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# AMNESTY INTERNATIONAL NEWS SERVICE 154/93

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**PLEASE NOTE:** EFAI has a new address from 22 November. Following are their new details: 17, rue du Pont-aux-Choux, 75003 PARIS. Tel: +331 44 59 29 89, Fax: + 331 44 59 29 80, Mac 44 59 29 86, PC 44 59 29 87. Katie Rickards, in the Secretary General's Office at the IS has the full list of individuals' direct numbers, so please contact her if you need it.

**\*\*COUNCIL OF EUROPE\*\*** The Belgian Section (Fr), with reference to the IS Legal Office, has taken the initiative to write the enclosed item in French and English about the protocol to the European Convention on Human Rights on the rights of detainees. It is written to coincide with the Council of Europe Steering Committee for Human Rights meeting starting on Monday. Sections in state members of the Council of Europe may wish to use it. The French version is available from the Belgian section.

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**Internal**

Over the Autumn sections have been lobbying their governments about a Council of Europe draft Protocol to the European Convention on Human Rights on the rights of detainees (see section lobbying circular, "Protecting Detainees in Europe", AI Index: IOR 61/02/93). On Tuesday 23 November 1993 the Council's Steering Committee on Human Rights will meet to decide what to do with this controversial and dangerously weak draft text. The following News Service has been written at the initiative of, and together with, the Belgium (French) Section who have rightly suggested that some press coverage of the issue on Monday 22 or Tuesday 23 November could help to push the balance in favour of sending the text back to government experts for a major redrafting, as urged by AI. The Belgium (French) section will translate this News Service in French and fax it to the French and Swiss sections as soon as possible.

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**External** Embargoed for 0001 hrs 21 November 1993

**EUROPE: DRAFT COUNCIL OF EUROPE TREATY RISKS WEAKENING INTERNATIONAL HUMAN RIGHTS PROTECTION OF REFUGEES**

Amnesty International today urged the Council of Europe not to ignore important recent developments in international human rights law on the protection of detainees. The Council's 32 member states meet this week in Strasbourg to decide what to do with a controversial draft Protocol to the European Convention on Human Rights on the rights of detainees.

"Only one month after the Council's 32 heads of state met in Vienna to reaffirm their commitment to human rights, we see this organization in danger of actually weakening aspects of international human rights law" Amnesty International said.

If it came into force, the draft Protocol would be an addition to the European Convention on Human Rights. It is meant to give greater protection for anyone deprived of their liberty, including criminal suspects in police custody, convicted prisoners, detained asylum-seekers and the mentally-ill.

The draft Protocol is aimed at guaranteeing the right of detainees to tell a lawyer and relatives that they have been detained, the right to communicate with a lawyer in private, the right to complain about the treatment in detention, the right to an interpreter in certain situations, the right to adequate medical care and it prohibits medical experimentation unless there is proper consent and limits the power to impose disciplinary punishments.

It is a potentially far-reaching treaty but, unfortunately, after more than two years of work the draft is still seriously flawed. "Several provisions would not give the protection they claim to guarantee, some essential safeguards are lacking and others are so hemmed in by restrictions that they leave enormous loopholes" said Amnesty International.

International law permits governments to prevent criminal suspects contacting lawyers or family, but only for very short periods in strictly defined circumstances. The draft Protocol has broadly worded restrictions on rights to contact lawyers, relatives and others which could allow police to cut off detainees from the outside world, routinely and for unacceptable periods of time.

"Torture and ill-treatment is still a major problem in Europe," said Amnesty International. Last year the organization received reports of torture or ill-treatment from more than half the members of the Council, most often in the first few hours or days of detention. "The incommunicado detention which the draft Protocol could allow is just the type of situation which sometimes leads to torture and other abuses."

"This treaty should at the very least restrict incommunicado detention to rare and exceptional cases and in every case a judge should first be asked to approve the denial of access to the outside world. The draft Protocol should guarantee visits from lawyers, family and doctors of one's own choice, quickly after an arrest and then regularly while in detention".

The draft Protocol should also include other safeguards against abuse such as the right to consult a doctor of one's choice, at least in cases where a formal complaint of torture or ill-treatment is made, and the right ultimately to complain to a court about the manner of treatment.

The draft Protocol also unfortunately fails to put limits on solitary confinement, which should be an exceptional and temporary measure used primarily to protect the physical safety of the detainee or others.

Some states do not want any of the rights in the draft Protocol to be enjoyed by the mentally-ill or asylum-seekers held for short periods. However, all people deprived of their liberty in Europe should enjoy at least some further protection against abuses.

**The Council's Steering Committee for Human Rights will decide tomorrow (Tuesday) whether to finalise the text as it stands, return it to experts for redrafting or abandon the whole project. "A treaty of this kind ought to make a real difference to the protection of detainees from abuse - but only if it is well drafted", said Amnesty International.**

**"We urge the Council to live up to its responsibilities as protector of human rights by sending the current text back to the experts for redrafting." Amnesty International has already submitted a Memorandum to the Council with more than 20 recommendations for major amendments.**

**Furthermore, for the last two years the drafting has been carried on largely in secret. "This treaty could affect the lives of hundreds of thousands of people in Europe and it is time the Council opened up discussion to a wide range of non-governmental organizations as well as the Council's own Parliamentary Assembly."**

**The Council of Europe prides itself on being a model for the rest of the world in setting the highest human rights standards. It is unfortunate that the draft Protocol in its present form discredits this lofty claim.**

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**BAHRAIN: FORCIBLE EXILE OF BAHRAINI NATIONAL**

**Amnesty International has received reliable reports that Dr 'Abd al-'Aziz Rashid al-Rashid, a Bahraini national, is in an imminent danger of being expelled from Bahrain for the fourth time in the space of one week.**

**Dr 'Abd al-'Aziz Rashid al-Rashid, a medical doctor, has been the subject of repeated measures to forcibly exile him from Bahrain. His first unsuccessful attempt to return to his country was on 6 October 1991, when he was held and interrogated for four days before his expulsion. He subsequently returned to Bahrain on 12 November 1993 and was expelled the following day to Syria via Kuwait. On his arrival in Kuwait, however, the authorities refused to allow him entry as he had no valid travel documents - his Bahraini passport had expired - and returned him to Bahrain the same day, 13 November. At Bahrain's international airport Dr al-Rashid was refused entry once again, and expelled to Syria. The Syrian authorities also refused him entry and returned him to Bahrain, apparently on 14 November. On 18 November 1993, the Bahraini authorities sent him back to Syria, who reportedly refused him entry and sent him back to Bahrain again. Dr al-Rashid's current situation and whereabouts remain unclear.**

**Amnesty International has appealed to the Bahraini Government to allow Dr al-Rashid and all other Bahraini nationals who have been forcibly exiled to return to Bahrain, in accordance with international human rights standards and Bahrain's own Constitution.**

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**INDIA: AMNESTY INTERNATIONAL WELCOMES PEACEFUL END TO SIEGE**

Amnesty International welcomes the peaceful end to the 32-day siege of the Hazratbal shrine in Jammu and Kashmir and the government's efforts to ensure that this should happen. On 17 November 65 civilians and militants left the mosque, where arms and ammunition were found and were arrested. Official reports suggest that of the 65 people held for interrogation, 30 who were identified as civilians among them refused to be released on 18 November.

Amnesty International is concerned at reports from local police officials that army soldiers, insisting on interrogating alleged militants late on Tuesday, beat some of them severely. Reports indicate that the government negotiators had agreed to the militants' request that, on leaving the shrine, they be interrogated by the local police and not by the army. Amnesty International re-iterates its appeal to the government to take all possible steps to ensure that no-one will be tortured or ill-treated and that all those detained should have full access to legal safeguards provided in international law. Amnesty International has also urged the government to publish immediately the names and details of those taken into custody, the specific charges against them, and the place where they are held. Any charges should be brought under ordinary criminal law. Those arrested should be allowed immediate and regular access to lawyers, relatives and medical examinations.

Throughout the siege, reports indicate, the army acted with restraint. However, on 22 October 51 unarmed civilians were arbitrarily shot dead, most of them by members of the Border Security Forces, in Bijbehara, as they protested, apparently peacefully, against the siege of the Hazratbal shrine. Official reports that the killings occurred in "cross-fire" between the BSF and militants have not been substantiated and the outcome of the official inquiries that were established, one by the BSF and another by a magistrate, are not known to have been disclosed. India's newly established Human Rights Commission has asked for a detailed report on the incident. So far, the government has not responded to Amnesty International's request that a fully independent and impartial inquiry be conducted into the killings.

Amnesty International has also urged the government to release or else promptly bring recognizably criminal charges against political leaders arrested during demonstrations against the army surrounding the mosque. They include Syed Ali Shah Geelani and Abdul Gani Lone.  
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**UNITED NATIONS COMMITTEE AGAINST TORTURE CONFIRMS TORTURE IN TURKEY IS WIDESPREAD AND "SYSTEMATIC"**

Amnesty International's longstanding concerns over the widespread and systematic practice of torture in Turkey were corroborated today by a report published by the UN Committee against Torture.

The Committee's 10 independent experts, elected by states to supervise implementation of the UN Convention against Torture, concluded that "the existence of systematic torture in Turkey cannot be denied".

This public report, the first of its kind since the Committee was established in 1988, is the culmination of a three-year investigation which included extensive confidential discussions with the government and a visit to the country in June 1992. The Committee initiated the investigation following a submission made by Amnesty International in 1990.

Under Article 20 of the Convention against Torture, the Committee must investigate any reliable information it receives that torture is being systematically practised in the territory of a State Party. Turkey ratified the Convention in 1988.

This UN Committee is the second intergovernmental body within 12 months to conclude that torture is widespread in Turkey. In December 1992 the Council of Europe's European Committee for the Prevention of Torture issued a public statement after the Turkish Government failed to institute reforms to end torture.

The UN Committee's report noted the cooperation of the Turkish authorities during the inquiry, but also stated that delegates were denied access to certain Ministry of Interior premises in Diyarbakir.

While welcoming certain legislative reforms, the report noted that "inadequate legislation which in practice allows room for the use of torture may also add to the systematic nature of this practice".

The Committee made a number of recommendations. It said that the use of blindfolds during questioning should be expressly prohibited and detainees should be permitted to consult their lawyers and have access to doctors of their own choice.

It also recommended that prosecutors should act "promptly and effectively" to investigate allegations of torture or ill-treatment, the legislature should reassess penalties for acts of torture, and "penalties imposed by courts on torturers should not be nullified by means of administrative promotions". The Committee emphasized that "torturers should not feel that they are in a position of virtual immunity from the law".

The report also regretted that detainees accused of political offences are expressly denied the vital safeguards set out in Law No 3842 of November 1992, such as a reduction of the maximum period in police

custody and a reaffirmation of the right of detainees to see their lawyer. Yet, in Amnesty International's experience, it is these detainees who are at greatest risk of torture and most deaths in custody as a result of torture have been of political detainees.

Amnesty International has frequently said that a major obstacle to the prosecution of alleged torturers is the law which empowers a committee controlled by the local governor to examine (and block) complaints of torture. The Committee's report says the Turkish Government assured the Committee that because of a recent Constitutional Court ruling, "a public official accused of torture would be liable to public proceedings in accordance with the normal procedure". Amnesty International is concerned that this information is misleading because the court ruling does not apply to the 10, mainly Kurdish, provinces under Emergency Legislation in the southeast of the country.

In recent years Amnesty International has received credible testimony from hundreds of torture victims. Since the Committee's investigation began in 1990 over 40 people have died in police custody apparently as a result of torture - 20 in 1993 alone - while the related phenomenon of "disappearance" has also increased.

These figures, and first-hand testimonies, suggest that the practice of torture is continuing undiminished in Turkey and may even have increased in severity, particularly when the victims are members of the Kurdish minority suspected of links with the armed illegal organization, the Kurdish Workers' Party (PKK). It is now common practice for police not merely to deny access to lawyers and family, but even to deny for days or weeks that people are being held at all.

Amnesty International supports the hope of the Committee against Torture that the Turkish Government "will take forceful and effective measures in order rapidly to end the practice of torture". It is also up to other states to ensure that the Committee's recommendations in relation to Turkey are implemented and torture is stopped.

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**JAMAICA: AMNESTY INTERNATIONAL DELEGATION TO VISIT**

**Amnesty International is sending two delegates to Kingston, Jamaica, from 20 to 24 November 1993. The delegation will collect information on matters of concern to the organization, including the treatment of prisoners at St Catherine's District Prison and the investigations currently being carried out into the recent shooting deaths of four death row prisoners.**

**For further information see News Service item: Jamaica: Amnesty International urges inquiry into prison killings, AI Index: AMR 38/WU 06/93, News Service 146/93.**