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UN: Governments must act promptly and effectively on important human rights commitments in 2005 World Summit Document

Amnesty International welcomes the decision by members of the United Nations (UN) to adopt an Outcome Document at the 2005 UN World Summit that unambiguously acknowledges that human rights are one of the three pillars of the UN, along with development and peace and security. The recognition that human rights are central to the UN, as well as states' decision to double the regular budget resources of the Office of the High Commissioner for Human Rights over the next five years are long overdue concrete advances in human rights protection. Other positive outcomes of the Summit include the unqualified acceptance by all states of their collective international responsibility to protect people from genocide, war crimes, ethnic cleansing and crimes against humanity; strong commitments to end discrimination against women and impunity for violence against women; and the decision to further mainstream human rights throughout the UN system. These positive outcomes reflect the commitment of a growing number of states from all regions to improve the capacity of the UN to promote and protect human rights, also evident in one of the Summit's most important decisions: to create a Human Rights Council.

Governments must now rapidly and effectively implement the human rights commitments they have undertaken in the Summit's Outcome Document. Two human rights issues must have priority attention. One is the upward revision of the regular budget contribution to the Office of the High Commissioner for Human Rights at this session of the General Assembly. The other is the early establishment of the Human Rights Council. Millions of people throughout the world had expected world leaders convening for the 14 - 16 September Summit to create a strong, authoritative Human Rights Council. World leaders took the first step, to establish the Council, but left nearly all details to be negotiated by the General Assembly under the direction of its President.

The momentum of the Summit must not be lost. Amnesty International now calls on the General Assembly to establish the new Human Rights Council without delay. The new Council must have credibility in the eyes of the world and especially of those in need. It must preserve all the strengths of the Commission on Human Rights, but it must also be able to protect human rights with more authority, more credibility and more effectiveness than the Commission has done. Those governments that have been silent supporters of an improved UN human rights machinery must now stand up for human rights and speak out forcefully for a strong Human Rights Council in the General Assembly.

Summary assessment of the World Summit's human rights outcomes and recommendations for effective implementation of commitments undertaken

Amnesty International calls on governments and the UN to translate the human rights commitments in the Outcome Document into effective action and to remedy any shortcomings, and makes the following recommendations.

Strengthening the position of human rights in the UN system

The Summit document states that human rights, along with development and peace and security, are the three pillars of the UN, and recognizes they are interlinked and mutually reinforcing (9). Amnesty International believes that the obvious consequence of that recognition is that the new Human Rights Council should be established at the same level as the Security Council, the General Assembly and the Economic and Social Council (ECOSOC): namely as a principal organ. States also recommitted themselves actively to protect and promote all human rights and the rule of law (119). The Summit reaffirmed that all states, regardless of their political, economic and cultural systems, have the duty to promote and protect all human rights and fundamental freedoms (121) and also reaffirmed that they must do so without distinction of any kind (122). States decided to integrate the promotion and protection of human rights into national policies and to support the mainstreaming of human rights throughout the UN system (126).

Governments should support the creation of the new Human Rights Council as a principal organ of the UN;

Governments should announce their plans to integrate the promotion and protection of all human rights into national policies in their statements to the Third Committee of the General Assembly;

Governments and the UN Secretary-General must ensure that states' resolve to support further mainstreaming of human rights throughout the UN system is translated into concrete steps at all levels of the organization, including in decision-making, programming and planning of funds, programmes and agencies.

Strengthening the Office of the High Commissioner for Human Rights

Taking note of the High Commissioner's plan of action, world leaders decided to strengthen the Office of the High Commissioner for Human Rights (OHCHR) (124). The contribution from the regular budget to the OHCHR is currently substantially less than 2% of the total regular budget. The decision to double the regular budget contribution is a crucial first step to providing the High Commissioner with the resources she needs to work effectively both at headquarters and in the field.¹ Nevertheless this commitment falls far short of the doubling of the Office's overall resources that the High Commissioner had requested. The Summit also supported closer cooperation by the High Commissioner with all relevant UN Bodies, including the Security Council.

Governments must ensure that their resolve to double the OHCHR's regular budget resources within five years is translated into specific and substantial budgetary allocations when the UN budget is adopted in the Fifth Committee later this year. An upward revision of around US\$ 30 million over the first two years would be an appropriate start;

Furthermore, governments must continue to increase the OHCHR's overall budget resources – now standing at US\$ 90 million annually – with the aim of doubling these over the next five years;

The Security Council should invite the High Commissioner for Human Rights to brief the Council regularly on human rights issues and developments.

Creation of the Human Rights Council

For Amnesty International, the creation of a strong, more authoritative and effective human rights body was a touchstone for success of the Summit. The Summit decided to create a Human Rights Council with a mandate to address country situations that includes those with gross and systematic human rights violations (157-159). Nearly all details of the new Human Rights Council were left to the General Assembly for negotiation through an open, transparent and inclusive process led by the Assembly's President and to be completed as soon as possible during the Assembly's 60th session (160). The lack of definition of other essential elements of the Council in the Summit text is disappointing. However, Amnesty International welcomes the overwhelming support, evident in the Summit negotiations, among the vast majority of states for the creation of an effective, more authoritative Human Rights Council with a substantive mandate. That support must now be transformed into concrete action in the negotiation of details of the Council. Amnesty

International encourages governments to start their work as soon as possible and to base this on the elements of consensus identified during the negotiations. In establishing the Human Rights Council:

Governments must ensure that the Council is operational by February 2006;

Governments must ensure that they will create a new Human Rights Council that substantively improves the UN's promotion and protection of all human rights. The new body must:

meet regularly throughout the year;

have a mandate to address any matter relating to the promotion and protection of all human rights,

regularly examine the human rights record of all countries and deal effectively with urgent situations;

retain the strengths of the Commission on Human Rights, especially the unique rules and practices for participation by NGOs and its system of independent human rights experts, the "Special Procedures",

have electoral rules that effectively provide for genuine election of Council membership (precluding 'clean slates'²), that provide for election by a two-thirds majority of the General Assembly and that ensure that Council membership is effectively open to all members.

Having welcomed the positive contribution to the promotion and implementation of human rights programmes by NGOs (172), governments must now ensure that NGOs have full access to the open, transparent and inclusive negotiation process decided upon so that they can contribute to the Council's creation in a timely and effective manner.

Rule of law and peacebuilding

The rule of law is essential in the protection of human rights. It requires the full implementation of states' obligations under human rights treaties and other sources of international law. Amnesty International therefore welcomes states' recommitment to the active promotion and protection of human rights and the rule of law (119) and to fulfilling their obligations to observe and protect all human rights and fundamental freedoms for all in accordance with the UN Charter, the Universal Declaration of Human Rights, their treaty obligations and other international law (120). The Summit also calls on states to become parties to all treaties relating to the protection of civilians and to support the establishment of a rule of law assistance unit within the Secretariat (134, bullets 3 and 5).

Furthermore, the Summit decided to establish a Peacebuilding Commission to advise and propose integrated strategies for post-conflict peacebuilding and recovery (97-105). However, important details about the Commission's composition and reporting are also left to be decided by the General Assembly. Regrettably, states failed to make any provision for NGOs to contribute their expertise to realizing this body's potential to provide much-needed long-term international commitment and resources that can be crucial to creating peace and security and preventing states relapsing into conflict.³

On the 60th anniversary of the UN, every government should develop an action programme to ratify or accede to all international human rights treaties and protocols adopted within the UN system by a set date no later than 2015;

Governments must ensure that human rights and human rights institution-building are effectively integrated in the activities of the new Peacebuilding Commission, and support the early establishment of the rule of law assistance unit in the Secretariat to facilitate those efforts;

When deciding on operational details for the Peacebuilding Commission, the General Assembly must acknowledge the expert knowledge of NGOs to the Peacebuilding Commission and provide for their effective contribution to its work.

Responsibility to protect populations

For the first time, UN members have accepted their collective responsibility to act to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity if "national authorities manifestly fail" to act to protect them (139). The Summit's decision reinforces existing

responsibilities under customary and conventional international law, and reaffirms that human rights are a concern of the international community as a whole that transcends state sovereignty. Whether states will implement their newly established resolve, and how well they will do so, will depend on the political will of the permanent five members of the Security Council to act to prevent and halt perpetration of these international crimes in the future and of the willingness of the General Assembly to exercise its powers under the UN Charter. Security Council members failed to do so in Rwanda and, more recently, to act promptly and decisively on Sudan, when governments put politics once more above human rights. Amnesty International regrets that some permanent members of the Security Council opposed the proposed invitation to all permanent members of the Security Council to refrain from using their veto in cases of these grave crimes under international law.

Amnesty International calls on permanent members of the Security Council not to exercise their veto when addressing situations of genocide, war crimes, ethnic cleansing and crimes against humanity.

The absence of calls to end impunity and to support the International Criminal Court

It is unjustifiable that a document of such historic importance as the Summit Outcome Document can exclude any reference to the need to end impunity for crimes under international law and a call for support for the International Criminal Court (ICC). This happened because one country refused to agree to any mention of the ICC in the document. Amnesty International welcomes the strong commitment to ending impunity and support for the ICC expressed by numerous states during the negotiations.

Amnesty International calls on states to stand firm in their support for the ICC and other international tribunals, to extend effective cooperation and support to them, and to continue to express this support in forthcoming resolutions of the General Assembly and other UN bodies.

Amnesty International calls on states that have not yet done so to ratify the Rome Statute of the ICC and the Agreement on Privileges and Immunities of the ICC and to implement these effectively in national law.

Terrorism

Amnesty International fully supports the strong condemnation of "terrorism" committed by whomever, wherever and for whatever purposes. The condemnation applies to terrorism committed by anyone, including states and their agents (81). However, Amnesty International regrets that this section of the Summit Outcome Document was weakened by failure to acknowledge that the deliberate targeting and killing of civilians cannot be justified under any circumstances. The Outcome Document adds little of substance to existing language in other UN texts and provides no definition of terrorism, which facilitates some states using the label of 'terrorism' for a wide range of conduct that is protected under international law. A positive outcome is that provisions on the need to protect human rights in the fight against terrorism were strengthened. This is particularly important for the drafting of a comprehensive convention on international terrorism during the 60th session of the General Assembly to which states also committed themselves in the Outcome Document. Paragraph 85 unambiguously requires that states *must* ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law. This leaves no doubt about their obligation to do so.⁴

Amnesty International calls on all states to review their laws and practices to ensure that all measures to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law.

The Counter-Terrorism Committee of the Security Council should regularly request all countries to report on how they are implementing the requirements of paragraph 85, on the progress made and the difficulties they encountered.

Sanctions lists

The Outcome Document includes a weakly-worded call on the Security Council, with the support of the Secretary-General, to ensure that "fair and clear procedures" exist for placing individuals and entities on

sanctions lists and for removing them. This is a modest improvement upon the existing situation, but a call for legal safeguards for individuals and entities placed by the Security Council on "sanctions lists" would have been better.

Amnesty international calls on the Security Council to ensure, and on the Secretary-General to advise, that the above listing and de-listing provisions will be transparent and will meet international standards for due process.

Gender, equality and violence against women

Among the Summit's key achievements is the strong language on gender issues. In particular, the focus of the Millennium Development Goal on gender equality was expanded to include calls for ending impunity for violence against women and girls, for guaranteeing the right to women to own and inherit property, and for ensuring equal access to reproductive health (58). It also commits states to fully and effectively implement Security Council resolution 1325 on women, peace and security (116), and to repeal laws and practices that discriminate against women (134 (d)). Amnesty International calls on states to:

Undertake an immediate review of laws that may discriminate against women, repeal those that do discriminate and take concrete action to guarantee the right of women to own and inherit property;
Promote and protect the sexual rights and reproductive rights of all women, including their right to have control over and decide freely and responsibly on matters related to their sexuality;
Ensure the full and effectively implementation of Security Council resolution 1325.

Arms transfers

Although the Summit document supports implementation of the 2001 UN programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (94), Amnesty International regrets that world leaders failed to seize the opportunity of the Summit to agree to develop a legally binding international instrument on arms transfers in accordance with states' obligations under international law. There is growing international support for an Arms Trade Treaty to help curb the flow of arms to those using them to commit abuses of human rights and international humanitarian law.

Amnesty International calls on states to develop a legally binding instrument – an Arms Trade Treaty -- to regulate the transfer of arms in accordance with states' obligations under international law, including human rights and humanitarian law.

Other positive human rights results

The Summit Outcome Document also calls on states to prevent and criminalize the recruitment of children in armed conflict contrary to international law (117) and to pay priority attention to becoming a party to the Convention on the Rights of the Child (142). States also decided to take effective measures to better protect internally displaced persons taking the Guiding Principles on Internal Displacement as an important international framework (132), committed to safeguard the principle of refugee protection (133) and reaffirmed their determination to take measures to ensure that the human rights of migrants, migrant workers and their families are protected (62). Many development objectives in the Outcome Document are aimed at the realisation of the rights to education, the right to the highest attainable standard of health and other measures aimed at freedom from want, but, regrettably, the document fails to acknowledge their human rights foundations.

Notes

1. The regular budget contribution to the OHCHR for 2004-2005 is US\$60.6 million. Voluntary contributions for the same period amount to approximately US\$105 million.
2. 'Clean slates' is the practice by which regional groups determine membership from their region by putting up the same number of candidates from the region as there are seats to be filled by that region.
3. The crucial role which NGOs play in post-conflict and peace-building work was underlined by the World Bank in its 2005 Annual Report (page 18) which stated: "Since 1998 the Post-Conflict Fund has also approved US\$71.2 million for 142 grants in 38 countries and territories. Most of these grants are implemented by civil society organizations and

United Nations agencies.”

4. Previous UN texts had used weak compromise language requesting states that they merely *should* comply with these human rights standards.

Background

The numbers in brackets refer to paragraphs in the 2005 World Summit Outcome Document (A/60/L.1), adopted by over 170 Heads of State and Government meeting in New York from 14 – 16 September 2005 at the 2005 World Summit taking decisions on development, security, human rights and reform of the United Nations. The President of the 59th session of the General Assembly produced a series of draft outcome documents for the Summit, based on wide-ranging informal consultations with governments on proposals made in March 2005 by UN Secretary-General Kofi Annan in his report *In larger freedom: towards development, security and human rights for all* (A/59/2005 of 21 March 2005) .

Amnesty International has followed the negotiating process closely and made detailed proposals to strengthen the human rights provisions of the Outcome Document, including on the proposed Human Rights Council.

Shortly before the Outcome Document was adopted, Amnesty International made last-minute appeals to strengthen the text (See: *UN Summit: Human rights betrayed by a failure of leadership*, 12 September 2005 (IOR 41/059/2005) *Governments must stop race to the bottom*, 9 September 2005, and *Amnesty International calls on all governments to overcome obstacles and agree to adopt strong human rights provisions in outcome document* 9 September 2005 (IOR 41/058/2005).

Amnesty International also made detailed comments on successive draft outcome documents prepared by the President of the General Assembly in preparation for the Summit, see: *Amnesty International welcomes strengthened human rights provisions in latest draft text for September Summit: continues to call for further improvements*, 9 August 2005 (IOR 41/052/2005); *Proposed Human Rights Council must not be stripped of its essentials*, 4 August 2005 (AI Index: IOR 40/024/2005); *UN reform: Comments and recommendations on second Draft Outcome Document for September Summit*, 26 July 2005 (IOR40/021/2005); *UN reform: Draft Outcome Document fails to recognize the primacy of human rights*, 3 June 2005 (AI Index: IOR 40/012/2005).

For background information on the issues AI has focused on during this process, see: *2005 World Summit: Unique opportunity to strengthen the three pillars of the United Nations – development, security and human rights* (IOR 41/050/2005).

For a detailed assessment of the need for a Human Rights Council see: *Meeting the challenge: Transforming the Commission on Human Rights into a Human Rights Council* (AI Index IOR 40/008/2005) April 2005.