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Minister Nagase Jinen
Ministry of Justice
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Japan

30 March 2007

**OPEN LETTER TO THE MINISTER OF JUSTICE OF JAPAN, THE HON. NAGASE JINEN:
DETENTION OF MINORS SEEKING ASYLUM IN JAPAN**

Dear Minister,

I am writing to express Amnesty International's deep concern regarding the prolonged detention of minors seeking asylum in Japan. The organization has raised the issue of treatment of asylum-seekers with the Japanese Government in the past but regrettably we see no real improvements in the protection of human rights for asylum-seekers in Japan.

Amnesty International has found that asylum-seekers in Japan are subjected to a number of human rights violations. Many asylum-seekers in Japan have had their requests for asylum rejected with no or inadequate consideration of the risks they face on deportation. They are being denied access to a fair and satisfactory asylum procedure and have been forced to sign documents in a language they do not understand and of the content of which they have not been adequately informed. Moreover, there is a lack of access to proper medical assistance in immigration detention centres. Amnesty International is concerned that most of these flaws have not been addressed.

Minors being held in immigration detention centres in Japan are particularly vulnerable to human rights violations. In addition to the range of human rights violations mentioned above, minors are also being separated from their parents for prolonged periods. They also face the threat of being deported without their parents and without notice.

Regarding the prolonged detention of minors, Amnesty International would like to draw your attention to the case of Nihat Cikan, a 16 year-old Kurdish boy who has been detained since July 2006 without charge. He has recently attempted to commit suicide and is reportedly suffering from depression and insomnia as a result of his prolonged detention. Nihat arrived in Japan on 25 July 2006 and applied for refugee status on 26 July 2006. He was detained in a hotel near Narita Airport for

about 40 days before being taken to the East Japan Immigration Center. After his application for refugee status was rejected, Nihat appealed against the decision. He remains at high risk of being deported even though his father, Veli Cikan is also in Japan. Veli Cikan's application for refugee status was rejected but he has been granted a provisional stay while his appeal against the rejection is being decided.

In the early morning of 16 March 2007, Nihat Cikan was told his appeal had been rejected and he was forcibly taken to Narita Airport for deportation. Nihat was unable to contact his father or his lawyer about his situation. His lawyer filed a lawsuit to prevent the deportation and Nihat's deportation was cancelled. However, he remains in detention and at risk of being sent back to his country of origin.

In detention, Nihat Cikan and other minors are being kept separated from their parents for long periods of time in direct violation of the Convention for the Rights of the Child, to which Japan is a state party. Article 9(1) of the Convention provides "*State Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.*" Article 22 of the Convention provides that "*State Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall...receive appropriate protection and humanitarian assistance...*" In the case of Nihat, his father is in Japan and there are insufficient grounds for preventing Nihat's immediate release and reunion with his father, pending the decision regarding his appeal against the rejection of his application for refugee status.

Amnesty International opposes the detention of asylum-seekers unless they have been charged with a recognizably criminal offence, or unless the authorities can demonstrate in each individual case that the detention is necessary; that it is in accordance with the law and that it is a proportionate measure and subject to judicial review. The presumption against detention is even more relevant when addressing the circumstances of particularly vulnerable groups such as minors.

The prolonged detention of minors seeking asylum is a distressing step by the Japanese government. It suggests an attempt by the government to circumvent the rights of all asylum-seekers to proceed with their applications in a fair and transparent manner. For instance, Amnesty International is concerned that the government may be making an example of Nihat and other minors including Mustafa Ozcargil, an 18 year-old Kurdish boy who has been detained for seven months, to deter other Kurdish asylum-seekers.

Amnesty International fears that without a fair and satisfactory process in place to determine those in need of protection, there may be a risk that the government is not fully meeting its obligations under international refugee and human rights law.

Amnesty International strongly urges the Government of Japan to:

- Release Nihat Cikan and other minors including Mustafa Ozcargil being detained in Japan while undergoing the procedures for seeking refugee status.
- Establish a fair and satisfactory system to determine those who are in need of protection, in accordance with international refugee and human rights law.
- Ensure adequate access to legal counsel and to medical treatment to all asylum seekers, including those held in detention.
- Ensure that detention of asylum-seekers is based only on grounds recognised in international law and is a last resort measure. It must also be justified in each individual case as a necessary

and proportionate measure that conforms to international law and standards. Such detention should be subject to periodic judicial review and must not be indefinite.

We thank you for carefully reviewing these concerns and look forward to your response.

Yours sincerely,

Irene Khan
Secretary General