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# **AMNESTY INTERNATIONAL**

## **2000 UNITED NATIONS COMMISSION ON HUMAN RIGHTS - DEFENDING THE DEFENDERS**

### **BACKGROUND BRIEFING**

This document briefly describes the concerns which Amnesty International will raise at the 56th session of the United Nations (UN) Commission on Human Rights (the Commission).

#### **SPECIAL RAPPORTEUR ON HUMAN RIGHTS DEFENDERS**

Human rights defenders play a crucial role to protect civil, cultural, economic, political or social rights in their own country. Furthermore, they also provide the Commission and its special procedures with indispensable first hand information about human rights observance on the ground. Amnesty International welcomes the Declaration on Human Rights Defenders<sup>1</sup> (the Declaration), which was adopted in 1998, but is deeply concerned that human rights defenders have not received any of the additional protection specifically mentioned in the Declaration. Intimidation, reprisals, attacks and even extrajudicial killings of human rights defenders have continued unabated since the adoption of the Declaration. Therefore, Amnesty International believes that it is essential at this stage to urgently appoint a Special Rapporteur for human rights defenders. A Special Rapporteur will ensure the Declaration on Human Rights Defenders can be implemented effectively so that a powerful mechanism to safeguard those individuals who defend the rights enshrined in the Universal Declaration of Human Rights can be put into place. A Special Rapporteur would also have the mandate to investigate individual cases and be able to provide the Commission with specific recommendations on the protection of human rights defenders.

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<sup>1</sup> The full title is the Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Rights and Fundamental Freedoms.

Amnesty International urges the Commission to:

- appoint a Special Rapporteur on Human Rights Defenders with the mandate to monitor, document and intervene on behalf of human rights defenders subjected to human rights violations, to devise an effective strategy to better protect human rights defenders and to study ways to monitor the implementation of the Declaration on Human Rights Defenders.

## **REVIEW OF SPECIAL PROCEDURES**

Last year the Commission received the report written by its Bureau<sup>2</sup> to review its special procedures. To take the Bureau's recommendations forward, the Commission established an inter-sessional open-ended Working Group to enhance the effectiveness of the mechanisms of the Commission. The Commission will now consider the review carried out by the Working Group.

Amnesty International wishes to underline, as the Bureau did, the importance of the review as a timely means to strengthen the UN's system of special procedures to protect and promote human rights. Nevertheless, Amnesty International strongly objects to the Bureau's recommendation that two Working Groups - the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances -- should be transformed into Special Rapporteurs. The Working Group on Arbitrary Detention should be retained in its present form, because of its quasi-judicial character: under its mandate it assesses individual cases against international standards. The Working Group on Enforced or Involuntary Disappearances has a unique mandate among the special procedures which requires it to monitor compliance with one specific human rights instrument (the Declaration on the Protection of All Persons from Enforced Disappearance). As such, it should be retained in its present form. However, there is an urgent need to rejuvenate its current membership to make it a more effective body.

Amnesty International is also concerned about the financial situation affecting the basic activities of the special procedures. Stable resources from the regular budget have dramatically worsened in recent years. Some rapporteurs may not even have the resources to carry out visits to countries that require their immediate attention. It is crucial that the essential activities of the Office of the High Commissioner for Human Rights (OHCHR) can be carried out independently and without relying on extra-budgetary funds provided on an *ad-hoc* basis for individual programs supported by specific states.

In January, the OHCHR launched its first-ever global Annual Appeal for funding in order to meet a dramatic increase in demands placed upon it. In its appeal the High Commissioner underlined that: "... the Special Procedures' system has become one of the pillars of the United Nations' efforts to protect and promote human rights, and added that: "Since the 1993 World Conference on Human Rights the number of Special Procedures' mandates has grown

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<sup>2</sup> The Bureau of the Commission consists of five members from different regional groups nominated for one year to organize Commission sessions and take appropriate action in between sessions.

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substantially ... Yet staffing and other resources to support Special Procedures have not increased.”

## **COUNTRY BACKGROUNDS**

### **China**

The human rights situation seriously deteriorated in China last year. The authorities have carried out the most wide-ranging crackdown on peaceful dissent in a decade. The crackdown and other serious human rights violations continue. Torture and ill-treatment are prohibited by Chinese law, but are nevertheless commonplace. Criminal suspects are often beaten, kicked, hung by the arms, shackled in painful positions, deprived of food and sleep and given electric shocks. China has the highest level of executions in the world. More than 60 crimes, many of them non violent, can be punished by death under the law. Many death sentences are imposed following trial proceedings which can only be described as summary. In the Xinjiang and Tibet autonomous regions, nationalist opponents and sympathisers continue to be the target of harsh repression. In the Xinjiang Uighur Autonomous Region, many political prisoners have been executed after summary trials and there are reports of arbitrary killings by the Chinese security forces.

Among other things, Amnesty International calls on the Commission to:

- adopt a resolution expressing its concern at the widespread human rights violations in China and to urge the Chinese government to stop executions and to release immediately and unconditionally all prisoners of conscience.

### **Federal Republic of Yugoslavia (FRY)/Kosovo**

The human rights situation in Kosovo continues to be critical and Serbs, Roma and other minorities have become the main victims of persistent human rights abuses. The United Nations Interim Administration Mission in Kosovo (UNMIK) needs additional resources for, inter alia, UNMIK's civilian police and for the new judiciary in order to make sure that perpetrators of human rights violations, who often go free, are brought to justice and receive a fair trial, in accordance with international human rights standards. Furthermore, it is essential that the FRY and other relevant authorities co-operate with the UN to clarify the fate and whereabouts of the thousands who “disappeared” before, during and after the North Atlantic Treaty Organization (NATO) military intervention. The international community, and especially the NATO countries, need to give effective protection to conscientious objectors who fled the FRY, considering that NATO encouraged FRY army personnel to consider defection throughout the conflict.

Among other things, Amnesty International calls on the Commission to:

- express concern about human rights violations in the FRY and the critical situation in Kosovo;
- urge the Albanian leadership to use their influence to halt human rights abuses;
- urge the international community to promptly provide additional resources for UNMIK's civilian police and the new judiciary enabling them to act effectively and end impunity for perpetrators of human rights abuses; moreover, the international community should give effective protection to conscientious objectors who fled the FRY.

### **Mexico**

Mexico continues to be a country with a very serious human rights situation, one that could turn into a crisis if the authorities and relevant sectors of civil society fail to resolve the conflicts which beset the country. Persistent human rights abuses of torture, extrajudicial execution, arbitrary detention and "disappearances" continue in Mexico with impunity acting as a catalyst for renewed cycles of violence. Those responsible for human rights violations, no matter their position or status within society, should be brought to justice. Amnesty International has repeatedly documented Mexico's failure to put into practice judicial, administrative and other measures which would ensure an effective remedy for those persons whose human rights are being violated.

Among other things, Amnesty International calls on the Commission to:

- to adopt a resolution calling on the Mexican authorities to implement recent recommendations made by treaty bodies as well as by UN experts following recent visits, and invite other relevant thematic mechanisms to visit Mexico to assess the human rights situation.

### **Saudi Arabia**

In Saudi Arabia there are no political parties, no elections, no independent legislature, no trade unions, no Bar Association, no independent judiciary and no human rights non-governmental organizations (NGOs). Torture and police brutality are widespread and methods reported during the past decade include beatings on the soles of the feet, use of electric shock devices, cigarette burns and extraction of nails. The numbers of people executed is one of the highest in the world in both absolute numbers and per capita. The law and practice of arrest and detention is arbitrary and fall far short of internationally recognized safeguards against abuse of power by the state.

The criminal justice system leads to human rights violations that originate in and are sustained by secrecy on which the whole system is premised - from arrest and detention to all the different stages of the trial. It is a system that gives excessive powers to the arresting

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authorities and robs people who fall into its net of their human dignity and fundamental rights. In many cases criminal suspects are tortured or ill-treated from the moment of arrest because of the reliance of the criminal justice system on confessions obtained by the police to secure convictions. The detainee is invariably held incommunicado and has no prompt access to a lawyer or any judicial authority that could act as a safeguard against ill-treatment. People have been detained indefinitely on political grounds or sentenced after grossly unfair trials.

Among other things, Amnesty International calls on the Commission to:

- adopt a resolution condemning gross and systematic human rights violations in Saudi Arabia;
- request the government to invite the Special Rapporteur on the independence of judges and lawyers to visit Saudi Arabia this year.

### **Sierra Leone**

The peace agreement signed in July 1999 offered opportunities to end the gross human rights abuses, including war crimes and crimes against humanity, committed during the eight-year internal armed conflict. Since October 1999, however, former rebel forces -- whose leaders now participate in government -- have continued to kill, mutilate, rape and abduct civilians. Amnesty International is disturbed that the peace agreement provides an amnesty for all acts undertaken in pursuit of the conflict, thereby providing complete impunity. Although the UN added a disclaimer that the amnesty did not cover international crimes of genocide, crimes against humanity, war crimes, and other serious violations of international humanitarian law, it remains unclear how perpetrators of such crimes will be held accountable. The UN Security Council has failed to explicitly support the recommendation of the UN High Commissioner for Human Rights for an international commission of inquiry. In its resolution on Sierra Leone last year the Commission emphasized the obligation of all states to seek and prosecute alleged perpetrators of human rights abuses.

Among other things, Amnesty International calls on the Commission to:

- call on former rebel leaders, including those now in government, to instruct their former combatants to end human rights abuses, and to insist that, since the amnesty does not apply to abuses committed since July 1999, those responsible be brought to justice;
- support the early establishment of an international commission of inquiry to ensure that the gross human rights abuses committed during the conflict are fully investigated and

that those responsible are held accountable, and again remind states of their obligation to investigate and prosecute, or extradite for prosecution, alleged perpetrators of grave breaches of international humanitarian law.

## **THEMATIC ISSUES**

### **The Death Penalty**

In 1999 the Commission adopted a resolution which emphasized the obligation not to execute and not to impose the death penalty on persons suffering from mental disorders or persons below 18 years at the time the crime was committed. Despite this several states, including the USA, still continue to execute persons from these groups of people. By imposing the death penalty on children, states are also in breach of the provisions in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child.

Amnesty calls on the Commission to adopt a resolution on the question of the death penalty urging all states that have not yet abolished the death penalty, among others, to:

- suspend all executions and to establish a moratorium on executions to completely abolish the death penalty, while ensuring to respect the application of the Safeguards guaranteeing protection of the rights of those facing the death penalty, set out in an Economic and Social Council (ECOSOC) resolution<sup>3</sup>, and other relevant international standards;
- comply with international law prohibiting the imposition of the death penalty on persons below eighteen years of age at the time of the crime, and on persons who are mentally impaired.

## **THE COMMISSION AND STANDARD SETTING**

### **A. Draft Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict**

Child soldiers are victims of a broad range of human rights violations: death or injury in combat, as well as torture and ill-treatment, sexual exploitation, health hazards, drug and

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<sup>3</sup> See annex to ECOSOC resolution 1984/50 of 25 May 1984

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alcohol abuse, separation from family, deprivation of education, and if captured, to summary execution, prolonged detention, torture, and charges for war crimes or treason.

The Working Group of the Commission on Human Rights recently concluded the drafting of an Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The protocol bans the use of children under the age of 18 years in armed conflicts.

Amnesty International calls on the Commission to:

- approve the draft optional protocol and recommend its adoption by the UN General Assembly later this year.

### **B. Draft International Convention on the Protection of All Persons from Enforced Disappearances**

The continuing widespread practice of “enforced disappearances” in many countries across the world, the seriousness of these human rights violations and the inability of existing mechanisms at the international level to combat this persistent practice, all point to the need to adopt an international convention to protect all persons from enforced disappearances, without further delay. Therefore, it is vital at this stage to establish an intersessional working group with the mandate to bring about the rapid finalisation of the draft International Convention on the Protection of All Persons from Enforced Disappearance by the Commission. The draft Convention describes enforced disappearances as an international crime subject to universal jurisdiction and provides for a Committee against Disappearances with powers to conduct on the spot investigations.

Amnesty International urges the Commission to:

- establish at its 56<sup>th</sup> Session an Intersessional Working Group with the mandate to study and approve, with the full and active participation of NGOs in the process and within the tightest possible time frame, the text of a strong Convention on “enforced disappearances” which strengthens the current draft.

### **C. Draft optional protocol on the Convention against Torture**

Since 1992 a Working Group of the Commission has been drafting an optional protocol to the Convention against Torture<sup>4</sup> which would establish a global inspection system of places of detention in order to prevent torture and ill-treatment.

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<sup>4</sup> The full title is the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Amnesty International calls on the Commission to:

- give full support to the working group by adopting a resolution calling for the drafting to be continued so as to ensure that a strong optional protocol is approved that provides for an effective inspection system in which ratification of the protocol serves as consent of the state concerned.

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**To arrange an interview in English or French, or to receive a copy of the media pack, please call Androulla Kyrillou, Press Officer, +41 22 798 2500, Mobile +44 378 472 124. You can also call Amnesty International's press office in London, UK, on +44 171 413 5566.**