



Statement by Amnesty International on the implementation of Security Council Resolution
1373

1 October 2001

In resolution 1373 the Security Council (the Council) has adopted wide-ranging measures to combat what are broadly described as "terrorist acts". The Council has called on states to take steps to suppress the financing of such acts, to refrain from supporting them, to ensure that those participating in them are brought to justice, and to take special measures in respect of asylum seekers. The resolution was adopted under Chapter VII of the United Nations Charter, and is therefore binding on all UN member states.

Amnesty International (AI) welcomes the determination expressed by the Council in its resolution that states ensure that the alleged perpetrators of grave crimes such as have been committed in the USA on 11 September 2001, and those aiding them, be brought to justice. However, AI is concerned that the terms "terrorists" and "terrorist acts" in the resolution are open to widely differing interpretations and therefore may facilitate violations of human rights in states that are bound to implement the resolution.

AI notes that the Security Council has specifically reaffirmed that threats to international peace and security caused by "terrorist acts" have to be combated by means that must meet UN Charter obligations. AI therefore trusts that, in calling for the perpetrators to be brought to justice and "take action" against them, the Security Council has also reaffirmed that this must be done within the framework of the UN Charter which requires respect for and observance of human rights without any distinction, including international standards for fair trial.

Whereas the resolution requires states to ensure that "terrorist acts" are established as serious criminal offences in domestic laws and that the punishment "duly reflects the seriousness of such terrorist acts", this should not be interpreted as a call for that punishment to include the death penalty, which AI opposes. Successive United Nations resolutions adopted by the Commission on Human Rights have indeed expressed the conviction that abolition of the death penalty "contributes to the enhancement of human dignity and to the progressive development of human rights". This should also apply to any action that states will be taking to implement resolution 1373.

Of particular concern are provisions in the resolution that deal with refugee and asylum issues, requiring states to take measures, before granting refugee status, to ensure that an asylum seeker has not facilitated or participated in "terrorist acts". AI welcomes that Security Council resolution 1373 specifically calls for any such measures to be taken in accordance with "international law, including international standards of human rights". AI wishes to point out, however, that "acts of terrorism" are not included in the 1951 Convention relating to the Status of Refugees (Refugee Convention) as a legitimate ground for exclusion from refugee status. AI therefore urges the Security Council to ensure that, in implementing resolution 1373, the following steps be taken by all states, including those not party to the Refugee Convention and /or the 1967 Protocol:

- nobody should be excluded on these grounds from the right to seek asylum;
- the process of determination as to whether to exclude someone on these grounds should be made in an individual procedure. Considering the serious consequences of an incorrect decision for the individual concerned, the procedure should comply with all procedural safeguards provided in human rights law [notably to be informed that exclusion is under consideration, and to have the right to be informed of the evidence, to rebut the evidence and to appeal against a decision to exclude on the above grounds];
- association with, or membership of a group resorting to violence or committing serious human rights abuses should not in itself be a ground to exclude an individual from refugee status;
- family members should not be excluded by association. Where a head of a family is excluded from refugee protection, the claim of his/her family members to refugee status should be considered in their own right;
- in all cases states should comply, in accordance with their obligations under human rights treaties, with the principle of *non-refoulement*, generally regarded as a principle of customary international law, and thus binding on all states. States should ensure that the necessary safeguards are in place to prevent the return of any individuals who are excluded from refugee status to countries where they would themselves risk becoming victims of serious human rights abuses.