

REPUBLIC OF KOREA (SOUTH KOREA)**Legislation to establish human rights commission is seriously flawed**

Amnesty International's Secretary General Pierre Sané has today written the following open letter to President Kim Dae-jung saying that the draft legislation setting up a national human rights commission is seriously flawed and does not conform with international standards.

While welcoming the establishment of a human rights commission in principle, Amnesty International calls on the President to substantially amend the draft law. If not, he risks establishing a commission which is weak and ineffective and which will seriously undermine his human rights reform program.

The organization also urges more time be allowed for public consultation, to ensure the commission enjoys the trust and confidence of human rights non governmental organizations.

23 October 1998

Dear President Kim Dae-jung,

When you took office in February this year, Amnesty International welcomed the commitments you made to strengthen human rights protection and to establish a national human rights commission. National human rights institutions play a key role in the protection and promotion of human rights in many countries but it is vital that such institutions are independent, fully empowered and enjoy the trust and confidence of civil society, particularly the local human rights community. We are therefore extremely concerned that the government has produced a draft law which is seriously flawed and intends to secure adoption of this law without adequate public consultation.

As a former victim of human rights violations, you know the importance of human rights protection to South Korea's development as an open and democratic society. The new national human rights commission could be a hallmark of your presidency. But it is essential that the commission is a good and effective institution which commands the respect of organizations and governments, both in South Korea and throughout the world.

The draft legislation prepared by your Ministry of Justice does not in its present form conform to international human rights standards. It would result in a commission which lacks independence and investigative powers and does not have the authority to enforce its recommendations. It will also have a very limited mandate. If the legislation is adopted in this form, there is a serious risk not only of establishing a poor human rights commission but also of undermining the credibility of your human rights reform program.

Under the draft legislation, appointments of commissioners and governors will effectively

be controlled by the government and may include government officials. The law should ensure that the commission consists of men and women known for their integrity, impartiality and human rights expertise, and it should reflect the overall balance of society.

The draft envisages that the commission will only have the authority to investigate a narrow set of "human rights abuses", limited to violations committed by law-enforcement personnel. A vast range of economic, social, political and civil rights do not appear to be covered by the act. Even the rights contained in the South Korean Constitution are not all covered.

The draft does not give the commission clear powers to review legislation to ensure its conformity with international human rights standards. It also fails to give the commission the powers it will need to ensure that state agencies cooperate with its work, to enforce its recommendations and to publish its findings without government approval.

The law offers human rights organizations who register with the Ministry of Justice the benefit of state funds and the authority to raise public funds but does not spell out the consequences for those organizations who do not wish to register. Amnesty International is opposed to several provisions of the law which appear to have the potential to curb the activities of independent human rights organizations.

My final point concerns the consultation process for the establishment of this commission, which has been neither open nor public. The draft law was drawn up by the Ministry of Justice in secret, without any consultation with human rights experts in South Korea. The draft law was made public in late September and there has been just one public forum to date.

In spite of criticism of the draft law from human rights organizations in South Korea, your government seems determined to have the act adopted by 10 December 1998. We understand the symbolic importance of this date and your desire to show the South Korean people and world that South Korea has developed into a country which respects human rights. But the content of the law is the most important consideration and the international community will not be impressed by the establishment of a weak and ineffective human rights institution. We urge you therefore to allow more time for public debate about the proposed commission and to redraft the legislation, establishing a commission which is fully independent, empowered and has a broad mandate. In this way, you will leave an important human rights legacy for all South Koreans.

Yours sincerely,

Pierre Sané
Secretary General

To arrange an interview, please call the press office at Amnesty International's International Secretariat on +44 - 171 - 413 5566