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Americas: Security for all means human rights for all

Real security can only be achieved through full respect for the human rights of all, Amnesty International warned today as Ministers of Defence from all over the American continent meet in Santiago, Chile, to discuss regional security.

In the aftermath of the 11 September attacks in the USA and in the face of the serious regional ramifications of international drugs trafficking and the Colombian conflict, governments in the Americas are coming under increasing pressure to adopt measures to ensure national and regional security.

"Action taken region-wide to respond to these serious challenges to security has raised grave human rights concerns, and appears to be based on the premise that the basic human rights of individuals can legitimately be sacrificed in the name of collective security," Amnesty International said.

"This is a false assumption and a dangerous one. Far from being incompatible, security and human rights are complementary. Undermining individual rights and freedoms can only exacerbate insecurity and political volatility," the organization warned.

Amnesty International insisted that human rights, as enshrined in UN and Inter-American treaties, must be the cornerstone of national and regional security policies, and that strict human rights conditions should also apply to all agreements of cooperation between countries, including the transfer of military aid.

The organization stressed that the Inter-American Convention against Terrorism, adopted at this year's Assembly General of the Organization of American States, contains provisions for the respect of international human rights, humanitarian and refugee law.

Amnesty International highlighted its concern about the spiralling conflict in Colombia -- where recently introduced security measures are placing civilians in ever greater danger -- and the repercussions this is having on neighbouring countries such as Ecuador, Venezuela, Peru, Panama and Brazil, with the arrival of growing numbers of refugees and incursions by armed actors across the borders.

"Protection for human rights of the civilian population must be at the heart of any plan to solve the conflict," Amnesty International said, urging the region's representatives to put pressure on the Colombian government to make sure this was the case, and to refrain from sending any military aid to Colombia in the absence of clear human rights guarantees.

"The full investigation of human rights violations committed in the past, and the prosecution of those responsible, is crucial to ensure a peaceful and secure future for the region," Amnesty International added, calling on the region's defence ministers to state their commitment to uphold the rule of law and human rights, and to remove all obstacles to the investigation of cases implicating military personnel or those acting with their support or acquiescence

Amnesty International also reiterated its call for armed opposition groups to respect international humanitarian and human rights law.

Amnesty International has repeatedly expressed concern about the human rights implications of security policies and about the role of the military in some countries across the region. Examples include:

Anti-terrorism measures taken in the aftermath of the attacks on 11 September 2001

In the USA, more than 1,200 people -- mainly non-US nationals -- were detained during investigations into the attacks. The detentions were surrounded by extreme secrecy and there have been reports of incommunicado detention and ill-treatment. Human rights concerns raised by the sweeping "anti-terrorism" legislation passed by Congress were compounded by the establishment by Presidential military order of special military commissions for the trial of non-US nationals suspected of "terrorism". These courts would create a "second class justice system" for foreign nationals as they would expressly flout some of the basic guarantees prevailing under international standards and in the US justice system. The USA has also shown blatant disregard for the Geneva Conventions by refusing to grant "prisoner of war" status to people captured during the war in Afghanistan -- some 600 of whom are held at the US Navy Base at Guantánamo Bay, Cuba - while at the same time denying them the basic rights awarded to criminal suspects under US and international law, including access to lawyers and families.

Anti-terrorism criminal legislation recently passed in Guyana adopts a definition of terrorism so broad that there is a risk it will end up criminalizing peaceful activities and infringing rights including freedom of thought, conscience and religion, expression and assembly. Even more worrying is the extension of the scope of application of the death penalty to acts of terrorism which resulted in the death of any person, and the provision that the same penalty shall be applied to anyone who "conspires, attempts to commit, or advocates, aids and abets, advises or incites or knowingly facilitates the commission" of such acts.

In Canada, the Anti-Terrorism Act was adopted in December. Although the Act focuses on bringing individuals accused of certain offences to justice, there were concerns that it undermined the right to a fair trial and might disproportionately impact on certain ethnic and religious communities.

In Peru, the political climate fostered by the post-11 September war on terrorism has hindered much-needed reform of the existing anti-terrorism legislation, passed in 1992 during the government of Alberto Fujimori, which over the years has resulted in serious human rights violations including torture, unfair trials and the imprisonment of hundreds of people on unsubstantiated terrorism charges.

The international climate created by the "war on terrorism" declared after the 11 September 2002 has facilitated the switching of military aid originally intended to combat drugs to counter-insurgency use. Amnesty International is concerned that the US State Department is continuing to approve military aid to Colombia despite the lack of guarantees that it will not contribute to human rights violations.

Measures taken in the context of the war on drugs

In Bolivia, the US-sponsored government policy of forced eradication of coca-leaf crops has led to increasingly violent confrontations between peasants and members of the security forces, especially in the region of El Chapare which has the biggest concentration area of coca-leaf crops in the country. Over the years, lack of feasible alternative development in the region, coupled with increased militarization, has provoked further protests and ensuing confrontations, in which ten coca leaf and five members of the security forces have been killed since 2001. While US funding for Bolivian security forces is conditioned on the human rights record as established in the Leahy Amendment to the foreign aid and defense appropriations legislation, Amnesty International is concerned that conditions to fulfil the Leahy Amendment do not seem to be in place in Bolivia. In Ecuador, fumigations taking place in southern Colombia in the context of US-backed "Plan Colombia" poses a serious threat to the health and livelihood of communities living across the border in Ecuador. Many members of these communities have decided to leave the area as a consequence.

In Mexico, the military has played an increasing role in anti-narcotics policing operations (as well as counter-insurgency activities) in a number of states, amidst continuing reports of human rights violations including arbitrary detentions, torture, and - to a lesser extent - unlawful killings and "disappearances".

Conflict

After the collapse of peace talks between the Colombian government and the country's main armed opposition group, the Revolutionary Armed Forces of Colombia (FARC), violence has intensified throughout the country, with the civilian population exposed to increasing levels of abuse at the hands of both parties to the conflict. In September 2002, President Álvaro Uribe introduced emergency measures which Amnesty International fear will have serious repercussions on the human rights of civilians. Their purported aim is to combat illegal armed groups by making it impossible for them to hide among the civilian population. Although the measures are aimed at both guerrilla groups and paramilitaries, continuing reports of collusion between the security forces and paramilitary groups raise doubts about the seriousness of the authorities' intentions to combat them. Amnesty International is concerned that these measures will facilitate human rights violations against civilians by the security forces and their paramilitary allies. Under these provisions, the security forces will be allowed to detain and hold suspects without a warrant for up to 24 hours, and carry out house searches without a warrant. Although these powers are limited to situations of urgency and cases in which "a fundamental right is in grave or imminent danger", there is a risk that the security forces will determine the existence of such conditions whenever it is convenient or necessary to cover up human rights violations. These measures also allow the security forces to tap phones and intercept communications if authorised by a judge, either in writing or verbally -- a practice that in the past has facilitated abuses against human rights defenders. Further concerns are raised by the creation of "areas of rehabilitation and consolidation" in which the security forces will be under the operational control of a military commander. The first two zones were created on 21 September, the first covering parts of the department of Arauca, and the second, Bolívar and Sucre Departments. In these areas, in order to re-establish constitutional order or territorial integrity, or to protect the civilian situation, the military commander in charge will have the power to: restrict freedom of circulation and residence; collect, verify and file information about residents and visitors as well as about any weapons, ammunition, telecommunications systems or vehicles in the area; detain for up to 24 hours anyone found without personal identification. Independent monitoring of the human rights situation in the areas of rehabilitation and consolidation will be made more difficult by provisions requiring any foreign nationals wishing to visit them to obtain special permission from the local Governor, or, if such an area covers more than one department, from the Ministry of Interior. All foreign nationals not complying with these provisions could be expelled. This could facilitate the building of a wall of silence behind which human rights violations can be committed away from the scrutiny of international NGOs.

Impunity

Amnesty International is concerned that, in a number of countries in the region, the military is hindering efforts to establish the truth and obtain justice in cases of human rights violations. Action taken to this end includes putting pressure on individuals and institutions bringing about investigations and insisting that such cases be tried in military courts, in breach of international standards which require cases of human rights violations to be tried by ordinary civilian justice. Cases include:

In Argentina -- where the unconstitutionality of the two amnesty laws (Due Obedience and Full Stop Law) which guarantee impunity for human rights violations committed during the military governments is being examined by the Supreme Court -- the Minister of Defence has recently made statements on the possible effects of a ruling of unconstitutionality which amount to undue pressure on the Court.

In Mexico, military jurisdiction remains a serious obstacle to the investigation of human rights violations implicating members of the armed forces. On 10 December 2001, the Mexican Government ratified the Inter-American Convention on Forced Disappearance of Persons with a reservation meaning that cases of "disappearance" involving military agents will continue to be heard in military tribunals, which have consistently provided impunity for members of the armed forces accused of human rights violations. The UN and Inter-American Commission on Human Rights have repeatedly criticised the persistent failure of military tribunals to bring to justice members of the military involved in human rights violations and UN Special Rapporteurs have expressed serious concerns in successive reports about levels of impunity within the military justice system.

In Peru, the handing over in recent months of prominent human rights cases involving military personnel (including the killing of members of the MRTA in the operation to rescue hostages from

the Japanese embassy in Lima in 1997) to military courts raised doubts as to the independence of such courts and their ability to deliver justice in these cases.

In Chile, the 1978 Amnesty Law continues to be one of the main obstacles still hindering the course of justice for past human rights violations. This law was described by the Inter-American Commission on Human Rights as incompatible with Chile's obligations under international law, and is a major stumbling block on the road to obtaining truth and justice -- a vital element to reach true reconciliation and preventing similar tragedies from ever happening again.

In Guatemala, where the military were responsible for massive human rights violations during the country's long-running conflict, only a handful of members of the armed forces have been brought to trial. In October, an appeals court overturned convictions passed against two members of the army for the 1998 murder of Bishop Gerardi. Massive military displays of support for their colleagues standing trial for the murder of Bishop Gerardi and that of anthropologist Myrna Mack in 1990 appear to have exacerbated prevailing tensions in Guatemalan society.

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For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566

Amnesty International, 1 Easton St., London WC1X 0DW. web: <http://www.amnesty.org>

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