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Ref.: TG ASA 25/97.3

President Kim Young-sam
The Blue House
1 Sejong-no
Chongno-gu
Seoul
Republic of Korea

13 March 1997

**REPUBLIC OF KOREA (SOUTH KOREA):
OPEN LETTER TO PRESIDENT KIM YOUNG-SAM ON THE DEATH PENALTY**

Dear President,

I am writing to express concern about the continued use of the death penalty in South Korea and about some specific cases which have been brought to Amnesty International's attention.

Amnesty International opposes the death penalty in all cases as the ultimate cruel, inhuman and degrading punishment and a violation of one of the most fundamental rights - the right to life. It campaigns for the abolition of the death penalty worldwide.

There are currently some 50 prisoners under sentence of death in South Korea, convicted of murder. They include six Chinese seamen of Korean descent who were sentenced to death by Pusan District Court in December 1996 for the murder of 11 other seamen aboard the *Pescamar*, a Korean fishing boat. The court is reported to have said that the death penalty was required in this case because of the cruel nature of the crime. Amnesty International does not condone the crimes for which people may be sentenced to death and it recognizes the suffering of victims of crime and their families. However, it believes that the death penalty is an inherently unjust punishment which demeans the society that imposes.

Furthermore, the death penalty appears to be used in an arbitrary fashion, against people who are in a poor position to defend themselves. During their trial, the six seamen mentioned above said that they had been severely beaten and threatened by the Captain of the *Pescamar* who also told them they would be imprisoned if they tried to leave the boat. These circumstances do not appear to have been given adequate consideration by the courts in handing down a death sentence. The six men have appealed against their sentences and a decision on this appeal is

expected this month. Amnesty International is urging you to commute the death sentences imposed on these six men, if it is upheld on appeal.

The pattern of disadvantage in death penalty cases was also reflected in that of Kim Chol-oh, executed in December 1995, who was 19-years-old at the time of his arrest and whose family could not afford to hire a lawyer. A lawyer was assigned to him by the court, but he did not have access to a lawyer before charge, at a time when he claims to have been beaten by police investigators.

Your government has argued that the death penalty is necessary in order to combat violent crime. But there is no convincing argument that the death penalty is more likely to prevent crime than other punishments. A survey of research findings on the relation between the death penalty and homicide rates, conducted for the United Nations in 1988 and updated in 1996, concluded that "research has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment and such proof is unlikely to be forthcoming".

In February 1995 Pusan District Court acquitted three men who had been tried on charges of murder. The prosecution had sought a death sentence for the three men, but they were acquitted on the grounds that they had been beaten during police investigation and forced to sign confessions. In this case, justice was done. However, Amnesty International has documented many cases of police ill-treatment of suspects after arrest; current procedures for arrest and interrogation in South Korea provide inadequate safeguards for detainees. Such cases may lead to a miscarriage of justice. The death penalty is the ultimate injustice when mistakes are made. Errors occur in all criminal justice systems, but the executions of an innocent person is a mistake that can never be put right.

Two Pakistani men currently under sentence of death in South Korea claim to be innocent. Mohammad Ajaz and Amir Jamil claim to have been beaten by police investigators after their arrest on murder charges in March 1992 and forced to make a confession. They said that the person who interpreted at their trial had mistranslated several key points. Amnesty International does not know whether or not these men are innocent, but is concerned that there appears to have been no adequate investigation by your government into their claims of ill-treatment and unfair trial.

The death penalty is carried out periodically in South Korea and there appears to be no compelling reason for its use. There were no executions during 1996, but 19 people were executed the previous year. These 19 people were executed on one day in November 1995. It is not known why this pattern is followed or when the next executions will be carried out. This means that prisoners whose death sentences have been finalized never know which day will be their last, and their families never know which prison visit will be their last one. When executions are carried out, families are not informed in advance.

The worldwide trend is towards reducing the use of the death penalty and abolishing it altogether. A total of 99 countries and territories have either abolished the death penalty in law, not used it for at least ten years or made a commitment not to use it. They include Hong Kong, Cambodia, Australia and New Zealand.

There is no compelling reason why South Korea should retain the death penalty, against this worldwide trend. As one of the region's most important economic and political powers, South Korea could set an example for the rest of Asia by committing itself to abolition.

In November 1996 South Korea's Constitutional Court ruled that the death penalty is constitutional and a "necessary evil" but that it should only be used in exceptional cases. However, the court is also reported to have said that the death penalty retains an aspect of institutional murder and for this reason debate surrounding its use should continue. The court said that the death penalty should be abolished in the future, when it is no longer needed as a criminal deterrent.

Amnesty International believes that the time has now come for your government to take steps towards the abolition of the death penalty. With this goal in sight, we urge you to take the following steps:

- *make a commitment not to carry out any further executions;*
- *impose no further death sentences and commute all existing sentences;*
- *systematically reduce the number of crimes for which the death penalty may be imposed;*
- *initiate a public debate about the use of the death penalty and its effectiveness;*
- *ensure that there is a full and impartial inquiry into all cases of prisoners under sentence of death who claim to have been ill-treated during police questioning;*
- *ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at worldwide abolition of the death penalty.*

I look forward to receiving your response to these concerns.

Yours sincerely,

Pierre Sané
Secretary General