

1997 UN Commission on Human Rights - 50 years old

“A hard look should be given to achieving the laborious nature of consensus decision-making, which frequently rests on the lowest common denominator”.

Ambassador Razali Ismail, President of the 51st session of the General Assembly 1996¹

INTRODUCTION

Two human rights anniversaries will be celebrated in 1997 and 1998. The first is the 50th anniversary of the UN Commission on Human Rights (the Commission), which held its first session in 1947. The second is the 50th anniversary of the Universal Declaration of Human Rights, which the General Assembly adopted and proclaimed in 1948 “as a common standard of achievement for all peoples and all nations”. Together these anniversaries provide the Commission with an excellent opportunity to consolidate past work and to consider how it will respond creatively to the human rights challenges in the decades ahead. The present human rights system, with its extensive body of international human rights standards and wide range of mechanisms, represents a considerable achievement over the past 50 years and yet there remain serious shortcomings which continue to undermine the Commission’s effectiveness. This is most notable in the area of implementation, where states all too often refuse to comply with the recommendations of the various mechanisms and decisions of the Commission.

Amnesty International as a worldwide movement works to prevent some of the gravest human rights violations wherever they occur. The organization does not grade countries according to their human rights record but concentrates on ending specific violations. This year Amnesty International is calling on the Commission to act in particular on **five** country situations where there is a pattern of persistent, severe and systematic violations of human rights. These are: Algeria, Colombia, Indonesia/East Timor, Nigeria and Turkey. The organization has brought the serious human rights situation in all five countries to the attention of the Commission at previous sessions. The fact that Amnesty International will be campaigning on these five countries does not mean the organization will ignore other countries where there are gross violations of human rights. Amnesty International will also pay particular attention to the following theme issues at the Commission: the draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture), the draft Declaration on human rights defenders, the human rights of women, and the review of the *Vienna Declaration and the Programme of Action* and the 50th Anniversary of the Universal Declaration of Human Rights. In addition, Amnesty International is calling for an agenda item which examines states’ cooperation and progress on implementing recommendations made by the Commission and its human rights mechanisms.

In this document Amnesty International summarizes the severity of the human rights situation in each of the five countries and the extent to which the five governments cooperate with the United Nations human rights machinery and other relevant intergovernmental fora.

¹ Statement to the plenary meeting, Tuesday 17 September 1996.

The end of the cold war and fundamental changes in the former USSR enabled the Commission to deal with human rights concerns it had been unable to respond to because of the east/west conflict. For a time it seemed that the Commission would become more active in its scrutiny of states' human rights records and that states committing serious human rights violations would find it more difficult to escape investigation. Yet states with appalling human rights records continue to escape serious scrutiny by the main body in the UN system charged with monitoring human rights. Member states of the Commission often refuse to take the necessary action because it conflicts with their own perceived economic, political or security interests. By disengaging from their responsibility to address human rights violations in favour of their own self-interest, states weaken not only the principle of multilateralism and universal human rights standards which should be upheld, but also the United Nations itself. Even when the Commission does act, the language of its resolutions is all too often diluted and inappropriate to the human rights situation.

All too often the Commission's inadequate response is a direct result of an over emphasis on consensus decision-making² resulting in consensus resolutions which do not reflect the seriousness of a particular human rights situation as reported by the human rights mechanisms, treaty bodies and other reliable sources. The Commission should appraise each human rights situation in accordance with the international human rights instruments governments have elaborated over past decades. These internationally agreed standards are themselves the outcome of intense and prolonged negotiations prior to their adoption by the General Assembly. Given that these universal standards are the product of the international consensus on human rights, states must abide by them and ensure that their national laws are in conformity with them. The Commission has a duty to call states to account if they violate these rights. As recently as 1993 states reaffirmed the principle of universality in the *Vienna Declaration and Programme of Action* which was adopted at the World Conference on Human Rights:

“Emphasizing that the Universal Declaration of Human Rights, which constitutes a common standard of achievement for all peoples and all nations, is the source of inspiration and has been the basis for the United Nations in making advances in standard setting as contained in the existing international human rights instruments, in particular the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.”

While many resolutions on uncontroversial thematic issues or on countries which have few powerful allies do embody a genuine consensus based on universal principles, too many resolutions reflect nothing more than the lowest common denominator devoid of content and significance.

Amnesty International believes that consultation and cooperation at the Commission are desirable providing they reinforce states' compliance with universally accepted standards and condemn violations of them. In this regard there are four basic issues to be addressed. First, an argument made by states which champion consensus decision-making is that states will more readily comply with a request from the Commission if they are part of that decision-making process. At face value this line of reasoning has merit but it is necessary to evaluate whether consensus texts do in fact

² At the last session of the Commission on Human Rights 91 out of 99 resolutions were adopted without a vote. Statement by José Ayala Lasso, United Nations High Commissioner for Human Rights, to ECOSOC, 22 July 1996.

improve a human rights situation. The Commission should, therefore, agree a mechanism by which a state's compliance with consensus decisions can be evaluated. The desire to reach a consensus should not, however, become a goal in itself. Second, the Commission is not a forum for negotiating the facts of human rights violations. The Commission must base its actions on the findings of its own thematic and country mechanisms, human rights treaty bodies and other reliable sources. Third, regional groups of member states often devote much time and energy to the adoption of a common group position. Once the group has reached a decision with regard to one of its members, the group closes ranks in the name of regional solidarity and protects its members from adverse criticism by the Commission. A clear example is that of the European Union (EU) - a group within the Western and Others Group. The 15 member states of the Union can take weeks, if not months, to consult amongst themselves before arriving at their position. Once there is an agreed position it is very difficult for the state holding the Presidency of the Union to amend it in order to respond to a change in the situation. The EU and other western countries, as with other regional groups, protect their allies because of its own perceived political and security interests. Thus, western group solidarity has allowed Turkey to avoid international scrutiny despite well documented human rights violations by the UN's own expert and thematic mechanisms. This propensity for "groupism" prevents the Commission from making an objective assessment of a human rights situation and taking appropriate action. Fourth, the Commission, as the foremost UN human rights body, has a duty to uphold universal human rights standards and unequivocally denounce violations of them. The search for consensus must not allow a few states to bar effective action by the Commission. If the Commission fails to condemn gross human rights violations wherever they occur it undermines its credibility as the UN's main human rights body.

So-called consensus decision-making has also seriously hampered the drafting of international instruments. The draft Declaration on human rights defenders has been 12 years in the making. Throughout the drafting process a small minority of states has successfully blocked agreement and sought to weaken the text to such an extent that the purpose for which it was originally intended is now in doubt. Unfortunately this is not an isolated case; there are, for example, similar problems in the Working Group drafting the Optional Protocol to the Convention against Torture. In many cases it is the same small group of states which seeks to undermine the effectiveness and timely adoption of these international instruments.

The outside world does not understand why the highest human rights body in the UN system - the Commission on Human Rights - fails to act decisively against those governments which suppress the rights they are legally bound to uphold and protect. Nor does it understand why years must pass before states can reach "consensus" on the drafting of international instruments. By failing to act promptly and appropriately the Commission risks becoming irrelevant to the problems in the real world. It is time for the Commission to demonstrate that its debates and resolutions do matter, that they do make a difference.

A principal function of the Commission is to monitor both the implementation and the violations of human rights standards. To do this, the Commission has developed a broad range of mechanisms including country and thematic experts. These mechanisms provide the Commission with facts, analysis and recommendations on specific issues and situations. In the report of the meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures and of the advisory services programme of the Commission, it was suggested that

“in order to enhance dialogue and feedback between the special procedures’ experts and the Commission, ancillary meetings for in-depth discussion between mandate holders and the participants in the Commission should be organized, announced in the order of the day and provided with interpretation during Commission sessions”.³

The Commission can also draw on the reports from the various treaty bodies. Such reports provide valuable information on how states comply with their treaty obligations - obligations which a state has freely undertaken to implement upon becoming party to the treaty. Recommendations made by a treaty body to a state party can, therefore, be a useful complement to the Commission’s own reporting system.

It is, however, a matter of serious concern to Amnesty International that the Commission frequently chooses to ignore independent information provided in the reports of its own mechanisms and those of the treaty bodies. The Commission has, for example, ignored the clear public report by the Committee against Torture issued in 1993 that “torture is systematically” practised in Turkey. The Commission has not even acted on the reports of its own Working Group on Enforced or Involuntary Disappearances which has documented substantial numbers of “disappearances” in Turkey. It remains to be seen whether the Commission when considering the grave human rights situation in Nigeria will take into consideration the recommendations made by the UN Human Rights Committee in July 1996.⁴

In cases where the Commission has acted there is a need to build on the Commission’s response and not retreat from it, as it has done in the case of Indonesia/East Timor. In 1993 the Commission adopted a resolution on East Timor with which the Government failed to comply. The Indonesian Government also failed to act on all but two of the recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions. Despite this failure, the Commission did not condemn the government for failing to implement the resolution but instead retreated by adopting weak statements from the Chairperson of the Commission in 1994, 1995 and 1996. In December 1995, José Ayala Lasso, UN High Commissioner for Human Rights (the High Commissioner), visited Indonesia but this visit does not appear to have enhanced the Indonesian Government’s cooperation with the Commission.

Nigeria is yet another example of a state which refuses to cooperate with the Commission. Seven months after the Commission’s adoption of a consensus resolution the Nigerian military government has not allowed the joint visit by two thematic special rapporteurs to take place. One of the arguments made by those who urge that the Commission work by consensus is that the violating state will more readily comply with the Commission resolution. The Commission found this argument convincing at its last session when it examined the deteriorating human rights situation in Nigeria. The original draft resolution on Nigeria called for the appointment of a special rapporteur but this proposal was withdrawn in order to reach a consensus on a text which called on two thematic special rapporteurs to visit the country. As the Nigerian Government continues to remain

³ E/CN.4/1997/3, para 72

⁴ Concluding Observations of the Human Rights Committee, CCPR/C/79/Add.65.

uncooperative and refuses to implement the Commission's resolution, the Commission must take firm and appropriate action.

The Commission's thematic mechanisms may request to visit particular countries but such requests are all too often denied or simply ignored, even by members of the Commission. This failure to cooperate must be addressed at the yearly meeting of the special rapporteurs, representatives, experts and chairpersons of working groups of the special procedures and the advisory services programme of the Commission. Within the Centre for Human Rights a procedure should be established for collating requests for country visits and government responses. Based on this information the High Commissioner should provide an annual report to the Commission on the status of requests made by the various mechanisms and make recommendations concerning those countries which decline requests or do not reply to requests for visits.

Amnesty International believes that reports from the High Commissioner and the annual meeting of special rapporteurs, representatives, experts and chairpersons of working groups of the special procedures of the Commission should be considered under a separate item. This would enable the Commission to better consider progress made in implementing recommendations made by mechanisms under the agenda items dealing with gross violations⁵ of human rights and the advisory services programme.⁶ In addition, the Commission needs also to follow-up on the country visits by human rights mechanisms which have taken place.

Over the years the Commission has developed a number of ways of dealing with serious human rights violations in countries around the world. The Commission can, for example, adopt a country-specific resolution, the Chairperson of the Commission can make a statement on the situation or, in a few cases, the country concerned may issue a statement, acknowledged by the Chairperson, on the action it will take to address the human rights concerns raised by the Commission. Amnesty International believes that as a rule country situations should be dealt with through the adoption of resolutions. The purpose of a country-specific resolution is to draw attention to human rights violations, call for change in order to prevent future violations, and follow-up government implementation of the Commission's requests. There are, however, states which consider that country resolutions are not always appropriate for dealing with complex and politically sensitive human rights situations. It is, in part, for this reason that the Commission developed a system of statements from the Chairperson. Such statements, however, are problematic for all too often they fail to reflect the true human rights situation in the country. The only exception to this is the Chairperson's statement on Colombia in 1996 which did highlight the grave human rights situation in the country including extrajudicial executions, "disappearances" and torture. Statements from the Chairperson are drafted by a small group of states and negotiated with the country concerned leaving other states out in the cold - excluded from what should be an open and frank discussion about the human rights situation in a particular country.

⁵ Agenda item 10.

⁶ Agenda item 18.

The Commission's agenda developed on an *ad hoc* basis, has now become so cumbersome that restructuring and rationalization is inevitable; the only question is when? Amnesty International believes that the Commission can do its work more efficiently. During a single session too many hours are wasted due to long unfocussed statements and meetings which often fail to start on time. Greater self-discipline by participants in the Commission coupled with a clustering of similar agenda items would allow the Commission, *inter alia*, more time to follow-up on the recommendations of its own human rights mechanisms and past resolutions. To this end the Commission should seek support and cooperation from the NGOs. At a time when the General Assembly is examining ways of greater involvement of "civil society" the Commission should also find new ways of enhancing the role of NGOs in its work. NGOs monitor states' compliance with international standards. NGOs promote institutional change and challenge failed institutions in the interest of human rights. NGOs have a multitude of connections - multilateralism at the grassroots - which go far beyond the normal diplomatic relations of states. Their expertise, commitment and knowledge of human rights violations in countries around the world are an invaluable resource to the Commission.

In its 50th year and the penultimate year before the 50th anniversary of the 1948 Universal Declaration of Human Rights, the Commission should evaluate its own shortcomings and seize the opportunity to become a more effective human rights body. In addressing current human rights challenges the Commission needs to refine and develop procedures and mechanisms which will be effective in reducing the level of violations and at the same time promote a culture of human rights in a particular country. It is the implementation of universally agreed human rights which now challenges the Commission. Future generations will not understand if the Commission turns its back on the real world and continues with "business as usual".

ALGERIA

After the cancellation of the second round of elections and the imposition of the state of emergency in 1992, the human rights situation in Algeria has deteriorated into a cycle of gross human rights violations and abuses by both security forces and armed opposition groups. In the past five years up to 50,000⁷ people are reported to have been killed. Many have died in armed clashes between security forces and armed opposition groups but thousands of victims have been civilians who have no involvement with the armed confrontation.

As early as March 1992 the UN Human Rights Committee expressed its concern about members of the police using firearms to disperse demonstrations as well as the numerous cases of torture and ill-treatment which had been brought to its attention. The Committee drew the Algerian Government's attention to the fact that the International Covenant on Civil and Political Rights (ICCPR) does not permit derogation from certain rights even in times of emergency and that, therefore, any violations relating to torture and the right to life should not be allowed to continue.⁸ Since 1992 Amnesty International has repeatedly called on the Algerian authorities to take the necessary measures to ensure that allegations of human rights violations are investigated and that further violations are prevented. The organization also continues to call on armed opposition groups to end human rights abuses.

The security forces have increasingly resorted to extrajudicial executions of known or suspected members of armed opposition groups or as a punitive measure against people suspected of having links with, or having assisted or failed to denounce, armed opposition groups. Unarmed civilians have been shot dead by the security forces in or near their homes, sometimes in front of their families and neighbours. Others have been extrajudicially executed after being arrested or detained. Extrajudicial executions are also reported to have been used by the security forces as an alternative to arrest. The Special Rapporteur on extrajudicial, summary or arbitrary executions has expressed his concern about the climate of violence that reigns in the country in view of the numerous allegations he has received of summary executions by the security forces.⁹ In November 1993 the Algerian Government invited the Special Rapporteur to visit the country¹⁰ but unfortunately he has not yet been to suggest dates for a possible visit.¹¹

In February 1995 at least 96 detainees and five prison guards were killed in Serkadji Prison. The authorities stated that the detainees were killed when the security forces intervened to quell a revolt. Other sources alleged that many of the detainees were extrajudicially executed, some of them

⁷ Conservative estimates put the number of those killed at 50,000 while other sources put the number of those killed at closer to 80,000.

⁸ Report of the Human Rights Committee 1992, A/47/40.

⁹ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, E/CN.4/1996/4

¹⁰ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, E/CN.4/1994/7, para 110.

¹¹ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, E/CN.4/1995/61, para 28.

after they returned to their cells. An inquiry by the official human rights body, the *Observatoire national des droits de l'homme* (ONDH), failed to investigate the circumstances in which the detainees were killed. The ONDH claimed that the victims had been photographed before being buried but their families and lawyers but Amnesty International and others were all refused their requests to see the photographs. The list of detainees killed was not made public and there was no independent investigation. Amnesty International was also refused access to the prison to investigate the allegations.

Torture, which had been virtually eradicated between 1989 and 1991, has become widespread and systematic in police and gendarmerie stations and military security centres. Torture and ill-treatment seem mainly to be used to obtain confessions during secret detention which is often prolonged for many months. The most commonly-reported method of torture is the "*chiffon*". The detainee is tied in a horizontal position to a bench and cloth is inserted into his or her mouth; the victim's nose is held closed and a mixture of dirty water and chemicals is poured into the mouth in such quantities as to cause choking and swelling of the stomach. Another method is the "*chalumeau*" which requires the use of a blowtorch to burn the face and other parts of the detainee's body.¹² Other torture practices include the use of electric shock and the application of physical pressure to the genitals. The Algerian Government has denied that torture is a matter of policy or an accepted practice and it has stated that complaints of torture will be investigated. However, no full, independent and impartial investigations are known to have been carried out into alleged cases of torture, which date back as far as 1992. Since 1992 there has been no independent monitoring of prisons or detention centres by such humanitarian organizations as the International Committee of the Red Cross (ICRC).

Hundreds of death sentences were passed in 1996, most of them *in absentia*. In addition there are a further 600 individuals who remain on death row. The moratorium on executions announced in December 1993 remains in force and no executions were reported during 1996.

Since 1993 hundreds of people have "disappeared" after being arrested by the security forces. Some are reported to have been seen in secret detention days, weeks or even months after their arrest, but the authorities continue to deny their detention. Such practices by the security forces violate both Algerian law and international standards.¹³ According to Article 51 of the Code of Penal Procedure (CPP) those arrested may be held in incommunicado detention for a maximum of 12 days,¹⁴ but the families of those arrested must be immediately informed of their arrest and place of detention. Others are reported to have died but their families have not been given the bodies or been informed

¹² Amnesty International *Algeria. Fear and silence: A hidden human rights crisis* (AI Index: MDE 28/11/96)

¹³ Article 10 of the UN Declaration on the Protection of All Persons from Enforced Disappearance requires that detainees be held in an officially recognized place of detention and that their families and lawyers be promptly informed of their place of detention. Rule 92 of the UN Standard Minimum Rules for the Treatment of Prisoners contains similar provisions.

¹⁴ The *Décret législatif No 92-03 relatif à la lutte contre la subversion et le terrorisme* of September 1992 prolonged the period of incommunicado detention from 48 hours (double this period in cases of state security) to 12 days. On 25 February 1995 this (and most other) provisions of the anti-terrorist emergency decree were incorporated into permanent legislation and Article 51 of the CPP was amended to allow for a 12-day period of incommunicado detention.

of their place of burial. In its 1996 annual report the UN Working Group on Enforced or Involuntary Disappearances stated that it had transmitted 103 newly reported cases of disappearances to the authorities and that the Government had provided information on three individual cases.¹⁵ The ONDH has acknowledged that complaints about disappearances allegedly committed by the security forces are widespread and have increased.

The special courts set up under the 1992 "anti-terrorism" decree were dissolved in February 1995. Trials of individuals accused of "terrorist" acts resumed in ordinary courts, but continued to contravene international standards for fair trial. Judges and magistrates consistently failed to investigate allegations that defendants had been tortured and ill-treated and they accepted as evidence confessions allegedly extracted under torture which is expressly prohibited by Article 15 of the Convention against Torture.

An increasing number of government-backed militias who define themselves as "self-defence groups" or "patriots" have come into existence in the past two years, mainly in rural areas, where the absence of the security forces had left the civilian population vulnerable to attacks by armed opposition groups. These militias, which do not appear to be subject to any degree of control and accountability, have increasingly been involved in "anti-terrorism" operations and have been responsible for deliberate and arbitrary killings. They are composed of local civilian volunteers, equipped with weapons provided by the security forces; some of them also use other equipment, such as military vehicles and radio-transmitters and wear security forces uniforms. They routinely set up roadblocks to check the identity of those coming to or leaving the area and search their vehicles. These militias enjoy impunity by their lack of accountability and by operating outside the law. By allowing militias they have armed, to commit abuses, the Algerian authorities have allowed the rule of law to be further eroded and undermined.

Amnesty International has documented the high level of killings and violence by armed opposition groups, which define themselves as "Islamic groups".¹⁶ The organization condemns in the strongest terms the human rights abuses committed by such groups and continues to call on these armed groups to put an end to killings of civilians and other abuses. However, no level of violence by armed opposition groups, no matter how serious, can ever justify the Algerian security forces' recourse to extrajudicial executions, torture and "disappearances". Even when faced with widespread violence, states have an obligation to investigate human rights violations committed by security forces, to bring to justice those responsible, and to take all necessary measures to stop and prevent further violations.

Armed groups who define themselves as "Islamic groups" have continued to kill civilians, both in targeted individual attacks and random killings by bomb explosions. By carrying out such attacks these armed groups have shown a total disregard for the most basic of all human rights - the right to life. Some of the victims were abducted before being killed; others were tortured, including women who were raped. These armed groups have also continued to threaten civilians with death. Amnesty

¹⁵ E/CN.4/1996/38.

¹⁶ See, for example, Amnesty International Report 1996, and *Algeria. Fear and Silence: A hidden human rights crisis*, *ibid.*

International has continued to call on all armed opposition groups to stop killing and targeting civilians.

The Algerian authorities repeatedly state that the security situation is improving and yet the killings and other abuses continue. Amnesty International, while opposing the human rights abuses committed by armed opposition groups, maintains that the government must abide by its solemnly undertaken obligations, in compliance with international human rights treaties, to safeguard human rights and to stop and prevent human rights violations. The responsibility for investigating human rights violations and bringing to justice those found responsible for human rights violations and abuses is with the Algerian authorities. The protection of the civilian population is the responsibility of the state through properly trained law enforcement officers who operate under the command structures of the police and security forces and within a legal framework of accountability. In carrying out their duties law enforcement officials should act in accordance with recognised international standards, in particular the Code of Conduct for Law Enforcement Officials and the Basic Principles on the use of Force and Firearms by Law Enforcement Officials.

In June 1996 the European Commission was allowed by the General Affairs Council¹⁷ to begin negotiations with Algeria on a European-Mediterranean association agreement. The partnership proposed has three aspects: political cooperation; economic, commercial and financial cooperation; social and cultural partnership. Amnesty International believes that an important part of the association agreement is the clause stating that human rights are an essential element of the agreement. The European Union should, therefore, take this opportunity to emphasize the importance it attaches to the respect and promotion of human rights by appending to the agreement a precise plan to improve the human rights situation in Algeria stipulating short, medium and long-term objectives. This is also an opportunity for Member States of the European Union to remind the Algerian Government of its freely undertaken international obligations including its ratification of the ICCPR and the Convention against Torture. The European Parliament has expressed concern about the human rights situation in Algeria and in July 1996 adopted a resolution specifically on violations of press freedom in Algeria.¹⁸

Amnesty International's recommendations

Amnesty International calls on the Commission to:

- Request the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and the Working Group on Enforced or Involuntary Disappearances to undertake a mission or missions as a matter of urgent priority and to report on their findings to the 54th session of the Commission of Human Rights in 1998;

¹⁷ Meeting of the fifteen European Union ministers for foreign affairs.

¹⁸ Resolution on press freedom in Algeria, European Parliament, adopted 18/07/1996.

- Urge the Algerian Government to state publicly and in clear and unequivocal terms that extrajudicial executions, "disappearances", torture and secret and other arbitrary detention are crimes punishable by law; will not be tolerated and that individuals who commit such crimes are brought to justice.

- Urge the Algerian Government to establish an independent and impartial commission of inquiry to investigate extrajudicial executions, torture, "disappearances", secret and other arbitrary detention and other human rights violations committed since 1992. The methods, findings and conclusions of the investigation should be made public and anyone found responsible for violations should be brought to justice.

- Urge the Algerian Government to take immediate steps to bring arrest and detention procedures under the control of the judiciary, to ensure that no one is held in secret detention. All those currently held in secret detention must be released, unless they are charged with a recognizable criminal offence and tried in accordance with recognized international human rights standards - in which case they must be transferred to a recognized place of detention and granted full access to family, lawyers and medical care.

- Urge the Algerian Government to instruct the security forces that confessions obtained under torture are invalid and will not be accepted as evidence in court and to instruct judges and magistrates that such confessions cannot be accepted as evidence under any circumstances.

COLOMBIA

Government commitments to improve the critical human rights situation in Colombia are sounding increasingly hollow as widespread and systematic human rights violations continue. The government's political will to implement its human rights program has been severely eroded by the political crisis which threatened its continuance in power. The crisis, stemming from allegations that President Ernesto Samper's 1994 election campaign received financial support from drug-trafficking organizations, continued throughout 1996 despite a Colombian Congressional decision to exonerate him.

Not only has there been no substantive improvement in the human rights situation since the 52nd session of the Commission but, in many respects, the situation has considerably worsened. Extrajudicial executions, "disappearances" and torture carried out by members of the security forces and their paramilitary allies have persisted and, in some areas, increased dramatically. Hundreds of noncombatant civilians have been killed during counterinsurgency operations and members of legal opposition groups, trade unionists, teachers, peasant and indigenous community leaders and human rights activists continue to be particular targets for political killings and "disappearances". The killing of so-called "disposables" by police-backed "death squads" has continued in many cities and towns. Victims include vagrants, petty delinquents, homosexuals and prostitutes. Torture and ill-treatment of both political and common prisoners is common in army and police installations throughout the country. Social protest continues to be considered subversive by the military authorities. Response to such protests, including recent prolonged demonstrations by tens of thousands of peasant farmers against the spraying of coca plant cultivations, has frequently involved excessive use of force resulting in the deaths of unarmed civilians. Tens of thousands of people, mostly peasant farmers, have been internally displaced as a result of political violence, adding to the estimated 700,000 people displaced during the previous ten years.

Human rights defenders are increasingly vulnerable to attempts to silence them either through legal action, including in the form of law suits alleging slander presented by military commanders, or by direct physical attack. Josué Giraldo Cardona, President of the *Comité Cívico por los Derechos Humanos del Meta*, Meta Civic Human Rights Committee, and an activist with the *Unión Patriótica* (UP), Patriotic Union party, was shot dead outside his home on 13 October 1996. Josué Giraldo had received numerous death threats, both as a result of his work with the Meta Civic Committee and his activities as a UP member. He had spent several weeks in Geneva lobbying the 52nd session of the Commission in 1996. Other members of the Meta Civic Committee have also been threatened with death in recent years and several have had to leave the region because of fears for their safety.

During the first two years of the Samper administration, the armed conflict has spread and intensified. Both paramilitary groups and guerrilla organizations have achieved significant territorial gains through military offensives which are unprecedented in scale in recent years. In late August 1996 two guerrilla organizations, the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), launched the most aggressive offensives in decades. At least 200 people died during several weeks of intensified military actions throughout the country, as guerrilla forces attacked economic and military targets. Armed opposition groups continue to violate international humanitarian law. Hundreds of people have been kidnapped and held hostage against demands for payment of ransom. Reports of deliberate and arbitrary killings of deserters from the

guerrilla organizations and civilians associated with the armed forces and local authorities are increasing in several areas of the country.

Despite repeated government promises to dismantle paramilitary forces, political killings by these groups have escalated dramatically. In many instances there is clear evidence that paramilitary organizations have worked with the state's armed forces in the commission of serious human rights violations. Government failure to take action to halt paramilitary abuses is clearly illustrated by the case of the Hacienda Bellacruz in northern Colombia where peasant farmers have been subjected to months of persecution by a paramilitary group operating in complicity with the Colombian armed forces. In March 1996 over 280 families were forcibly expelled from the Hacienda Bellacruz by a paramilitary group operating on behalf of the family which claims ownership of the land. The peasant farmers' homes were burned and many were tortured. At least 13 leaders of the peasant families have been killed or "disappeared" since the evictions took place and the homeless families remain under threat of death if they attempt to return. Despite formal government commitments guaranteeing the safe return of the evicted families, no actions have been taken by the authorities to arrest the paramilitaries pursuant to the outstanding arrest warrants or to remove them from Bellacruz.

Impunity for human rights violations is the norm. Military courts, which generally claim and exercise jurisdiction to pursue investigations into human rights violations by armed forces' personnel, routinely fail to bring those responsible to justice. However, since its creation in September 1995, the Human Rights Unit of the *Fiscalía General de la Nación*, Attorney General's Office, has made important advances in a number of cases of gross human rights violations. In September 1996 warrants were issued for the arrest of two retired army generals on charges related to their having organized paramilitary forces responsible for a series of massacres and scores of "disappearances" of civilians in the late 1980s. Among the atrocities attributed to the paramilitary forces are the indiscriminate killing of 43 people in the town of Segovia in 1988 and the killing of 12 members of a judicial commission which was investigating a series of "disappearances" attributed to the paramilitary. The military justice system immediately claimed and won jurisdiction over the case.

Despite repeated calls from international organizations including the United Nations and the Organization of American States that trials of individuals for the commission of human rights violations should be heard in civilian courts, the government has singularly failed to fulfil its promises to take action to implement this recommendation. In efforts to appease increasing military pressure to remove civilian controls over military operations, President Samper has retreated from stated commitments to end the impunity with which members of the armed forces commit violations of fundamental human rights. Indeed, far from tackling impunity, the president has, on a number of recent occasions, publicly expressed his concern that judicial and administrative controls were reducing the armed forces' effectiveness in tackling subversion. Speaking at a ceremony to mark the army's anniversary in May 1996, President Samper said army staff were being "inundated with papers" to do with lawsuits and charges of human rights violations in order to "prevent the army from fighting in the mountains, defending the sovereignty of the borders or protecting our city streets".

Other recent measures increasing the armed forces' powers to impose public order also seem directly to contradict the government's stated commitment to protect human rights. In April 1996, under the provisions of the state of emergency, the government issued decree law 717 providing for

the creation of Special Public Order Zones, *Zonas Especiales de Orden Público*. The measure, in effect, placed areas designated as special public order zones under the direct authority of the local military commander who would have special powers to enforce public order. This decree gives the military powers to impose restrictions on the circulation of civilians and residents through measures such as curfews, military roadblocks, safe-conduct passes and the registration of residents. Another decree, No. 0900, issued in May 1996, extends the powers of the military command in the Special Public Order Zones; it permits the preventative detention of suspects by members of the armed forces without judicial warrant. Amnesty International considers that the imposition by the armed forces of special security measures aimed at systematically controlling the local population could lead to further restrictions on and violations of fundamental human rights. In July 1996 the Constitutional Court ruled three of the provisions of decrees 717 and 0900 to be unconstitutional, including the obligatory registration of residents and preventative detention. Notwithstanding the ruling of the Constitutional Court, the armed forces continue to exercise these powers in many of the more remote areas of the country. Although the state of emergency introduced in November 1995 was lifted in July 1996, as required by the Colombian Constitution, the exceptional measures introduced under its provisions remained in effect for a further 90 days.

The Colombian Constitution restricts the government's powers to renew states of emergency and prohibits an indefinite emergency. However, Constitutional reforms recently proposed by the executive would, *inter alia*, remove the control of the Constitutional Court over the declaration of a state of emergency, thereby increasing the likelihood of extended periods of emergency rule and the suspension of constitutional guarantees.

In August 1996 the then-People's Defender (Ombudsman), Dr Jaime Córdoba Triviño, severely criticized the government's human rights record. He said the government's human rights policy was "contradictory, incoherent, erratic, opportunistic and populist". Referring to the government's proposed constitutional reforms, Dr Córdoba said he considered they are an attempt to create a "sovereign and constitutional dictatorship".¹⁹

Despite the increasing gravity of the human rights situation, the government has failed to take the necessary steps to comply with numerous recommendations formulated by UN thematic mechanisms. A joint report of a visit to Colombia in November 1994 by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture, presented to the 51st session of the Commission, considered that "the vast majority of recommendations made by the representatives of various United Nations human rights mechanisms that visited Colombia in 1987, 1988 and 1989 have not been implemented".²⁰ Recognizing the gravity of the human rights situation in Colombia, the Rapporteurs concluded that the "Commission on Human Rights should keep the human rights situation in Colombia under particular close scrutiny, with a view to the appointment, unless the situation improves radically in the near future, of a Special Rapporteur who could ensure permanent monitoring of and reporting on the human rights situation and who could cooperate closely with the technical assistance programme".²¹

¹⁹ Interview reported in 'Cambio 16', August 1996.

²⁰ E/CN.4/1995/111 para 131

²¹ E/CN.4/1995/111 para 132

A representative of the High Commissioner for Human Rights visited Colombia on the High Commissioner's behalf in August 1995 but no report of the visit has been published.

In his report to of the Commission in 1996, the Special Rapporteur on extrajudicial, summary or arbitrary executions considered there was "an urgent need to set up an international human rights mechanism with enough resources to report publicly on the human rights situation and to monitor human rights violations *in situ*, as well as assisting the Government and non-governmental organizations in this field". In addition, the Special Rapporteur recommended the appointment of a Special Rapporteur for Colombia who could cooperate with and complement other mechanisms which could be set up by the High Commissioner for Human Rights.²² This recommendation was echoed in the report of the Special Rapporteur on torture.²³

Intense activity by national and international non-governmental organizations before the last session of the Commission ensured that the human rights situation in Colombia was the subject of much discussion. This resulted in a statement from the Chairperson.

The statement raised the Commission's concerns about endemic violence, violations of the right to life, "disappearances", impunity, torture, the need to strengthen the ordinary justice system and to exclude crimes against humanity from the jurisdiction of the military justice system, and the insufficient governmental efforts to implement recommendations of the UN thematic mechanisms. Recognizing that the situation in Colombia had not improved significantly, the Commission requested the High Commissioner to proceed, "upon the initiative of the Government of Colombia ... to establish at the earliest possible date a permanent office in Colombia with the mandate to assist the Colombian authorities in developing policies and programmes for the promotion and protection of human rights and to observe violations of human rights in the country, making analytical reports to the High Commissioner;" and "to report to the Commission at its fifty-third session on the setting up of the office and on the activities carried out by it in implementing the above indicated mandate."²⁴

Several months of intense negotiations led to the signing on 29 November of an agreement between the High Commissioner and the Colombian Government for the establishment of an office in Colombia. On a number of occasions during negotiations, Amnesty International stressed to the High Commissioner that the scope and mandate of the field office would determine its effectiveness. In particular, the organization stressed the importance for the office's human rights staff to be able to carry out monitoring activities which are clearly defined and agreed upon by the authorities. A further essential requirement for the effectiveness of the office will be the transparency of its reporting. Amnesty International put forward a recommendation to the High Commissioner, both in writing and in meetings, that the analytical reports of the field office to the High Commissioner should be made public and that the report of the High Commissioner to the Commission should be substantive

²² E/CN.4/1996/4 para 150.

²³ E/CN.4/1996/35 para 54

²⁴ E/CN.4/1996/L.10/Add.3 para 24

and contain detailed information on the monitoring activities it carries out. It is expected that the office will be established, but not necessarily fully operational, in early 1997.

In September 1996 the UN Special Rapporteur on the independence of judges and lawyers visited Colombia. A report of the mission is expected to be submitted to the 53rd session of the Commission in 1997.

The European Parliament has expressed its concern about the human rights situation in Colombia on a number of occasions during 1996. In a wide-ranging resolution in October 1996, the European Parliament considered that in spite of undertakings given by President Samper to fight against human rights abuses, the human rights situation continues to deteriorate. The resolution, *inter alia*, condemned the killing of human rights activist Josué Giraldo and expressed particular concern about attempts to limit the role of the *Procuraduría's* Public Ministry by depriving it of its disciplinary investigative functions which would be taken over by the military justice system. The resolution calls on the Colombian Government to stop the army carrying out arbitrary killings, the practice of torture and other human rights violations and urges the leaders of the guerrilla forces to stop exerting pressure on the population. The resolution also requests the UN and Colombian Government to take all necessary steps to open the office of the High Commissioner in Bogota and ensure its functioning.²⁵

Amnesty International's recommendations

Amnesty International urges the Commission to:

- In the event that the office of the High Commissioner is operational in Colombia by the time the 53rd session of the Commission opens:

- Seek full, detailed reports from the High Commissioner for Human Rights on the human rights situation in Colombia and on the activities of his office;
- Seek assurances that the analytical reports of the office on its activities are made regularly and publicly available;
- Consider the recommendation of the Special Rapporteurs on torture and on extrajudicial, summary or arbitrary executions to appoint a Special Rapporteur for Colombia when considering the implementation of the Commission's decision to establish an office in Colombia;
- Seek a full, public report of the mission made in September 1995 to Colombia on behalf of the High Commissioner for Human Rights;

- Reiterate the Commission's concern at the Colombian Government's failure satisfactorily to implement recommendations of the UN thematic mechanisms, urging the Colombian Government to implement fully all recommendations and, in particular, those which call on it to:

- Dismantle illegal paramilitary organizations and to bring to justice members of such forces responsible for political killings, torture, "disappearances" or other human rights violations;

²⁵ Session document: B4-1108/96

- Suspend members of the security forces implicated in the course of investigations of human rights violations from their posts until responsibility for the violations is established;
- Exclude crimes against humanity, including those involving extrajudicial executions, “disappearances” and torture, from the jurisdiction of the military justice system;
- Protect human rights defenders, relatives of victims, witnesses, lawyers and others cooperating with investigations of human rights violations;
- Take all necessary steps to ensure respect for the fundamental human rights of persons who have been internally displaced by conflict.

INDONESIA AND EAST TIMOR

Amnesty International has long standing concerns about human rights violations occurring throughout the Indonesian archipelago and in East Timor. These concerns include the continuing imprisonment of prisoners of conscience - men and women who are detained solely for the non-violent expression of their political or religious opinions - unfair trials, the torture and ill-treatment of political and criminal detainees, “disappearances”, extrajudicial executions and the use of the death penalty. During 1995 there were signs of increased sensitivity towards human rights on the part of the government, as shown by the lifting of some restrictions on public gatherings in August 1995 and the visit by the High Commissioner for Human Rights to Indonesia and East Timor in December 1995. Nonetheless, the human rights situation took a sharp downturn after the July 1996 raid on the Jakarta headquarters of the Indonesian Democratic Party (*Partai Demokratik Indonesia* - PDI) by hundreds of police and alleged supporters of a rival, government backed faction of the PDI.²⁶ Violent riots followed the raid. Using the disturbances as a pretext, the government has since launched a broad crackdown on the opposition and has arrested at least 108 peaceful human rights, political and labour activists. Fifteen of these people are facing charges under the Anti-subversion law, which the Special Rapporteur on torture and the High Commissioner have recommended be repealed.²⁷ The law has been used widely in Indonesia and East Timor in the past to arrest and imprison prisoners of conscience.

Many of these violations of human rights might not have occurred if the Indonesian Government had acted upon the recommendations made by the Commission and its thematic mechanisms. The Commission adopted consensus statements from the Chairperson on East Timor at its sessions in 1992, 1994, 1995 and 1996. In 1993 it adopted Resolution 1993/97 which called on the Indonesian Government, among other steps, to invite the Working Group on Arbitrary Detention and on Enforced or Involuntary Disappearances. Invitations to these mechanisms are still

²⁶ For details see *Indonesia: Arrests, torture and intimidation: The Government's response to its critics* (AI Index ASA 21/70/96)

²⁷ *Report of the visit by the Special Rapporteur on torture to Indonesia and East Timor*, E/CN.4/1992/17/Add.1, 8 January 1992, paragraph 80 (f) and *The Report of the High Commissioner for Human Rights on his visit to Indonesia and East Timor, 3-7 December 1995*, E/CN.4/1996/112, 14 March 1996, paragraph 7.

outstanding although the Working Group on Arbitrary Detention asked to be invited in June 1995. The Special Rapporteur on torture noted in his most recent report that he was awaiting a response to repeated requests for a visit.²⁸

The 1996 consensus statement on East Timor noted with satisfaction the greater access granted by the Indonesian authorities to international media and humanitarian organizations to East Timor²⁹. In fact, access remains severely restricted, making independent monitoring of the human rights situation extremely problematic. International media has been barred from the territory, with only a few exceptions, since the beginning of 1996. Access continues to be denied to some human rights organizations, including Amnesty International, despite the desire expressed in the 1996 statement that access should be expanded to include human rights organizations.

The government of Indonesia has twice invited thematic mechanisms to conduct on-site investigations: in 1991 the former Special Rapporteur on torture and in 1994 the Special Rapporteur on extrajudicial, summary or arbitrary executions visited Indonesia and East Timor, although the latter was refused access to Irian Jaya and Aceh. The government of Indonesia has so far failed to implement all but two of the recommendations made by these thematic mechanisms.³⁰ It appears that the Indonesian authorities are unwilling to accept the findings of the thematic mechanisms since, during the High Commissioner's visit, they questioned the validity of reports by "certain mechanisms" of the Commission describing them as "unbalanced and lacking in objectivity".³¹

In his report to the last session of the Commission, the Special Rapporteur on extrajudicial, summary or arbitrary executions regretted that "no reaction had been received from the Government with regard to the recommendations made upon his visit to Indonesia and East Timor in 1994".³² The Special Rapporteur went on to note that the Indonesian police and military are reported to commit human rights violations with virtual impunity, the majority of cases are not systematically investigated by the authorities, and perpetrators are rarely brought to justice.

Extrajudicial executions have continued in both Indonesia and East Timor during 1996. In September 1996, Jacinto de Jesus and Luis Ximenes were shot and killed by members of Kostrad (Army Strategic Reserve Command) as they were checked at a border crossing between Baucau and Viqueque in East Timor.³³ The Indonesian Government has yet to ensure that these killings are fully

²⁸ E/CN.4/1996/35, paragraph 35

²⁹ *Chairman's statement on East Timor*, 19 April 1996, paragraph 4

³⁰ Two recommendations made by the Special Rapporteur on torture have been implemented: the creation of a national commission on human rights and of an authority or agency with independent investigative powers, where victims of human rights violations can file complaints

³¹ *Report of the High Commissioner for Human Rights on his visit to Indonesia and East Timor, 3-7 December 1995* (E/CN.4/1996/112, 14 March 1996, paragraph 10)

³² E/CN.4/1996/4, paragraph 255

³³ The killings took place on 19 September 1996. The Indonesian Human Rights Commission is carrying out an investigation into the killings.

and impartially investigated and those responsible are held to account. In addition, the government has taken no further action to identify those killed during, or account for those missing after, the Dili massacre of 1991 - where at least 100, and possibly as many as 270, civilians were killed after troops fired on a peaceful demonstration. Both the Commission and the High Commissioner for Human Rights have urged the Indonesian authorities to conduct a full and impartial investigation.³⁴

While there have been some prosecutions of those persons responsible for human rights violations, Amnesty International is concerned that they remain the exception rather than the rule. In April, at least five and possibly six students are believed to have died as a result of the use of excessive force by members of the Indonesian security forces when they intervened in student riots in the town of Ujung Pandang, Sulawesi. Six army officers have since been jailed for between three and three-and-a-half months after they were found guilty of violating procedures which required that they did not use violence. In Irian Jaya, four soldiers were found guilty of charges relating to the killing of three civilians in Hoesa village, Paniai, and imprisoned for between one and three years. However, Komnas HAM, Indonesia's National Human Rights Commission (*Komisi Nasional Hak Azasi Manusia*), has confirmed other human rights violations in the area, including a further 13 extrajudicial executions, torture, arbitrary arrests and four "disappearances" which have not yet been fully or independently investigated by the authorities, as required under Principle 9 of the UN Principles on the Effective Prevention and Investigation of Extrajudicial, Arbitrary and Summary Executions and other international human rights standards.

On 29 April, Andre da Souza was killed by soldiers in Comoro, Dili after he tore down an Indonesian flag. Three police officers were arrested after his death, but Amnesty International does not know whether they have been charged with any offence. There has been no attempt to investigate other cases, including the extrajudicial execution of Domingos Jose Dos Reis and Alfonso Sarmonto in January 1995 in Baucau, East Timor and the "disappearance" of five people believed to be Eustáquio Pinto, Armando Soares, Julião Pinto, Jose Pinto and Francisco Amaral after their arrests in Dili on 9 January 1995.

The Special Rapporteur on torture reaffirmed in his 1996 report³⁵ the conclusions drawn by himself³⁶ and his predecessor following his visit in 1991 that "the Special Rapporteur cannot avoid the conclusion that torture occurs in Indonesia, in particular in cases which are considered to endanger the security of the State".³⁷

Many of those taken into custody during the crackdown on the opposition since July 1996 have been subjected to torture and ill-treatment in both police and military custody. Arrests have frequently been carried out in circumstances which are conducive to torture: many of the arrests have occurred at night, carried out by individuals in plainclothes, believed in most cases to be from military

³⁴ See, for example, *Chairman's statement on East Timor*, 19 April 1996, paragraph 3

³⁵ E/CN.4/1996/35/ paragraph 79

³⁶ E/CN.4/1995/34, paragraph 401

³⁷ E/CN.4/1992/17/Add.1, paragraph 73

intelligence. Often neither the detainees nor their families have been told where they were being taken. Many of the activists have been held in military detention for several days or weeks without access to lawyers or to their families before being handed over to police custody.

In Indonesia, at least 150 political prisoners, many of them prisoners of conscience, continue to serve sentences of up to life imprisonment, imposed after unfair trials. One person, Nuku Soleiman, a student and human rights activist sentenced to five years' imprisonment in 1994 for "insulting the president", was in September 1994, declared by the UN Working Group on Arbitrary Detention to be arbitrarily detained. Two years later the Indonesian authorities have still taken no action to review this case. In May 1996, the parliamentarian Sri Bintang Pamungkas was sentenced to two years and 10 months' imprisonment. Sri Bintang Pamungkas was charged with "insulting" President Suharto for allegedly referring to him as a "dictator" during a seminar at a German University in April 1995. Witnesses in Germany for Sri Bintang Pamungkas' defence received their first summons a week after they were required to appear in court. The one witness who was able to travel to Indonesia experienced difficulties in obtaining a visa and was subjected to surveillance on arrival in Indonesia.

At least 57 prisoners of conscience, serving terms including life imprisonment for their peaceful opposition to Indonesian rule, and other political prisoners, remain in prison in East Timor. They include nine people convicted in relation to the Dili incident of 1991, for whose release the Commission has called.³⁸ Those sentenced during 1996 include 21 charged with using violence. All are believed to have been sentenced to prison terms ranging from eight months to four years and six months. Amnesty International is concerned that the political prisoners were sentenced after unfair trials at which they did not have access to legal representation and that information about the schedule of the trials was kept from the defendants until immediately prior to the trials.

Serious allegations of violations of the human rights of labour activists have been considered by the International Labour Organisation (ILO). Most recently, the ILO's Committee on Freedom of Association concluded that it cannot but deeply deplore that it appears that virtually no remedial action has been taken by the Indonesian authorities and that "the seriousness of the renewed allegations leads it to believe that the general situation of workers in Indonesia ... is still characterized by serious and worsening infringements of basic human and trade union rights".³⁹ The Committee also recalled its "deep concern over the extreme seriousness of the allegations referring to murder, disappearance, arrest and detention of a number of trade union leaders and workers".⁴⁰

In September 1996, the European Parliament adopted a resolution calling for the immediate and unconditional release of all those arrested for the peaceful expression of their political aspirations and for the Special Rapporteur on extrajudicial, summary or arbitrary executions to be asked to investigate the events of 27 July 1996 and the whereabouts of those still missing.⁴¹

³⁸ *Chairman's Statement on East Timor*, 19 April 1996, paragraph 3

³⁹ *305th Report of the Committee on Freedom of Association* (GB267/7, November 1996), paragraph 358

⁴⁰ *Op cit*, paragraph 356

⁴¹ Resolution on the human rights situation in Indonesia, adopted 19 September 1996

Komnas HAM has accused the security forces of being involved in the violent raid on PDI headquarters on 27 July. In its report of 12 October 1996, Komnas HAM stated that five people were killed during the raid or riots, 149 were injured and 23 were still missing. These figures contradict the official figures given by the Indonesian authorities which place the number of deaths at four and the number of people injured at 28. The authorities have not acknowledged that anyone is missing as a result of the raid. The government has hampered attempts to finally determine how many people died on 27 July by restricting access to information and by creating an atmosphere of fear and intimidation in which people are afraid to speak out.

At least 357 people have been arrested either during or since the raid on the PDI office: most are still detained and have been charged. One hundred and twenty-four people, arrested during the raid or subsequent riots, have been tried on charges relating to the use of violence against property or persons or refusal by participants in a riot to disperse: 116 were sentenced to up to four months' and three days' imprisonment and eight were acquitted. Their access to lawyers was severely restricted during the initial stages of investigation. Amnesty International does not discount the possibility that some among this group may have engaged in acts of violence. However, it appears that the authorities' motivation for arresting and charging the group is largely political since no supporters of the government-backed PDI faction involved in the 27 July incident are known to be facing trial.

A further 40 people, of whom 19 are still detained, are facing charges under the Hate-sowing Articles or the Anti-subversion law. Most of the 40 are among at least 103 peaceful political, human rights or labour activists who have been taken into custody since 28 July. Many of them have been accused of involvement with a left wing political group, *Partai Rakyat Demokratik* (PRD) or its affiliated organizations. The PRD has been accused by the government of having masterminded the disturbances of 27 July and of being similar to the banned Indonesian Communist Party (PKI), an accusation commonly made to discredit individuals or groups critical of the government.

While Indonesia's Human Rights Commission, Komnas HAM, has made welcome efforts to investigate human rights violations, the Indonesian Government has failed to implement the vast majority of its findings. The government's response to the Komnas HAM recommendations on the PDI raid will be a further test of its commitment to taking practical steps to address human rights violations. The establishment of an office of the Komnas HAM in Dili in January 1996 was seen as a welcome step by Amnesty International although limitations on Komnas HAM's authority and functions mean that its role in the protection and promotion of human rights in East Timor is constrained. In any case, its work should complement, not be a substitute for, international and independent monitoring, which the Indonesian authorities continue to disallow.

Amnesty International has no information about any steps taken by the government to implement commitments made to the High Commissioner for Human Rights at the time of his 1995 visit. These included discussions about ratification of the Convention against Torture and the establishment of a UN human rights presence in Jakarta. Amnesty International firmly believes that any UN human rights office in Indonesia should meet the following minimum requirements:

- the office should supervise the implementation of recommendations made by the Commission and by its thematic mechanisms concerning Indonesia and East Timor;
- the office should not preclude initiatives by other UN human rights mechanisms and experts;

- the office should have the authority to receive information from all available sources, including individuals, governmental and non-governmental organizations on the human rights situation in Indonesia and East Timor;
- the office should have the authority to issue regular public reports on its findings, including its assessment of the human rights situation; these reports should be made available to the Commission;
- the office should have the authority to advise the Indonesian Government on ways to improve the human rights situation in Indonesia and East Timor;
- there must be full acknowledgement by the Indonesian Government that the office should be empowered to gather information about violations of human rights and to follow up on these findings with the authorities concerned;
- the office should be staffed by human rights experts and be provided with necessary resources;
- staff of the office must have full and unimpeded access to all areas of Indonesia and East Timor.

Amnesty International anticipates that the current crackdown on political opposition and peaceful activists will continue in the run-up to the 1997 elections for the People's Representative Assembly (*Dewan Perwakilan Rakyat - DPR*) and the 1998 presidential elections. Even before the raid on the PDI office, individuals involved in establishing independent bodies to monitor the 1997 elections had been the targets of harassment, intimidation and arbitrary arrest. In March 1996 two people were taken into military detention in Lampung, Sumatra and questioned for around six hours immediately after they launched the Lampung Branch of the newly established Independent Election Monitoring Committee (*Komite Independen Pengaman Pemilu - KIPP*). One was later summoned by the police as a suspect on the charge of holding a meeting without seeking prior permission from the police authorities. The following month, a military spokesperson attempted to discredit the Secretary-General of KIPP, human rights lawyer Mulyana Kusumah, by accusing him of involvement with the banned PKI.

Amnesty International's recommendations

Amnesty International calls on the Commission to urge the government of Indonesia to immediately:

- Halt immediately the crackdown on non-violent political, human rights, labour and other activists; release all those detained for nonviolent activities and establish public investigations into all reports of extrajudicial executions and torture;

- State publicly that Indonesian citizens have the right to freedom of expression and association without fear of harassment, arrest, torture or ill-treatment, arbitrary detention, imprisonment or extrajudicial execution, and state agents who infringe these rights will be brought to justice;

- Take immediate steps to address the human rights violations in East Timor, in particular impunity, arbitrary use of power by the security forces and legislation which permits for the detention of prisoners of conscience. In addition, the government should ensure that the independent monitoring of human rights is guaranteed in policy and practice, including by allowing access to human rights organizations such as Amnesty International;

- Recall and act upon the commitments it made to the High Commissioner for Human Rights during his December 1995 visit, in particular the commitment to cooperate with the mechanisms of the Commission and implement their recommendations; to extend invitations to relevant thematic mechanisms of the Commission to visit; and to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

- Implement recommendations made the High Commissioner for Human Rights, in particular the repeal of the Anti-subversion law;

- Implement promptly outstanding recommendations made by the thematic mechanisms, the High Commissioner for Human Rights and the ILO.

NIGERIA

After years of systematic violations of basic human rights, the Nigerian Government propelled itself to the top of the international human rights agenda in 1995 following the politically-motivated and unfair murder trials and execution of Ken Saro-Wiwa and eight other Ogonis. The executions took place despite appeals for clemency from world leaders and resulted in condemnation by the UN General Assembly in December 1995 and later by the Commission on Human Rights in April 1996.⁴² The present military government in Nigeria has a record of open contempt for human rights. The authorities continue to resort to arbitrary detention of prisoners of conscience; political prisoners continue to face the prospect of unfair trials by special tribunals which have the power to impose the death penalty; detainees continue to be denied access to lawyers, families and essential medical treatment; there continue to be allegations of extrajudicial executions by Nigerian law enforcement officials and torture and ill-treatment is widespread.

The Nigerian authorities have tried to create an appearance of cooperation with the international community in order to circumvent international criticism. Despite promises of reform, they have failed to address the root causes of very serious human rights violations. Promises to allow visits by human rights mechanisms do not materialise or are postponed because of government procrastination on the modalities for the visit. But one thing is clear, a pattern which is all too familiar, a refusal by the Nigerian Government to cooperate fully and in good faith with intergovernmental bodies - the United Nations, the African Commission on Human and Peoples' Rights, the Commonwealth - to make changes that will respect human rights.

In April and July 1996 the UN Human Rights Committee considered Nigeria's initial report. In its concluding observations the Committee stated:

"The Committee is deeply concerned by the high number of extrajudicial and summary executions, disappearances, cases of torture, ill-treatment, arbitrary arrest and detention by members of the army and security forces and by the failure of the

⁴² General Assembly resolution 50/199 and Commission on Human Rights resolution 1996/79.

government to investigate fully these cases, to prosecute alleged offenses, to punish those found guilty and provide compensation to the victims or their families. The resulting state of impunity encourages violations of the Covenant⁴³

The police and security services use excessive force to quell demonstrations which have resulted in the death of unarmed civilians. Continuing allegations of extrajudicial executions of unarmed civilians are a matter of serious concern. In May and June 1994 at least 50 Ogoni are reported to have been killed and many wounded by the security forces when soldiers attacked towns and villages in Ogoniland. Troops apparently fired at random, killing several civilians, and also reportedly killed others deliberately. In January 1996, there were reports that at least two boys had been shot and killed during demonstrations in Ogoniland.

There have been a number of physical attacks on supporters of the political opposition in Nigeria. One prominent victim was Alhaja Kudirat Abiola, senior wife of the prisoner of conscience who won the aborted presidential elections in June 1993, Chief Moshood Abiola. She was murdered in Lagos on 4 June 1996 in circumstances that led Amnesty International to fear that her assassination had been carried out by government agents. Another was Chief Alfred Rewane, a financial backer of the National Democratic Coalition (NADECO), who in November 1995 was shot dead by gunmen at his home.

The government has failed to initiate an immediate, thorough and impartial investigation into allegations of extrajudicial executions in violation of the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. The only allegation of extrajudicial executions which is known to have been investigated by an independent judicial body is the Umuecham massacre in 1990 in Rivers State, in which 80 members of the Etche ethnic group were killed. The conclusions of a judicial commission of inquiry into these killings have never been made public, although its findings were leaked in 1992. No action is known to have been taken to bring to justice those officers of the Mobile Police Force named in the report as responsible for the killings.

Since 1993 many hundreds of pro-democracy activists, human rights defenders, journalists, opposition politicians and members of the Ogoni ethnic group have been arrested and detained. Some have been administratively detained, held incommunicado and without charge or trial for months or sometimes years. Such arbitrary detention practices often result in the "disappearance" of detainees for extended periods. The UN Working Group on Enforced or Involuntary Disappearances acted on two new cases of disappearances which reportedly occurred in 1995. The cases concerned two journalists who were detained by the security forces but subsequently released by the Nigerian authorities.⁴⁴

Torture and ill-treatment of political prisoners is widespread. Defendants in political trials have been held incommunicado, with no safeguards against torture or ill-treatment. The special

⁴³ Human Rights Committee, CCPR/C/79/Add.65, 24 July 1996

⁴⁴ Report of the Working Group on Enforced or Involuntary Disappearances, E/CN.4/1996/38.

courts which have tried them have failed to conduct impartial investigations into allegations that statements were made under coercion, and have admitted such statements as evidence. In one case defendant Baribor Bera, initially listed as a prosecution witness, showed the Civil Disturbances Special Tribunal scars from a flogging allegedly received at the Kpor detention centre. Despite this evidence and other allegations of bribery and coercion of witnesses, the Tribunal did not investigate the allegations. Baribor Bera was convicted and executed without right of appeal in November 1995. Torture was reportedly used to coerce witnesses to testify against former head of state General Olusegun Obasanjo and others in secret treason trials before a special military tribunal in 1995.

To strengthen its hold on power and quell political opposition the military government has circumvented the regular courts with a system of special tribunals established by military decree to try political opponents and critics. Many of these tribunals have operated in a manner which constitutes a grave violation of international fair trial standards, including those in Articles 9 and 14 of the ICCPR. Defendants have been denied crucial rights of defence, including being safeguarded from torture, ill-treatment or improper duress, informed of the substance of charges against them, defended by a lawyer of their own choice and allowed to prepare their defence properly, tried in public by an independent and impartial court and able to appeal against the court's decisions to an independent and higher court. Another decree in September 1994 removed the jurisdiction of the courts to challenge government authority and actions.⁴⁵ This decree contravenes Article 2(3) of the ICCPR and the principles established in the UN Basic Principles on the Independence of the Judiciary.

The imposition of the death penalty is widespread. Most death sentences are imposed by Robbery and Firearms Tribunals which are special courts outside the normal judicial system that do not guarantee fair trials and do not allow a right of appeal. Prisoners convicted of armed robbery are usually publicly executed by firing squad. In his annual report to the Commission in 1996, the Special Rapporteur on extrajudicial, summary or arbitrary executions expressed deep concern about the trials of civilians by special or military courts as well as the continuing violence by the police against demonstrators and detained persons.⁴⁶ At least 19 Ogoni prisoners⁴⁷ are facing the prospect of being tried before the same Civil Disturbances Special Tribunal on the same charges which led to the execution of Ken Saro-Wiwa and eight other Ogonis.⁴⁸

Many Nigerians who have had the courage to stand up for the human rights of their fellow citizens have paid a heavy price. Some are dead: they have been executed after unfair trials or murdered, it is widely feared, by government agents. Others are imprisoned in harsh conditions, denied the support of their families and lawyers, their lives and health at risk from malnutrition and

⁴⁵ Federal Military Government (Supremacy and Enforcement Powers) Decree, No.12 of 1994.

⁴⁶ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, E/CN.4/1996/4.

⁴⁷ The 19 Ogoni prisoners are: Samuel Asigha, John Banatu, Ngbaa Baovi, Kagbara Basse, Paul Deekor, Michael Doghala, Godwin Gbodor, Friday Gburuma, Blessing Israel, Adam Kaa, Benjamin Kabari, Baribuma Kumanwee, Baritule Lebe, Taaghalo Monsi, Nyieda Nasikpo, Sampson Ntignee, Nwinbari Abere Papah, Babina Vizor and Pop-Gbara Zor-Zor.

⁴⁸ In May 1996 the Nigerian Government announced changes to Civil Disturbances Special Tribunals but the reforms fall well short of the measures required to bring the procedures of these tribunals into line with international fair trial standards.

medical neglect. Many of these prisoners are held in solitary confinement and denied reading or writing materials. Some have been convicted after unfair trials by special tribunals handpicked by the government. Others have been detained for long periods without charge or trial. Other human rights activists have been beaten, harassed and threatened. Their defence of human rights puts them at particular risk because it exposes government repression and reveals as a sham the Nigerian Government's formal commitment to international human rights treaties.

The UN General Assembly's December 1995 resolution concerning the human rights situation in Nigeria called on the government to restore *habeas corpus*, release all political prisoners, guarantee freedom of the press and ensure full respect for the rights of all individuals, including abiding by its obligations under the ICCPR.⁴⁹ The UN Secretary-General was asked to use his good offices to undertake discussions with the government of Nigeria and to report on the implementation of the resolution.

Within the framework of his good offices function, the Secretary-General issued a report of his fact-finding mission to Nigeria in May 1996.⁵⁰ The report made specific recommendations in light of the trials of Ken Saro-Wiwa and others, as well as measures which the Nigerian Government should be taking in the transition program towards democracy. In its interim response to the report the Nigerian Government identified certain reforms it was willing to undertake but, when they were implemented, they were found to fall far short of the basic measures recommended in the report. For example, the right of appeal announced by the government allows an appeal only to another hand-picked special tribunal, a Special Appeal Tribunal first established by military decree in 1986⁵¹, not to an independent higher court in the normal judicial system. Furthermore, any conviction and sentence confirmed by the Special Appeal Tribunal must still be confirmed by the military government itself.

The government has made no final response as yet to the Secretary-General's report, and other apparent reforms announced by the government have proved to be ineffective. The government revoked a decree which specifically abolished *habeas corpus* but has continued to flout court orders to release detainees and has cited as legal justification other military decrees which remove the court's jurisdiction. Promised reviews of detention of political prisoners have been undertaken in secret by senior security government officials, and not by an independent, judicial body.

Such a review procedure confers no rights on the detainees, whose detention may be indefinitely and arbitrarily extended without any reason being given. The National Human Rights Commission appointed by the government in June 1996 met for the first time in October. The Commission has very limited powers - to make recommendations to the head of state - and it is yet to be seen how much influence it will have on either the release of detainees or fundamental legislative reforms.

⁴⁹ 50/199 Situation of human rights in Nigeria.

⁵⁰ Report of the fact-finding mission of the Secretary-General to Nigeria, 28 May 1996, A/50/960.

⁵¹ The Recovery of Public Property (Special Military Tribunals) Decree, No.3 of 1984, was amended by Decree No. 21 of 1986, to allow for appeal to a Special Appeal Tribunal. It was further amended by Decree No. 20 of 1996, dated 3 July 1996, to provide for a right of appeal to this Special Appeal Tribunal by a person convicted by a Civil Disturbances Special Tribunal.

In April 1996, the Commission adopted without a vote a resolution which expressed deep concern about the human rights situation in Nigeria.⁵² The resolution called on the Nigerian Government to accede to the request of the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on the independence of judges and lawyers to make a joint investigative visit to Nigeria. The two Special Rapporteurs were requested to submit an interim report to the 51st session of the UN General Assembly, and a joint report to the Commission in 1997. In December 1996, the two Special Rapporteurs had still been denied access to Nigeria to conduct a fact-finding investigation into human rights concerns.

In November 1996, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers presented their interim joint report to the General Assembly.⁵³ In their report the two special rapporteurs request the government of Nigeria to make all necessary efforts to ensure that their mission is carried out without hindrance and with full access to individuals or groups they wish to meet. In late November the General Assembly adopted its second resolution on the situation of human rights in Nigeria.⁵⁴ The resolution expresses deep concern about violations of human rights and fundamental freedoms in Nigeria and calls upon the government of Nigeria to ensure that trials are held in conformity with international instruments. The resolution also regrets that the government of Nigeria has not enabled the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit the country before presenting their report to the General Assembly. The General Assembly decided to again consider the human rights situation in Nigeria at its 52nd session in 1997.

The UN Human Rights Committee, in July 1996, called for a review of the overall legal framework for the protection of human rights in Nigeria to bring it fully into line with the principles of the ICCPR, whose obligations the Nigerian Government has freely undertaken to uphold. The Nigerian Government has expressed its willingness to undertake such a review but, as far as Amnesty International is aware, there is no agreed time-frame for its completion.⁵⁵ Given the deep concerns expressed by the Committee in its concluding observations that this review must be carried out as a matter of priority, Amnesty International believes that the Committee should seriously consider the appointment of one of its own members to provide the government with the necessary expertise to carry out the review. Non-governmental organizations and legal experts should also have the opportunity to make submissions and thereby contribute to the review process.

In December 1995, the African Commission on Human and Peoples' Rights met in an extraordinary session to examine the human rights situation in Nigeria.⁵⁶ A delegation, composed of

⁵² UN Commission on Human Rights, resolution 1996/79.

⁵³ The situation of human rights in Nigeria, A/51/538

⁵⁴ A/C.3/51/L53/Rev.1 entitled "situation of human rights in Nigeria" was adopted by the Third Committee on 29 November 1996.

⁵⁵ Human Rights Committee, CCPR/C/79/Add.65, 24 July 1996

⁵⁶ The African Commission, 18-19 December 1995, Kampala

the Chairman, Vice-Chairman and the Special Rapporteur on summary and arbitrary executions of the African Commission, was requested to undertake a mission to Nigeria in February 1996. At its session in March 1996 the African Commission again reiterated its decision to send a mission to Nigeria but still no visit has taken place and neither is a visit scheduled in the coming months. The African Commission also found that two military decrees were in violation of the African Charter on Human and Peoples' Rights (1981).⁵⁷

Following the execution of Ken Saro-Wiwa and his eight colleagues in November 1995, the Commonwealth suspended Nigeria from the organization for two years. It established a Commonwealth Ministerial Action Group to take the lead on Nigeria.⁵⁸ In December 1995, the Ministerial Action Group decided that the Commonwealth should send a mission to Nigeria consisting of senior government figures from Ghana, Jamaica, Malaysia, New Zealand and Zimbabwe. The Nigerian Government, however, refused to issue an invitation to the Commonwealth mission. In April 1996, the Ministerial Action Group recommended that the Commonwealth implement further measures to register its continuing disapproval of the human rights situation in Nigeria. The Nigerian Government met members of the Ministerial Action Group in London in June 1996. At this time the government announced the release of political prisoners, although it later transpired that some had been released months earlier and others had not been released. In November 1996, the Ministerial Action Group visited Nigeria on a two-day visit, despite the lack of government guarantees that it would be given access to political prisoners or able to conduct a fact-finding mission. In the event it was allowed to do neither and almost exclusively met with government-appointed officials and the five political parties allowed by the government, which excludes all genuine opposition.

The European Parliament has expressed its concern about the human rights situation in Nigeria in numerous resolutions. In May 1996 it expressed concern about the number of political prisoners still being detained⁵⁹ and in June condemned the Nigerian Government for its continuing brutal oppression of opponents and the democratic movement in the country.⁶⁰ A similar resolution was adopted by the European Union/African, Caribbean and Pacific Joint Assembly, at its September 1996 meeting.⁶¹

The Nigerian Government continues its repression of its critics. While a few individuals have been released there have been no substantial reforms to prevent arbitrary detention and unfair political trials in the future. The government has a record of open contempt for human rights and defiance of resolutions, recommendations and appeals from the United Nations and other

⁵⁷ Communication 129/94, Civil Liberties Organization/Nigeria, resulted in the Commission finding that the military decrees 107/1993 and 114/1993 were in violation of Articles 7 and 26 of the African Charter.

⁵⁸ The Ministerial Action Group comprises the foreign ministers of Canada, Ghana, Jamaica, Malaysia, New Zealand, South Africa, the United Kingdom and Zimbabwe.

⁵⁹ Resolution on Nigeria, the European Parliament, 23 May 1996.

⁶⁰ Resolution on the murder of Mrs Kudirat Abiola in Nigeria, the European Parliament, 20 June 1996.

⁶¹ Resolution on Nigeria, ACP-EU Joint Assembly, 26 September 1996.

intergovernmental organizations, the Organization of African Unity, the Commonwealth, the European Union. The present military government has announced that it will hand over power by the end of October 1998 but, without respect for human rights during the transition to civilian rule, this commitment must be viewed with scepticism by the international community. Partial and piecemeal measures of human rights reform by the Nigerian authorities are simply not enough. The release of a small number of prisoners of conscience does not demonstrate a commitment to human rights. What is required is the urgent implementation of a comprehensive and far-reaching program of human rights reform.⁶²

Amnesty International's recommendations

Amnesty International calls on the Commission to urge the Nigerian Government to:

- Establish respect for human rights in Nigeria and to cooperate fully with the international community;

- Comply with the recommendation of the Human Rights Committee to undertake a review of the overall legal framework for the protection of human rights in Nigeria in order to bring it fully into line with the principles of the International Covenant on Civil and Political Rights;

- Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and recognize the competence of the Committee against Torture under Articles 21 and 22;

- Implement the recommendations in the joint report of the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers;

- Order a review, by a higher and independent judicial body, of all convictions and sentences by special tribunals which have tried political prisoners or which have imposed the death penalty, with a view to releasing or retrying prisoners if their trials did not conform to international fair trial standards and to reforming such special tribunals to bring them into line with those standards or to abolishing them if reform proves impossible;

- End torture and ill-treatment, including medical neglect of prisoners and life-threatening prison conditions. Introduce adequate safeguards to prevent them in future, including full and immediate access for all prisoners to lawyers, families and medical services;

- Commute death sentences already passed and end all use of the death penalty in future;

⁶² In November 1996 Amnesty International set out a *10-point program for human rights reform in Nigeria* and called on the present Nigerian Government to adopt and implement this program in order to establish respect for human rights, (AI Index: AFR 44/15/96).

- Order independent and impartial investigations in accordance with international standards into all reported human rights violations, bring to justice all those persons found responsible for such violations and compensate victims;

- Release immediately and unconditionally all persons imprisoned for the nonviolent expression of their political views, including human rights defenders;

- Release immediately and unconditionally all other political prisoners unless they are to be charged and tried promptly and fairly with full rights of defence and without imposition of the death penalty. Those convicted should have their convictions and sentences reviewed by a higher and independent judicial body.

TURKEY

So far the 1990s have been a bad decade for human rights in Turkey and 1996 has been a particularly bad year. Torture has persisted. Children were again counted among the victims and one 14-year-old died in police custody - shot dead, apparently while being threatened with a pistol.⁶³ The newer patterns of extrajudicial executions and “disappearances” also continued with strong evidence of state involvement.

Amnesty International has documented severe and persistent human rights violations in Turkey for three decades. In recent years the expert bodies of the United Nations have added to the sum of evidence. Unfortunately, the Commission has failed to act upon the evidence and thereby failed the victims not only of those violations, but also of those violations which will surely follow unless strong action is taken without delay. It is difficult to avoid the conclusion that commercial, political and strategic security interests have contributed to the readiness of the member states of the Commission - over many years - to look the other way.

The Commission has remained indifferent while successive Turkish governments have treated it with contempt. Turkey's Ambassador to the UN questioned the impartiality and expertise of the November 1993 report of the UN Committee against Torture,⁶⁴ which described torture as “systematic”, and the government ignored its recommendations.⁶⁵ Repeated requests for access made by the Special Rapporteurs on torture and on extrajudicial, summary or arbitrary executions and the Working Group on Enforced Disappearances have been left without response. Only the Special Rapporteur on Freedom of Expression was invited to visit Turkey. He did so in September 1996

⁶³ See *Turkey: Children at risk of torture, death in custody and “disappearance”*, (AI Index: EUR 44/144/96)

⁶⁴ UN Committee against Torture, Report under Article 20, 9 November 1993.

⁶⁵ In resolution 1996/22 entitled Effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights the Commission urged states parties whose reports have been examined by treaty bodies to “provide adequate follow-up to the observations and comments of the treaty bodies”. The recommendations of treaty bodies in other contexts deserve equal consideration.

and his report will be submitted to the 1997 session of the Commission. It is not clear to Amnesty International why the Turkish Government should have extended an apparently unsolicited invitation to one theme mechanism while ignoring requests from three others.

Though inaction has proved a cheap strategy in terms of diplomacy, one individual case illustrates the cost for the victims. After a grossly unfair trial in a martial law court, Selahattin *_im_ek*, formerly a teacher, was imprisoned in 1980 and sentenced to life imprisonment for alleged involvement in robbery and the killing of a policeman on behalf of the Kurdish Workers' Party (PKK). Selahattin *_im_ek* was convicted on the basis of his own statement extracted under severe torture and on a mass of contradictory evidence. He appears to be the victim of a serious miscarriage of justice. On 14 September 1995, the UN Working Group on Arbitrary Detention ruled Selahattin *_im_ek*'s detention to be arbitrary.⁶⁶ The Working Group requested the Turkish Government to "take the necessary steps to remedy the situation" but the Working Group's decision has been ignored, even though the Commission has called on "Governments to pay attention to the recommendations of the Working Group concerning persons mentioned in its report, who have been detained for a number of years".⁶⁷ Selahattin *_im_ek*, now beginning his 17th year in prison, continues to pay the price for the Commission's failure to follow through the careful work of its expert bodies.

The Turkish Government is as deaf to requests by non-governmental organizations for action and information on human rights violations. Since 1 January 1996 Amnesty International has raised with the Turkish Government detailed reports of more than 100 allegations of torture, 10 reported deaths in custody as a result of torture, 41 cases of alleged "disappearance", 35 cases of extrajudicial execution, 15 prisoners beaten to death and nearly 200 writers prosecuted for the non-violent exercise of their right to freedom of opinion. Brief and perfunctory replies were received on fewer than a dozen cases.

States have an obligation to respect non-derogable rights such as the right to life and the right not to be subjected to torture at all times and in all circumstances, even in the face of violent political opposition. The Turkish Government cannot excuse the violations committed by its own security forces by pointing to atrocities perpetrated by armed groups. Nevertheless, the abuses committed by the PKK and Revolutionary People's Liberation Party-Front (DHKP-C), among others, deserve to be condemned without qualification.

The PKK has continued to kill prisoners and civilians. The number of such abuses fell markedly during the cease-fire from December 1995 to July 1996. Amnesty International hoped that the PKK had changed its policy in order to fulfil its public undertaking of 1994 to abide by common Article 3 of the Geneva Conventions. Sadly, once the cease-fire had drawn to a close, killings of

⁶⁶ WGAD Decision No. 34/1995 (Turkey).

⁶⁷ Resolution 1996/28 Question of arbitrary detention. The Commission in its resolution 1996/46 entitled Human rights and thematic procedures invited the "Governments concerned to study carefully the recommendations addressed to them under the thematic procedures and to keep the relevant mechanism informed promptly on the progress made towards their implementation".

suspected “informers” and “collaborators” resumed, to claim the lives of more than 40 prisoners and civilians during 1996 alone.

The DHKP-C has also claimed responsibility for the killing of civilians. In January 1996, DHKP-C carried out what they described as a “revenge” killing in retaliation for four political prisoners beaten to death at Ümraniye prison. Armed members entered the Istanbul business premises of the industrial conglomerate Sabanci Holdings and killed Özdemir Sabanci, a member of the owning family, Haluk Görgün, a director, and Nilgün Hasef, a secretary. The three victims were not responsible for, or even remotely connected with, the events at Ümraniye prison, but appear to have been selected arbitrarily by the DHKP-C.

In approaching the problem of torture the Turkish Government has shown great reluctance to act and even if it does act the measures taken are minimal and insufficient. Torture occurs mainly in police stations and gendarmerie posts during incommunicado detention, as a means to extract confessions, to obtain information and to summarily punish petty offences or suspected sympathy for illegal organizations. The Special Rapporteur on torture observed in his 1995 report that provisions for prolonged incommunicado detention, especially in the emergency zones, remain a “fertile context” for the systematic torture of detainees.⁶⁸ In his view, this observation remained applicable during 1995.⁶⁹

In recent years, Amnesty International has received an increasing number of reports alleging the torture of children. For example, Halil Can Do_an was aged 14 when he was detained and reportedly tortured on several occasions in 1995. In July 1996 he was held at Ankara Police Station and reportedly subjected to beatings, electric shocks and sexual assault. Halil Ibrahim Okkali, a 12-year-old apprentice in a furniture workshop, was interrogated by police in Izmir on 27 November 1995 after he had been accused of theft by his employer. Released later that day, Halil was hospitalized for three days with his arm in plaster and severe bruising to his hands, knees, shins, left thigh and buttocks. On 30 October 1996, two police officers were found guilty of ill-treatment and sentenced to 2½ months’ imprisonment and suspension from duties for three months. This sentence was later commuted to a fine of 750,000 Turkish Lira (about US\$8).⁷⁰

Amnesty International has frequently raised cases of Africans ill-treated in police detention. In most cases these are migrants or refugees. However, Dennis Joel Imomion, who was allegedly beaten to death on the night of 26 August 1996 by police officers working at the Narcotics Department, was a Nigerian citizen visiting Istanbul on business. According to witnesses, Dennis Joel Imomion was detained following a disturbance at his hotel. When police came to the scene, he was beaten by three people, apparently plainclothes police officers, and was beaten again after he was put in a police minibus. Bleeding profusely from the head, he died shortly after arrival at Istanbul Police Headquarters. According to a report in the newspaper *Hürriyet* (Liberation) of 31 August, three

⁶⁸ E/CN.4/1995/34, paragraph 826.

⁶⁹ E/CN.4/1996/35, paragraph 178.

⁷⁰ See *Turkey: Children at risk of torture, death in custody and “disappearance”* (AI Index: EUR 44/144/96).

friends of Dennis Imomion made a formal complaint to the Istanbul prosecutor. Amnesty International is unaware of any prompt and impartial investigation into his death.

On 27 November 1996, the Turkish Government submitted to the parliament a draft law which was presented as a measure to prevent torture and ill-treatment and thereby to answer international concern on the issue. The draft law amends the legislation relating to people arrested on suspicion of political offences within the scope of the State Security Courts - those most at risk of torture and most likely to die in custody. Under current provisions, such detainees can be held incommunicado - without any access to the outside world, even to their doctor or lawyer - for 30 days in the provinces of southeast Turkey under state of emergency and for 15 days throughout the rest of the country.

Under the new law detainees suspected of political offences could be held incommunicado for four days. This term of police detention can be extended to seven days on the order of a judge, but with access to a lawyer after the first four days. In the provinces under state of emergency the maximum detention period could be further extended to 10 days, again on the order of a judge.

The draft law was evaluated by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT) in its public statement of 6 December 1996. On the basis of recent visits to Turkey, the ECPT concluded that torture was a "common occurrence" and remained "widespread" - the term used by the Committee in its first statement in 1992 - but described the new law as "a significant step in the right direction." Amnesty International also views this as a positive development, but also agrees with the ECPT that the four days' incommunicado detention envisaged in the new bill is "not acceptable".

The rest of the ECPT's statement presents in stark outline the urgent need for reform: while their 1992 statement documented the discovery of torture equipment at Diyarbakır and Ankara Police Headquarters, the 1996 statement reports that in a visit to Istanbul Police Headquarters in September delegates found "an instrument adapted in a way which would facilitate the infliction of electric shocks and equipment which could be used to suspend a person by the arms". Medical examination of prisoners revealed evidence of beating of the soles of the feet, blows to the palms of the hand, and suspension by the arms. To have any hope of putting a stop to torture, so deeply ingrained in police practice, the draft law must be amended in line with the detailed recommendations made by the UN Committee on Torture and the ECPT and with international standards, including access to legal counsel of one's choice from the outset of detention; a clear definition showing that access to legal counsel means that the lawyer can be present during interrogation if the client so wishes and can confer with the client in confidentiality; access to independent medical advice and assistance throughout the detention period; explicit directions on the records to be kept of detentions (for example, that details shall be entered in a bound ledger with numbered pages, stating hour and date of detention) with the proviso that these records shall be open to lawyers and families; explicit provisions for notification of relatives; and mechanisms which will guarantee that these safeguards are not circumvented by police officers.

In 1996 there was a further increase in the number of deaths in prison as a result of beatings inflicted by police and gendarmes brought into prisons at times of tension. On 24 September, for example, 10 prisoners were beaten to death by gendarmes at Diyarbakır Prison. The circumstances

as outlined in a report prepared by the Diyarbakır Bar Association strongly suggest that this was a premeditated and deliberate assault. Amnesty International is not aware of any steps taken by the authorities to initiate prompt and impartial investigations of these killings.

The Working Group on Enforced or Involuntary Disappearances, in its report to the last session of the Commission, expressed concern at the high level of “disappearances” brought to its attention.⁷¹ There were 14 reports of “disappearance” in the first 10 months of 1996 and the Turkish authorities have failed to institute proper and impartial investigations into more than 100 cases outstanding from earlier years, or to take any steps to prevent the practice by police, still almost routine, of denying that they are holding detainees for hours or days at a time - to the considerable distress of relatives. The lower rate of “disappearances” in 1996 may be attributed to the weekly public vigil in Istanbul’s main commercial centre by “the Saturday Mothers”, relatives of the “disappeared”, which has received wide publicity.

In his 1995 report, the Special Rapporteur on extrajudicial, summary or arbitrary executions drew attention to information which suggested a pattern of violations of the right to life, particularly against people of Kurdish ethnic origin.⁷² Reports of extrajudicial execution have persisted. Most alarming perhaps, was the case of 11 villagers killed in January 1996 near the town of Güçlükönak in __mak province. Seven of those killed were members of the government-appointed corps of village guards - clearly showing how all citizens are placed at risk when the forces of the state step outside the law. On 15 December 1995 the PKK unilaterally declared a cease-fire and in early January, the European Parliament was considering a draft resolution encouraging the Turkish Government to respond to this initiative.⁷³ The authorities announced that on 12 January the PKK had massacred a group of 11 men in a minibus which was then set on fire. The Chief of General Staff flew journalists from all the major newspapers and broadcasting organizations to the remote scene of the massacre. A Turkish Foreign Ministry spokesperson criticized the European Parliament’s decision by referring to Güçlükönak: “The European Parliament takes seriously the so-called unilateral cease-fire of the separatist terrorist organization although this outlawed organization massacred a group of innocent civilians in a minibus attack last week.”⁷⁴ Shortly afterwards, doubts about the official story began to emerge, chiefly from the families of the victims. A delegation drawn from a wide spectrum of international, professional and human rights organizations investigated the massacre. The delegation gathered evidence which very strongly indicated that the local gendarmerie had carried out the killings. No prosecutions have been brought on the basis of the evidence submitted to the Public Prosecutor and to the gendarme authorities by the delegation.

Article 8 of the Anti-Terror Law, which provides for up to three years’ imprisonment for “separatist” statements, has continued to be used to inhibit freedom of speech. On 6 March 1996, 17

⁷¹ E/CN.4/1996/38, paragraph 433.

⁷² E/CN.4/1996/4, paragraph 493.

⁷³ Adopted 18 January 1996.

⁷⁴ Anatolian News Agency, 22 January 1996.

officials of the Turkish Human Rights Association went on trial at Ankara State Security court for their publication of a bulletin entitled *Peace is the Solution* on 1 September 1995, World Peace Day.

In October 1995, Article 8 of the Anti-Terror Law was reworded and the length of prison sentences was cut. This resulted in the release of many prisoners, but the changes were clearly designed for cosmetic reasons alone. All those released are being retried under the new wording of the act. Many of these retrials have resulted in convictions and prison terms, although most sentences have been suspended. Eight years of custodial sentence have been passed on Mehdi Zana, former mayor of Diyarbakır, who was imprisoned throughout the 1980s for his non-violent political activities and again during his imprisonment from May 1994 until December 1995 for testifying to the European Parliament on human rights violations in Turkey. In August 1996, a warrant was issued for his arrest by Istanbul State Security Court in respect of his book *A letter to Leyla*.⁷⁵

Trials at Istanbul State Security Court under Article 8 continue against 184 members of Turkey's literary and cultural élite for their part in publishing a book entitled *Freedom of Thought*. The book republished texts which contained no advocacy of violence, but which formed the basis of indictments against other authors who were convicted by State Security Courts. The prosecutor has demanded that they be given sentences of up to three years' imprisonment.

Other articles of the Turkish Penal Code (Articles 168, 169 and 312) have also been used against writers, journalists and political activists who challenge the Turkish Government's policies in the southeast, scene of a 12-year-old conflict between security forces and armed members of the PKK.

Amnesty International believes that the Commission on Human Rights, as the UN's main human rights body, has a responsibility to ensure that, at a minimum, outstanding recommendations which it has made or have been made by its own mechanisms and UN treaty bodies are promptly and thoroughly implemented. If, by the time the Commission meets in March 1997, the government of Turkey cannot show convincingly that it is taking effective measures to implement their recommendations, the Commission should take appropriate action.

Amnesty International's recommendations

Amnesty International calls on the Commission to urge the Government of Turkey to:

- Take immediate steps to conduct thorough, prompt and impartial investigations of all reports of extrajudicial executions and "disappearances" and to this end invite the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Working Group on Enforced or Involuntary Disappearances to carry out on-site investigations during 1997;

- Amend the draft law on detention procedures in line with the recommendations contained in the November 1993 report of the UN Committee against Torture as well as the recommendations

⁷⁵ Mehdi Zana's wife, the former member of parliament Leyla Zana, who was awarded the Sakharov Prize for Freedom of Thought of the European Parliament in 1995, is currently serving a 15-year sentence in Ankara Central Closed Prison on charges of membership of the PKK, after an unfair trial.

made by the ECPT and with international standards, and thereafter to enact that law; invite the Special Rapporteur on torture to carry out on-site investigations, including into recent reports of the torture of children;

- Release immediately and unconditionally all people imprisoned for the expression of their non-violent opinions and undertake thorough reform of Article 8 of the Anti-Terror Law, which provides for terms of imprisonment of up to three years for allegedly "separatist" statements, even where no advocacy of violence has been made, and other relevant articles of the penal code under which people are imprisoned for their non-violent opinions;

- Ensure that the Law on the Prosecution of Civil Servants (which permits local governors to block or delay prosecutions of security force members) is not applied to allegations of extrajudicial execution, torture or ill-treatment by police or other civil servants;

- Implement the recommendations contained in the decision of the Working Group on Arbitrary Detention on the case of Selahattin _im_ek.

THE DRAFT OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE

The draft Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Optional Protocol) aims to create a global system of inspection of places of detention as a way of preventing torture and ill-treatment. A Sub-Committee of the Committee against Torture will be empowered to carry out missions to any state which ratifies the Optional Protocol, visiting any place within the state where persons are deprived of their liberty. On the basis of these visits, the Sub-Committee will write a confidential report for the government, including practical recommendations. It will initiate a dialogue with the government on practical, remedial measures to improve the condition of persons deprived of their liberty with the aim of preventing torture. The Optional Protocol represents a unique initiative because of its emphasis on prevention. There is no shortage of international standards prohibiting torture and ill-treatment. This initiative endeavours to implement these standards more effectively.

A Working Group of the Commission on Human Rights has met each year since 1992 to consider the draft text submitted by Costa Rica in 1991. At its October 1996 session the Working Group began its second reading, using as the basis of its work the 1991 draft and the text which represented the outcome of the Working Group's first reading (1992-1995). Consensus was achieved on a number of draft articles⁷⁶ but despite substantial discussion there was no agreement on Article 1 (principle of missions) and Article 8 (planning of missions). A small minority of states participating in the Working Group continued to insist on a provision that a state must consent to each mission before it can take place. Consent to receiving missions would be given by a state

⁷⁶ Article 2 (creating an expert body to implement the Optional Protocol); 3 (outlining the principles which will govern the work, including cooperation and confidentiality); 4 (establishing the number of members of the Sub-Committee as well as the criteria for membership); and Articles 5, 6 and 7 (formerly draft Article 5) (setting up the procedure for election of members by the State Parties on the basis of the criteria in Article 4).

voluntarily deciding to ratify the Optional Protocol. Such a provision would, therefore, render the Optional Protocol ineffective.

At the 1993 World Conference on Human Rights states agreed that “(E)fforts to eradicate torture should, first and foremost, be concentrated on prevention” and therefore called for “the *early* adoption of an optional protocol to the Convention against Torture and Other Cruel, Inhuman and (sic) Degrading Treatment or Punishment, which is intended to establish a preventive system of regular visits to places of detention.”⁷⁷ It is vital for the Commission at its session in 1997 to reaffirm its strong support for the speedy conclusion of a truly effective Optional Protocol to the Convention against Torture.

Amnesty International calls on all states to participate actively and positively in the drafting of the Optional Protocol by supporting a text which would create an effective system for the prevention of torture.⁷⁸ The *general* support which many states have expressed for the drafting process and the idea of the Optional Protocol itself must now be translated into *concrete* support for specific elements of an effective machinery; central among these elements is a Sub-Committee with the power to carry out missions to any state party without having to seek further permission.

Amnesty International’s recommendations

Amnesty International urges the Commission to request the Secretary-General to:

- Allocate the necessary time and resources for the Working Group to meet for a minimum of two weeks in 1997;
- Urge the Working Group to make the best possible use of its allotted time and resources and to do so in a spirit of cooperation and efficiency, giving their support to the chairs of the Working Group and the informal drafting group in their efforts to move the work forward.

HUMAN RIGHTS DEFENDERS

The text of the draft Declaration on human rights defenders⁷⁹ has been under discussion since 1985. Although 14 of the 21 articles in the draft have been agreed, the Working Group, which is responsible for elaborating the text, made no progress at its meeting in 1996. Through their activities of promotion, denunciation and protection, human rights defenders, particularly those working at the national level, often confront threats and risks and in some countries put their own lives on the line to

⁷⁷ *Vienna Declaration and Programme of Action*, A/CONF.157/23; 12 July 1993; Page 22, Paragraph IIB.5(61)(emphasis added).

⁷⁸ For further information see Amnesty International *The Draft Optional Protocol to the Convention against Torture: Developing an Effective Tool to Prevent Torture*, (AI Index: IOR 51/01/96).

⁷⁹ The full title is the draft Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

protect others. The work of human rights defenders must be protected and supported, not restricted, because of the vital contribution they make to any community as well as to the understanding and implementation of internationally recognized human rights standards.⁸⁰

Amnesty International is particularly perturbed by the failure to confirm in the text of the draft Declaration rights already guaranteed to all, such as the right to freedom of expression or to freedom of association and peaceful assembly. Members of the UN affirmed at the 1993 UN World Conference on Human Rights that “[n]on-governmental organizations and their members genuinely involved in the field of human rights should enjoy the rights and freedoms recognized in the Universal Declaration of Human Rights, and the protection of the national law”.⁸¹ The final document of the 1995 Fourth UN World Conference on Women stated that “[g]overnments have a duty to guarantee the full enjoyment of all rights set out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights by women working peacefully in a personal or organizational capacity for the promotion and protection of human rights”.⁸²

If UN member states can agree such undertakings in Vienna and Beijing, they should be able to elaborate these commitments in the draft Declaration. It is appalling that - after 11 years’ discussion - controversy still exists on guarantees of the right to defend human rights and the full exercise of all the rights and freedoms that this entails. As an absolute minimum, the draft Declaration must include the rights to:

- defend the rights of other people;
- form, join or affiliate to national or international human rights organizations;
- advocate human rights ideas freely and openly;
- choose to defend any or all human rights;
- communicate with national and international NGOs, and have unrestricted access to intergovernmental organizations;
- participate in peaceful actions aimed at promoting the observance of human rights;
- use the law and state institutions in the defence of human rights, and appeal to them when the victims cannot do so for themselves;
- defend human rights in every dimension, independently of state ideology, on both the national and international level.

Amnesty International’s recommendations

⁸⁰ For further information see Amnesty International *Human Rights Defenders: Breaching the Walls of Silence* (AI Index: IOR 40/07/95).

⁸¹ *Vienna Declaration and Programme of Action*, part I, paragraph 38

⁸² *Beijing Declaration and Platform for Action*, paragraph 228

Amnesty International urges governments to attend the next session of the Working Group and to make every effort to ensure the completion of a strong text. If in 1997 there are again impediments to a satisfactory completion of the text in 1997, Amnesty International proposes that:

- The Commission gives serious consideration to the appointment of a Special Rapporteur on human rights defenders for an initial three-year period;

- The Special Rapporteur should be mandated to receive information on and investigate the situation of human rights defenders in all parts of the world, with the aim of identifying problems and gaps in the current text of the draft Declaration and helping the Working Group resolve outstanding problems.

THE HUMAN RIGHTS OF WOMEN

Since the recognition in the 1993 *Vienna Declaration and Programme of Action* that “[t]he human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights”,⁸³ the Commission has given more attention to the human rights of women and the need for UN human rights bodies to adopt a gender perspective. The last session of the Commission adopted four resolutions addressing specific aspects of women’s human rights⁸⁴ and made reference to them in more than 30 (out of 85) resolutions. This development has been firmly underpinned since 1994 by the work of the Special Rapporteur on violence against women.

Resolution 1996/46 on human rights and the thematic procedures called for attention to the characteristics and practice of human rights violations that are specifically or primarily directed against women, or to which women are particularly vulnerable. However, resolutions on the individual mechanisms vary considerably in their approach to the human rights of women and those dealing with the mandates of the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers fail to mention them at all. The Commission, in cooperation with the special rapporteurs and working groups, needs to develop a more strategic approach to the human rights of women. The work already undertaken by the chairpersons of the treaty bodies⁸⁵ could be used as a guideline for this.

Amnesty International considers it particularly important that on-site visits carried out by the Commission’s thematic and country mechanisms include delegates, preferably women, with expertise in investigating human rights violations against women. In addition, female interpreters should be used to facilitate the collection of information from women who have been subjected to rape or other sexual abuse or in circumstances where women may not be able to speak freely to male delegates.

⁸³ Part I, paragraph 18

⁸⁴ Resolutions 1996/17 on violence against women migrant workers, 1996/24 on traffic in women and girls, 1996/48 on integrating the human rights of women throughout the UN system and resolution 1996/49 on the elimination of violence against women

⁸⁵ As noted in operative paragraph 6 of resolution 1996/48

Commitments made by states at recent UN world conferences, particularly the Fourth UN World Conference on Women held in Beijing, China in September 1995, need to be integrated thoroughly into the Commission's work. The *Beijing Declaration and Platform for Action* has informed some Commission resolutions but there are glaring omissions. For example, there is no reference in resolution 1996/51 on human rights and mass exoduses to gender-specific human rights violations that result in women, individually or in large numbers, fleeing their home countries. Although the preambular paragraphs echo the *Beijing Declaration and Platform for Action* in stating that women and children constitute some 80 percent of the world's refugee population, there is no mention in the resolution of the reasons for this, such as "[w]omen may ... be forced to flee as a result of a well-founded fear of persecution ... including persecution through sexual violence or other gender-related persecution".⁸⁶

Resolution 1996/48 on the integration of the human rights of women into the UN system encourages the strengthening of cooperation among all UN human rights bodies and mechanisms and the development of a systematic gender perspective in their work. The resolution requests that the joint work plan for the Commission on Human Rights and the Commission on the Status of Women be available to both bodies at their sessions in 1997. While it is unfortunate that the two Commissions will be meeting simultaneously, one in Geneva and the other in New York, a joint work plan could be an important device for securing increased cooperation between the Commissions and developing awareness and action on the human rights of women.

Resolution 1996/48 also recommended that the High Commissioner for Human Rights establish a high-level post within his office to advise on integrating the human rights of women within the UN Centre for Human Rights and to liaise with other UN bodies. This has still to be implemented. The High Commissioner should also ensure that adequate training in the human rights of women is provided for all his staff; all training materials include a gender perspective; and the human rights of women are included in all advisory services and technical assistance projects. The High Commissioner should reconvene the expert group meeting of July 1995 so that they can continue their work and encourage participation from representatives of the treaty bodies and the Commission's country and thematic mechanisms.

The necessity and urgency of the Commission's focused attention on violations of the human rights of women is demonstrated by the reports of the Special Rapporteur on violence against women, who will present her third report in 1997, as well other thematic and country rapporteurs who have reported on this issue. In a few years, the small amount of work done by the Commission's mechanisms has begun to reveal the extent and severity of human rights violations against women. This work must be continued and further developed.

Amnesty International's recommendations

Amnesty International recommends that the Commission take action to:

⁸⁶ *Beijing Declaration and Platform for Action*, paragraph 136

- Renew the mandate of the Special Rapporteur on violence against women and ensure that she has adequate resources to carry out her mandate effectively;

- Encourage all thematic and country mechanisms to devise a specific strategy whereby they give particular attention to the characteristics and practice of human rights violations against women, or to which women are particularly vulnerable;

- Affirm provisions on the human rights of women in documents agreed at recent UN world conferences by incorporating them in resolutions and urge their prompt implementation by all governments;

- Strengthen the integration of the human rights of women into the UN system by taking practical steps to improve cooperation and coordination;

- Encourage the High Commissioner for Human Rights to ensure that a gender perspective is visibly present at all levels in the work of the Centre for Human Rights;

- Reconvene the expert group, with participation from representatives of the treaty bodies, thematic mechanisms and country rapporteurs, so that it may assess the extent to which its guidelines of July 1995 have been implemented and continue its work.

REVIEWING THE VIENNA DECLARATION AND PROGRAMME OF ACTION AND THE 50TH ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The final paragraph of the *Vienna Declaration and Programme of Action*, adopted by the 171 states attending the 1993 UN World Conference on Human Rights, requests the UN Secretary-General to prepare a report on its implementation on the occasion of the 50th anniversary of the Universal Declaration of Human Rights. It calls for special attention to be paid to assessing the progress towards the goal of universal ratification of international human rights treaties and protocols adopted within the UN system. Commission resolution 1996/78 requested the High Commissioner for Human Rights to report on the implementation of the *Vienna Declaration and Programme of Action* and the preparations for the 1998 review.

Thus 1998 will be a major occasion - in the Commission on Human Rights, the Economic and Social Council and the General Assembly - for discussion of both texts and affirmation of their relevance to human rights at the close of the 20th century. Although in January 1947, when the Commission first began drafting what was to become the Universal Declaration of Human Rights, the UN was a much smaller organization, the multicultural basis of the Declaration is demonstrated by the Commission's membership at those early sessions: Australia, Belgium, Byelorussia, Chile, China,⁸⁷ Egypt, France, India, Iran, Lebanon, Panama, Philippines, Ukraine, United Kingdom, Uruguay,

⁸⁷ In October 1971 the General Assembly decided "to restore all rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China at the United Nations".

USA, USSR and Yugoslavia. Since 1948, a growing intergovernmental community of states has reaffirmed and expanded the moral imperatives of the Universal Declaration of Human Rights in a solid body of international human rights treaties and non-treaty standards, starting with the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights. New types of violations, such as enforced or involuntary disappearances, have been identified in international standards; violations long abhorred, such as torture, remain the subjects of important new developments in standard setting. Essential, practical safeguards have been negotiated between states over many years and adopted by the consensus of the General Assembly in standards such as the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and the Declaration on the Protection of All Persons from Enforced Disappearance.

This collection of international human rights standards now constitutes a major statement of collective undertakings by governments as an agreed benchmark for their behaviour towards those under their jurisdiction. The development of these standards has been uneven - far more attention has been given to civil and political rights than to economic, social and cultural rights although the continuing grave and persistent incidence of violations of civil and political rights more than justifies this level of attention. Nonetheless, the 1993 UN World Conference on Human Rights, reaffirmed a principle tenet of the Universal Declaration of Human Rights by stating that “[h]uman rights and fundamental freedoms are the birthright of all human beings; their protection and promotion are the first responsibility of Governments”⁸⁸ and that “the promotion and protection of all human rights and fundamental freedoms must be considered as a priority objective of the United Nations... the promotion and protection of human rights is a legitimate concern of the international community”.⁸⁹ Indeed, one of the major achievements of the conference was the acceptance by Western governments of the rights to development and of economic, social and cultural rights and the role of these rights in developing respect for civil and political rights. Equally, some governments of the South who had argued against civil and political rights accepted, through the *Vienna Declaration and Programme for Action*, that sustainable economic growth requires respect for democratic development and civil society for which civil and political rights are essential.

This is the type of consensus - support for the practical implementation of all human rights standards and safeguards as a “common standard of achievement for all peoples and all nations”⁹⁰ - which Amnesty International hopes to see as the focus of UN activity in 1998 around the five-year review of the *Vienna Declaration and Programme for Action* and the 50th anniversary of the Universal Declaration of Human Rights.

⁸⁸ Vienna Declaration, paragraph 1

⁸⁹ Vienna Declaration, paragraph 4

⁹⁰ Preamble to the Universal Declaration of Human Rights

Annex 1

SELECTIVE LIST OF OTHER AMNESTY INTERNATIONAL DOCUMENTS

The following documents are available from Amnesty International section offices, the International Secretariat in London or the Amnesty International UN office in Geneva. Availability of translations is indicated by means of superscribed letters (French, Spanish Arabic).

GENERAL

Amnesty International Report 1996
(AI Index: POL 10/02/96)^{F,S,A}

52nd UN Commission on Human Rights: Statements and press releases issued by Amnesty International
(AI Index: IOR 41/11/96)^S

ALGERIA

Algeria: Killings in Serkadji Prison
(AI Index: MDE 28/01/96)^{F,S}

Algeria: Fear and Silence: A hidden human rights crisis
(AI Index: MDE 28/11/96)^{F,S,A}

COLOMBIA

Colombia: Government should oppose moves to reinforce impunity for human rights violators
(AI Index: AMR 23/22/96)^{F,S}

Colombia: Extrajudicial killings, "disappearances", death threats and other political violence in the department of Sucre
(AI Index: AMR 23/30/96)^{F,S}

Colombia: Amnesty International calls on the Colombian Government to take urgent measures
(AI Index: AMR 23/31/96)^{F,S}

Colombia: Governmental promises ring hollow as another human rights worker is killed
(AI Index: AMR 23/54/96)^{F,S}

Colombia: Resignation of Colombia's ambassador should not blind European Union to ongoing paramilitary abuses
(AI Index: AMR 23/56/96)^{F,S}

INDONESIA/EAST TIMOR

Indonesia: Irian Jaya: recent arrests
(AI Index: ASA 21/21/96)^F

Indonesia: Independent election monitors targeted
(AI Index: ASA 21/23/96)

East Timor: Going through the motions: Statement before the United Nations Special Committee on Decolonization
(AI Index: ASA 21/39/96)

Indonesia: Printers of independent journal arrested
(AI Index: ASA 21/74/96)

Indonesia: Arrests, torture and intimidation: The Government's response to its critics
(AI Index: ASA 21/70/96)

NIGERIA

Nigeria: Time to end contempt for human rights
(AI Index: AFR 44/14/96)^F

Nigeria: Human rights defenders under attack
(AI Index: AFR 44/16/96)^F

TURKEY

Turkey: No security without human rights
(AI Index: EUR 44/84/96)^F

Turkey: Children at risk of torture, death in custody and "disappearances"
(AI Index: EUR 44/144/96)^{F,S}

Amnesty International is a worldwide voluntary movement that works to prevent some of the gravest violations by governments of people's fundamental rights. The main focus of its campaigning is to:

- *free all prisoners of conscience.* These are people detained anywhere for their beliefs or because of their ethnic origin, sex, colour or language - who have not used or advocated violence;
- *ensure fair and prompt trials for all political prisoners;*
- *abolish the death penalty, torture and other cruel, inhuman or degrading treatment of prisoners;*
- *end to extrajudicial executions "disappearances".*

Amnesty International also opposes abuses committed by armed opposition groups which are contrary to minimum international standards of humanitarian conduct such as hostage-taking, torture and deliberate and arbitrary killings of prisoners and other civilians and non-combatants.

Amnesty International is impartial. It is independent of any government, political persuasion or religious creed. It does not support or oppose any government or political system, nor does it support or oppose the views of victims whose rights it seeks to protect. It is concerned solely with the protection of human rights regardless of the ideology of the government or opposition force or the belief of the victim.

Amnesty International promotes awareness of and adherence to all the rights embodied in the Universal Declaration of Human Rights and elaborated in human rights instruments adopted by the United Nations (UN) including the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights although the specific rights on which it takes action are found in the latter treaty. All human rights are universal and indivisible and the specific rights which are the focus of Amnesty International's actions are inextricably linked to other human rights.