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Kim Moore 624-5873 DC. LIO,

Kevin Coyner, Merkowski

Jim Lexo, Young

We contacted Steveris, Murkowski & Young.

Stevens contacted the State Department. They stressed that they have no control over a state wanting to establish a sister state relationship with Taiwan, but they wanted to extend a serious warning to us.

It is imperative that the language in the resolution in no way be provocative toward China. Sara Ann Smith from the State Department (202-632-7710), said that Taiwan has approached many U.S. states to solicit resolutions of this kind and that they attempt to have those states refer to them as "The Republic of China" or "RSC." This reference is highly inflammatory language and may create difficulties with U.S. relations toward China. They suggested that the resolution refer to them as "The People of Taiwan" or "The Province of Taiwan."

Further, that the resolution emphasizes people to people contact, cultural exchange and general goodwill. The resolution should avoid any political references.

The states of Virginia, Miss., Illinois, Arkansas, S. Carolina, Colorado, Kentucky and Hawaii have these resolutions. They highly suggest that you use these for models.

Although the State Department will not officially try to influence you, they continue to stress the problem with these resolutions inhibiting a formal U.S. relationship with China.

Sen. Stevens has sent a telegram to this office also warning of this.

*This top memo is from
House State Affairs staff!*

Summary of U.S.State Dept. 1982 report to Senate & House Foreign Relations Committees on Human Rights Practices in Taiwan

Political history since 1949 - the political power and most positions of power in the government remain with the Nationalist Party, the Kuomintang, who were elected on mainland China before 1945. Native Taiwanese - about 85% of population - do not have significant power, and are structurally prevented from gaining it.

What is referred to in the report as the "taiwanese independence movement" is a loose movement to return control of the government to elected Taiwanese. This movement is considered sedition.

Martial Law - Martial law was imposed in 1949 and operated ever since. It is the means by which the Nationalist Party retains control and is the crucial fact for human rights in Taiwan. Martial law means that political crimes and other major crimes can and are tried in military, rather than civilian, courts. Cases in these categories are then reviewable only by the Ministry of Defense.

These are the observations on human rights conditions as listed in the State Dept. report:

Political murders - murders of a mother and twin daughters of an opposition figure and of a U.S. born Taiwanese professor in 1980 and 1981 "are believed to have been politically motivated".

Torture - Just last May, five policemen were tried and convicted for illegal arrest and causing bodily harm to a taxi driver beaten and then drowned while under arrest. "Physical violence...(is) a practice many believe police resort to frequently."

Arrest and warrants - Arrest is without warrant in many cases. Individuals may be held up to seven months and possibly more at prosecutor's request. Recently, attorneys were allowed to be present for interrogation of their clients, but that may only mean sitting behind a soundproof window - watching, but not hearing. There is no protection against self-incrimination.

For many minor crimes police not only arrest, but also prosecute and punish. Police are now trying to get the power to put certain of those detained in military prisons for "educational punishment" for crimes against "social peace" - all without trial.

"Monitoring of telephone calls(is)widely believed to exist", and in a recent case there was evidence of monitoring of international calls.

Political prisoners - There are, by government admission and the count of international organizations, approximately 100 political prisoners in Taiwan. 20 of them have been imprisoned over 30 years. Sedition, which is defined as any opposition to basic government policy, especially the contention that the present government represents all of mainland China, is punishable in military courts under martial law. Native Taiwanese who say that their island should be self-governing are committing sedition and are commonly and frequently tried as such. Political candidates are known to be routinely monitored for such sentiments.

COPY

International security surveillance- Although authorities deny it, it is widely accepted that activities of students in the U.S. and other countries' universities who are Taiwanese are followed by the security service.

Censorship - Police may legally seize, ban and/or suspend publication licenses of publishers of printed material they think "confuses public opinion and affects the morale of the public and armed forces." This practice is very common. Major U.S. magazines such as Newsweek have been banned in recent past. Foreign correspondents' credentials have been revoked for reporting the wrong things.

Public assembly - Public assembly for political purposes is banned, except in recent years 15 day election periods have been created in which rallies are allowed but closely monitored.

Religious freedom - Churches have been warned against involvement in opposition political groups or groups which discuss Taiwanese independence. Authorities have made it clear that they intend to take control of religious educational institutions. In 1980 a confrontation with the Presbyterian church came to a head with the conviction of the church's general secretary and others in the church for their harboring a sedition defendant who sought help.

Travel freedom - Permission to leave the country for a trip or to study may be delayed or withheld for security reasons or because the person has criticized the political establishment. 20,000 people (about 2% of applicants) were denied travel permits in 1980 - over 300 for security reasons alone.

TAIWAN

More than thirty years of dynamic economic development contrasts sharply with the pace of political development in Taiwan, where the ruling authorities have emphasized stability rather than change. Nonetheless, the authorities have created an array of democratic institutions from village to province level, with candidates inside and outside the dominant Nationalist Party. Actual power, however, remains in the hands of the small leadership group elected in mainland China before 1945, which came to Taiwan after World War II and controls the Nationalist Party (Kuomintang), the military, and the executive bureaucracy. A high degree of political control is exercised through the security apparatus, which operates under martial law provisions enacted in 1949 and which the authorities justify by the threat of military action or subversion from mainland China.

The enhancement of human rights is publicly endorsed by the authorities but remains incompletely realized in Taiwan. Although individuals may run for elective office, coordinated opposition activity is greatly restricted. The publication of opposition political views is closely controlled and the activities of outspoken oppositionists are monitored, both at home and, apparently, abroad. Native Taiwanese, descendants of Chinese who migrated from the mainland mostly in the eighteenth century and who now constitute 85 percent of the population, dominate the economy but are under-represented within the ruling elite. Recent evidence suggests that torture and other forms of physical intimidation are still occasionally used by police, but probably are not officially condoned.

Nineteen eighty-two saw the continuation of a slow trend toward improvement in the human rights situation in Taiwan. Publication and public expression of oppositionist sentiment have become gradually freer, although there are still strict limits to what is acceptable. The authorities continue to recruit qualified Taiwanese to fill important economic and political, military, and security posts, a process which will contribute to an increased share of political power by the Taiwanese. With the rise of a prosperous middle class, popular concern about human rights is increasing. Despite Taiwan's diplomatic isolation and concern about the island's future after the passing of the current President, Chiang Ching-kuo, the outlook for continued improvement in human rights appears favorable.

1. Respect for the Integrity of the Person, Including Freedom from:

a. Killing

No killings for political reasons have been substantiated in Taiwan in 1982, or indeed in recent years. However, the murder in February 1980 of the mother and twin daughters of jailed oppositionist Lin Yi-hsiung and the suspected murder in July 1981 of a Taiwan-born US resident, Professor Chen Wen-cheng, are widely believed to have been politically motivated.

b. Disappearance

In recent years, there have been no credible reports of persons being abducted or secretly arrested by the security services. There are no known terrorist organizations operating on the island.

Under martial law, which has been in effect in Taiwan since 1949, civilians who commit certain offenses, including sedition, may be tried in military court. Opposition to basic policy (such as expressing views contrary to the authorities' claim to represent all of China, or supporting an independent legal status for Taiwan) is considered seditious and thus punishable under martial law.

The authorities occasionally transfer "important" civilian cases (involving such crimes as homicide, kidnapping, and armed robbery) to the military courts. The authorities state that the military courts' swifter and generally more severe justice acts as a deterrent to potential criminals. Sentences are reviewed only within the Ministry of National Defense. In May 1982, the case of Li Shin-ko, who confessed to carrying out Taiwan's first armed bank robbery and murdering a policeman, was referred to the military courts for action. Li's trial on May 18 lasted less than two hours and the sentence, death, was carried out eight days later.

Neither civil nor martial law provides the defendant with protection from self-incrimination. Following the July 1982 revision of the criminal procedures code, suspects may for the first time have a lawyer present during interrogation. However, the authorities have indicated that the lawyer's role is to protect his client from mistreatment, rather than to provide legal counsel during questioning. In some cases, windows have been installed in police station interrogation rooms in order that lawyers (or family members) may see the suspect without hearing the questioning.

g. Invasion of the Home

Physical invasion of the home without a warrant is not a common practice in Taiwan, but does occur on occasion. The Code of Criminal Procedure requires that searches be authorized by warrants, signed by a prosecutor or, during a trial, by a judge. However, exceptions to this rule, previously few in number, were substantially increased by the revision of the code in July 1982. When making warrantless arrests, police may also make necessary searches of person or property without prior authority. Other types of violations of the home, such as monitoring telephone calls, are widely believed to exist.

2. Respect for Civil and Political Rights, Including:

a. Freedom of Speech and Press

The Constitution guarantees freedom of speech and the press. These rights are limited, however, by the enforcement of martial law restrictions. Individuals are not free publicly to question the regime's basic political policy of anti-communism and claim to sovereignty over all of China. Persons who speak favorably of communism or the People's Republic of China, or persons (usually native Taiwanese) who question the legitimacy of Taiwan's mainland authorities by suggesting support for Taiwan independence or self-determination, can expect to be charged with sedition and tried in a military court.

Information brought to light during the investigation of the death of Professor Chen Wen-cheng in 1981 suggests that the security authorities closely monitor political expression, both at home and overseas. During questioning by the security

c. Torture

Taiwan law specifically prohibits the use of torture. The Code of Criminal Procedure states that an accused shall be "frankly" examined, but that no violence, threat, inducement, fraud, or other improper means shall be used. This language is repeated in the Military Trial Law.

The death in police custody of a Taipei taxi driver, Wang Ying-hsien, in May 1982 focused public attention on the use of physical violence by police in interrogating criminal suspects, a practice many believe police resort to frequently. Wang was picked up on suspicion of robbing a bank and died while in police custody. The actual robber was captured a few hours later and Wang's daughter challenged the police account of Wang's death. The autopsy report, released on August 20, confirmed that Wang was beaten but ruled that his death was caused by drowning in the Esintien River. Although his death was officially declared a suicide, five policemen were tried and convicted for illegally arresting Wang and causing him bodily harm.

d. Cruel, Inhuman, or Degrading Treatment or Punishment

Imprisonment is the usual form of punishment for both political and nonpolitical offenders. According to the authorities, nine executions were carried out in 1981, seven of convicted murderers, and two of persons convicted of robbery.

Taiwan's civilian prisons are severely overcrowded. In April 1982 the press reported that civilian prisons, built to accommodate 11,261 prisoners, were then holding 17,162 or 5,901 over capacity. Prisoners are forced to share cramped living quarters and have fewer opportunities for work, exercise, and family visits. Overcrowding was partially responsible for severe rioting which broke out in the juvenile section of Msinthu Prison in March 1982.

Conditions in the military prisons administered by the security police, where political prisoners are confined, are reportedly less crowded. Prisoners receive the same food as soldiers and have work and recreation opportunities. Although conditions for the Kaohsiung-incident prisoners have reportedly improved since their arrest in 1980, six non-Nationalist Party legislators charged in July 1982 that these prisoners continue to be denied access to regular work programs and recreational activities, are prohibited certain amenities accorded other prisoners, and are subject to special rules which keep them separate from one another. A few of the Kaohsiung-incident prisoners are alleged to still suffer from the effects of pretrial mistreatment.

There is no known discrimination in the treatment of prisoners because of class, race, sex, or religion.

e. Arbitrary Arrest and Imprisonment

Taiwan's law of habeas corpus requires that, following an individual's arrest, the arresting authorities notify in writing the individual and his designated relative or friend within 24 hours of the reason for his arrest or detention. The Code of Criminal Procedure specifies that the authorities may detain an accused for up to two months during investigation prior to the filing of the formal indictment, and for up to three months during trial. During the investigation phase,

however, the prosecuting officer may apply to the court for one extension or two months. The period of detention may also be extended during the time the accused is on trial. In recent cases, including the Kaohsiung incident, the authorities generally have followed the requirements of the above provisions, with exceptions occurring more frequently in the military system.

Major changes in the Code of Criminal Procedure, affecting the rights of criminal suspects, were enacted by the Legislative Yuan in July 1982. Suspects were granted the right to legal counsel during the investigation phase, including the right to have a lawyer present during interrogation by police. This was viewed by legal experts as a positive step in the protection of arrestees' rights. However, despite the opposition of the legal establishment, the press, and many legislators, the authorities also forced passage of changes which allow police to arrest without a warrant anyone they suspect of committing a crime for which the punishment would be five years or more in prison. Police power was further augmented to allow police to call in suspects or witnesses for questioning without a formal summons. The authorities justified the new police powers by insisting that the revisions would only legalize long-standing police practices.

The authorities deny holding political prisoners. They have stated that at the end of 1975 there were 254 persons in prison on sedition charges. Some persons have been released and others arrested since that time, but this is the most recent figure made public by the authorities. In December 1982 the authorities disclosed that 92 prisoners convicted of sedition and related offenses are currently being held in the Green Island military prison, compared with 115 reported to be there by Amnesty International in February 1980. Nearly 20 of these, originally arrested for communist activities, have been imprisoned for more than 30 years and were excluded from a general amnesty in 1975. Many of these prisoners, all in their fifties and sixties, are reported to be in poor health.

Many minor crimes in Taiwan are handled under a statute which empowers the police not only to arrest but also to prosecute and punish offenders. This law sometimes has been used against political activists. A substitute law, long sought by legal reformers, was put forward by the authorities in October 1981 but quickly withdrawn after being publicly criticized by lawyers and legislators. Critics complained that the law was even harsher than the one it was meant to replace, particularly provisions for "educational punishment" in military prisons for those accused by police of disturbing "social peace." In March 1982 the authorities reintroduced the "educational punishment" provisions as a separate "hoodlums" law. Although they withdrew it again in the face of heavy criticism, the authorities have indicated that they still intend to enact a police powers law incorporating "educational punishment."

f. Denial of Fair Public Trial

Taiwan's legal system is based on European and Japanese models which do not incorporate trial by jury. Under a 1980 judicial reorganization, district and high courts were shifted from the control of the Executive Yuan to the Judicial Yuan, for the first time formally separating the courts from the prosecution function. It is generally held in Taiwan legal circles that the change has given the judiciary greater independence of action.

tions and enter three-year senior high and vocational school programs. Entry into Taiwan's extensive system of higher education is also based on competitive exams, and departures from a strict merit system are almost nonexistent. In 1982, more than 20 percent of college-age youth were enrolled as undergraduate or graduate students.

*Bev
for
files*

TO: DAVID DYE
C/O HONORABLE VIC FISCHER
FROM: BILL PHILLIPS
RE: SENATOR'S TELEGRAM TO
MITCH ABOOD ABOUT SISTER
RELATIONSHIP WITH TAIWAN

SENT BY _____

NO. _____

DATE _____

TIME _____

DATE: 5/26/83

Marie



amnesty international news release

International Secretariat, 10 Southampton Street, London WC2E 7HF, England
Telephone: 01-836 7788 Telegrams: Amnesty London Telex: 28502



NR 19/81

AI INDEX: ASA 38/15/81

DISTR: NS/PO/CO

EMBARGOED FOR: 0001 hrs GMT WEDNESDAY

5 AUGUST 1981

AMNESTY INTERNATIONAL URGES TAIWAN TO FREE

HUMAN RIGHTS DEMONSTRATORS AND REVIEW LONG-TERM CASES

Authorities in Taiwan should free 34 people jailed following a major human rights demonstration and should review the cases of other political prisoners held for over 30 years, Amnesty International urged in a memorandum published today (5 August 1981).

The 34 were convicted in a series of trials last year on charges ranging from sedition to inciting violence after a Human Rights Day demonstration in 1979 in the provincial city of Kaoshiung ended in violent clashes with police.

No evidence other than the defendants' confessions, which they withdrew, was submitted to support charges that they had advocated violence or the illegal overthrow of the government, the human rights organization said.

Most of the accused were associated with a legally published opposition magazine, Formosa. They included writers, lawyers and members of parliament.

Eight of them, described by the government as "ringleaders" of the Kaoshiung incident, were tried by military court. There were complaints that their confessions had been obtained after sleep deprivation, coercion, inducement, threats and beatings.

The Amnesty International memorandum includes the findings of two

.../2

missions to Taiwan in February and March 1980, to observe one of the sedition trials and to discuss other human rights questions with the government.

Amnesty International also expressed concern at the fate of long-term prisoners held in Green Island prison, some of them for more than 30 years. A delegation was allowed to visit the prison, off the south east coast of Taiwan, in February 1980.

Prison officials told them that the 115 inmates included 20 who had been there since the early 1950s. Most of these, Amnesty International said in its 20-page memorandum, had been given summary trials with severely restricted rights of defence.

It said it had received reports that one of three prisoners interviewed, in the presence of prison officers, had afterwards been shackled in his cell for two months for telling the Amnesty International delegates about a petition sent by 25 of the inmates to President Chiang Ching-kuo.

In a six-page reply the government denies that any of the prisoners interviewed by Amnesty International was punished.

The government describes the Amnesty International recommendations as "gross interference" in the internal affairs of the state. It says the violence at Kaoshiung was planned in advance by eight of the prisoners, all of whom had been presumed innocent by the courts until proved guilty, and that allegations of ill-treatment had been investigated by the courts and found to be groundless.

In its memorandum Amnesty International submitted 14 recommendations. It called on the government to:

- abolish provisions under which people can be imprisoned for the non-violent exercise of their rights to freedom of expression and association;
- establish a precise legal definition of the offence of sedition;
- end incommunicado detention and other conditions that increase the risk of ill-treatment of suspects in custody;
- introduce procedures to investigate complaints of ill-treatment and compensate victims.

Nick Rizza

Amnesty International, San Francisco
office

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Estralita Jones

Pa. Wrenzel

long term detention of prisoners
of conscience (120 total
20 for more than 30 yrs)
(nonviolent expression
of political beliefs)

one trade unionist imprisoned
since 1950, still in jail

another "communist" imprisoned since
1949-50 for tacking up a poster.
Recently released

also concerned about executions

EXTERNAL (for general distribution)

AI Index: ASA 38/03/81
Distr: NS

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International Secretariat
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London WC2E 7HF
England

MEMORANDUM SUBMITTED TO

THE GOVERNMENT OF THE REPUBLIC OF CHINA

BY AMNESTY INTERNATIONAL

(including the government's reply
and Amnesty International's response)

Published
August 1981

strictly embargoed for
international release at
0001 hrs GMT Wednesday
5 August 1981

PREFACE

This Amnesty International report consists of three documents: the text of a memorandum which Amnesty International submitted to the Government of the Republic of China on 27 February 1981, the government's comments on the memorandum which were forwarded to Amnesty International by the Government Information Office of the Republic of China on 13 May 1981 and the text of a letter sent by Amnesty International to the government on 1 July 1981 in response to the government's comments.

In February 1980, Amnesty International sent a mission to Taiwan to gather information about matters of concern to it and to discuss them with government officials. Among the subjects taken up by the mission was the arrest of a number of people following a demonstration organized by an opposition magazine, Formosa, on 10 December 1979 in Kaohsiung which ended in violent clashes with the police. In March 1980, Amnesty International sent an observer to the trial by a military court of eight of those arrested who had been charged with "sedition".

In its memorandum, Amnesty International makes recommendations arising from the observations of its delegates to Taiwan and from its concern about subsequent legal developments in those cases. Amnesty International concluded that the eight convicted in the trial in question are prisoners of conscience. It concluded also that a number of other people arrested in connection with the Kaohsiung incident and convicted in separate trials are in prison for the non-violent exercise of their right to freedom of expression and association. Its recommendations are intended to achieve the release of all prisoners of conscience in Taiwan and prevent other violations of human rights.

MEMORANDUM SUBMITTED TO
THE GOVERNMENT OF THE REPUBLIC OF CHINA
BY AMNESTY INTERNATIONAL

INTRODUCTION

An Amnesty International delegation consisting of Professor C.F. Rüter, Professor of Criminal Law at the University of Amsterdam (The Netherlands), and Françoise Vandale, a member of the Asia Research Department of Amnesty International's International Secretariat, visited the Republic of China (Taiwan) from 16 to 26 February 1980.

The visit took place after an exchange of communications between Amnesty International and the Republic of China authorities. In December 1979 and January 1980 Amnesty International expressed concern about the arrest of a number of independent politicians and members of Formosa, the opposition magazine, who were detained after taking part in a human rights rally, known as the Kaohsiung Incident, in Kaohsiung on 10 December 1979. This rally ended in violent confrontation with the police. Amnesty International urged the authorities to release all those against whom there was no evidence that they had used or advocated violence and who were therefore being detained in violation of their right to freedom of expression and association. In addition it urged that reports of ill-treatment of prisoners during interrogation be investigated and that the prisoners' names, the charges against them and the dates of their trials be made public.

On 10 January 1980 the military authorities (the Taiwan Garrison Command) announced that 152 people had been arrested and interrogated in connection with the Kaohsiung Incident and, in early February, it released the names of the 59 suspects still in its custody. On 5 February 1980 Amnesty International received a telex from Dr James Soong, Director of the Government Information Office of the Republic of China, saying that no prisoners had been ill-treated during interrogation and that the prisoners were able to write to their families. Dr James Soong urged Amnesty International to "ascertain the facts" in these cases and inform its members accordingly.

In view of the willingness of the authorities of the Republic of China to allow it to investigate the recent arrests, Amnesty International decided to send a mission to Taiwan to discuss matters of concern to it in the country with the authorities and to gather information, particularly on:

1. the Kaohsiung Incident, so as to be able to assess whether people arrested for their participation in the incident were prisoners of conscience;
2. the conditions of prisoners recently arrested and the protection given by the laws of the Republic of China to political prisoners;

3. the conditions of detention and the situation of prisoners of conscience in Taiwan, especially of long-term political detainees in Green Island Prison;
4. the use of the death penalty.

During their stay, the delegates spoke to government officials and other interested parties, including:

Tsiang Yien-si, Secretary General of the Kuomintang (Nationalist Party); Li Yuan-zu, Minister of Justice; General Wang Chin-hsi, Commander of the Taiwan Garrison; Dr James Soong, Director of the Government Information Office; General Chang Teh-hsiu, Commander of the Southern District Taiwan Garrison, and his deputy, General Cher Kuang-yu; Colonel Pao Yu-shan, Head of Military Police, Kaohsiung City; Chen Mao-lin, Head of the Kaohsiung Municipal Police; Colonel Chao Wen-kuang, Director of Green Island Prison; Liu Ching-chi, Governor of Taitung District, and other officials.

They also met prisoners' families, some of the lawyers chosen by the defendants, legal and political experts, various journalists, a number of released suspects, more than 10 eyewitnesses of the Kaohsiung Incident, Presbyterian Church officials in Taipei and in Tainan and members of the Legislative Assembly. In addition they met Dr Han Lih-wu, Director of the Chinese Association for Human Rights, and his assistant, Hsu Pei-tze, who helped them to arrange meetings with government officials.

They visited Kaohsiung City and Green Island Prison. In Kaohsiung, they talked to Taiwan Garrison Southern District Command officers and visited the Garrison prison where some suspects were reported to have been ill-treated. During their visit to Green Island Prison, they talked to three political prisoners, two of whose cases had been taken up by Amnesty International adoption groups.

Although they asked to, the delegates were not allowed to meet the eight defendants arrested after the Kaohsiung Incident, believed to be detained in Hsin-tien military prison, who had been charged with "sedition" on 20 February 1980. They were therefore unable to verify at first-hand reports that these suspects had been ill-treated during a two-month period of incommunicado interrogation.

Upon their return, the delegates recommended that an Amnesty International observer be sent to the forthcoming open trial of these eight defendants, who were facing a possible death sentence. The eight defendants were Huang Hsin-chieh, aged 52, member of the Legislative Assembly and publisher of Formosa; Shih Ming-teh, aged 39, General Manager of Formosa; Yao Chia-wen, aged 42, lawyer and Circulation Manager of Formosa; Chang Chun-hung, aged 42, member of the Taiwan Provincial Assembly and Editor-in-Chief of Formosa; Lin Yi-hsiung, aged 39, member of Taiwan Provincial Assembly and Circulation Manager of Formosa; Lin Hung-nuan, aged 38, administrator of the Kaohsiung office of Formosa; Lu Hsiu-lien, aged 36, Deputy Director of Formosa; Chen Chu, aged 30, Deputy Director of the Kaohsiung office of Formosa.

Dr Michael Sandor, lecturer in law at Hong Kong University, observed the trial on Amnesty International's behalf. It took place before the Military Court of the Taiwan Garrison Command from 18 to 28 March 1980. Dr Sandor was able to discuss legal issues arising in the trial with General Wang Chin-hsi and with defence lawyers. The presiding judge and the prosecutor answered other questions of his by letter after the trial was over.

Amnesty International appreciates the willingness of the officials who received its delegates to discuss matters of concern to the organization. This memorandum presents the latter's recommendations to the Government of the Republic of China arising from the observations of its delegates of the subsequent developments in the cases of those arrested in December 1979 after the Kaohsiung Incident.

Amnesty International respectfully urges the Government of the Republic of China to give consideration to the recommendations that follow in order to secure the release of prisoners of conscience and end other violations of human rights.

I. AMNESTY INTERNATIONAL'S CONCERNS

Amnesty International is a worldwide movement which is independent of any government, political grouping, ideology, economic interest or religious creed. It seeks the release of men and women detained anywhere for their beliefs, colour, sex, ethnic origin, language or religion, provided they have not used or advocated violence.

It calls for fair and prompt trials for all political prisoners and works on behalf of such people detained without charge or trial. It opposes the death penalty and torture or other cruel, inhuman or degrading treatment or punishment of all prisoners without reservation.

The organization has for a long time been asking the authorities in the Republic of China about the political prisoners it knows of and has urged the immediate and unconditional release of those it has adopted. It therefore welcomed the nationwide reduction of prisoners' sentences ordered in August 1975 by the then Prime Minister, Chiang Ching-kuo, in memory of his late father, President Chiang Kai-shek -- even though certain political prisoners, including some adopted by Amnesty International, were ruled "not eligible" to have their sentences commuted. Over the past 10 years, a number of Amnesty International delegates have visited Taiwan to gather information about the situation of political prisoners and prisoners of conscience, observe military trials and express Amnesty International's concern to the Republic of China authorities.

Amnesty International's long-standing concerns in Taiwan are:

1. the arrest and detention of suspected political opponents on charges of sedition under the provisions of martial law drawn up after the state of siege was declared in 1949;
2. the permanent abrogation under these laws of the civil rights provisions of the 1946 constitution;
3. the conducting of trials and appeal reviews by military tribunals and the inadequacy of basic legal safeguards;
4. torture and ill-treatment during interrogation;
5. the use of the death penalty as punishment for certain criminal and political offences.

II. RECOMMENDATIONS

1. Legislation Facilitating Imprisonment for Non-Violent Exercise of Rights to Freedom of Expression and Association

Amnesty International believes that there is legislation in the Republic of China which prescribes imprisonment for the non-violent exercise of the rights to freedom of expression and association.

These rights are guaranteed by the 1946 Constitution of the Republic of China, which states that "The people shall have freedom of speech, teaching, writing and publication" (Article 11) and that "The people shall have freedom of assembly and of association" (Article 14).

However, Taiwan has been under martial law since May 1949 and some of the provisions of martial law legislation severely restrict the exercise of these rights. The imprisonment of political offenders in Taiwan is mainly regulated by the Statute for the Punishment of Sedition, 1949, and the Statute Governing the Prosecution and Elimination of Communist Spies During the Period of Suppression of Rebellion, 1950. These statutes specify a number of offences against the internal security of the state: committing acts with intent illegally to overthrow the government or an attempt to commit this offence (Article 2, Statute for the Punishment of Sedition); disclosure of a political document to a seditious person (Article 4.2, Statute for the Punishment of Sedition); recruitment of a seditious person (Article 4.3, Statute for the Punishment of Sedition); purchase or transport of material for a seditious person (Article 4.4, Statute for the Punishment of Sedition); giving money or material to a seditious person (Article 4.6, Statute for the Punishment of Sedition); protecting or concealing a seditious person (Article 4.7, Statute for the Punishment of Sedition); inciting a strike or disturbance of public order which helps a seditious person (Article 4.10, Statute for

the Punishment of Sedition); spreading rumours or groundless information liable to disturb public order or morale (Article 6, Statute for the Punishment of Sedition); making propaganda which helps a seditious person (Article 7, Statute for the Punishment of Sedition); failing to inform the authorities of the identity of a communist spy or seditious person or harbouring such a person (Article 9, Statute Governing the Prosecution and Elimination of Communist Spies During the Period of Suppression of Rebellion).

These statutes do not in any way define the terms "sedition" or "seditious person". This legislation has often been used to imprison people who had exercised their right to freedom of expression in ways disapproved of by the authorities — for example, by advocating change in the country's system of government or criticizing the government's external policy. The legislation has also frequently been applied to people who have established or participated in political organizations other than those controlled by the Nationalist Party.

Amnesty International was allowed to observe the trial of eight of the 41 people charged with participating in the Kaohsiung Incident. Seven of them had been active in the Independent Candidates' Coalition set up during the November-December 1978 electoral campaign and all of them were prominent staff members on Formosa.

They were charged with and convicted of "sedition". According to the indictment, their offence consisted of "instigating the Kaohsiung Incident in an attempt gradually to escalate illegal mass violence in order to subvert the government". As far as Amnesty International is aware, their political program did not involve the use or advocacy of violence, nor was any convincing evidence that it had produced at their trial. Moreover, in convicting them of "sedition" and sentencing them to terms of imprisonment ranging from 12 years' to life, the court stated that for a conviction of sedition "to overthrow the government through illegal means is not limited to violence".

- (i) Amnesty International respectfully recommends that the legislation of the Republic of China, and particularly the above-mentioned two statutes, be amended so as to remove all provisions permitting the conviction and imprisonment of people for the non-violent exercise of their rights to freedom of expression and freedom of association.

To that end, the terms "sedition" and "seditious person" should be defined clearly so as to prevent their indiscriminate use in relation to acts consisting solely of the non-violent exercise of human rights.

2. Detention for Purposes of Interrogation

During the recent military and civilian trials of defendants charged with participating in the Kaohsiung Incident, many claimed that they had been improperly questioned. Allegations made in court by the defendants

themselves included:

1. Exhaustive questioning -- a number of defendants claimed that they had been continuously questioned for prolonged periods, in some cases for up to four or five days.
2. Inducement -- some defendants claimed that they were told that they would be released if they signed a statement; in some cases, a self-incriminating "confession"; in others, a testimony against another defendant. Two defendants claimed they were told that "the others will be released if you confess".
3. Threats -- two defendants told the Military Court that they had been threatened with death sentences and execution if they did not confess. A defendant tried on civil charges informed the court that he had been told his father would be arrested if he did not confess. Another claimed he was threatened with ill-treatment similar to that inflicted in his presence on another suspect.
4. Beatings -- several defendants, mainly in the group tried on criminal charges, claimed that they had been beaten.
5. Other types of ill-treatment -- several defendants complained that they were fed with salty rice or salt water. Some of them said in court that they "confessed" in exchange for an end to this treatment.

The Amnesty International delegates who went to Taiwan in 1980 met a number of people who had been interrogated either by the local police or by the military authorities about their participation in the Kaohsiung Incident, and had subsequently been released. Some of those interviewed said they had been interrogated continuously throughout their detention -- in some cases, for less than 10 hours; in others, for as long as seven days and nights. They had all been released after signing a statement.

The delegates were also told about the following types of ill-treatment meted out during incommunicado interrogation to some of the 33 people who were later tried for their participation in the Kaohsiung Incident. They were told that Tsai Ching-wen, Hsu Chi-tan, Liu Hua-ming (whose professions are not known) and Liu Tai-he, a staff member at the Pingtung office of Formosa, had been tortured; and that Chen Fu-lai (whose profession is not known) had been beaten with a leather belt and given electric shocks. The delegates were told too that most of the suspects who were interrogated by the Southern District of the Taiwan Garrison Command were made to wear fetters and iron balls, some at night, others all the time. The weight of these restraining devices was said to vary between five, 10 and 20 pounds. Some suspects were reportedly forced to squat in front of electric fans until they caught cold. All the above-mentioned defendants told the Taipei District Court that they were ill-treated in order to force them to confess to the charges against them or make statements incriminating others. Amnesty International has in the past received similar reports of ill-treatment of suspects on political charges in other cases.

The law of the Republic of China provides that suspects on political charges may be detained incommunicado until they are formally charged (Article 43 of Military Trial Law and Article 27.c of the Code of Criminal Procedure). Article 245 of the Code of Criminal Procedure reinforces the isolation of the suspect by requiring that the investigation by the prosecutor "shall not be public". During that period detainees generally write a "confession" admitting the charges against them.

The right of the detainee to have visits during the investigation period and to receive and send mail is qualified by Article 105, paragraph 2 of the Code of Criminal Procedure which states that:

"if sufficient circumstances exist to justify apprehension lest the accused... alter evidence or conspire with a joint offender or witness, visitors or items may be prohibited...."

In correspondence with Amnesty International's delegate at the trial, the Taiwan Garrison Command justified prohibiting the suspects arrested in connection with the Kaohsiung Incident from receiving letters and visits from their relatives by reference to Article 105, paragraph 2:

"There are a number of defendants involved in this case, and their offences are interrelated. In order to prevent a conspiracy to falsify evidence, etc, visitors were not permitted in accordance with the law."

However, all conversations with relatives and lawyers, when they were permitted later on, were conducted through a glass partition and were taped.

In view of this degree of control, the explanation given by the Taiwan Garrison Command that "if they use coded words or similar methods to falsify evidence, they may outwit the monitoring person" is not convincing. Moreover, the military authorities usually detain suspects on political charges incommunicado for the period of their interrogation, whether they are interrogated as individuals or with other suspects on the same charges.

It is Amnesty International's impression, based on its work in countries all over the world, that isolation during interrogation creates the conditions in which torture and ill-treatment of suspects is likely to occur. This is especially so when, as in the Republic of China, it is customary to obtain a confession from a suspect before bringing him or her to court. In numerous cases known to Amnesty International, including that of the 41 tried in connection with the Kaohsiung Incident, these confessions of guilt have been the main evidence used during the trial.

As they had been arrested on suspicion of "sedition", the 41 prisoners were held throughout the period of their interrogation by the military authorities of the Taiwan Garrison Command. The same authorities were responsible for their interrogation and other aspects of the

investigation of their cases, and, in eight instances, for filing the indictment against them, and for trying and passing sentence on them. Moreover, their sentences were to be served in prisons administered by the military authorities. Such a situation is conducive to ill-treatment, as there are no checks or supervision by any outside or independent authority on the behaviour of the officers in charge of the interrogation.

Article 109 of the Military Trial Law of the Republic of China requires that the prosecutor, when examining a suspect, should not employ "violence, threats, inducements, fraud or other improper means". Article 106 of the Code of Criminal Procedure rules that a statement extracted by such "improper devices" is not admissible as evidence. This latter provision of the Codes of the Republic of China is in line with the United Nations Declaration on the Protection of all Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 12, which requires that "any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment may not be invoked as evidence against the person concerned or against any other person in any proceedings".

According to both this international standard and the laws of the Republic of China, the confessions which the defendants claimed had been obtained through improper means should not have been admitted as evidence unless the court had ascertained, by means of a thorough investigation, that the defendants' complaints were groundless. In the case of Huang Hsin-chieh and others, the court rejected the defendants' complaints without thoroughly investigating them. The court dismissed the defendants' requests for the interrogating officers to be examined in court and accepted statements by the prosecutor and the Bureau of Investigation that the complaints were unfounded.

- (ii) Amnesty International respectfully recommends that the government take effective measures to alter conditions in which the risk of ill-treatment of suspects is enhanced and to ensure that prisoners are not held incommunicado so as to avoid their being ill-treated, and specifically that:
- (a) Article 245 of the Code of Criminal Procedure, which requires that the investigation by the prosecutor "shall not be public", be revised to allow family visits and access to a lawyer of the prisoner's own choice.
 - (b) All detainees be allowed access to a doctor immediately upon arrest, at regular intervals thereafter and before release from detention, and be provided at all times with appropriate medical treatment. The doctor's examinations should be fully documented and available to those authorities responsible for the custody of prisoners and those responsible for investigating allegations of torture.

- (c) A provision be inserted in the Codes of the Republic of China to the effect that suspects shall be presumed innocent and treated as such in order to limit the pressures brought to bear on them by interrogation officers to "confess" to the charges against them.
- (iii) Amnesty International recommends that the authorities of the Republic of China introduce effective measures to ensure that proper investigation of complaints of torture or ill-treatment be made possible, which would regulate legal action against officials shown to have used torture or ill-treatment and which would specify appropriate compensation and redress for the victims. These measures would in particular ensure that:
- Any person claiming to have been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to -- complain to, and to have his or her case impartially examined by, the competent authorities of the state concerned.
 - Wherever there are reasonable grounds for believing that an act of torture or other ill-treatment has been committed, the competent authorities of the state concerned shall promptly initiate an impartial investigation, even if there has been no formal complaint.
 - If an investigation establishes that an act of torture or other ill-treatment appears to have been committed, criminal proceedings shall be instituted against the alleged offender or offenders in accordance with national law. If an allegation of other forms of cruel, inhuman or degrading punishment is considered well founded, the alleged offender or offenders shall be subject to criminal, disciplinary or other appropriate proceedings.
 - Where it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law.
- (iv) Amnesty International recommends that places of detention be administered by a department separate from and independent of the investigating body and that a separate authority be made responsible for supervising interrogation and investigating complaints by prisoners or their families.

3. Trial Proceedings

(a) Preliminary Hearings by the Court

According to the law of the Republic of China, a military court judge may hold hearings before the trial in order to examine the accused and witnesses and assess the evidence. These preliminary hearings are an important stage in the judicial process as they are the only occasion when defence lawyers can participate in the collection of evidence to be submitted at the trial.

Although according to Article 164 of the Military Trial Law a trial cannot proceed in the absence of the defendant's lawyer, and according to Article 53 of the same law, courts-martial trials "shall be held in open court" unless national defence secrets are involved, nevertheless when Huang Hsin-chieh and his co-defendants were first examined at preliminary hearings on 21, 22 and 23 February 1980 no defence lawyer and no relatives were allowed to be present. The judge appointed instead a public defender, who was a military person from the same department as the prosecutor and the military judges and reportedly said nothing throughout the three days.

The indictment was served* on the defendants on the evening of 20 February 1980 and they were summoned to appear before the judge for preparatory hearings the next morning. They were given no opportunity to contact either relatives or lawyers until the first prison visit day a week later. On 21 February, the day of the opening of the preparatory hearings, the family and lawyers of the eight prisoners attempted unsuccessfully to visit them. They were not informed that the preparatory hearings were in progress. One of the lawyers learned that the hearings had started, and on 23 February tried to enter the court but was barred. He said he was told that it had been a mistake to come on that date. (One of the Amnesty International delegates then in Taipei, Professor of Criminal Law Dr C.F. Rüter, also sought permission to attend but was unsuccessful.)

This is an infringement of Article 273 II of the Code of Criminal Procedure, which requires the court to give lawyers advance notice of the place, date and time of preparatory hearings "unless there are urgent circumstances". Despite this provision, the defence lawyers received no notice at all. In its verdict, the court rejected the defence lawyers' objection about the legality of

* Articles 155 and 148.1, Military Trial Law, require the prosecutor to serve the indictment on the injured party, complainant, accused, immediate superior officer of the accused (does not apply in this case) and the superior Military Trial Organization.

these sessions of the preliminary hearings which took place in their absence, saying that it had not broken the law and that it had not given notice simply because no lawyers had as then been chosen by the defendants. On 23 February 1980 the preparatory hearings were suspended. When they resumed in early March, the accused were represented by defence lawyers of their own choice.

Choice of defence lawyers is further limited by the requirement that lawyers be registered with the Ministry of National Defence if they are to plead in military courts. This registration is sometimes refused.

These three in camera sessions of preparatory hearings were particularly important in the proceedings against the defendants. At these sessions all the defendants testified that their confessions had been made voluntarily. At the full court hearings later, however, the defendants withdrew their confessions and complained they had been obtained by "improper means" including physical or mental pressure (see above). The court dismissed these complaints on the grounds that the defendants had stated at the early sessions that their confessions had been made voluntarily. Later, the court based its verdict on these confessions.

The holding of some sessions of the preliminary hearings in camera without adequate defence counsel was in violation of the provisions of the Codes of the Republic of China and cast doubt on the fairness of these sessions and the accuracy of the court's findings.

The judge at the preliminary hearings agreed to the defence's request to cross-examine prosecution witnesses. On 7 and 8 March 1980 the court, with the participation of the defence lawyers, cross-examined five prosecution witnesses and two of the eight defendants whose confessions contained statements incriminating some of their co-defendants. All the prosecution witnesses were in the custody of the military authorities pending trial on related or unrelated charges.

The judge, however, refused to call any of the eight defence witnesses whose names were submitted by defence counsel.

It appears that the choice made by the court to agree or refuse to cross-examine witnesses was to the defendants' disadvantage.

After the first few sessions of the preliminary hearings, the defence lawyers were able to interview their clients; they had, however, to communicate with them via a microphone and their conversations were taped -- which was not in accordance with internationally agreed standards which specify that interviews between the prisoners and their legal advisers may be within sight but not within the hearing of a police or institution official.

The defence lawyers were granted an extension of time for the trial, after complaining that the original timetable was unfairly tight. However they were not allowed to photocopy documents from the evidence file as this is not explicitly provided for by the law. This caused a loss of time for the lawyers. It also put the defence at a disadvantage at the full hearings and gave rise to argument about what exactly was on the record.

(b) The Full Court Hearings

The full court hearings in the case of Huang Hsin-chieh and others took place from 19 to 28 March 1980 at the Military Trial Court of the Taiwan Garrison Command in Hsin-tien, Taipei. The trial was given wider publicity than any previous trial of people on political charges in Taiwan, and 120 observers, including local and international press reporters, were allowed to attend. Dr Michael Sandor, the Amnesty International delegate, was among the observers.

The eight defendants faced a bench of five military judges. Two military prosecutors presented the charges and the evidence against the accused and responded to the defence's submissions. Each defendant was assisted in presenting his or her defence by two lawyers and a relative.

The eight defendants were all prominent staff members of Formosa. In late 1978, at the time of the electoral campaign for supplementary seats in the Legislative Assembly and the National Assembly, most of them had been active in the Independent Candidates' Coalition, either as candidates or campaign assistants. The coalition helped all independent candidates who subscribed to its basic electoral platform. The elections scheduled for December 1978 were postponed when the United States announced it would break off its diplomatic relations with the Republic of China in favour of diplomatic recognition of the People's Republic of China as of 1 January 1979. Formosa was launched in May 1979 with the declared aim of organizing independent politicians and publishing their opinions in order to help them win more votes at the next election. These elections were held in December 1980, while most of the prominent members of the opposition were being detained. The eight defendants were:

1. Huang Hsin-chieh, aged 52, publisher of Formosa and independent (non-Kuomintang) member of the Legislative Assembly for life. He had previously been the publisher of another monthly political magazine, Taiwan Political Review, which was banned after its first issue. Huang Hsin-chieh was regarded as the leader of the attempted organization of independent politicians.

2. Shih Ming-teh, aged 39, General Manager of Formosa. He had previously spent 15 years in prison on political charges. Since his release in 1977, he has campaigned for independent candidates in elections to provincial or national assemblies. He was the main organizer of the Independent Candidates' Coalition and of Formosa's activities.

3. Yao Chia-wen, aged 42, lawyer and Circulation Manager of Formosa. He also ran a legal aid service in Taipei. In March 1979, he defended Yu Jui-yen, whom Amnesty International adopted as a prisoner of conscience at his trial on charges of "sedition". Yao Chia-wen had been an independent candidate for the National Assembly December 1978 elections.

4. Chang Chun-hung, aged 42, independent member of Taiwan Provincial Assembly and Editor-in-Chief of Formosa. Once a member of the Kuomintang, he has, since the early 1970s, worked as Editor and Editor-in-Chief of four political magazines, all of which were banned.

5. Lin Yi-hsiung, aged 39, independent member of Taiwan Provincial Assembly, Circulation Manager of Formosa and a lawyer.

6. Lin Hung-hsuan, aged 38, administrator of the Kaohsiung office of Formosa. He is a graduate in philosophy and theology.

7. Lu Hsiu-lien, aged 36, Deputy Director of Formosa. A Harvard graduate in law, she is also a publisher and a well-known feminist. She was an independent candidate for the National Assembly in the December 1978 elections.

8. Chen Chu, aged 30, Deputy Director of the Kaohsiung office of Formosa.

These eight defendants were charged on 20 February 1980 under Article 2, paragraph one of the Statute for the Punishment of Sedition with "attempting to overthrow the government by illegal means and by carrying out subversive activities". They were accused of "using Formosa as a legal cover for carrying out a so-called 'plan to seize power'" and of "having instigated the Kaohsiung Incident in an attempt to escalate mass violence and subvert the government". Each defendant was in addition accused of other specific "subversive activities", to do with either contacts with Taiwanese exiles or with their role on Formosa or with their actions at the 10 December demonstration in Kaohsiung. The defendants were questioned at length by the court, individually and then together, during the nine-day trial.

The prosecution submitted that all the defendants had shown "seditious intent" with a "plan to seize power", which, it said, had been formulated by Yao Chia-wen and adopted by the other seven. As evidence, the prosecutors cited the defendants' confessions, in which they had all admitted having accepted and followed this "power-seizure plan", which was, according to the prosecutor, a plan to overthrow the government, relying on a two-fold strategy: the activities of Formosa, which were aimed at attracting sympathisers; the organization of demonstrations and rallies "to escalate the level of violence". Advocacy of the use of violence, said the prosecution, was contained in the concept of "brinkmanship of violence", also formulated by defendant Yao Chia-wen.

In his defence, Yao Chia-wen said that he was a lawyer and had always insisted that the activities of Formosa remain within the law, although he conceded that the Formosa group would have gone ahead with the demonstration even if permission had been refused.

No evidence, other than the defendants' confessions, which they withdrew, was submitted in court to substantiate the charges that they had advocated violence or the illegal overthrow of the government. Nor was any evidence submitted to show that the defendants had planned any violence at the 10 December 1979 Human Rights Rally.

All the defendants challenged the admissions to the charges made in their respective confessions. They complained that the confessions had been obtained by "improper means", such as sleep deprivation, coercion, inducement, threats and beatings. Yao Chia-wen complained that his confession had been distorted; and Chen Chu's confession contained obviously false admissions. All the defendants stated in court they did not advocate the use of violence to achieve political change. They stressed their belief in a democratically-elected government and their wish to see more independent (non-Kuomintang) politicians elected.

Amnesty International is not aware of anything in the articles printed in Formosa or in the activities or the political program of those associated with it to suggest that the defendants had advocated or planned violence.

In its verdict, the Court said that any argument that the defendants had not advocated violence was not acceptable for they had all admitted to it in their confessions. It added that for the purpose of a conviction of "sedition", "to overthrow the government through illegal means is not limited to violence".

Amnesty International believes that these eight defendants were convicted on account of their political views and activities. The accusation that they advocated or planned violence was not substantiated, and the organization has adopted them as prisoners of conscience.

- (v) Amnesty International therefore recommends that Huang Hsin-chieh, Shih Ming-teh, Yao Chia-wen, Chang Chun-hung, Lin Yi-hsiung, Lin Hung-hsuan, Lu Hsiu-lien and Chen Chu be released immediately and unconditionally with restoration of their civil rights.
- (vi) As regards the preparation of the defence of a suspect to be tried on political charges, Amnesty International recommends that facilities to consult the evidence collected by the prosecution be given to defence counsel well in advance of the trial and that all trials be held in open court.

- (vii) Amnesty International further recommends that in line with the Codes of the Republic of China and internationally agreed standards for the protection of all detainees against ill-treatment, no confession obtained as a result of torture or ill-treatment be admitted as evidence.

Other Cases of Detention Related to the Kaohsiung Incident: Chou Ping-teh et al

After the trial of Huang Hsin-chieh et al, 33 other defendants were tried by the Taipei District Court (a civilian court) for their participation in the Kaohsiung Incident. They had all been arrested between 13 December and early January 1980 and kept in the custody of the Taiwan Garrison Command where they were interrogated on suspicion of "sedition". On 29 February 1980, they were transferred to civilian courts, as the military authorities had found no evidence of "sedition" against them. They were charged on 31 March 1980 under the Law of the Armed Forces with either "inciting a group of people to commit or threaten violence" or "being accomplices in acts of violence".

The Taipei District Court held preliminary hearings in order to examine the evidence in the case from 17 to 19 April 1980. It was open to the defendants' lawyers, their relatives and the press. Most of the defendants retracted their confessions, in which they had admitted to the charges against them, or withdrew statements they had made incriminating others. They also described the ill-treatment they had been subjected to during interrogation (see above).

The full court hearings took place from 21 to 26 May 1980. The verdict was announced on 2 June 1980. The prison sentences, ranging from 10 months to six years and eight months, were in many cases reduced by courts of appeal. Three defendants were acquitted and one given a suspended sentence. The others are serving prison sentences of between nine months and six years.

Amnesty International has adopted the majority of those convicted as prisoners of conscience as it believes they are being detained either on account of their political activities and of their association with Formosa or in violation of their right to take part in a demonstration. These prisoners are:

1. Chou Ping-teh, aged 41. Shopkeeper. Director of Kaohsiung office of Formosa. Member of Formosa (editorial) Committee.
2. Tsai Yu-chuan, aged 19. Presbyterian Church minister. Formosa distributor.
3. Yang Ching-chu, aged 40. Member of Formosa Committee. Writer. Candidate for National Assembly. Director of Kaohsiung office of Formosa.
4. Chi Wan-sheng, aged 41. Member of Formosa Committee.

5. Chiu Chui-chen, aged 29. Member of Formosa staff.
6. Chiu Mao-nan, aged 38. Shopkeeper. Candidate for partial elections to Legislative Assembly in December 1978. Director of Pingtung office of Formosa.
7. Liu Hua-ming, aged 37. Profession not known.
8. Yu Ah-nsiung, aged 42. Staff member of Formosa's Tainan office.
9. Wang T'ao, aged 36. Member of Formosa (editorial) Committee. Writer. Candidate in December 1978 partial elections to Legislative Assembly.
10. Chang Fu-chung, aged 28. Editor of Formosa. Photographer. Co-author of Long Live Elections.
11. Chen Po-wen, aged 48. Photographer. Vice-Chairperson of Taichung Fund Committee of Formosa.
12. Chen Chung-hsin, aged 31. Editor of Formosa.
13. Tsai Chui-ho, aged 41. Small business owner. Member of Taichung Fund Committee of Formosa.
14. Wei Ting-chao, aged 44. Spent eight years in prison on political charges. Editor of Formosa.
15. Fu Yao-kun, aged 47. Profession not known.
16. Hsu Cheng-hsiang. Resident of Kaohsiung.
17. Tai Chen-yao, aged 32. Profession not known.
18. Wu Cheng-ming, aged 25. Taxi-driver.
19. Wu Wen-hsien, aged 23. Cametaker at Pingtung office of Formosa.
20. Hsu Tien-hsien, aged 29. Staff member at Formosa's Tainan office. Presbyterian Church minister.

According to Amnesty International's information, the charges against them of "inciting a group of persons to commit or threaten violence" or of being accomplices in such acts were not substantiated. In most cases, confessions and incriminating testimonies made under duress were the only evidence against the defendants during their trial. Their claims that statements had been improperly obtained were not, to Amnesty International's knowledge, properly investigated by the court, and they should not, in Amnesty International's view, have been used as evidence.

- (viii) Amnesty International recommends that Chou Ping-teh, Yang Ching-chu, Chiu Mao-nan, Wang T'ao, Chen Po-wen, Wei Ting-chao, Hsu Cheng-hsiang, Wu Sheng-ming, Wu Wen-hsien, Hsu Tien-hsien, Tsai Yu-shuan, Chi Wan-sheng, Chiu Chui-chen, Liu Hua-ming, Yu Ah-hsiung, Chang Fu-chung, Chen Chung-hsin, Tsai Chui-ho, Fu Yao-kun and Tai Chen-yao be released immediately and unconditionally and have their civil rights restored.
- (ix) Amnesty International recommends also the immediate restoration of their civil rights to those who were sentenced to shorter terms of imprisonment and have by now been released — that is, Chen Fu-lai, Pan Lai-chang, Li Chang-tsung, Wang Man-ching, Chen Ying-chi, Hsu Chi-tan, Tsai Ching-wen and Li Ming-hsin.

The Case of the Reverend Kao Chun-ming et al

In early January 1980, nine people were arrested by the Taiwan Garrison Command, on suspicion of "sedition" either for having harboured Shih Ming-teh, the General Manager of Formosa, or for failing to report him to the authorities while he was wanted by the police after the Kaohsiung Incident. One of these nine was released soon afterwards. Those arrested were: Wu Wen, aged 37, Lutheran Minister; Hsu Ching-fu, aged 45, film company manager; Lin Wen-chen, aged 41, Dean of Women's Bible School; Chang Wen-ying, aged 31, dentist; Shih Jui-yun, aged 31, secretary to the Reverend Kao Chun-ming; Huang Chao-hui, aged 34, graduate of Tainan Theological College; Lin Shu-chih, aged 30, shopkeeper; Chao Chen-erh, aged 36, clerk in the Taiwan Bible Society; Hsu Chiang Ching-yin, aged 39, wife of Hsu Ching-fu.

On 24 April 1980, the Reverend Kao Chun-ming, aged 51, Secretary General of the Presbyterian Church in Taiwan, was arrested too on suspicion of having harboured Shih Ming-teh. The prisoners were held incommunicado until their indictment on 19 April 1980. They were charged either under Article 4(7) of the Statute for the Punishment of Sedition for "protecting or concealing a 'seditious' person" or under Article 9 of the Statute for the Elimination of Communist Spies During the Period of Suppression of Rebellion for failing to report a "seditious" person to the authorities.

Preliminary hearings in their cases were held by the Military Court on 8 May 1980. They were open to the defendants' relatives, the press and observers, including foreign observers. Shih Ming-teh is reported to have refused to testify. The full court hearings took place on 16 May 1980, also in the presence of the defendants' relatives, the press and observers. Sentences ranging between seven years' imprisonment and two years' suspended were announced on 5 June 1980. They were confirmed by appeal courts in July and September 1980.

Amnesty International has adopted the Reverend Kao Chun-ming and his co-defendants as prisoners of conscience. It believes that they are being detained for non-violent actions which they performed out of humanitarian concern and for conscientious reasons on behalf of a possible prisoner of conscience facing the death penalty or life imprisonment.

- (x) Amnesty International recommends that the Reverend Kao Chun-ming, Lin Wen-chen, Hsu Ching-fu, Chang Wen-ying, Wu Wen and Lin Shu-chih be released immediately and unconditionally with restoration of their civil rights. Amnesty International recommends also the immediate restoration of civil rights of Shih Jui-yun, Huang Chao-hui, Chao Chen-erh and Hsu Chiang Ching-yin who were given suspended sentences.

4. The Visit of the Amnesty International Delegation to Green Island Prison

Among the prisoners in Taiwan who are adopted by Amnesty International as prisoners of conscience are some who are being held in Green Island prison. The majority of those known to Amnesty International are believed to have been detained since the early 1950s. The organization is concerned because they were arrested in a period of emergency and often given summary trials. It is concerned too about the physical and mental hardship suffered by these people as a result of their long-term of imprisonment. Other prisoners of conscience detained in Green Island prison arrested more recently are serving sentences ranging from seven years' to life imprisonment. The majority of them are writers or journalists; some were independent candidates in elections; others are former government officials believed to have been victims of purges.

Amnesty International has received confirmation from various sources, including Green Island prison officials, that 20 political prisoners whom it believes have been detained since the early 1950s are still in prison. According to Green Island prison authorities, 115 prisoners were being held there, in February 1980, on political charges.

The Amnesty International delegates to Taiwan in February 1980 discussed these matters with the authorities of the Republic of China. Prisoners of conscience have been released in the past by presidential amnesty and by general reduction of sentences. Those who had been convicted of being "communists" or of association with "communists" were, however, excluded from these amnesties and from the last general commutation of sentences which took place in 1975.

Some prisoners of conscience have in the past been released on parole under criminal law regulations which specify that "a conditional release may be granted... after 10 years of a sentence to imprisonment for life or after one half of a sentence to imprisonment for a definite period has been served" and provided at least one year of the sentence

has been served. Evidence of "repentance" on the part of the prisoner is necessary for such an application to be granted, but otherwise no category of prisoner is legally excluded from being considered for release on parole. Amnesty International regrets that a large number of political prisoners serving long-term sentences and alleged to be communists have not so far benefited from these measures.

Amnesty International is concerned too because most long-term political prisoners were tried in camera and were subject to severe limitations in presenting their defence. Amnesty International is particularly perturbed about the cases of prisoners in Green Island who received summary trials in the early 1950s and whose rights of defence were severely restricted.

- (xi) Amnesty International therefore recommends that the government review all cases of people imprisoned for political offences with a view to securing the immediate release of those imprisoned for the non-violent exercise of their right to freedom of expression or association and to granting parole to others who have already spent 15 or 20 years or more in prison on political charges.

The delegates were granted permission to go to Green Island prison. They had understood from their conversation with General Wang Chin-hsi, Commander of the Taiwan Garrison Command, that they would be allowed to meet the three prisoners they had said they would particularly like to see. However, upon arrival at the prison, the prison authorities said they had not been informed of this. The visit to the prison proceeded on the understanding that the prison authorities would seek authorization for the delegates to speak to these prisoners.

During their visit the delegates did speak to three prisoners, but they were not the ones they had asked to meet. The prisoners answered the delegates' questions which were first put to the Prison Governor. Among those the delegates spoke to were Hsu Wen-tsan and Chuang Hsin-nan. The former is now 52 and has already spent 29 years in prison. He is believed to be detained on charges of "pro-communist" activities dating back to the Nationalist Government's arrival in Taiwan in 1949. Chuang Hsin-nan, now about 30, is believed to have been arrested in March 1969. Both prisoners were employed in the prison laundry; this job allows them some freedom of movement. They told the delegates that the previous month 25 prisoners had sent a petition to President Chiang Ching-kuo but that they had not yet received an answer. The prison authorities assured the delegates that the letter had been sent from the prison to the security agency responsible.

Amnesty International was disquieted to learn that one of the prisoners who spoke to its delegates had been punished -- it is believed for having had this conversation. Various reports received by Amnesty International in the summer of 1980 indicated that one of the prisoners had been put in solitary confinement, was not allowed to leave his cell and had had his feet shackled for at least two months. The reports indicated that the reason for this punishment might have been his discussion with the delegates.

During their visit the delegates were assured by the prison authorities that there were no prison cells containing "special instruments", but the information it has received over many years from other sources does not bear this out, but suggests that restraining devices are used punitively.

- (xii) Amnesty International recommends that existing rules and regulations as regards conditions in detention centres, especially those to do with punishment, be revised to conform to internationally agreed standards for the treatment of prisoners and their protection from ill-treatment, and that such new rules be fully communicated to all personnel in places of detention and made available to all detainees and their families.
- (xiii) Amnesty International further recommends that a procedure in line with international standards be introduced whereby the prisoners, their lawyers and their families are allowed to make a request or complaint to the central prison administration, the judicial authority or other authorities and whereby every request or complaint is promptly dealt with.

5. The Abolition of the Death Penalty

The delegates expressed concern about the use of the death penalty to Republic of China government officials. The death penalty is prescribed by law for certain criminal and political offences. The delegates were told that it could not be abolished at the moment and that it was considered necessary for the protection of the public from dangerous criminals.

Amnesty International is concerned about the number of death sentences passed by Taiwan civilian and military courts and about the number of executions carried out every year. Between July 1979 and June 1980, 57 death sentences were reportedly passed in Taiwan: 28 for corruption and fiscal offences, five for drug offences, 17 for murder and seven for robbery.

To Amnesty International's knowledge, at least 11 death sentences were passed by Taiwan's courts between September and the beginning of November 1980. During the same period five executions were carried out.

Amnesty International opposes the death penalty in all cases on the grounds that it is a violation of the right to life and constitutes cruel, inhuman and degrading treatment.

- (xiv) Amnesty International recommends that all executions be suspended and the authorities of the Republic of China consider the total abolition of the death penalty.

May 13, 1981

Mr Thomas Hammarberg,
Secretary General,
Amnesty International,
10 Southampton Street,
London WC2E 7HF,
England.

Dear Mr Hammarberg:

Your letter of February 27, addressed to Premier Sun Yun-hsuan, was referred to me for reply. The government's comments on your memorandum are enclosed.

To summarize, many points in your memorandum do not coincide with the facts. It seems, first, that you have failed to give credit to our unswerving efforts to promote the democratic system and rule of law, and second, that you have accepted the one-sided and unsubstantiated assertions of defendants in the Kaohsiung incident.

It is our expectation that you will publish this letter and the government's comments along with your memorandum.

Yours sincerely,

James C.Y. Soong, Ph.D.
Director General

Enclosure

JS/sft

COMMENTS OF THE GOVERNMENT OF THE REPUBLIC OF CHINA
ON THE MEMORANDUM SUBMITTED BY AMNESTY INTERNATIONAL

I

The Republic of China is the first democratic republic in Asia. Since its inception in 1912, the ROC has promoted constitutionalism. Through 70 years, it weathered internal rebellion and foreign aggression but succeeded in adopting a constitution in 1946 following the end of World War II and implementing it in 1947.

The Central Government of the Republic of China moved to Taiwan in 1949 when the Chinese mainland fell to the communists as a result of armed rebellion. Despite the existence of a state of emergency, the government has continued to implement constitutionalism, promote the democratic system of government, carry out land reform, engage in economic reconstruction, universalize educational opportunities, renovate political institutions, and further social welfare programs. For the last 30 years, the nation's real economic growth rate averaged nine per cent. These efforts combined to create economic progress unprecedented in China. In 1980, per capita national gross product reached NT 12,282. With foreign trade of US \$39.3 billion, it was the free world's 22nd largest trader. These achievements have been internationally recognized. Even the communist regime on the Chinese mainland has broadcast the slogan "an economy learn from Taipei", expressing the long-suppressed longing of compatriots on the mainland to join with free China.

Human rights enjoyed by the people of the Republic of China in the economic field have approached the level enjoyed in the advanced western countries. Politically, people in the Republic of China have the right to vote and stand for election in accordance with the law. The President, Vice-President, heads of local governments, and parliamentary representatives at all levels are elected. These practices reflect the unwavering efforts of the Government of the Republic of China to protect human rights despite the continuing armed rebellion by the Chinese communist regime across the Taiwan Straits.

II

The assertion on page five of the memorandum that the political program of the eight participants who took part in the Kaohsiung Incident and were convicted by the military tribunal did not involve the use or advocacy of violence, etc is contradicted by the facts. The so-called Kaohsiung Incident was a riot. The ringleaders made their plans beforehand and advocated and used violence to escalate violence. This is evidenced in their premeditated assaults on the police with wooden clubs, steel bars and incendiary materials prepared in advance.

Although no rioters were hurt, 183 policemen under strict orders not to strike back were injured, some of them seriously. Because witnesses and evidence showed the ringleaders planned the riot in advance, the eight were tried by the military court. Thirty-three others who were instigated to join the riot were tried by the civilian court.

The memorandum notes that some defendants alleged they received ill-treatment, such as exhaustive questioning, inducement, threats, beatings etc during the trials. These allegations were investigated by the court and found to be groundless. During the period of the defendants' detention, military prosecutors visited the various detention centers from time to time. At that time the defendants did not make any complaints about ill-treatment. Both Shih Ming-teh and Chen Chu explicitly stated during the nine-day open trial attended by Chinese and foreign reporters that they were not ill-treated. This has been explicitly verified in the decisions made by the courts.

The memorandum asserts that a prisoner was punished as the result of a meeting between an Amnesty International delegation and three prisoners at the Green Island Prison. This assertion is not true. The delegation first asked to see Pui Yau-shan, a prisoner. When the request was turned down as a violation of prison rules, the delegation picked three prisoners at random and interviewed them. The guides who accompanied the delegation did not raise any objection. Members of the delegation expressed appreciation to the guides and members of the prison staff for their cooperation. None of the prisoners interviewed was punished.

III

The assertion in the memorandum that restrictions have been placed on the lawful exercise of the rights of freedom of expression and freedom of association provided in the constitution is contrary to fact. People in the Republic of China enjoy these freedoms fully within the framework of law. Despite the existence of martial law, the Republic of China has never suspended implementation of the constitution, never dissolved the legislature and never abrogated the fundamental rights of the people as provided in the constitution.

Although the constitutions of various states guarantee freedom of expression and freedom of association, these freedoms are not absolute. The exercise of these freedoms must be in accordance with law and must not jeopardize the fundamental rights of others. To serve vital national interests, all states place certain restraints on freedom of expression and freedom of association.

In *Schenck v. United States*, 249, US 47, 52 (1919), Justice Holmes of the US Supreme Court, commenting on the issue of whether the sudden shouting of "fire" in a crowded theater should be considered as freedom of expression, positively held that such freedom should be restricted.

The Statute for the Punishment of Sedition and the Statute Governing the Prosecution and Elimination of Communist Spies during the period of suppression of rebellion of the Republic of China do not prohibit lawful exercise of freedom of expression and freedom of association. Like the national security statutes of other states, these statutes only restrain expressions or associations of a seditious or instigative nature and activities endangering national security or the public order.

IV

1. The assertion in the memorandum that the Statute for the Punishment of Sedition and the Statute Governing the Prosecution and Elimination of Communist Spies During the Period of Suppression of Rebellion do not in any way define the term "sedition" or "seditious person" obviously results from a misreading of the statutes. According to the provisions of the Statute for the Punishment of Sedition, the term "rebel" denotes one who commits offenses prescribed in Articles 2 through 7 of the said statute. In other words, it denotes the "seditious person" prescribed in Article 2 or the "person conspiring with a rebel" as prescribed in Articles 3 through 7 of the statute.

A "seditious person" denotes one who commits offenses prescribed in paragraph 1 of Article 100, paragraph 1 of Article 101, paragraph 1 of Article 103 and paragraph 1 of Article 104 of the Criminal Code. The term "a seditious person" is clearly defined in paragraph 1 of Article 100: "a person who commits an overt act with the intent to destroy the organization of the state, seize state territory, change the constitution by illegal means, or overthrow the government"; in paragraph 1 of Article 101: "a person who with violence commits an offense specified in paragraph 1 of the preceding article"; in paragraph 1 of Article 103: "a person who has dealings with a foreign state or its agents with the intent that such a state or another state wages war against the Republic of China"; and in paragraph 1 of Article 104: "a person who has dealings with a foreign state or its agents with the intent to deliver territory of the Republic of China to such a state or another state." These articles clearly set forth the constituent elements of sedition.

2. Many other states have stipulations against sedition in their criminal codes, such as: offenses against internal security in paragraph 2 of chapter 1 of the West German Criminal Code; offenses against internal security and other offenses against the state in chapter 14 of part 2 of the Austrian Criminal Code; sedition offenses in paragraph 1 of chapter 13 of part 2 of the Swiss Criminal Code; offenses of conspiracy and sedition and other offenses against encroaching upon national sovereignty and territorial integrity in paragraph 3 of chapter 1 of part 1 of volume 3 of the French Criminal Code; offenses against external security in paragraph 1 and offenses against internal security in paragraph 2 of chapter 1 of part 2 of the Italian Criminal Code; offenses endangering peace or national independence in chapter 2 of series 1 of volume 2 of the Spanish Criminal Code, and offenses against internal security in chapter 2 of part 2 of the

Japanese Criminal Code. Although the constituent elements of these similar provisions differ, their common intention is to safeguard national security and protect the people's welfare.

3. Page five of the memorandum stresses that the case did not involve the use of violence and questions the wisdom of a court statement that conviction of sedition "to overthrow the government through illegal means does not require proof of violence." Judging from the legislation and practice of various other states, the offense of sedition does not necessarily require the inclusion of violence. In the State v. Shepherd, 177 No.205, 222, 76 SW, 79, 84 (1903), as quoted in Perkins, Criminal Law 380 N.91 (1957), sedition requires only some "word, deed or writing" calculated to incite persons to such public disorder as riot, rebellion, insurrection or civil war. (Italics added).

According to Black's Law Dictionary p. 1218 (5th ed. 1979), sedition means communication or agreement which has as its objective the stirring up of treason or certain lesser commotions, or the defamiation of the government. Sedition is advocating, or with knowledge of its contents knowingly publishing, selling or distributing any document which advocates...the overthrow or reformation of the existing form of government or the state by violence or unlawful means...attempts made by meetings or speeches, or by publications, to disturb the tranquillity of the state. See 18 USCA 2383 et seq.; see also Alien and Sedition Laws; Smith Act (Italics added).

The term "sedition" is no less specifically defined in statutes of the Republic of China than in the similar statutes of other states.

V

1. Regarding the assertion that "suspects shall be presumed innocent and treated as such", the existing Code of Criminal Procedure of the Republic of China provides that "suspects shall be presumed innocent." Article 154 of the Code of Criminal Procedure stipulates: "the facts of an offense shall be established by evidence. The facts of an offense shall not be presumed in the absence of evidence." Paragraph 3 of Article 156 stipulates: "where an accused has made no confession nor is there any evidence, his guilt shall not be presumed merely because of his refusing to testify or remaining silent." These stipulations clearly indicate that "no person shall be presumed guilty without evidence" and presume that all people are innocent. There is recognition that defendants have the rights to refuse to testify or to remain silent.

Paragraph 1 of Article 301 stipulates: "if it cannot be proved that an accused has committed an offense or if his act is not punishable, a judgment of 'not guilty' shall be pronounced." This provision is also aimed at recognizing the principle of in dubio pro reo before a defendant is convicted.

In addition, Article 161 of the code stipulates: "the prosecutor shall bear the burden of proof as to the facts of the crime charged against an accused." This further shows that in accordance with the Code of Criminal Procedure, a defendant is not required to prove his innocence. The stipulation that the burden of proof rests with the prosecutor fully coincides with the spirit of modern legislation and the requirements of the United Nations Universal Declaration of Human Rights.

2. As regards the stipulation in Article 245 of the Code of Criminal Procedure that "an investigation shall not be public", the purpose is to protect the human rights of suspects. Should the investigation be made public, it would be difficult to provide redress should damages be inflicted on the reputation or status of the suspect even in the absence of prosecution. Paragraph 2 of Article 228 further stipulates that in the course of investigation, the prosecutor shall not unnecessarily summon or interrogate a suspect in order to safeguard the person's reputation and guard against false accusation.

Article 105 of the code stipulates that a detained suspect may receive visitors, send mail and receive books and other articles. These provisions are also included in Article 115 of the Military Trial Law. The stipulation that "an investigation shall not be public" in the Code of Criminal Procedure is a protection of human rights.

VI

It is presumptuous of Amnesty International to recommend that those convicted in the Kaohsiung riot case be released immediately and unconditionally. The Republic of China is a nation ruled by law. Any decision made by the courts in accordance with law is conclusive, has binding force, and should be executed accordingly. There can be no exception for those convicted in the Kaohsiung riot case. They were tried and convicted in keeping with due process. The recommendation of Amnesty International violates the spirit of the democratic system and the rule of law. It is a gross interference in the internal affairs of a state and could not be tolerated by any sovereign state.

Concerning the recommendation that our laws and statutes be revised, it must be made clear that according to Article 62 of the Constitution of the Republic of China, the Legislative Yuan is the highest legislative organ of the state. It is constituted of members elected by the people and exercises legislative power on the people's behalf. The power to enact or amend laws rests with the representatives of the people and cannot be influenced by any external force. This recommendation of Amnesty International is tantamount to interference in internal affairs and could not be tolerated by any sovereign state.

VII

Laws of the Republic of China provide redress for a person convicted in consequence of errors of fact or of law made by the court. Article 420 of the Code of Criminal Procedure prescribes that a convicted person may apply for a new trial. Article 441 of the same code has provisions for an extraordinary appeal; so has Article 37 of the Military Trial Law.

Additionally, there are compensation provisions for a person wrongly accused under the laws of the Republic of China. Article 1 of the Law of Compensation for Wrongful Detentions and Executions stipulates that: under any of the following circumstances, the person unjustly accused in a case processed in accordance with the Code of Criminal Procedure and related orders may claim compensation from the government in accordance with the provisions of this law:

1. If he has been detained prior to a ruling not to prosecute or a final judgment of acquittal;
2. If he has been detained or punished prior to a final judgment of acquittal rendered in accordance with proceedings of a new trial or an extraordinary appeal.

These provisions, however, are not applicable in the Kaccsiung riot case.

VIII

Whether the death penalty should be abolished is a controversial issue of debate in penology. Those who advocate abolition of capital punishment may have reasons based on an individualistic ideology of human rights. But national conditions differ with states and so do laws concerning the death penalty. According to Capital Punishment, published by the United Nations in 1967, 72 countries and areas supplying information still provided for the death penalty and only 16 had abolished it. Australia, Mexico and the United States had not fully abolished capital punishment.

Although some articles of law in the Republic of China provided for the death sentence, these are implemented with extreme scrupulousness. These may be viewed from two different aspects:

1. From the aspect of law: paragraph 1 of Article 63 of the Criminal Code stipulates: "a death penalty or imprisonment for life may not be imposed on an offender who has not completed the 18th year or who has completed the 80th year of his life. If the punishment prescribed for the offense is death penalty or life imprisonment, such punishment shall be mandatorily reduced." Article 75 of the Law Governing the Disposition of Juvenile Cases stipulates: "In no case shall a juvenile

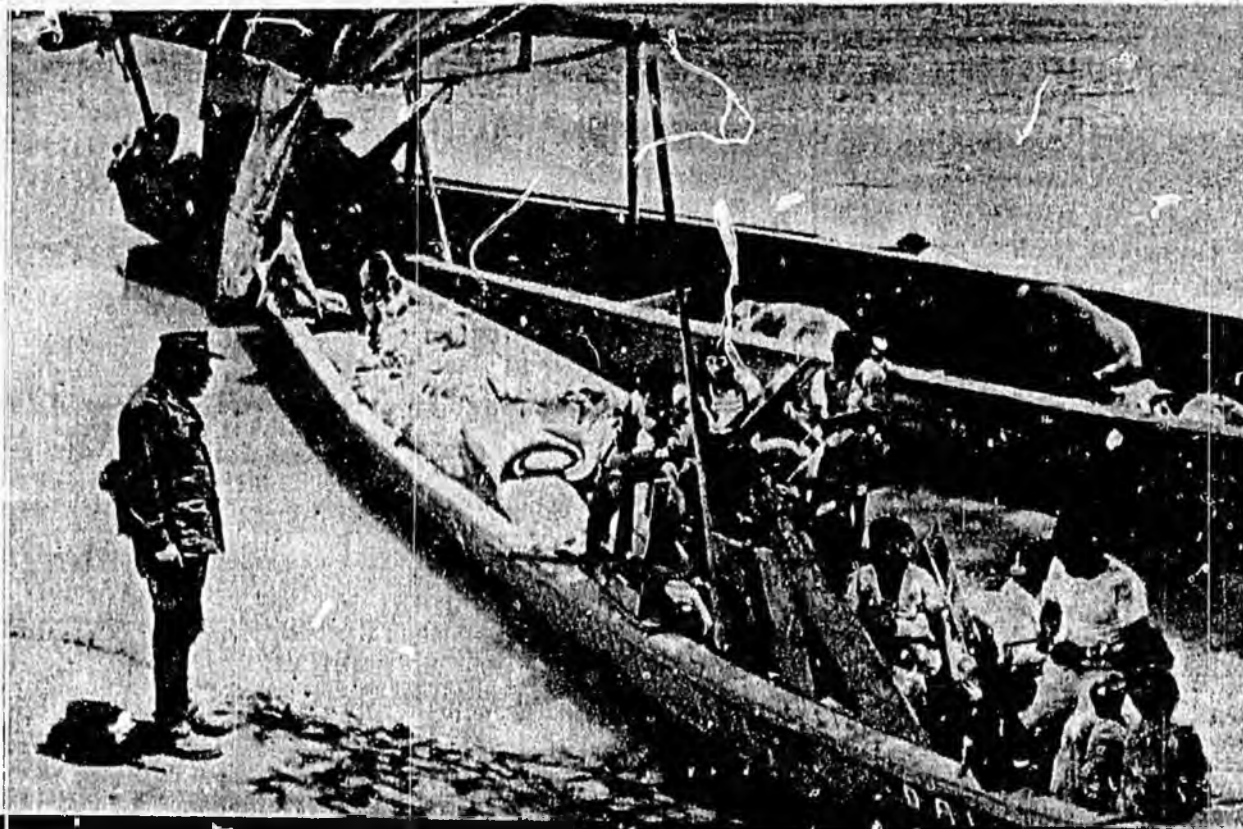
be sentenced to death or life imprisonment for the commission of an offense, except when it involves paragraph 1 of Article 272 of the Criminal Code." Paragraph 4 of Article 344 of the Code of Criminal Procedure stipulates: "In a case for which a death sentence or life imprisonment has been pronounced, the trial court shall, without waiting for lodgment of an appeal, ex officio refer it directly to the competent superior court for trial and notify the party concerned." Article 461 of the same code stipulates: "A death sentence shall be subject to approval of the supreme judicial administrative organ." These provisions demonstrate the extreme scrupulousness provided before applying the death penalty.

2. From the aspect of practice: only a few death sentences have been made by courts of the Republic of China in recent years: seven in 1978, two in 1979 and five in 1980. Most of them involved the commission of homicide. These verified statistics refute the statistical errors found on page 20 of the memorandum.

amnesty action

published by amnesty international usa 8 pages december 1981

Mexico



UN focuses on human rights abuses

The United Nations has been urged to check on how member states have observed UN calls for the release of certain categories of prisoners, including prisoners of conscience.

In an oral intervention to the Sub-Committee on Prevention of Discrimination and Protection of Minorities in Geneva, AI said there is a need to follow up such UN calls by creating procedures to gather information on the relevant categories of prisoners, in particular prisoners of conscience.

'Disappearances' violate international law

Cont'd from page 1

"disappearances:" the right of families to know the fate of their relatives.

However, relatively little attention has been paid to the detention of prisoners of conscience — people imprisoned because of their political, religious, or other conscientiously held beliefs and who have not used or advocated violence.

The UN General Assembly has in recent years adopted a number of resolutions concerning the protection of the human rights of certain categories of prisoners. These resolutions do not use the term "prisoners of conscience" but the different categories of prisoners referred to would include many prisoners of conscience.

In 1977, the Assembly referred to all people detained or imprisoned as a result of their struggle against colonialism, aggression and foreign occupation, for self-determination, independence, the elimination of apartheid, and all forms of racial discrimination and racism. The Assembly also drew attention to the fact that in many parts of the world prisoners are detained for offenses they have committed, or are suspected of having committed, by reason of their political opinions or convictions. The Assembly called upon member states to examine periodically the possibility of releasing such prisoners.

AI believes that the imprisonment of prisoners of conscience should not be discussed in abstract terms only. Each individual case involves human suffering.

• In Taiwan, WU Yueh-Ming, aged 61, has been imprisoned in Green Island prison for more than 30 years. He is charged with "having been handed a communist poster and having posted it up." He



GONG Pinnel, imprisoned in the People's Republic of China since 1950.

was also charged with having joined a communist group in 1950. He was sentenced to life imprisonment by a military tribunal sitting *in camera*.

• In the People's Republic of China, GONG Pinnel, the former Roman Catholic Bishop of Shanghai, has spent more than 25 years in prison. He was sentenced to life imprisonment on charges of counterrevolutionary activities. He is now over 80 years old.

• In Morocco, Abdelali Ben CHEKROUN, 29, a mathematics teacher, was sentenced to 30 years' imprisonment in 1977. Together with almost 100 others he was charged with belonging to illegal

associations attempting to overthrow the government, although even the prosecution accepted that the defendants had only reached the stage of propagating their ideas. Each of these individuals is a prisoner of conscience, only three cases among thousands. AI's information is that there are prisoners of conscience in almost half the member states of the United Nations.

UN committee wants end to political executions

Politically motivated executions deserve the "most urgent consideration" of the United Nations Commission on Human Rights, according to the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities.

During its August-September session in Geneva, the Sub-Commission recommended that the Commission put a proposal before the UN Economic and Social Council calling on governments to abolish the death penalty for political offenses.

The Sub-Commission is comprised of 26 experts elected in their individual capacity.

It adopted a number of decisions of interest to Amnesty International:

• It called for the cooperation of governments with the UN Working Groups on Enforced or Involuntary Disappearances. Extension of the Working Group's mandate to "indispensable," it said.

• Further, the Sub-Commission said, if a government does not supply requested information within a reasonable period, it should be presumed that events in question did indeed occur. (AI had made the same suggestion as part of its oral intervention on prisoners of conscience.)

• In a surprise resolution, the Sub-Commission asserted that "the establishment of a post of the United Nations High Commissioner for Human Rights would be highly valuable in advancing the promotion and protection of human rights in the world." It was the first time any UN body had spoken in favor of such a post.

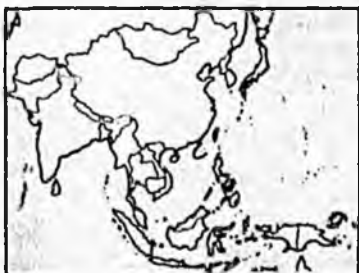
In confidential session, the sub-commission dealt with communications alleging "consistent patterns of gross violations of human rights" in a number of countries. In accordance with its usual procedure, these deliberations were not made public. AI had made submissions on Argentina, Uruguay, Haiti, the Republic of (South) Korea, Pakistan, and Iraq.

Under its public procedures, the sub-commission adopted resolutions on Afghanistan, Kampuchea, the Bahais in Iran, El Salvador, South Africa, Namibia, and the territories occupied by Israel.

**AMNESTY
INTERNATIONAL
REPORT
1982**

**This report covers the period
January to December 1981**

Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (but not the Optional Protocol to the former as Amnesty International had recommended). Concerned about the human rights violations reported to it during 1981, Amnesty International proposed to the government that a mission visit the country.



Taiwan

Amnesty International appealed for the release or retrial of more than 120 prisoners of conscience and possible prisoners of conscience, 20 of whom had been held for more than 30 years.

On 27 February 1981 Amnesty International submitted a memorandum to the government. It contained recommendations arising from its mission to Taiwan in February 1980 and from its observation of the trial in March 1980 of eight defendants charged with sedition after a demonstration in Kaohsiung on 10 December 1979. Amnesty International called for the release of its adopted prisoners of conscience and for the country's legislation to be amended to bring it in line with international standards on interrogation, trial and detention procedures. In particular Amnesty International recommended: the abolition of provisions under which people can be imprisoned for the non-violent exercise of their right to freedom of expression and association; a precise legal definition of the offence of sedition; an end to incommunicado detention and other conditions that facilitate ill-treatment in custody; and the introduction of procedures to investigate complaints of ill-treatment and compensate victims.

On 5 August 1981 Amnesty International published the text of its memorandum together with a reply from the government and Amnesty International's response. The government rejected the Amnesty International recommendations as interference in its internal affairs. It said that the violence at the Kaohsiung demonstration was planned in advance by eight of the prisoners and that their allegations of ill-treatment had been investigated by the court and found to be groundless. It stated that the purpose of the legal provision that pre-trial investigation "shall not be public" was "to protect the human rights of the suspects", "safeguard the person's reputation and guard

against false accusation". In its response Amnesty International reaffirmed that it had not been proved that the defendants convicted of sedition had planned the violence that erupted during the demonstration. Regarding prisoners' complaints of ill-treatment, Amnesty International stressed that the isolation of suspects during interrogation facilitated ill-treatment. It also made it difficult for defendants to prove their complaints to the courts, and for the government to disprove them. In its memorandum Amnesty International expressed disquiet at reports that one of the prisoners who had spoken to its delegates visiting Green Island military prison in February 1980 (see *Amnesty International Report 1980*) had been punished as a result. Amnesty International noted that the government denied this and reiterated its recommendation that an independent body be set up to deal with prisoners' complaints. Amnesty International repeated its belief that the definition of the offence of sedition was imprecise. It was concerned that charges of sedition had been used to imprison people critical of the government whom Amnesty International regarded as prisoners of conscience.

During 1981 the government did attend to some of the matters on which Amnesty International had made recommendations. The Minister for Legal Affairs, Li Yuan-tze, was reported to have said in March 1981 to the Legislative Yuan (Assembly) that the right of a suspect to have access to counsel during investigation would be given serious consideration during the forthcoming revision of the code of criminal procedure. On 1 July 1981 the government promulgated a State Compensation Law. Under this a plaintiff may claim compensation for damages caused by government employees in the course of their duties. On 7 October 1981 Amnesty International wrote to the Minister for Legal Affairs welcoming this measure.

Dr Chen Wen-cheng, an assistant professor at Carnegie-Mellon University in the USA, was found dead in Taipei on 3 July 1981, the day after he had been interrogated by the Taiwan Garrison Command about his political activities in the USA. The authorities said that he had been escorted home the night before. On 8 July 1981 Amnesty International cabled the government expressing concern about Dr Chen Wen-cheng's death and asking for information about the circumstances. The government sent Amnesty International copies of the reports by the prosecutor's office and by two members of the Control Yuan (the elected assembly which has the power to impeach and censure public functionaries). The first concluded that the death was the result of suicide or accident; the second, that it was probably accidental. A US expert in forensic medicine who examined the body at the request of Chen Wen-cheng's employer found no evidence of systematic torture and concluded that he had been murdered. The

official inquiry continued. Amnesty International noted that in their report the Control *Yuan* members also concluded that "the procedures of interrogation by the Taiwan Garrison Command should be studied and improved". This was publicly recognized in early August 1981 by the government's spokesperson.

Amnesty International adopted as prisoners of conscience Chang Chun-nan and Liu Feng-sung, both sentenced to three-and-a-half years' imprisonment in separate trials in March and April 1981 (see *Amnesty International Report 1981*). They were accused of spreading seditious ideas during their election campaigns for the Legislative *Yuan* and the National Assembly in December 1980 and charged under the Public Officials' Election and Recall Law (May 1980). Both were active members of the opposition. There was no evidence that they had used or advocated violence.

Amnesty International continued to appeal for the release of 20 people arrested in the early 1950s for alleged pro-communist activities. Among them were Wu Yueh-ming and four co-defendants serving life terms in Green Island Military Prison. In August 1981 Amnesty International urged the authorities to give Wu Yueh-ming proper medical care for his impaired vision. Subsequent reports indicated that he was receiving treatment.

Amnesty International launched special appeals for the release of two journalists, Li Ching-sun, detained since 1975, and Li Ching-jung, arrested in December 1979, both adopted by Amnesty International as prisoners of conscience (see *Amnesty International Report 1981*).

On 18 February 1981 Amnesty International wrote to the Minister for Legal Affairs about prison conditions for the prisoners tried on criminal charges related to the Kaohsiung incident (see *Amnesty International Report 1981*). It had received reports that some were held in solitary confinement, not allowed daily outdoor exercise, and that their reading material was very restricted. Amnesty International also asked for a thorough inquiry into complaints of ill-treatment under interrogation by the military authorities. Most of these complaints had been made in court.

In its memorandum of 27 February 1981 Amnesty International expressed concern at the number of death sentences imposed and carried out every year. Between July 1979 and June 1980, 57 death sentences had reportedly been passed. It recommended the suspension of all executions and the abolition of this punishment. The government replied that death sentences were imposed with extreme care and that they were automatically referred to a higher court. It also said that in practice few people were executed: seven in 1978, two in 1979 and five in 1980. On 3 July 1981 Amnesty International wrote to the

government outlining its work against the death penalty and international moves for its abolition. Amnesty International learned of 15 death sentences imposed in 1981 and seven executions.



Thailand

Amnesty International was concerned by the use of detention without trial for political offences and by the imposition of the death penalty. However, it had no adopted prisoners of conscience in Thailand during 1981.

In April 1981 Amnesty International wrote to Prime Minister General Prem Tinsulanond about 200 people who had been sentenced by administrative procedure to terms of imprisonment without trial under martial law provisions between 1976 and 1978. Twenty-eight had received life sentences and a further 89 were sentenced to 10 or more years' imprisonment. The 200 included some prisoners whose cases were political in character and others accused of purely criminal offences. In its letter Amnesty International pointed out that the continued detention of these prisoners contravened the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. It urged the authorities to release the detainees or bring them to an early trial.

In June the Minister of Justice, Marut Bunnag, informed Amnesty International that the government was seriously seeking an effective solution to the problem of the 200 prisoners. A working committee formed by the government to look into the cases recommended in November that they should be pardoned by government decree.

Amnesty International was also concerned about the detention without trial of more than 50 Chinese and Vietnamese awaiting deportation on charges of illegal immigration. Some had been held in prison for more than 20 years. A group of 186 such prisoners was freed in December 1980.

Other prisoners were detained without trial under the provisions of the Anti-Communist Activities Act of 1979 (ACAA) which allows people accused of communist activities to be detained for up to 480 days. The number of people held under this act was not divulged by the authorities. Most arrests were believed to have occurred in northeast or southern Thailand.

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against false accusation". In its response Amnesty International reaffirmed that it had not been proved that the defendants convicted of sedition had planned the violence that erupted during the demonstration. Regarding prisoners' complaints of ill-treatment, Amnesty International stressed that the isolation of suspects during interrogation facilitated ill-treatment. It also made it difficult for defendants to prove their complaints to the courts, and for the government to disprove them. In its memorandum Amnesty International expressed disquiet at reports that one of the prisoners who had spoken to its delegates visiting Green Island military prison in February 1980 (see *Amnesty International Report 1980*) had been punished as a result. Amnesty International noted that the government denied this and reiterated its recommendation that an independent body be set up to deal with prisoners' complaints. Amnesty International repeated its belief that the definition of the offence of sedition was imprecise. It was concerned that charges of sedition had been used to imprison people critical of the government whom Amnesty International regarded as prisoners of conscience.

During 1981 the government did attend to some of the matters on which Amnesty International had made recommendations. The Minister for Legal Affairs, Li Yuan-tze, was reported to have said in March 1981 to the Legislative Yuan (Assembly) that the right of a suspect to have access to counsel during investigation would be given serious consideration during the forthcoming revision of the code of criminal procedure. On 1 July 1981 the government promulgated a State Compensation Law. Under this a plaintiff may claim compensation for damages caused by government employees in the course of their duties. On 7 October 1981 Amnesty International wrote to the Minister for Legal Affairs welcoming this measure.

Dr Chen Wen-cheng, an assistant professor at Carnegie-Mellon University in the USA, was found dead in Taipei on 3 July 1981, the day after he had been interrogated by the Taiwan Garrison Command about his political activities in the USA. The authorities said that he had been escorted home the night before. On 8 July 1981 Amnesty International cabled the government expressing concern about Dr Chen Wen-cheng's death and asking for information about the circumstances. The government sent Amnesty International copies of the reports by the prosecutor's office and by two members of the Control Yuan (the elected assembly which has the power to impeach and censure public functionaries). The first concluded that the death was the result of suicide or accident; the second that it was probably accidental. A US expert in forensic medicine who examined the body at the request of Chen Wen-cheng's employer found no evidence of self-harm. [The first] concluded that he had been murdered. The

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official inquiry continued. Amnesty International noted that in their report the Control Yuan members also concluded that "the procedure of interrogation by the Taiwan Garrison Command should be studied and improved". This was publicly recognized in early August 1981 by the government's spokesperson.

Amnesty International adopted as prisoners of conscience Chan Chun-nan and Liu Feng-sung, both sentenced to three-and-a-half years' imprisonment in separate trials in March and April 1981 (see *Amnesty International Report 1981*). They were accused of spreading seditious ideas during their election campaigns for the Legislative Yuan and the National Assembly in December 1980 and charged under the Public Officials' Election and Recall Law (May 1980). Both were active members of the opposition. There was no evidence that they had used or advocated violence.

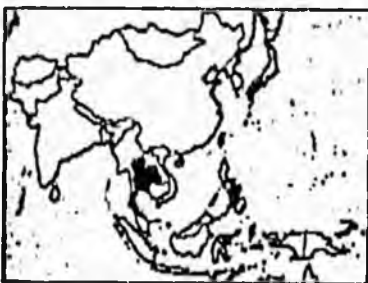
Amnesty International continued to appeal for the release of 21 people arrested in the early 1950s for alleged pro-communist activities. Among them were Wu Yueh-ming and four co-defendants serving life terms in Green Island Military Prison. In August 1981, Amnesty International urged the authorities to give Wu Yueh-min proper medical care for his impaired vision. Subsequent reports indicated that he was receiving treatment.

Amnesty International launched special appeals for the release of two journalists, Li Ching-sun, detained since 1975, and Li Ching-jung, arrested in December 1979, both adopted by Amnesty International as prisoners of conscience (see *Amnesty International Report 1981*).

On 18 February 1981 Amnesty International wrote to the Minister for Legal Affairs about prison conditions for the prisoners tried on criminal charges related to the Kaohsiung incident (see *Amnesty International Report 1981*). It had received reports that some were held in solitary confinement, not allowed daily outdoor exercise, and that their reading material was very restricted. Amnesty International also asked for a thorough inquiry into complaints of ill-treatment under interrogation by the military authorities. Most of these complaints had been made in court.

In its memorandum of 27 February 1981 Amnesty International expressed concern at the number of death sentences imposed and carried out every year. Between July 1979 and June 1980, 57 death sentences had reportedly been passed. It recommended the suspension of all executions and the abolition of this punishment. The government replied that death sentences were imposed with extreme care and that they were automatically referred to a higher court. It also said that in practice few people were executed: seven in 1978, two in 1979 and five in 1980. On 3 July 1981 Amnesty International wrote to the

government outlining its work against the death penalty and international moves for its abolition. Amnesty International learned of 13 death sentences imposed in 1981 and seven executions.



Thailand

Amnesty International was concerned by the use of detention without trial for political offences and by the imposition of the death penalty. However, it had no adopted prisoners of conscience in Thailand during 1981.

In April 1981 Amnesty International wrote to Prime Minister General Prem Tinsulanond about 200 people who had been sentenced by administrative procedure to terms of imprisonment without trial under martial law provisions between 1976 and 1978. Twenty-eight had received life sentences and a further 89 were sentenced to 10 or more years' imprisonment. The 200 included some prisoners whose cases were political in character and others accused of purely criminal offences. In its letter Amnesty International pointed out that the continued detention of these prisoners contravened the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. It urged the authorities to release the detainees or bring them to an early trial.

In June the Minister of Justice, Marut Bunnag, informed Amnesty International that the government was seriously seeking an effective solution to the problem of the 200 prisoners. A working committee formed by the government to look into the cases recommended in November that they should be pardoned by government decree.

Amnesty International was also concerned about the detention without trial of more than 50 Chinese and Vietnamese awaiting deportation on charges of illegal immigration. Some had been held in prison for more than 20 years. A group of 186 such prisoners was freed in December 1980.

Other prisoners were detained without trial under the provisions of the Anti-Communist Activities Act of 1979 (ACAA) which allows people accused of communist activities to be detained for up to 480 days. The number of people held under this act was not divulged by the authorities. Most arrests were believed to have occurred in northeast or southern Thailand.

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AMNESTY INTERNATIONAL REPORT 1981

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connection with criminal charges.

On 27 February 1981 Amnesty International wrote again to the government asking for the report of the Parliamentary Select Committee. It drew the government's attention to United Nations General Assembly Resolution 33/173 of 20 December 1978 requesting governments to undertake speedy and impartial investigations into all cases of "disappeared" people. Amnesty International has not received a reply and knows of no published information about the progress made in the Parliamentary Select Committee's investigations or about its findings. The fate of the three "disappeared" Tamils has not yet been clarified.

Amnesty International also asked the government for details of any proceedings against individual police officers implicated in torture. Amnesty International has not received a reply from the government nor any indication of proceedings being instituted against individual officials.

Although death sentences are known to have been passed since the United National Party (UNP) government assumed office in 1977, Amnesty International understands that no executions have taken place since that date.



Taiwan

Amnesty International was concerned about the arrest and detention of prisoners of conscience. It continued to investigate a number of cases where it believed that political prisoners had been convicted of activities involving violence

after unfair trials, and possibly for the non-violent expression of their political views. It remained concerned at the conviction of political prisoners on the basis of confessions made during incommunicado detention and at the number of death sentences for criminal offences.

The majority of political prisoners of concern to Amnesty International were convicted of sedition under the Statute for the Punishment of Sedition (1949). This statute is part of the provisions of the state of siege declared in Taiwan in 1949; it specifies a number of offences against the internal and external security of the state and gives jurisdiction to military courts. Amnesty International was also concerned about the use of the Public Officials Election and Recall

Law of May 1980, which prescribes a term of imprisonment for spreading seditious ideas in the course of an electoral campaign.

Among the prisoners of conscience for whose release Amnesty International appealed were people arrested in the early 1950s for alleged pro-communist activities, who were arrested in a period of emergency; many were given summary trials. At least 20 were known to be still in detention.

Amnesty International learned that Tseng Cheng-chin, a watch-dealer from Taipei, detained since 1976 and an adopted prisoner of conscience, was released in May 1980 on grounds of ill-health (see *Amnesty International Report 1978 and 1979*). A special appeal was made in January 1981 for the release of Li Ching-sun, a former newspaper editor, who received a life sentence for sedition in 1971 which was commuted to 15 years in 1975. Amnesty International believed that he was detained for having written articles critical of the government.

Amnesty International continued to urge the immediate and unconditional release of Li Ching-jung, the editor of the magazine *Fubao Chihsheng*. He was arrested on 26 December 1979 and held incommunicado for almost four months. He was tried by a military court and sentenced on 15 May 1980 to five years' imprisonment for writing articles advocating the peaceful reunification of Taiwan with the People's Republic of China and spreading propaganda beneficial to the communists.

Amnesty International adopted as prisoners of conscience eight members of the staff of the magazine *Formosa* whose trial by military court on charges of sedition in March 1980 had been observed by an Amnesty International delegate (see *Amnesty International Report 1980*). Huang Hsin-chieh, Shih Ming-teh, Yao Chia-wen, Chang Chun-hung, Lin Yi-hsiung, Lin Hung-hsuan, Lu Hsiu-lien and Chen Chu, all executives or editors of *Formosa* and involved in opposition to the government, were arrested in December 1979 and January, 1980. They were convicted in April 1980 of attempting to overthrow the government by organizing a riot in Kaohsiung on 10 December 1979 (known as the "Kaohsiung incident"). The Taiwan Garrison Command announced on 30 May 1980 that their sentences, ranging from 12 years' to life imprisonment, had been confirmed by a military appeal court. Amnesty International believed that these prisoners were detained for their political beliefs and activities and that there was no evidence that they had used or advocated violence; it was concerned that confessions, which the defendants claimed in court had been obtained by illegal means including violence, threats, inducements and fraud, were admitted as evidence without a thorough investigation by the court. Amnesty International was concerned also

that some sessions of the pre-trial hearings were held *in camera*: during these sessions the defendants reportedly stated that their confessions had been voluntary. The court later used this to dismiss the defendants' complaints about how their confessions had been obtained.

On 27 February 1981 Amnesty International submitted a memorandum to the government. It contained recommendations arising from the missions to Taiwan in February and March 1980, and from later developments in the cases of those arrested after the Kaohsiung incident. At the end of April 1981 the government informed Amnesty International that it would send its comments on the memorandum in the near future. These documents were to be published later in the year.

Thirty-three prisoners were tried on criminal charges in connection with the Kaohsiung incident. They had been arrested in late 1979 and early 1980 and interrogated by the Taiwan Garrison Command on suspicion of sedition. Their cases were transferred to a civilian court in late February 1980. On 31 March 1980 they were charged with either "inciting a group of people to commit or threaten violence" or "being accomplices in acts of violence". The full court hearings took place from 21 to 26 May 1980 and the verdict was announced on 2 June 1980. Three defendants were acquitted and one was given a suspended sentence. The sentences, ranging from 10 months' to six years eight months' imprisonment, were in many cases reduced on appeal. Amnesty International has adopted most of those still detained as prisoners of conscience because it believed they were detained either on account of their political activities and association with *Formosa* magazine or in violation of their right of peaceful assembly. Writers, local politicians and political activists received the longest prison sentences. Amnesty International believed that the charges of violence against them had not been substantiated; in most cases the only evidence for conviction was confessions and incriminating testimonies which the defendants claimed in court had been made under duress. On 18 February 1981 Amnesty International requested the Minister for Legal Affairs, Li Yuan-tzu, to order an inquiry into reports that this group of prisoners was held in solitary confinement, denied the right to work, not allowed outdoor exercise and that their reading material was extremely restricted. It also expressed its concern that their mental and physical health appeared to have been greatly impaired by their detention; it asked for a thorough inquiry into the complaints made by most of the prisoners about their treatment while detained for investigation.

Amnesty International adopted as prisoners of conscience six people charged with having helped Shih Ming-teh, the general

manager of *Formosa* magazine, to escape arrest or with not having reported him to the police. They were tried by a military court on 16 May 1980 and sentenced on 5 June 1980 to terms of imprisonment ranging from two to seven years. Four co-defendants were given suspended sentences. Amnesty International believed they were detained for non-violent actions performed out of humanitarian concern and for conscientious reasons.

Yeh Tao-lei, a 30-year-old sociology graduate and a teacher at a junior college, was arrested by the Taiwan Garrison Command on 9 September 1980 on charges of sedition. She was reportedly held incommunicado for a two-month interrogation during which she confessed to the charges against her. On 17 November 1980 she was accused of having been recruited to work for the People's Republic of China while a student in the United States of America, and of having carried microfilms of communist books back to Taiwan. Yeh Tao-lei was tried on 6 January 1981 by a military court, found guilty and sentenced to 14 years' imprisonment. Amnesty International was concerned that the main evidence on which the verdict was based was her confession which may have been obtained under duress.

Amnesty International also investigated the case of Kao Huo-yuan, sentenced to 13 years' imprisonment on 18 December 1980 after a military court had found him guilty of participating in a seditious group advocating the independence of Taiwan while he was in the United States of America. Kao Huo-yuan was accused of having received instructions and money from this organization to carry out seditious activities on his return to Taiwan. Amnesty International was concerned that he was reportedly convicted on the basis of his confession. According to official but unconfirmed reports, other people were arrested at the same time on suspicion of advocating the independence of Taiwan. No details of their names or of the charges have been made public.

Amnesty International appealed for the release of Chang Chun-nan, a former member of the National Assembly and an active member of the opposition, who was arrested on 17 January 1981 and charged on 30 January with advocating the independence of Taiwan and calling on the people to overthrow the government, during the electoral campaign for the Legislative Yuan in December 1980. Amnesty International received information that he did not advocate the use of violence. Chang Chun-nan was sentenced by Taichung District Court on 3 March 1981 to three and a half years' imprisonment.

Amnesty International investigated the case of three other election candidates prosecuted for their speeches or for holding "unauthorized meetings" during the electoral campaign. Amnesty International

adoption groups worked on behalf of 134 political prisoners in Taiwan.

Amnesty International remained concerned about the number of death sentences imposed by civilian and military courts and about the number of executions carried out every year. To Amnesty International's knowledge 25 death sentences were passed for murder, armed robbery, kidnapping and embezzlement between September 1980 and April 1981 and eight executions were carried out during the same period. It expressed its concern to the authorities and urged the commutation of all death sentences.



Thailand

Amnesty International's main concerns were political imprisonment, the prison conditions of political prisoners, and the death penalty.

The constitution of 1978 (chapter 3, section 27) guarantees the presumption of innocence, access

to courts or administrative bodies to seek redress, and the right to legal counsel in all cases before a court. However, the right to legal counsel may be denied during the pre-trial period which diminishes legal protection.

Furthermore, provisions of the Anti-Communist Activities Act of February 1979 allow people accused of communist activities to be detained for up to 210 days with the approval of the police Director-General, and for up to 480 days with the permission of a military or criminal court. The number of people held under this act was not available, but it appeared that arrests were few and concentrated in southern and northeastern Thailand.

More than 200 people were reportedly still held without trial since their arrests between 1976 and 1978 under previous governments. They had been sentenced administratively without trial under Martial Law Decrees 21 and 22. Twenty-eight of the prisoners were believed to have received life sentences and a further 89 were sentenced to 10 years' or more imprisonment.

In a letter to the Prime Minister of Thailand, General Prem Tinsulanond, in April 1981 Amnesty International pointed out that the continued detention of these individuals contravened the United Nations Declaration of Human Rights and the International Covenant on Civil and Political Rights. Amnesty International noted with regret

Dan Callahan

attorney 456-1136

Amnesty Int'l.

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S.F.

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~~Will Schendell~~

Nick
Rizza

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Glenda Straube

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Alaska State Legislature

VF

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
POUCH V
JUNEAU, ALASKA 99811



Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE

MEMBER
SENATE JUDICIARY COMMITTEE

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

May 20, 1983

Senator Vic Fischer,
Chairman
Senate State Affairs Committee
Alaska State Legislature
Juneau, Alaska

Dear Senator Fischer:

This version of the Taiwan resolution couldn't possibly offend anyone, I don't think.

Regards,

3 -

Robert H. Ziegler, Sr.

RHZ:lk

Attachment

cc: Senator Kerttula w/attach.
Senator Paul Ficher w/attach.
Representative Joe Hayes w/attach.
Representative Mitch Abood w/attach.

IN THE SENATE

PROPOSED SPONSOR SUBSTITUTE FOR SJR 23
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to the establishment of a
sister state relationship with Taiwan.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS the people of Taiwan have developed a prosperous and successful free economy while surmounting great difficulties; and

WHEREAS Alaskans share the same spirit and economic goals as the people of Taiwan; and

WHEREAS the people-to-people program initiated by President Eisenhower in 1956, was designed to bring the people of the world closer together in the interest of peace; and

WHEREAS the City of Fairbanks has had a sister city relationship with the City of Tainan, Taiwan since August 1982; and

WHEREAS the people of Taiwan have established themselves a great producers of products sold in the world market; and

WHEREAS Alaska is the source of many of the raw materials required for those products; and

WHEREAS a sister state relationship with strong economic ties in the mutual interest of Taiwan and Alaska;

BE IT RESOLVED by the Alaska State Legislature that an invitation be extended to the people of Taiwan through their Provincial Legislature to be a sister state with the State of Alaska, with strong social, educational, economic, and be it

FURTHER RESOLVED that the people of Alaska and Taiwan should work closely together to improve international goodwill and understanding.

COPIES of this resolution shall be sent to Mr. Teng-hui Lee, Governor of Taiwan and to Yu-jen Kao, Speaker of the Provincial Legislature of Taiwan; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Alaska State Legislature

Vic [initials]

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901



MAY 17 1983

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE

MEMBER
SENATE JUDICIARY COMMITTEE

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE

WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

While In Juneau
POUCH V
JUNEAU, ALASKA 99911

Senate

May 16, 1983

The Honorable Vic Fischer,
Chairman - Senate State Affairs Committee
Alaska State Legislature
Juneau, Alaska

Dear Vic:

I have attached hereto for your consideration a proposed rewrite of the resolution pertaining to establishing a sister state relationship with Taiwan.

I gather you are not exactly nutty about the subject matter, but the proposed substitute has been greatly watered down and there are some of us in the Legislature who would like to see it passed even in its modified form.

Regards,

3-

Robert H. Ziegler, Sr.

RHZ:1k

Enclosure

Susan Clark 6-6952
League of Women
Votes P. 201/4 6-9438

Amnesty International

Judy Zimicki
(w) 277-2134
(h) 345-4112

ACLU
Charlie Parr

Don Ferguson
(202) 632-7710
State Department

Dz - pls
check out
w/ Gov's Off
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Congress Delep.
+ nice response to
Ziegler.

Robert Hsiao
Y.C. Chen

Dir
Coordination
Council for
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IN THE SENATE

PROPOSED SENATE SUBSTITUTE FOR SJR 23
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE - FIRST SESSION

Relating to the establishment of a
sister state relationship with Taiwan.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS Taiwan is of great strategic importance in the defense of East Asia and the Pacific; and

WHEREAS Taiwan has developed a prosperous and successful free economy while surmounting great difficulties; and

WHEREAS Alaskans share the same spirit and economic goals as the Chinese people in Taiwan; and

WHEREAS the United States government has encouraged people-to-people contacts since 1956 when President Eisenhower began that program; and

WHEREAS The City of Fairbanks has had a sister city relationship with the City of Tainan, Taiwan since August 1982; and

WHEREAS the people of the province of Taiwan have established themselves as great producers of products sold in the world market and Alaska is the source of many of the raw materials required for those products; and

WHEREAS a sister state relationship with strong economic ties is in the mutual interest of Taiwan and Alaska;

BE IT RESOLVED by the Alaska State Legislature that an invitation be extended to the people of Taiwan through their Provincial Legislature to be a sister state with the State of Alaska, with strong social, educational, economic, and cultural exchange program;s and be it

FURTHER RESOLVED that the people of Alaska and Taiwan should work closely together to improve international goodwill and understanding.

COPIES of this resolution shall be sent to Mr. Teng-hui Lee, Governor of Taiwan and to Yu-jen Kao, Speaker of the Provincial Legislature of Taiwan; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

IN THE SENATE

PROPOSED SENATE SUBSTITUTE FOR SJR 23
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE - FIRST SESSION

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We contacted Stevens, Murkowski & Young.

Stevens contacted the State Department. They stressed that they have no control over a state wanting to establish a sister state relationship with Taiwan, but they wanted to extend a serious warning to us.

It is imperative that the language in the resolution in no way be provocative toward China. Sara Ann Smith from the State Department (202-632-7710), said that Taiwan has approached many U.S. states to solicit resolutions of this kind and that they attempt to have those states refer to them as "The Republic of China" or "RSC." This reference is highly inflammatory language and may create difficulties with U.S. relations toward China. They suggested that the resolution refer to them as "The People of Taiwan" or "The Province of Taiwan."

Further, that the resolution emphasizes people to people contact, cultural exchange and general goodwill. The resolution should avoid any political references.

The states of Virginia, Miss., Illinois, Arkansas, S. Carolina, Colorado, Kentucky and Hawaii have these resolutions. They highly suggest that you use these for models.

Although the State Department will not officially try to influence you, they continue to stress the problem with these resolutions inhibiting a formal U.S. relationship with China.

Sen. Stevens has sent a telegram to this office also warning of this.

David - 5/5
This is
from Abod's
office!
xx
nan

HJR 42

Summary of U.S.State Dept. 1982 report to Senate & House Foreign Relations Committees on Human Rights Practices in Taiwan

Political history since 1949 - the political power and most positions of power in the government remain with the Nationalist Party, the Kuomintang, who were elected on mainland China before 1945. Native Taiwanese - about 85% of population - do not have significant power, and are structurally prevented from gaining it.

What is referred to in the report as the "taiwanese independence movement" is a loose movement to return control of the government to elected Taiwanese. This movement is considered sedition.

Martial Law - Martial law was imposed in 1949 and operated ever since. It is the means by which the Nationalist Party retains control and is the crucial fact for human rights in Taiwan. Martial law means that political crimes and other major crimes can and are tried in military, rather than civilian, courts. Cases in these categories are then reviewable only by the Ministry of Defense.

These are the observations on human rights conditions as listed in the State Dept. report:

Political murders - murders of a mother and twin daughters of an opposition figure and of a U.S. born Taiwanese professor in 1980 and 1981 "are believed to have been politically motivated".

Torture - Just last May, five policemen were tried and convicted for illegal arrest and causing bodily harm to a taxi driver beaten and then drowned while under arrest. "Physical violence...(is) a practice many believe police resort to frequently."

Arrest and warrants - Arrest is without warrant in many cases. Individuals may be held up to seven months and possibly more at prosecutor's request. Recently, attorneys were allowed to be present for interrogation of their clients, but that may only mean sitting behind a soundproof window - watching, but not hearing. There is no protection against self-incrimination.

For many minor crimes police not only arrest, but also prosecute and punish. Police are now trying to get the power to put certain of those detained in military prisons for "educational punishment" for crimes against "social peace" - all without trial.

"Monitoring of telephone calls(is)widely believed to exist", and in a recent case there was evidence of monitoring of international calls.

Political prisoners - There are, by government admission and the count of international organizations, approximately 100 political prisoners in Taiwan. 20 of them have been imprisoned over 30 years.

Sedition, which is defined as any opposition to basic government policy, especially the contention that the present government represents all of mainland China, is punishable in military courts under martial law. Native Taiwanese who say that their island should be self-governing are committing sedition and are commonly and frequently tried as such. Political candidates are known to be routinely monitored for such sentiments.

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International security surveillance- Although authorities deny it, it is widely accepted that activities of students in the U.S. and other countries' universities who are Taiwanese are followed by the security service.

Censorship - Police may legally seize, ban and/or suspend publication licenses of publishers of printed material they think "confuses public opinion and affects the morale of the public and armed forces." This practice is very common. Major U.S. magazines such as Newsweek have been banned in recent past. Foreign correspondents' credentials have been revoked for reporting the wrong things.

Public assembly - Public assembly for political purposes is banned, except in recent years 15 day election periods have been created in which rallies are allowed but closely monitored.

Religious freedom - Churches have been warned against involvement in opposition political groups or groups which discuss Taiwanese independence. Authorities have made it clear that they intend to take control of religious educational institutions. In 1980 a confrontation with the Presbyterian church came to a head with the conviction of the church's general secretary and others in the church for their harboring a sedition defendant who sought help.

Travel freedom - Permission to leave the country for a trip or to study may be delayed or withheld for security reasons or because the person has criticized the political establishment. 20,000 people (about 2% of applicants) were denied travel permits in 1980 - over 300 for security reasons alone.

TAIWAN

More than thirty years of dynamic economic development contrasts sharply with the pace of political development in Taiwan, where the ruling authorities have emphasized stability rather than change. Nonetheless, the authorities have created an array of democratic institutions from village to province level, with candidates inside and outside the dominant Nationalist Party. Actual power, however, remains in the hands of the small leadership group elected in mainland China before 1945, which came to Taiwan after World War II and controls the Nationalist Party (Kuomintang), the military, and the executive bureaucracy. A high degree of political control is exercised through the security apparatus, which operates under martial law provisions enacted in 1949 and which the authorities justify by the threat of military action or subversion from mainland China.

The enhancement of human rights is publicly endorsed by the authorities but remains incompletely realized in Taiwan. Although individuals may run for elective office, coordinated opposition activity is greatly restricted. The publication of opposition political views is closely controlled and the activities of outspoken oppositionists are monitored, both at home and, apparently, abroad. Native Taiwanese, descendants of Chinese who migrated from the mainland mostly in the eighteenth century and who now constitute 85 percent of the population, dominate the economy but are under-represented within the ruling elite. Recent evidence suggests that torture and other forms of physical intimidation are still occasionally used by police, but probably are not officially condoned.

Nineteen eighty-two saw the continuation of a slow trend toward improvement in the human rights situation in Taiwan. Publication and public expression of oppositionist sentiment have become gradually freer, although there are still strict limits to what is acceptable. The authorities continue to recruit qualified Taiwanese to fill important economic and political, military, and security posts, a process which will contribute to an increased share of political power by the Taiwanese. With the rise of a prosperous middle class, popular concern about human rights is increasing. Despite Taiwan's diplomatic isolation and concern about the island's future after the passing of the current President, Chiang Ching-kuo, the outlook for continued improvement in human rights appears favorable.

1. Respect for the Integrity of the Person, Including Freedom from:

a. Killing

No killings for political reasons have been substantiated in Taiwan in 1982, or indeed in recent years. However, the murder in February 1980 of the mother and twin daughters of jailed oppositionist Lin Yi-hsiung and the suspected murder in July 1981 of a Taiwan-born US resident, Professor Chen Wen-cheng, are widely believed to have been politically motivated.

b. Disappearance

In recent years, there have been no credible reports of persons being abducted or secretly arrested by the security services. There are no known terrorist organizations operating on the island.

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c. Torture

Taiwan law specifically prohibits the use of torture. The Code of Criminal Procedure states that an accused shall be "frankly" examined, but that no violence, threat, inducement, fraud, or other improper means shall be used. This language is repeated in the Military Trial Law.

The death in police custody of a Taipei taxi driver, Wang Ying-hsien, in May 1982 focused public attention on the use of physical violence by police in interrogating criminal suspects, a practice many believe police resort to frequently. Wang was picked up on suspicion of robbing a bank and died while in police custody. The actual robber was captured a few hours later and Wang's daughter challenged the police account of Wang's death. The autopsy report, released on August 20, confirmed that Wang was beaten but ruled that his death was caused by drowning in the Hsintien River. Although his death was officially declared a suicide, five policemen were tried and convicted for illegally arresting Wang and causing him bodily harm.

d. Cruel, Inhuman, or Degrading Treatment or Punishment

Imprisonment is the usual form of punishment for both political and nonpolitical offenders. According to the authorities, nine executions were carried out in 1981, seven of convicted murderers, and two of persons convicted of robbery.

Taiwan's civilian prisons are severely overcrowded. In April 1982 the press reported that civilian prisons, built to accommodate 11,261 prisoners, were then holding 17,162 or 5,901 over capacity. Prisoners are forced to share cramped living quarters and have fewer opportunities for work, exercise, and family visits. Overcrowding was partially responsible for severe rioting which broke out in the juvenile section of Hsinthu Prison in March 1982.

Conditions in the military prisons administered by the security police, where political prisoners are confined, are reportedly less crowded. Prisoners receive the same food as soldiers and have work and recreation opportunities. Although conditions for the Kaohsiung-incident prisoners have reportedly improved since their arrest in 1980, six non-Nationalist Party legislators charged in July 1982 that these prisoners continue to be denied access to regular work programs and recreational activities, are prohibited certain amenities accorded other prisoners, and are subject to special rules which keep them separate from one another. A few of the Kaohsiung-incident prisoners are alleged to still suffer from the effects of pretrial mistreatment.

There is no known discrimination in the treatment of prisoners because of class, race, sex, or religion.

e. Arbitrary Arrest and Imprisonment

Taiwan's law of habeas corpus requires that, following an individual's arrest, the arresting authorities notify in writing the individual and his designated relative or friend within 24 hours of the reason for his arrest or detention. The Code of Criminal Procedure specifies that the authorities may detain an accused for up to two months during investigation prior to the filing of the formal indictment, and for up to three months during trial. During the investigation phase,

Under martial law, which has been in effect in Taiwan since 1949, civilians who commit certain offenses, including sedition, may be tried in military court. Opposition to basic policy (such as expressing views contrary to the authorities' claim to represent all of China, or supporting an independent legal status for Taiwan) is considered seditious and thus punishable under martial law.

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Neither civil nor martial law provides the defendant with protection from incrimination. Following the July 1982 revision of the Criminal Procedures Code, suspects may for the first time have a lawyer present during interrogation. However, the authorities have indicated that the lawyer's role is to protect his client from mistreatment, rather than to provide legal counsel during questioning. In some cases, windows have been installed in police station interrogation rooms in order that lawyers (or family members) may see the suspect without hearing the questioning.

g. Invasion of the Home

Physical invasion of the home without a warrant is not a common practice in Taiwan, but does occur on occasion. The Code of Criminal Procedure requires that searches be authorized by warrants, signed by a prosecutor or, during a trial, by a judge. However, exceptions to this rule, previously few in number, were substantially increased by the revision of the code in July 1982. When making warrantless arrests, police may also make necessary searches of person or property without prior authority. Other types of violations of the home, such as monitoring telephone calls, are widely believed to exist.

2. Respect for Civil and Political Rights, Including:

a. Freedom of Speech and Press

The Constitution guarantees freedom of speech and the press. These rights are limited, however, by the enforcement of martial law restrictions. Individuals are not free publicly to question the regime's basic political policy of anti-communism and claim to sovereignty over all of China. Persons who speak favorably of communism or the People's Republic of China, or persons (usually native Taiwanese) who question the legitimacy of Taiwan's mainland authorities by suggesting support for Taiwan's independence or self-determination, can expect to be charged with sedition and tried in a military court.

Information brought to light during the investigation of the death of Professor Chen Wen-cheng in 1981 suggests that the security authorities closely monitor political expression, both at home and overseas. During questioning by the security

however, the prosecuting officer may apply to the court for one extension of two months. The period of detention may also be extended during the time the accused is on trial. In recent cases, including the Kaohsiung incident, the authorities generally have followed the requirements of the above provisions, with exceptions occurring more frequently in the military system.

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The authorities deny holding political prisoners. They have stated that at the end of 1975 there were 254 persons in prison on sedition charges. Some persons have been released and others arrested since that time, but this is the most recent figure made public by the authorities. In December 1982 the authorities disclosed that 92 prisoners convicted of sedition and related offenses are currently being held in the Green Island military prison, compared with 115 reported to be there by Amnesty International in February 1980. Nearly 20 of these, originally arrested for communist activities, have been imprisoned for more than 30 years and were excluded from a general amnesty in 1975. Many of these prisoners, all in their fifties and sixties, are reported to be in poor health.

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f. Denial of Fair Public Trial

Taiwan's legal system is based on European and Japanese models which do not incorporate trial by jury. Under a 1980 judicial reorganization, district and high courts were shifted from the control of the Executive Yuan to the Judicial Yuan, for the first time formally separating the courts from the prosecution function. It is generally held in Taiwan legal circles that the change has given the judiciary greater independence of action.

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Censorship of publications occurs frequently. It is carried out through provisions of the publications law which empower the security police to seize or ban printed material that "confuses public opinion and affects the morale of the public and the armed forces." In 1982, the authorities allowed a rise in the number of domestic political opinion magazines, the more popular of which support non-Kuomintang politicians and criticize the party. One or more issues of several of these were banned during the year. Nominally the bans are in reaction to articles critical of the policies of the authorities or which discuss sensitive subjects, but they are widely viewed as tactics of intimidation. The limits of acceptable political criticism are not clear-cut. Even periodicals which are cautious in their selection of articles for publication have been banned from time to time. The ban of a single issue of a magazine may be followed by suspension of the publication's license for one year. In 1982, three magazines received this punishment.

Books are also occasionally banned by the security police. Control over the daily newspapers is exercised indirectly, through guidance from the central authorities' information office and the Kuomintang, and restrictions on the number of newspapers. Nevertheless, newspapers have expanded their coverage in areas previously forbidden, such as news from mainland China. Competition among the island's three television stations has also led to an expansion of their coverage of mainland and other sensitive international news, despite the fact that all three are partially or wholly owned by the authorities. Mounting criticism (Kuomintang as well as non-Kuomintang) of security police censorship, as well as of other elements of martial law administration, has compelled the authorities to defend their control apparatus. In June 1982 the Executive Yuan justified regular "selective postal checks" as necessary to intercept parcel bombs and illegal correspondence with mainland China. It was denied, however, that the authorities monitor telephone conversations.

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tions and enter three-year senior high and vocational school programs. Entry into Taiwan's extensive system of higher education is also based on competitive exams, and departures from a strict merit system are almost nonexistent. In 1962, more than 20 percent of college-age youth were enrolled as undergraduate or graduate students.

We contacted Stevens, Murkowski & Young.

Stevens contacted the State Department. They stressed that they have no control over a state wanting to establish a sister state relationship with Taiwan, but they wanted to extend a serious warning to us.

It is imperative that the language in the resolution in no way be provocative toward China. Sara Ann Smith from the State Department (202-632-7710), said that Taiwan has approached many U.S. states to solicit resolutions of this kind and that they attempt to have those states refer to them as "The Republic of China" or "RSC." This reference is highly inflammatory language and may create difficulties with U.S. relations toward China. They suggested that the resolution refer to them as "The People of Taiwan" or "The Province of Taiwan."

Further, that the resolution emphasizes people to people contact, cultural exchange and general goodwill. The resolution should avoid any political references.

The states of Virginia, Miss., Illinois, Arkansas, S. Carolina, Colorado, Kentucky and Hawaii have these resolutions. They highly suggest that you use these for models.

Although the State Department will not officially try to influence you, they continue to stress the problem with these resolutions inhibiting a formal U.S. relationship with China.

Sen. Stevens has sent a telegram to this office also warning of this.

From the State of Colorado

1981 6/29/81

COPY

HOUSE JOINT RESOLUTION NO. 1019.

BY REPRESENTATIVES Reeves, Prendergast, Schauer, Armstrong, Lee, Lillpop, Robb, and Stephenson; also SENATOR Hefley.

WHEREAS, The people of Taiwan, like the people of the United States and Colorado, have overcome great adversity and have built a successful, prosperous, free economy; and

WHEREAS, The people of Taiwan, have been among the closest friends of the people of Colorado for more than two-thirds of a century; and

WHEREAS, The Republic of China, has been one of the most faithful allies of the United States since 1941; and

WHEREAS, Strong commercial ties now exist between the citizens of the Province of Taiwan and the citizens of the State of Colorado; and

WHEREAS, The people-to-people program initiated by President Eisenhower in 1956, and endorsed by President Kennedy in 1961, was designed to bring the people of the world closer together in the interest of peace; and

WHEREAS, A sister state relationship between Taiwan and Colorado is in the best interests of a cooperative relationship between the two states involved; now, therefore,

Be It Resolved by the House of Representatives of the Fifty-third General Assembly of the State of Colorado, the Senate concurring herein:

That the General Assembly, on behalf of the people of Colorado, extends to the people of Taiwan, the Republic of China, through the Provincial Legislature of Taiwan, an invitation to join with Colorado as a sister state and as such to conduct such mutually beneficial social, economic, educational, and cultural programs as to bring our citizens closer together and strengthen international understanding and goodwill.

Be It Further Resolved, That copies of this resolution be sent to Lin Yang-Kang, Governor of Taiwan, Tsai Hung-Men, Speaker of the Provincial Legislature of Taiwan, Nich Wen-Ya, President of the Legislative Yuan, Republic of China, Richard D. Lam, Governor of Colorado, each member of Congress from the state of Colorado, and to the presiding officers of the legislative houses in each of the other states of the union.

Carl B. Bledsoe
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Fred E. Anderson
PRESIDENT OF
THE SENATE

Lorraine F. Lombardi
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Marjorie L. Rutenbeck
SECRETARY OF
THE SENATE



COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS

OFFICE IN SEATTLE

24TH FLOOR, WESTIN BUILDING
2001 SIXTH AVENUE
SEATTLE, WASHINGTON 98121

TFL. (206) 682-4586 OR 682-4867

I want to see the photos.
LS

HT
SB
LS
DC

May 26, 1983

The Honorable Vic Fischer
Senator
State of Alaska
Pouch V
Juneau, AK 99811

Dear Senator Fischer:

It was indeed a great pleasure to make your acquaintance during our recent brief but eventful visit in Juneau. I found our conversation stimulating and enlightening. I appreciate very much for your kindness in squeezing out your precious time to receive us.

I am pleased to learn that a concurrent resolution for the establishment of sisterstate relationship between your great State and the Province of Taiwan is in process of adoption by the State Legislature and your Senate State Affairs Committee is going to put it on the agenda of the current Senate session for its adoption by the Senate floor. I would very much appreciate it if you could let me know its development.

Enclosed please find two photographs taken during our pleasant meeting at your office. Please accept them as mementos of our warm friendship.

With personal regards,

Sincerely yours,

Y. C. Chen
Director

YCC-HCH/11
Enclosure: as noted

David - I am
beginning to follow
SR 23 (Ziegler) on
Taiwan. Will (or can)
provide much more
info. on Taiwan.

I testified in House
State Affairs.

Peg Kehren

Summary of U.S.State Dept. 1982 report to Senate & House Foreign Relations Committees on Human Rights Practices in Taiwan

Political history since 1949 - the political power and most positions of power in the government remain with the Nationalist Party, the Kuomintang, who were elected on mainland China before 1945. Native Taiwanese - about 85% of population - do not have significant power, and are structurally prevented from gaining it.

What is referred to in the report as the "taiwanese independence movement" is a loose movement to return control of the government to elected Taiwanese. This movement is considered sedition.

Martial Law - Martial law was imposed in 1949 and operated ever since. It is the means by which the Nationalist Party retains control and is the crucial fact for human rights in Taiwan. Martial law means that political crimes and other major crimes can and are tried in military, rather than civilian, courts. Cases in these categories are then reviewable only by the Ministry of Defense.

These are the observations on human rights conditions as listed in the State Dept. report:

Political murders - murders of a mother and twin daughters of an opposition figure and of a U.S. born Taiwanese professor in 1980 and 1981."are believed to have been politically motivated".

Torture - Just last May, five policemen were tried and convicted for illegal arrest and causing bodily harm to a taxi driver beaten and then drowned while under arrest. "Physical violence...(is) a practice many believe police resort to frequently."

Arrest and warrants - Arrest is without warrant in many cases. Individuals may be held up to seven months and possibly more at prosecutor's request. Recently, attorneys were allowed to be present for interrogation of their clients, but that may only mean sitting behind a soundproof window - watching, but not hearing. There is no protection against self-incrimination.

For many minor crimes police not only arrest, but also prosecute and punish. Police are now trying to get the power to put certain of those detained in military prisons for "educational punishment" for crimes against "social peace" - all without trial.

"Monitoring of telephone calls(is)widely believed to exist", and in a recent case there was evidence of monitoring of international calls.

Political prisoners - There are, by government admission and the count of international organizations, approximately 10' political prisoners in Taiwan. 20 of them have been imprisoned over 20 years.

Sedition, which is defined as any opposition to basic government policy, especially the contention that the present government represents all of mainland China, is punishable in military courts under martial law. Native Taiwanese who say that their island should be self-governing are committing sedition and are commonly and frequently tried as such. Political candidates are known to be routinely monitored for such sentiments.

Sum Reg Kehran - Apr. 26 - 83

International security surveillance- Although authorities deny it, it is widely accepted that activities of students in the U.S. and other countries' universities who are Taiwanese are followed by the security service.

Censorship - Police may legally seize, ban and/or suspend publication licenses of publishers of printed material they think "confuses public opinion and affects the morale of the public and armed forces." This practice is very common. Major U.S. magazines such as Newsweek have been banned in recent past. Foreign correspondents' credentials have been revoked for reporting the wrong things.

Public assembly - Public assembly for political purposes is banned, except in recent years 15 day election periods have been created in which rallies are allowed but closely monitored.

Religious freedom - Churches have been warned against involvement in opposition political groups or groups which discuss Taiwanese independence. Authorities have made it clear that they intend to take control of religious educational institutions. In 1980 a confrontation with the Presbyterian church came to a head with the conviction of the church's general secretary and others in the church for their harboring a sedition defendant who sought help.

Travel freedom - Permission to leave the country for a trip or to study may be delayed or withheld for security reasons or because the person has criticized the political establishment. 20,000 people (about 2% of applicants) were denied travel permits in 1980 - over 300 for security reasons alone.

TAIWAN

More than thirty years of dynamic economic development contrasts sharply with the pace of political development in Taiwan, where the ruling authorities have emphasized stability rather than change. Nonetheless, the authorities have created an array of democratic institutions from village to province level, with candidates inside and outside the dominant Nationalist Party. Actual power, however, remains in the hands of the small leadership group elected in mainland China before 1945, which came to Taiwan after World War II and controls the Nationalist Party (Kuomintang), the military, and the executive bureaucracy. A high degree of political control is exercised through the security apparatus, which operates under martial law provisions enacted in 1949 and which the authorities justify by the threat of military action or subversion from mainland China.

The enhancement of human rights is publicly endorsed by the authorities but remains incompletely realized in Taiwan. Although individuals may run for elective office, coordinated opposition activity is greatly restricted. The publication of opposition political views is closely controlled and the activities of outspoken oppositionists are monitored, both at home and, apparently, abroad. Native Taiwanese, descendants of Chinese who migrated from the mainland mostly in the eighteenth century and who now constitute 85 percent of the population, dominate the economy but are under-represented within the ruling elite. Recent evidence suggests that torture and other forms of physical intimidation are still occasionally used by police, but probably are not officially condoned.

Nineteen eighty-two saw the continuation of a slow trend toward improvement in the human rights situation in Taiwan. Publication and public expression of oppositionist sentiment have become gradually freer, although there are still strict limits to what is acceptable. The authorities continue to recruit qualified Taiwanese to fill important economic and political, military, and security posts, a process which will contribute to an increased share of political power by the Taiwanese. With the rise of a prosperous middle class, popular concern about human rights is increasing. Despite Taiwan's diplomatic isolation and concern about the island's future after the passing of the current President, Chiang Ching-kuo, the outlook for continued improvement in human rights appears favorable.

1. Respect for the Integrity of the Person, Including Freedom from:

a. Killing

No killings for political reasons have been substantiated in Taiwan in 1982, or indeed in recent years. However, the murder in February 1980 of the mother and twin daughters of jailed oppositionist Lin Yi-hsiung and the suspected murder in July 1981 of a Taiwan-born US resident, Professor Chen Wen-cheng, are widely believed to have been politically motivated.

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Freedom of Peaceful Assembly and Association

Freedom of Assembly is guaranteed by the Constitution. While assembly for nonpolitical purposes is generally permitted, assembly for political purposes, except during elections, is often prevented under martial law provisions. During authorized 15-day campaign periods which preceded island-elections on November 14, 1981 and January 16, 1982, all rallies, including oppositionists, were allowed to hold meetings. Those rallies, however, were closely monitored by the authorities under the Elections and Recall Law of 1980, which made candidates liable for prosecution for "seditious" statements.

Even during the authorized campaign periods, some oppositionists held rallies characterized as "private parties." The authorities' response was moderate but firm and such "parties" were usually broken up. The same tactic, used by Kuomintang candidates, usually drew no response from the authorities. Proposed revisions of the election law announced by the authorities will outlaw the use of "private parties" in future elections.

There is no tradition of trade unionism in Taiwan, and labor unions do not exercise significant influence either in the economic or political sphere. While labor unions are permitted, organizational lockouts and strikes are prohibited under martial law. Collective bargaining, although provided for by legislation, does not exist.

c. Freedom of Religion

Freedom to practice religion is guaranteed by the Constitution. Most Taiwan inhabitants adhere to Confucianism, Taoism, Buddhism, animism, or a combination of beliefs. Other religions include Christianity and Islam. Some pseudo-Buddhist sects and Sun Myong Moon's Unification Church have been banned, due to parents' complaints that these groups were a corrupting influence on Taiwan youth. The groups were accused of leading youth to engage in "abnormal behavior" that involved turning their backs on their families, shifting their allegiance from state to church, and actively proselytizing for further converts. Action was taken on the basis of the police offenses law, a catch-all statute which allows the police to punish minor offenders without referral to the courts.

While generally respecting the right to practice religion, the authorities have brought pressure to bear against religious organizations they consider to be involved in unacceptable political activity. In 1977 the Presbyterian Church in Taiwan (179,000 members), long suspect for its advocacy of Taiwanese rights, issued a "Declaration on Human Rights" to which the church leadership has since repeatedly reaffirmed its commitment. By calling for Taiwan's transformation into a "new and independent country," the declaration has placed Taiwan's Presbyterians, leaders (almost all native Taiwanese) in a clear position of questioning Taiwan's mainlander-controlled political institutions.

Friction between the Presbyterian Church and the authorities came to a head in 1980 when the church's general secretary, Reverend Kao Chun-ming, and several other Presbyterians were convicted in military court of harboring seditious defendant Shih Ming-te. While admitting he had assisted Shih, Rev. Kao denied seditious intent; he declared his religious vocation

precluded his betraying someone who had sought help and permitted him only to advise Shih to give himself up. Although relations between the church and the authorities have relaxed somewhat recently, the authorities continue to monitor church activities closely. The authorities have warned church members to avoid involvement in oppositionist political efforts or Taiwan independence activity.

In 1982 the authorities established a religious council, made up of representatives of the island's major religious bodies, to advise them on church matters. There are fears that the council may be used to justify unpopular official policies. Similar concerns have been expressed about legislation proposed in 1981 to regulate church activities. The proposed legislation is opposed by the island's major religious organizations as a threat to freedom of religion, although the authorities argue that the law is necessary to "define the scope of religion" and to "protect freedom of religion." An additional proposed measure would for the first time place religious educational institutions under the control of the Ministry of Education. The authorities argue that this would improve the quality of instruction and provide accreditation for the diplomas granted by these schools. Critics point out that it would also empower the Ministry of Education to control curricula and to place a military training officer in each school. Although action on these measures has so far been withheld, the authorities have not renounced their intention to enact them.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the freedom to change residence. There is general freedom of internal travel in Taiwan, except to military and other restricted areas. Emigration and private travel abroad have become freer since 1979. After the last calendar day of the year in which they turn fifteen, males may not leave Taiwan until completion of their military service. Since 1980, businessmen have been permitted to travel to and do business directly with certain Eastern European countries. Moreover, it is widely believed that the authorities are willing to overlook some personal travel to mainland China if handled discreetly.

Permission to leave Taiwan may be delayed or withheld for security reasons or because the persons involved have criticized the political establishment. Statistics released by the authorities indicate that in 1980, the last year for which we have figures, 949,306 persons applied for exit permission. Of that number, over 20,000 are reported to have been refused, 327 for security reasons and the rest for unspecified causes.

In general, the authorities recognize the right of repatriation of those Chinese holding Taiwan passports who normally reside in Taiwan. Those issued "overseas Chinese" passports do not automatically have the right to travel to Taiwan for permanent residence. In principle, Taiwan will not authorize the entry of Chinese, even those who have long held Taiwan passports, if they have lived in communist-controlled areas within the preceding five years.

Under its program of assistance to Indochinese refugees, Taiwan, through June 1982, has granted permanent resettlement to more than 4,700 such refugees, nearly all of them ethnic Chinese. It has also provided temporary asylum to nearly 2,000

Vietnamese "boat people" (refugees escaping by boat) awaiting acceptance by other countries.

e. Freedom to Participate in the Political Process

Reflecting their claim to be the Government of all of China, the Taiwan authorities possess an array of political bodies over and above those which pertain solely to the island of Taiwan. The locus of power on Taiwan is the presidency and the central executive branch. While representation of native Taiwanese in local and central legislative bodies has been increasing, Taiwanese are seriously under-represented in the powerful executive branch, in which persons who arrived from the mainland after 1945 hold the most powerful positions. There have been recent increases in the number of Taiwanese holding executive branch positions, however. The Vice President, about one-third of the cabinet (including the Vice Premier, the Minister of the Interior, the Minister of Communications, and three Ministers without Portfolio), and the Governor of Taiwan, among others, are Taiwanese. Nevertheless, critics point out that their power and influence both individually and collectively are limited.

The most important elective bodies at the central level are the National Assembly, which elects the President and Vice President, and the Legislative Yuan, which is the Central Legislature. There have been no general elections to these two bodies since 1948, the authorities taking the position that such elections cannot be held until they re-establish control over the mainland. In October 1982 the Minister of the Interior explained that if overall elections were held the winners could not represent all of China, but only Taiwan province. Beginning in 1969, "supplementary elections" for these central bodies have been held to choose additional representatives from Taiwan and the adjacent islands. The advanced age and incapacity of many of the members of the Legislative Yuan elected on the mainland in 1948 forced the authorities in 1982 to lower the number of legislators required for a quorum. Supplemental legislators elected on Taiwan now constitute the most active group in the Legislative Yuan.

Since 1950, democratic institutions have been in operation at the provincial and local levels. Universal suffrage exists for all citizens twenty years of age and over. Elections have been held regularly for provincial, county and municipal offices, with Kuomintang candidates competing with independents and oppositionists. The Taiwan provincial governor and the mayors of Taipei and Kachsiung, however, are appointed by the central authorities.

Despite the existence of two small, nominal opposition parties, Taiwan is dominated by one party. The Nationalist Party has ruled Taiwan since 1945 and is a "revolutionary" party whose structure and control mechanisms are based on early Soviet models. Party organs exist at all levels of the ruling structure, as well as in the military, schools, and other public institutions. New opposition parties are forbidden under martial law and candidates who oppose the Kuomintang in elections run as independents or "non-party" candidates. Even though the large majority of candidates elected are from the Kuomintang, independent candidates, nearly all Taiwanese, have increasingly been successful in the recent past. In the

provincial elections in November 1981, a loose coalition of "mainstream non-Kuomintang" candidates won about 30 percent of the votes cast, with non-aligned independents and members of the legal opposition parties winning an additional 10 percent. Independents won a similar share of votes in the previous provincial elections in 1977.

Independents face several disadvantages in the election process. The election law enacted in 1980 generally favors Kuomintang candidates, because its provisions, many of which are ambiguous, are interpreted by the central election committee which is controlled by the Kuomintang. The law forbids the participation of students, formerly a prime source of campaign workers for independent candidates, and allows only officially sponsored rallies in which all candidates participate together in the last few days before an election. Independent candidates are further disadvantaged by press self-censorship. The daily press tends to give little publicity to the views of the independents. Periodicals which publicize the views of independent candidates are subject to frequent censorship by the security police. However, such periodicals were not silenced during the provincial elections in November 1981, as they were during previous elections, and they have since been allowed to increase in number.

Women constitute 48 percent of Taiwan's population. The few laws which discriminate against them relate mostly to divorce issues and inheritance. Nearly 500 women were elected to city and town councils in June 1982, taking about 13 percent of the total seats up for election, while in the December 1980 "national" elections women candidates were the top two vote-getters. Regulations governing elections make some provision for guaranteed minimal representation of women in local and central legislative institutions. Enrollment of women in institutions of higher learning has increased 97 percent since 1952, to 411,000 in 1982. The number of women employed in ministries and other official agencies has increased by 40 percent since 1973. A fledgling women's rights movement is slowly growing.

Taiwan's only non-Chinese minority group is made up of descendants of Malayo-Polynesian immigrants who were already established in Taiwan when the first Chinese settlers arrived. Many of these aboriginal "mountain people," who comprise about one per cent of Taiwan's total population, live on restricted-access reservations, but most must compete with the Chinese majority for educational and job opportunities. There is no official policy of discrimination against the aborigines, and the authorities have instituted educational incentives and other social programs to ease their transition into Chinese society. The barriers created by de-facto cultural and economic discrimination, however, are frequently insurmountable. "Mountain people" are often relegated to low-paying, menial jobs by Chinese employers and many are forced to seek long-term employment overseas as fishermen or laborers. The rapid disintegration of tribal culture and the difficulty of "making it" in Chinese society have produced a general malaise within many aborigine communities, which is the source of the widespread alcoholism and "laziness" sometimes caricatured by unsympathetic Chinese. Special designated seats in both central and provincial legislative bodies are reserved for aborigine representatives.

3. Authorities' Attitude Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights

The Taiwan authorities on occasion have permitted representatives of international human rights organizations, as well as private individuals interested in human rights issues, to visit Taiwan and meet with appropriate officials.

Taiwan's martial law was the subject of hearings before the Subcommittee on Asian and Pacific Affairs of the House Foreign Affairs Committee in May 1982. Prior to this, four members of Congress issued an appeal to the Taiwan authorities calling for an end to the 33-year-old martial law.

The Chinese Human Rights Association, which in the past has focused its attention primarily on human rights questions in mainland China, has recently devoted more of its efforts to human rights in Taiwan. In 1982, the Association sponsored tours for law-makers and legal experts to examine Taiwan's crowded prisons and established a legal aid service for Taipei residents. The association has also put together a human rights report on Taiwan, which was to be released in late 1982. Freedom House, in its 1982 report, rates Taiwan as "Partly Free."

4. Economic, Social, and Cultural Situation

Taiwan has established an excellent record of providing for the social and economic needs of its people. In general, the opportunity to participate in economic benefits is available to the population as a whole without discrimination. The per capita gross national product (GNP) in 1981 was over \$2,500. Unemployment in the first half of 1982 averaged 1.62 percent. The authorities' fiscal 1983 budget allocated more than 30 percent of the total budget to education, science, culture, and social programs.

Although economic growth has recently fallen short of the spectacular rates achieved earlier (GNP grew at a rate of 3.91 percent in the first half of 1982, compared with the 1969-1979 average rate of 10 percent), the economy remains healthy. The prospects for continuing economic well-being are favorable as the authorities attempt to shift the focus of their export-based economy to high-technology industries.

Taiwan has developed an effective public health program and a system of health stations throughout the island - a total of more than 11,000 medical care facilities. In 1980, Taiwan had more than 7.5 physicians, 6.6 nurses, and 22 hospital beds for every 10,000 persons. Health promotion programs include maternal and child disease control and environmental sanitation. Major epidemic disease has been reduced, although limited outbreaks, such as a surge in polio cases in August 1982, still occur. Because of these public health programs and a generally good diet (per capita daily caloric intake exceeds 2,800), life expectancy has increased to 70 years for men and nearly 75 years for women. Taiwan's birth control efforts have been successful in bringing the birth rate in 1981 down to 1.77. This has been crucial in alleviating population tensions on the island, where the population density per square mile of cultivable land exceeds 5,000.

Education is one of the main concerns of the authorities and the population in general. Statistics show that 90.2 percent of the population over age six are literate. Of school-age children, 99.8 percent are currently in school and free compulsory education is available through junior high school. About 60 percent of junior high school graduates pass examina-

tions and enter three-year senior high and vocational school programs. Entry into Taiwan's extensive system of higher education is also based on competitive exams, and departures from a strict merit system are almost nonexistent. In 1982, more than 20 percent of college-age youth were enrolled as undergraduate or graduate students.



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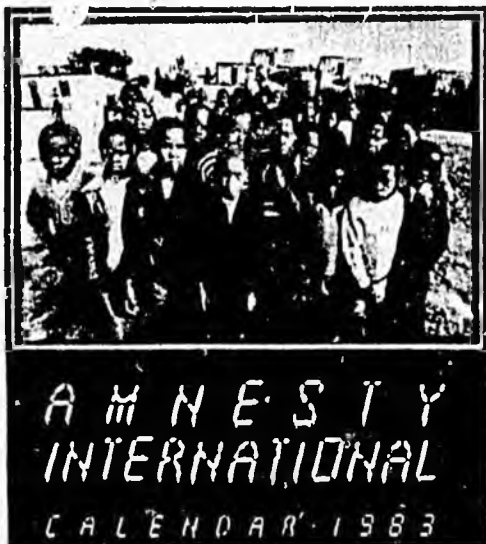
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June 10, 1983.

Dear Senator Fisher:

Thank you very much for passing
the Resolution No. 42 to the House for
its adoption on May 24.

Since you are key figure to the
Resolution, without your firm support,
it would be difficult to get through
the Senate this session. I do hope
our people-to-people, trade and cultural
relationship will be further enhanced
by establishing TAIWAN-ALASKA sister state
ties under your sponsorship.

With my best regards.

P.S. I did call your
office several times
today, but you were
in meeting.

Sincerely,

Y. C. Chen.

ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS COMMITTEE

SENATOR VIC FISCHER, CHAIRMAN

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MEMORANDUM

TO: Senator Vic Fischer

FROM: David Dye ^{DZ}
Committee Aide

DATE: June 15, 1983

SUBJ: SJR 23 -- Establishment of a sister state relationship with
Taiwan

On the advice of Representative Abood's staff, I contacted Senator Stevens' office regarding this resolution. Bill Phillips, a senior staffer, advised me that Senator Stevens does not support making Taiwan a sister state because such action might be interpreted by our other Asian trading partners as a preference for Taiwan -- a special relationship which others might not enjoy. Senator Stevens has stated these concerns in a letter to Rep. Abood in which he was also mindful of the great trade potential between Alaska and the People's Republic of China.

I also contacted Mr. Don Ferguson at the Taiwan desk of the U.S. State Department. He stressed that the language in the resolution should in no way be provocative toward the People's Republic. For instance, use of the term "Republic of China" to refer to Taiwan is considered highly inflammatory and could damage U.S. relations with the People's Republic. He also said that Taiwan officials have approached a number of state legislatures with these resolutions and he counseled extreme caution in considering them. Senator Ziegler's staff is aware of this problem and has submitted a draft committee substitute which has eliminated the "provocative" language.

Mr. Ferguson was very diplomatic about not trying to influence the Alaska Legislature but he did stress that these resolutions can cause problems in maintaining the United State's formal relationship with China.

Senator Vic Fischer
Page 2
June 15, 1983

At the suggestion of one of your constituents, I also contacted Nick Rizza in the San Francisco office of Amnesty International. That organization is very concerned about the long term detention of prisoners of conscience by the Taiwan government. There are approximately 120 such prisoners, 20 of whom have been jailed for more than 30 years for non-violent expression of political beliefs. One trade unionist has been imprisoned since 1950. Another "communist" was recently released after having been imprisoned since 1949 for tacking up a poster. There is also concern about secret executions.

Several Alaska human rights organizations have been following the progress of HJR 42, the identical House resolution, and are likely to have representatives at future hearings.

Given the sensitive foreign policy implications of this resolution, I suggest that the State Affairs Committee give it careful scrutiny before passage is considered.