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UN: Governments must overcome obstacles and agree to adopt strong human rights provisions in outcome document

Only a few days away from the 2005 World Summit, Amnesty International urges governments to settle remaining differences and finalize a strong text that effectively places human rights next to development and security as one of three pillars of the United Nations (UN).

Governments with a long record of serious human rights violations or little demonstrated commitment to human rights protection must no longer be allowed to stand in the way of the majority of member states that wish the Summit to agree on a better human rights protection system. World leaders must not disappoint the millions of men and women who see the Summit as a historic opportunity to give human rights more authority and resources needed to provide effective human rights protection. Amnesty International welcomes a range of provisions for the promotion and protection of human rights in the 6 September Draft Negotiating Document presented by the President of the General Assembly (GA). However, the text must be substantially strengthened and it should not, under any circumstances, undermine existing human rights obligations.

Amnesty International's views on key human rights aspects of the text are given below.

Human Rights Council

Success of the World Summit will be measured against agreement to create a new higher-level human rights body, a Human Rights Council, that will review and effectively address *all* human rights in *all* countries. The Human Rights Council should be established as a principal organ of the UN and must be able to meet at any time throughout the year. Elements of the mandate of a new Council that are essential to making a real difference in advancing human rights protection must be agreed without any further delay. Brackets must be removed from the text and the following elements must be included:

periodic review of compliance by all states with their human rights obligations and commitments under international law, including the UN Charter and the Universal Declaration of Human Rights (bracketed paragraph 146 d);
the responsibility to address any human rights matters or situations including urgent and continuous situations and to make recommendations thereon (bracketed paragraph 146 e);
an undertaking by Council members to abide by the highest human rights standards and to be reviewed in the first year of any term of membership of the Human Rights Council (bracketed paragraph 147 b).

If governments do not establish the Human Rights Council as a principal organ of the UN, they should as a minimum agree to review, within five years, whether the Council should be transformed into a

principal organ (bracketed part of paragraph 145).

Membership of the Human Rights Council should be open to all UN members committed to promoting and protecting human rights. The proposal to exclude from Council membership those states that are subject to sanctions or a Commission of Inquiry (bracketed part of paragraph 147 a) must be removed from the text as an unnecessary obstacle to agreement. On the other hand, election of Council members by a 2/3 majority of the GA could enhance the quality of Council membership.

The ambiguity in paragraph 146 (f) must be resolved to make it clear that the arrangements and practices for NGO participation observed by the Commission on Human Rights under Article 71 of the UN Charter are clearly a strength that must be "assume[d]" and not "review[ed]" by the Human Rights Council.

Amnesty International supports the proposal for the President of the GA to conduct consultations to finalize details of the Human Rights Council by 31 December 2005 (paragraph 147). Experience shows that the alternative option of establishing an "open-ended working group" is a recipe for endless delay. The essential elements for inclusion are that the process must be led by the President of the GA, that all member states must have the opportunity to contribute to it, that the process must be open and transparent to all interested parties, including NGOs, and that there must be an early deadline for completion of the process.

Funding for the Office of the High Commissioner for Human Rights

Another key indicator of success of the Summit and measure of states' real commitment to human rights is whether governments will demonstrate their stated resolve to strengthen the Office of the High Commissioner for Human Rights (OHCHR) by at least doubling, if not, as Amnesty International proposes, trebling the regular budget resources for the High Commissioner with a further commitment to double OHCHR's overall resources over the next five years. An undertaking to "substantially increasing resources" provided under the regular budget is so vague as to be virtually meaningless (paragraph 112).

No going back on human rights commitments

There must be no weakening of existing human rights obligations and commitments. The suggestion in paragraph 122, third bullet, and paragraph 106 that governments can "consider.... implementing" treaties is unacceptable. States are bound to perform in good faith all treaties to which they are party. These paragraphs must call on states to "implement" the treaties they ratify. The third bullet in paragraph 122 should call on all governments to become parties to all treaties on human rights and on the protection of civilians.

Paragraph 110 should fully reflect the language of the Universal Declaration of Human Rights which specifies that everyone is entitled to all the rights and freedoms set forth in the Declaration "without distinction of any kind, *such as* race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

Mainstreaming human rights

As one of three pillars of the UN, human rights must be integrated into planning and activities throughout the UN system. Support for mainstreaming human rights is an essential element of the Outcome Document, and the brackets must be removed from paragraph 114 and the third bullet of paragraph 157. The important recognition that development, peace and security, and human rights are interlinked and mutually reinforcing in paragraph 9 should be reflected throughout the Outcome Document.

Human Rights Treaty Bodies

Amnesty International encourages governments to recognize in the Outcome Document the need for the treaty bodies to function as a coherent and effective system supported by the necessary additional resources.

Ending Impunity

Now that the International Criminal Court (ICC) has started work, the Outcome Document will be deficient without a commitment to end impunity and a call on all states to fully cooperate with the ICC and other international tribunals. A call on states to sign and ratify the Rome Statute of the ICC was already included in the Millennium Declaration, and a call for full cooperation with the ICC by all states was made this year by the Security Council in its first decision to refer a situation to the ICC. The brackets must be removed from paragraph 126.

Sanctions List

Individuals and entities placed on "sanctions lists" lack any access to legal safeguards. The brackets must be removed from paragraph 99 bis, and governments must commit to an effective mechanism to ensure that fair and transparent procedures, that meet international standards for due process, will exist for placing individuals on sanctions list and for removing them.

Arms Transfers

The commitment to improve the effectiveness of transfer controls over small arms must be included. The brackets must be removed from paragraph 70 (j) and the text strengthened by referring to a legally binding instrument.

Terrorism

The deliberate targeting of civilians constitutes a serious abuse of fundamental human rights and basic principles of humanity. It cannot be tolerated or justified under any circumstances. The words "by terrorists", now in brackets in paragraph 73, must be removed. No State, armed group or individual is above the law. Amnesty International considers it essential this paragraph on terrorism applies to acts of terrorism committed by anyone, including states and their agents.