

DECISION No. 28/1993 (REPUBLIC OF KOREA)

Communication addressed to the Government of the Republic of Korea on 6 November 1992.

Concerning: Chang Ui-gyun, Hwang Tae-kwon and Kim Song-man, on the one hand, and the Republic of Korea, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it, and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.

2. The Working Group notes with concern that till date no information has been forwarded by the Government concerned in respect of the cases in question. With the expiration of more than ninety (90) days of the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect of each of the cases of alleged arbitrary detention brought to its knowledge.

3. (Same text as paragraph 3 of Decision No. 43/1992).

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of the Republic of Korea. In the absence of any information from the Government, the Working Group believes that it is in a position to take a decision on the facts and circumstances of the cases, especially since the facts and allegations contained in the communication have not been challenged by the Government.

5. Chang Ui-gyun, a publisher, was reportedly arrested by Defence Security Command on 5 July 1987 in Seoul. Initially he was reportedly sentenced under the National Security Law, to 15 years' imprisonment which was reduced to 8 years in appeal in the High Court in 1988. Chang Ui-gyun was charged with passing secret information on the anti-government movement and opposition parties under instructions from a North Korean agent, seeking to infiltrate the dissident movement, and intending to disrupt the Olympic Games and the presidential elections scheduled to be held at the end of 1987. Chang Ui-gyun was apparently arrested without a warrant, which was issued eight days after arrest. He was allegedly denied access to his family and lawyers from 5 July 1987 till 29 August 1987, when he was indicted.

6. Hwang Tae-kwon was reportedly arrested in early June 1985 in Seoul by agents of the Agency for National Security Planning. Initially held by the said agency he was after trial sent to Andong prison. In January 1986 he was reportedly sentenced to life imprisonment under National Security Law which in December 1988, under a presidential amnesty, was reduced to 20 years. He was reportedly charged and convicted of anti-State and espionage activities, accused of contributing articles to a New York-based Korean language newspaper and associating with and receiving espionage training from the newspaper's publisher - an alleged North Korean "collaborator". The only basis for his conviction is an alleged confession which was allegedly extracted under torture.

7. Kim Song-man was allegedly arrested in Seoul on 6 June 1985 under National Security Law and is currently held at Taejon Prison. He was reportedly accused of spying for North Korea and encouraging student activists to engage in anti-government activities. In January 1986 he was sentenced to death. In December 1988 it was commuted to life imprisonment under presidential amnesty. The only basis for his conviction is an alleged confession which was allegedly extracted under torture.

8. In the case of Chang Ui-gyun the source admits that he transmitted information to the main South Korean opposition political parties and dissidents and to a South Korean dissident who lives in Japan. This information is said to have included descriptions of political rallies, including one held in Incheon on 3 May 1986, at which many leading dissidents were arrested, and information on the setting up of the National Council for a Democratic Constitution which organized mass demonstrations in support of a revision of the presidential election system in June 1987. There is no evidence on record to support the charges of espionage against Chang Ui-gyun. The evidence irresistibly suggests that Chang Ui-gyun was arrested for his political views and activities, in contravention of articles 19 and 21 of the Universal Declaration of Human Rights, and articles 19 and 21 of the International Covenant on Civil and Political Rights.

9. Allegations of torture during interrogation and denial of access to family and counsel for 25 days have also not been denied, being in contravention of articles 5 and 9 of the Universal Declaration of Human Rights, and articles 7, 14 and 19 of the International Covenant on Civil and Political Rights.

10. In the case of Hwang Tae-kwon, he too was admittedly involved in criticizing the Government. He was part of the student movement, but denied the accusation that he was a communist. The evidence of the confession, the only basis for his conviction, is also suspect. After his arrest he was held incommunicado and interrogated for 60 days. This, coupled with the fact that there is no independent corroborative evidence of his involvement in espionage activities lends further doubts to the veracity and legality of the alleged confession. He too seems to be a victim of his political views and activities. His detention is in contravention of articles 5, 9, 19 and 21 of the Universal Declaration of Human Rights, and articles 7, 9, 14, 19 and 21 of the International Covenant on Civil and Political Rights.

11. The evidence of the confession, the only basis for the conviction of Kim Song-man, is also suspect. After his arrest in June 1985 he was allegedly held incommunicado till 5 August 1985 during which time he is alleged to have been tortured and forced to sign a confession. This, coupled with the fact that there is no independent corroborative evidence of his involvement in espionage activities, lends further doubts to the veracity and legality of the alleged confession. He also seems to have been convicted for his political views and activities. His detention is in contravention of articles 5, 9, 19 and 21 of the Universal Declaration of Human Rights, and articles 7, 9, 14, 19 and 21 of the International Covenant on Civil and Political Rights.

12. In the light of the above the Working Group decides:

The detention of Chang Ui-gyun, Hwang Tae-kwon and Kim Song-man is declared to be arbitrary being in contravention of articles 5, 9, 19 and 21 of the Universal Declaration of Human Rights, and articles 7, 9, 14, 19 and 21 of the International Covenant on Civil and Political Rights and falling within categories II and III of the principles applicable in the consideration of the cases submitted to the Working Group.

13. Consequent upon the decision of the Working Group declaring the detention of Chang Ui-gyun, Hwang Tae-kwon and Kim Song-man to be arbitrary the Working Group requests the Government of the Republic of Korea to take the necessary steps to remedy the situation in order to bring it into conformity with the norms and principles incorporated in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights.

Adopted on 30 April 1993