be imposed on people below 18 years of age. It also recommended that an amendment to the Criminal Law to this effect be considered and that pending such amendment no prisoners aged under 18 at the time of the commission of the crime are executed.

The death penalty is mandatory under Article 52 for activities "in collusion with imperialists" aimed at "suppressing the national-liberation struggle" and the "revolutionary struggle for reunification and independence" or for "acts of betraying the Nation to imperialists".

It is provided as an optional punishment for the following offences:

◆ "extreme cases" of betrayal of the country and defection, espionage or helping the enemy (Art. 47);

◆ "instigating", "masterminding" or being a "principal participant" in a "plot to overthrow the Republic" or "in a revolt" (Art. 44);

◆ "acts of terrorism" against "[Party and government] cadres and patriotic people", "with a view to opposing the Republic" (Art. 45);

- ◆ murder, in "particularly serious cases" (Art. 141).

Amnesty International is concerned that some of the offences do not appear to be clearly defined in the Criminal Law and it has asked for clarification of this from the authorities. During their visit to the DPRK in 1991 Amnesty International representatives were told that as a matter of penal policy the death penalty was imposed "rarely" and mainly for espionage and sabotage. They were told that statistics on the use of the death penalty were collected but were not then available. However, the description of the death penalty in the Criminal Law as one of the two "basic" forms of punishment, and reports by North Koreans that executions are frequent and sometimes public, appear to contradict these statements by officials.

## **6. Amnesty International's Recommendations**

- ◆ **Release all prisoners of conscience**

That is, people imprisoned or otherwise physically restricted because of their conscientiously-held beliefs or because of their ethnic origin, sex, colour or language, who have not used or advocated violence, should be released immediately and unconditionally. In particular, those named in the present report as prisoners of conscience or possible prisoners of conscience should be accounted for by the authorities and all prisoners of conscience should be released.

- ◆ **Account for all reported victims of unacknowledged detention**

Amnesty International calls on the North Korean Government to account for the fate of all those reported to have been detained, but whose detention has never been publicly acknowledged. The authorities should in particular account for the fate of all former Korean residents in Japan who resettled in North Korea, of relatives of those who illegally left North Korea and for the Japanese spouses of Koreans who resettled in North Korea.

- ◆ **Abolish the death penalty**

Amnesty International opposes the death penalty unconditionally because it is a violation of the right to life and the ultimate form of torture and cruel and inhuman punishment. Amnesty International urges the North Korean Government to abolish the death penalty and to commute all death sentences. It also calls on the North Korean Government to end the practice of public executions of prisoners.

- ◆ **End the ill-treatment of detainees**

The North Korean Government should ensure that all detainees are safeguarded from torture and ill-treatment and that conditions of detention conform with international standards on the treatment of prisoners. In particular, Amnesty International calls on the government to ensure that work requirements, the provision of food, clothing and shelter to prisoners are all fully in accordance with relevant provisions of the UN Standard Minimum Rules for the Treatment of Prisoners. It also urges North Korea to allow regular inspection of its detention facilities by independent organizations such as the International Committee of the Red Cross.

◆ **Enforce human rights safeguards**

Amnesty International calls on the North Korean Government to ensure that the safeguards for human rights enshrined in the International Covenant on Civil and Political Rights (ICCPR) are fully enforced in North Korean law and practice. The government should ensure in particular that all trial procedures are in accordance with international standards for fairness, and that detainees are afforded all the necessary recourses against violations of human rights, such as unfair trials and torture or ill-treatment. Laws which may lead to the imprisonment of prisoners of conscience should be repealed, or revised so as to ensure that no one can be detained for the peaceful exercise of fundamental rights.

## **Map of the Democratic People's Republic of Korea**