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## AMNESTY INTERNATIONAL 58th UN COMMISSION ON HUMAN RIGHTS (2002) BACKGROUND BRIEFING

*This document briefly describes the concerns which Amnesty International will raise at the 58th session of the United Nations (UN) Commission on Human Rights (the Commission).*

### *Measures to combat "terrorism"*

*In response to the attacks of 11 September, a number of states have introduced or are considering introducing measures that violate or facilitate the violation of human rights. The challenge to states is not to promote security at the expense of human rights, but rather to ensure respect of human rights for all, including their own citizens, refugees and minorities. Amnesty International is particularly concerned that:*

*\$ the concept of Aterrorism@, increasingly used in new legislation, is often vague or broadly defined, thereby leaving scope for abuse by criminalizing peaceful activities;*

*\$ by enacting laws providing for indefinite administrative detention as an alternative to prosecution, some states have in fact created informal criminal justice systems in which detainees are denied rights that they have in the ordinary judicial systems;*

*\$ some states have introduced special measures for the prosecution of cases of Aterrorism@ by special courts and/or under special rules of evidence that violate fair trial rights;*

§ some states have amended criteria and procedures to determine applications for refugee status, threatening the rights to seek asylum, and not to be forcibly returned to a country where the asylum-seeker would be at risk of serious human rights violations.

*Amnesty International calls on the Commission on Human Rights to:*

§ Pay specific attention to measures taken by states to combat Aterrorism@ whether or not these are related to the attacks of 11 September;

§ Consider the best means to ensure state compliance with their human rights obligations when taking measures to deal with Aterrorism@.

## COUNTRY CONCERNS

### *Colombia*

Amnesty International remains gravely concerned at the deepening human rights crisis in Colombia which continues to intensify and spread throughout the country. The decades long conflict involving the Colombian security forces, their paramilitary allies and armed opposition groups is characterized by widespread and systematic abuses of human rights and international humanitarian law by both sides in the conflict. During 2001 more than 5,000 people were killed for political motives, over 300 were victim of forced Adisappearances@, and over 200,000 people were forcibly displaced. The collapse of peace talks between the government and the largest armed opposition group, the *Fuerzas Armadas Revolucionarias de Colombia*, FARC, (Revolutionary Armed Forces of Colombia), heralds an immediate and grave intensification of the conflict and risks a humanitarian and human rights catastrophe.

The vast majority of perpetrators of violations of human rights and international humanitarian law continue to evade accountability in Colombia. One of the key factors which enable impunity to continue is the military justice system, where military courts continue to hear cases

of alleged human rights violations. Moreover, the Colombian government has consistently failed to take decisive action to confront and dismantle paramilitary groups and prevent further human rights abuses against the civilian population; these groups continue to operate with the apparent acquiescence and sometimes open support of the security forces.

***Amnesty International calls on the Commission on Human Rights to:***

§ Adopt a resolution reiterating its concern at the deepening human rights and humanitarian crisis in Colombia;

§ Urge the government to full and prompt implementation of the recommendations made by the OHCHR, relevant treaty bodies and thematic mechanisms of the Commission;

§ Support and strengthen the OHCHR, including through increased international monitoring of the human rights situation;

§ Call on the government to guarantee access to conflict areas by human rights and humanitarian agencies;

§ Call on the government to take urgent steps to end impunity for human rights violations, to combat and dismantle paramilitary groups, and to guarantee the protection of human rights defenders from human rights violations.

***Indonesia***

The human rights situation in both Aceh and Papua has continued to deteriorate as operations by the security forces against pro-independence movements have intensified. Grave human rights violations have been committed against civilians including extrajudicial executions, torture and other human rights violations, and their houses and means of livelihood have been destroyed in both provinces as a form of collective punishment. The armed opposition groups *Free Aceh Movement (GAM)* and *Free Papua Movement/National Freedom Army (OPM/TPN)* are also responsible for serious human rights abuses, including unlawful killings and abductions.

Political leaders and other prominent members of civil society have been deliberately targeted, including leading pro-independence activists who were tried and imprisoned and several members of parliament and other local political leaders who were unlawfully killed. Amnesty International has documented over a dozen cases in which human rights defenders, mainly in Aceh and Papua, were subjected to extrajudicial execution, unlawful arrest or torture.

The climate of impunity remains a root cause of the continued high level of human rights violations in Indonesia. The government has demonstrated a reluctance to hold perpetrators to account, including those suspected of committing crimes against humanity and other serious crimes in East Timor in 1999. While the President has approved the establishment of an *ad hoc* human rights court on East Timor, she has limited its jurisdiction such that the vast majority of crimes committed during 1999 cannot not be considered by it. Moreover, the Indonesian authorities have consistently refused to cooperate with the serious crimes investigations being carried out by the United Nations Transitional Administration in East Timor (UNTAET).

***Amnesty International calls on the Commission on Human Rights to:***

§ Adopt a resolution condemning gross human rights violations in Indonesia, including the widespread extrajudicial executions, *Adisappearances@*, torture and unlawful detentions in the provinces of Aceh and Papua;

§ Urge the Indonesian government to take effective steps to halt the human rights violations, including by reaching negotiated settlements based on respect for human rights and international humanitarian law with representatives of independence movements in Aceh and Papua;

§ Reiterate its recommendation that those responsible for serious crimes, including crimes against humanity, in East Timor during 1999 are brought to justice;

**Israel and the Occupied Territories**

Israel=s repression of the Palestinian *intifada* since 29 September 2000 has been marked by systematic violations of international human rights and humanitarian law.

By March 2001, more than 1000 Palestinians had been killed. Israeli security services have killed Palestinians, including more than 200 children, unlawfully,

by shelling and bombing residential areas, random or targeted shooting, especially near checkpoints and borders, by extrajudicial executions and during demonstrations. IDF policy of deliberately targeting and extrajudicially executing those alleged to have carried out, or to be planning to carry out, violent attacks against Israelis breaches international law; during about 50 such targeted killings the IDF has killed at least 30 bystanders including 10 children.

Israeli security services have arrested more than 3000 Palestinians since the start of the *intifada*. Palestinians are frequently held for more than 20 days in incommunicado detention. Beatings by the security forces immediately after arrest and methods of interrogation amounting to torture and ill-treatment have been frequently reported. Amnesty International is also concerned about the use, in Israel and the Occupied Territories, of administrative detention to hold detainees without charge and with no intention of bringing the detainee to trial.

During the current *intifada* there has been large-scale demolition of Palestinian homes. A minimum of 3,000 Palestinians have thus been made homeless over the past 18 months, the vast majority of them children. Over the past 18 months, Israel has also intensified their policy of closures of towns and villages inhabited by Palestinians in the Occupied Territories. These closures constitute a grave human rights violation and a collective punishment targeted against all Palestinians in the Occupied Territories for killings committed by a few.

The Palestinian Authority has also committed human rights violations. The Palestinian Authority holds political detainees including more than 500 Palestinians suspected of collaborating with Israel without charge or trial and reports of torture and ill-treatment by Palestinian security forces continue to be received. In January 2001, the Palestinian Authority executed two Palestinians after a summary and unfair trial before the state security court; at least another seven Palestinians remain under sentence of death.

Palestinian armed groups systematically commit abuses against humanitarian law. More than 250 Israelis have also been killed, including over 200 civilians deliberately targeted by armed groups and individuals.

*Amnesty International calls on the Commission on Human Rights to:*

- \$ Adopt a resolution condemning the grave violations of human rights in Israel and the Occupied Territories;*
- \$ Support the urgent deployment of international observers to monitor, investigate and report on respect for human rights and international humanitarian law standards;*
- \$ Urge the Israeli government to respect international human rights standards governing the use of force and firearms, to stop using lethal force except to prevent imminent danger to life, to carry out prompt and impartial investigations into all killings and to bring to justice those responsible in the course of proceedings which meet international standards for fair trial;*
- \$ Call on Israel to cease carrying out demolitions of houses as punishment or in reprisal, and to remove physical barriers and other punitive restrictions on free movement of Palestinians within the Occupied Territories.*
- \$ Urge the Palestinian groups to end deliberate and arbitrary targeting of civilians;*
- \$ Urge the Palestinian Authority to bring to justice those responsible for unlawful killings in the course of proceedings which meet international standards for fair trial, and to immediately release all political detainees if they are not charged with a recognizable criminal offence and given a fair trial.*

***Russian Federation / Chechnya***

*Amnesty International remains concerned that both parties to the conflict in Chechnya continue to commit serious violations of human rights and international humanitarian law. Violations by Russian forces include arbitrary detention, detention in unofficial and secret places, torture and ill-treatment, disappearance and extrajudicial executions. During cleansing operations in towns and villages, Russian forces continue to arbitrarily arrest and use disproportionate force against civilians. Chechen fighters have also failed to take measures to avoid civilian deaths and are alleged to have tortured and killed Russian soldiers after their capture. Amnesty International is deeply concerned at the continued failure by the Russian authorities to ensure that all human rights violations are promptly and effectively investigated.*

Human rights concerns in the Russian Federation are, however, not confined to the Chechen Republic. Amnesty International continues to receive reports alleging that people arrested by the police, including women and children, have been subjected to torture and other cruel, inhuman or degrading treatment or punishment. Torture and ill-treatment are also widespread in the Russian armed forces, where a number of conscripts have died as the result of ill-treatment by fellow soldiers or superior officers. Amnesty International remains concerned that conditions in pre-trial detention centres and prisons are so harsh as to amount to cruel, inhuman or degrading treatment or punishment. It is reported that an average of 10,000 inmates die each year.

***Amnesty International calls on the Commission on Human Rights to:***

- § Adopt a resolution condemning the grave violations of human rights in the Russian Federation, including the Chechen Republic;
- § Establish an international commission of inquiry into allegations of grave abuses of human rights and international humanitarian law in the context of the armed conflict in Chechnya, and report back to the Commission in 2003;
- § Call on the government of the Russian Federation to take urgent steps to end torture and ill-treatment and establish systems to ensure prompt and impartial investigation into all allegations and to bring to justice those responsible.

***Saudi Arabia***

Amnesty International continues to be deeply concerned that the criminal justice system in Saudi Arabia is one that leads to serious and systematic violations of human rights and that this is sustained by the level of secrecy which surrounds the system. Systematic torture and ill-treatment in Saudi Arabian prisons and police stations continue to be reported and the authorities fail to ensure prompt and impartial investigations. As a party to the Convention against Torture, Saudi Arabia is obliged to bring its national legislation in line with the Convention, but as yet there is no unequivocal prohibition of torture in Saudi Arabian law. Amnesty International is also deeply concerned at the continued imposition of corporal punishments such as amputation, a form of torture, and flogging, which it considers may amount to torture or cruel, inhuman and degrading treatment.

During 2001, Amnesty International recorded 79 executions in Saudi Arabia. All were sentenced to death after trials which fall far short of international standards of fair trial. Amnesty International is particularly concerned about the lack of clarity in Saudi Arabian law relating to the obligation not to impose the death penalty on children.

In Saudi Arabia, law and custom facilitate discrimination against women, including through restricting their freedom of movement. Severe discrimination against women put them at increased risk of domestic violence. This is perpetuated by prevailing social conditions and tolerated by the state. Under international human rights law states have a responsibility to put in place effective measures to protect women from violence whether committed by state officials or by private individuals.

*Amnesty International calls on the Commission on Human Rights to:*

§ Adopt a resolution deploring the continued grave violations of human rights in Saudi Arabia, and calling for the undertakings made by the Saudi Arabian representative at the 2000 Commission on Human Rights to be put into immediate effect;

§ Call on the government of Saudi Arabia to ensure prompt and impartial investigations into all allegations of torture, and to adopt laws expressly prohibiting torture in accordance with the provisions of the Convention against Torture;

§ Urge the government to immediately suspend all executions pending total abolition of the death penalty;

§ Urge the government to abolish all discriminatory laws and practices against women, girls and minorities.

## **Zimbabwe**

The human rights situation in Zimbabwe has not previously been scrutinised by the Commission, despite the continuing systematic violation of fundamental human rights in that country. During the past year, Amnesty International has become deeply concerned that there is not only a clear pattern of widespread human rights violations, but a sharp escalation in the number of state-condoned

or facilitated arbitrary arrests, torture and intimidation. Recent investigations by Amnesty International reveal that the professionalism and impartiality of the Zimbabwe Republic Police, the country's security forces and the judicial system have been deliberately eroded by the government in order to ensure impunity for perpetrators of state-sanctioned human rights violations. Since November 2001 alone, Zimbabwean human rights groups estimated that there were 44 political killings and several hundred cases of torture.

Amnesty International is also concerned that the Zimbabwean authorities and their ruling party are using militia - comprised of land occupiers, so-called Awar veterans and supporters of the ruling Zimbabwe African National Union-Patriotic Front (ZANU-PF) party - as proxy forces to brutalize and displace farm workers and to assault members of the opposition Movement for Democratic Change (MDC) party. As of December 2001, up to 70,000 farm workers were estimated to have been assaulted and forced to abandon their homes by the militia. Amnesty International notes that while prosecution of members of the opposition has taken place, supporters of ZANU-PF who are alleged to have committed human rights violations are seldom investigated, rarely arrested and very rarely prosecuted.

*Amnesty International calls on the Commission on Human Rights to:*

\$ Adopt a resolution expressing its concern at the human rights crisis in Zimbabwe, and the systematic and widespread human rights violations that are being committed there;

\$ Urge the Zimbabwean government to undertake an investigation into all alleged human rights violations to bring the perpetrators of political killings, Adisappearances and torture to justice, with a view to ending impunity;

\$ Call on the government to comply with its international human rights obligations, including by taking effective and decisive action to stop its state-sponsored militias from intimidating and attacking opposition activists, farmers, farm workers and other Zimbabwean citizens.

## **THEMATIC CONCERNS**

### **The Death Penalty**

Amnesty International opposes the death penalty in all cases without exception and continues to demand unconditionally the worldwide abolition of the death penalty.

Amnesty International is concerned that various measures adopted or proposed by states in the aftermath of the 11 September attacks may violate or infringe upon a number of rights. The measures that pose risks specifically to the right to life are:

- § prescribing the death penalty for new, so-called Aterrorist@ crimes;
- § permitting trials for crimes for which the death penalty may be imposed to be conducted under procedures that violate standards of fair trial;
- § permitting the extradition of people charged with Aterrorist@ crimes to jurisdictions where they may face the death penalty.

Despite all states being parties to international treaties which prohibit the imposition of the death penalty for crimes committed by persons below the age of 18, Amnesty International recorded three executions in the past year of persons who were aged under 18 at the time of the offence. These executions took place in Iran, Pakistan and the USA.

***Amnesty International calls on the Commission on Human Rights to:***

- § Adopt a resolution which urges all states that have not yet abolished the death penalty to establish a moratorium on executions, with a view to completely abolishing the death penalty, while ensuring full application of the Safeguards guaranteeing protection of the rights of those facing the death penalty and other relevant international standards;
- § Call on states to ensure that anti-terrorist legislation does not prescribe the death penalty for so-called Aterrorist crimes@, and does not permit extradition of people charged with Aterrorist@ crimes to jurisdictions where they may face the death penalty;
- § Confirm that the imposition of the death penalty on persons under 18 years at the time of the offence is in contravention of customary international law.

**"Disappearances"**

Enforced disappearances constitute one of the most appalling forms of human rights violations. The draft International Convention on the Protection of All Persons from Enforced Disappearances would, if adopted, advance the international protection of victims of enforced disappearances in a substantive and novel way and provide a comprehensive and integral approach to address the problem. It 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 calls on the Commission on Human Rights to:*

§ Establish without delay an inter-sessional, open-ended Working Group of the Commission on Human Rights with a mandate to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance, which reflects the latest developments in international law and preserves and strengthens the current draft International Convention on the Protection of All Persons from Enforced Disappearances.

### **Racism**

Racism is an attack on the very notion of human rights that each and every human person's dignity and value should be respected. Amnesty International participated actively in the Third UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (World Conference against Racism), which took place in Durban, South Africa, on 31 August - 8 September 2001. Amnesty International is pleased to note that its concerns regarding racism in the administration of justice, the importance of fair trial proceedings, training of immigration and law enforcement officials and implementation of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, have been addressed in the Programme of Action. The organization urges governments to address, through other appropriate mechanisms, its remaining concerns, including the plight of the Dalits, as a group suffering from discrimination based on work and descent; the issue of overlap between racism and sexual orientation; and the impact of racism on the imposition of the death penalty.

*Amnesty International calls on the Commission Human Rights to:*

§ Adopt a resolution urging all governments to honour their international obligations to implement measures necessary to eradicate racial discrimination, including through adopting national strategies for the full and prompt implementation of the Declaration and Programme of Action of the World Conference against Racism;

§ Call on governments, in countries where the death penalty is still imposed, to investigate any disproportionate impact of the such penalty on racial groups and declare a moratorium on executions pending such investigations.

### ***Convention against Torture***

Fifteen years ago, on 26th June 1987, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment entered into force. Despite numerous commitments by all governments to ratify it, the Convention against Torture remains the least ratified of the six international human rights treaties with only 127 states parties. Amnesty International is calling on governments to use the occasion of the 15th anniversary to renew their commitment to the eradication of torture.

### ***Amnesty International calls on the Commission on Human Rights to:***

§ Adopt a resolution urging all states to ratify the Convention against Torture without reservations and to make the necessary declarations under Articles 21 and 22 as a matter of priority and preferably by the 26th June 2002, the 15th anniversary of the entry into force of the Convention against Torture;

### ***Draft Optional Protocol to the Convention against Torture***

A Working Group of the Commission on Human Rights has been meeting every year since 1992 to review the draft text of an Optional Protocol to the Convention against Torture, which would establish an expert body to carry out inspection visits to places of detention in order to prevent torture and ill-treatment. Amnesty International has actively participated in the Working Group and has noted that, while many states appear willing to negotiate a strong and effective protocol, a few states maintain objections on key provisions which could substantially weaken the text.

### ***Amnesty International calls on the Commission on Human Rights to:***

§ Give full support to the Working Group and ensure that a strong and effective Optional Protocol to the Convention against Torture is adopted.