

AMNESTY INTERNATIONAL

55TH UN COMMISSION ON HUMAN RIGHTS

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PUBLIC

BACKGROUND BRIEFING

REVIEW OF SPECIAL PROCEDURES

A key item on the Commission on Human Rights's agenda will be the report written by the Commission's Bureau ¹to review its special procedures (these are the Commission's independent experts who act as human rights watchdogs on specific countries and themes) and bodies (the Sub-Commission). The purpose of the review is to enhance their effectiveness. The Bureau has consulted governments, UN experts and non-governmental organizations, and published its report in December 1998. Some of the key points and Amnesty International's views thereon are:

¹ The Bureau of the Commission consists of 5 members from different regional groups nominated for one year to organize Commission sessions and take appropriate action in between sessions.

*___ The credibility of Commission action on human rights has suffered for many years because its members often put powerful political interests above human rights considerations, including in countries where violations are grave and persistent. The review therefore provides a major challenge to the Commission to make human rights and not politics the yardstick of all its human rights activities.

*___ Amnesty endorses the approach taken by the Bureau in identifying that the aim of the review is to 'enhance the capacity of the UN to promote and protect internationally recognized human rights and contribute to the prevention of their violation'. The Commission should unequivocally support this view, and governments should match this commitment by meaningful action to strengthen support for Commission experts and their scope for effective and fully independent action especially to protect human rights. That includes, as the Bureau proposes, ensuring that adequate resources are provided from the regular UN budget.

*___ Many governments fail to implement the recommendations made by these Commission experts and some governments even refuse to cooperate with them. The Commission should therefore endorse the Bureau in stressing 'the responsibility of all government to cooperate fully' with the Commission and its special procedures. But the Bureau stops short of recommending that countries which persistently fail to cooperate should pay the penalty. Amnesty International recommends that the Commission should bring such countries to the attention of the UN Secretary General with a request that he determine an appropriate response.

*___ Dialogue with governments, although important, should not prevent the Commission taking effective action when countries flagrantly and persistently violate human rights. Programs for technical assistance

can definitely advance human rights and the Bureau calls for such assistance to be given to all "willing governments". But Amnesty International considers that technical assistance should not provide a pretext for government inaction to protect human rights. It therefore recommends that such assistance should only start once a government has agreed to take concrete measures to improve its human rights performance.

* ___ Amnesty International supports many of the observations and recommendations of the Bureau, wishes some to be strengthened but opposes others. For example, it strongly opposes the Bureau's recommendation that two Working Groups -- the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances -- should be transformed into Special Rapporteurs. Given their specific mandates, such working groups provide a better mechanism of protection than a single expert.²

COUNTRY BACKGROUNDS

Algeria

Human rights abuses continue on a large scale. Throughout 1998, killings of civilians -- sometimes entire families -- continued daily in

²The Working Group on Arbitrary Detention has a mandate to investigate cases of detention and makes pronouncements as to whether they are compatible with international standards. Only a group of experts with different legal and regional backgrounds can do justice to the Working Group's quasi-judicial mandate. The Working Group on Enforced or Involuntary Disappearances needs to preserve the broad based expertise of a group to deal with a world-wide phenomenon for which the UN has created a specific declaration but not - yet - a specific treaty supervisory body.

different parts of the country. Security forces and militias armed by the state continue to be responsible for extrajudicial executions, deliberate and arbitrary killings, torture, "disappearances" and arbitrary detention.

Armed groups which call themselves "Islamic groups" continue to target civilians. They have slaughtered individuals and groups of people, including children, women and elderly people -- at times after abducting them -- and have carried out bomb attacks claiming scores of lives and leaving hundreds injured.

Among other things, Amnesty International calls on the Commission to:

* ___ appoint a Special Rapporteur on Algeria, urge the government finally to fulfill its promise to give access to the two Special Rapporteurs on Torture and on Extrajudicial, Summary or Arbitrary Executions and implement the recommendations made by the Human Rights Committee.

Cambodia

Total impunity for human rights violations continues to be the norm in Cambodia. To date, perpetrators of recent human rights violations, including extrajudicial executions, torture and arbitrary detention -- as well as those who committed acts of genocide, crimes against humanity and war crimes between 17 April 1975 and 7 January 1979 while the Khmer Rouge was in power -- have not been brought to justice.

___ The authorities have ignored the recommendations made over the last six years by the Commission on Human Rights and its thematic mechanisms, by the General Assembly and the Committee on the Elimination of Racial Discrimination. None of the human rights violations reported by the UN Secretary-General's Special Representative for Human Rights in Cambodia (the Special Representative) has led to any prosecutions. This underlines the lack of political will to halt human rights violations and tackle impunity.

Among other things, Amnesty International calls on the Commission to:

* ___ give full political and financial support to the Special Representative and to the Cambodia Office of the High Commissioner for Human Rights, and urge the Cambodian authorities to put an end to the total impunity reigning in the country by bringing perpetrators of recent and past human rights violations to justice.

The Great Lakes Region of Africa: Burundi, Democratic Republic of Congo and Rwanda

A horrific catalogue of persistent, widespread and gross human rights abuses is the everyday reality in the Great Lakes region of Africa with impunity acting as a catalyst for renewed cycles of violence. In a vicious circle, the human rights crisis which has plagued the region for years has been, and remains, the root cause of old and new conflicts which, in turn, give rise to forced mass displacement.

___ As the conflicts have become increasingly internationalized, human rights abuses are committed throughout the region. In this context, large scale massacres of unarmed civilians, deliberate and arbitrary killings, extrajudicial executions, "disappearances", torture -- including rape and other forms of sexual abuse -- ill-treatment, arbitrary arrests, incommunicado detention, detention conditions amounting to cruel, inhuman or degrading treatment, denial of due process in the administration of justice, the use of child soldiers and the death penalty often following unfair trials are all widespread. Driven by fear, people are forced to flee their homes and communities giving rise to mass internal and cross-border displacement. Many of those in flight have yet to find security either in their own or in a neighbouring country.

Among other things, Amnesty International calls on the Commission to:

* ___ renew the mandates of the Special Rapporteurs on Burundi and the DRC and that of the Special Representative on Rwanda, and support their work. The mandate of the Special Representative on Rwanda should be strengthened by including the monitoring of the human rights situation in the country as a key component. Human rights field presences in the DRC and Burundi should be strengthened, and a field operation in Rwanda should be re-established.

Turkey

Turkey has a legacy of grave and widespread human rights violations. Torture and ill-treatment persist, scores of people continue to be detained for their non-violent political activities, and many are imprisoned after unfair trials. Several deaths in custody, “disappearances” and over a dozen extrajudicial executions were reported in 1998. In spite of this, tentative signs of change suggest that Turkey may be at a turning point. Such changes can only be consolidated and built upon if the government strengthens legal safeguards and other structural measures to protect human rights, brings them fully in line with international standards, and takes decisive action to ensure their scrupulous application throughout the country.

Among other things, Amnesty International calls on the Commission to:

* ___ urge the Turkish authorities to implement all the recent recommendations made by the special procedures of the Commission, as well as outstanding recommendations made by the Committee against Torture.

The United States of America (USA)

Despite its claims to international leadership in the field of human rights and its many institutions to protect individual civil liberties, the USA is

failing to deliver the fundamental promise of rights for all. There is a persistent and widespread pattern of human rights violations in the USA.

These violations appear to disproportionately affect people of racial or ethnic minority backgrounds. Police brutality is common across the country, as are human rights violations against people in detention, particularly women.

___ The increase in crimes punishable with capital punishment, its imposition for crimes committed by people below 18 years of age and the continuous increase in executions contravene international human rights standards. Over 350 prisoners have been executed in the USA since 1990, and a further 3,500 people await execution. The increase in the practice of detaining asylum-seekers is alarming as is the fact that many continue to be held in jails with criminals, and there is no judicial review of their continued detention.

Among other things, Amnesty International calls on the Commission to:

* ___ urge the US authorities to immediately declare a moratorium on executions with a view to totally abolishing the death penalty and bring the treatment of prisoners and asylum seekers, and the behaviour of law enforcement officials in line with international obligations.

THEMATIC ISSUES

Child Soldiers

For more than a decade, non-governmental organizations have campaigned to raise the minimum age of recruitment into armed forces, whether compulsory or voluntary, to 18 years. More than 300,000 children under the age of 18 are now fighting in conflicts around the world. Children fighting in armed conflicts are much more likely to die than other soldiers, because they are inexperienced and lack training.

Girl soldiers usually have to provide sexual services, and are consequently highly likely to suffer HIV/ aids, unwanted childbirth and abortion.

___ A Working Group of the Commission on Human Rights is drafting an Optional Protocol to the Convention on the Rights of the Child. The stumbling block is whether the age for recruitment and participation in armed conflict should be 18 years or lower. The Statute of the permanent International Criminal Court, adopted in July 1998, already prohibits, as a war crime, conscripting or enlisting children under 15 years into armed forces.

* ___ Amnesty International calls on the Commission to urge the Working Group to adopt 18 years as the minimum age for recruitment into armed forces and participation in hostilities

“Disappearances”

The Commission on Human Rights has before it a draft Convention on the protection of all persons from enforced disappearances (the draft convention) prepared by the Sub-Commission. Unlike the 1992 Declaration of the same name, the Convention, when adopted, will be a binding document. The draft convention contains many innovative provisions to strengthen protection against “disappearances”. The persistent practice of these grave human rights violations in many parts of the world underlines the urgency to proceed with adopting a convention on “disappearances”.

* ___ Amnesty International calls on the Commission to form an intersessional working group to act speedily and effectively to adopt, within a specific time frame, a strong and effective Convention on

“disappearances” which preserves and enhances the strength of the present draft, for adoption at the General Assembly.

Torture

Since 1992 a Working Group of the Commission on Human Rights has been drafting an Optional Protocol to the Convention against Torture which would establish a global inspection system of places of detention in order to prevent torture and ill-treatment. But a small group of states continues to obstruct these important efforts.

* ___ Amnesty International calls on the Commission to adopt a resolution calling for the finalization of the text of a strong optional protocol without further delay.

Human Rights Defenders

After 13 years delay and shameful bargaining the Declaration of Human Rights Defenders was finally adopted in December 1998. It is the minimum acceptable standards, but the Commission should now take decisive action to ensure its effective implementation. The work of human rights defenders cuts across all regions, and is truly universal. Effective monitoring of all human rights cannot take place without them and the protection of their rights lies at the heart of the protection of all other rights.

* ___ Amnesty International calls on the Commission to appoint a Special Rapporteur on human rights defenders and to develop effective strategies to better protect them.

Death Penalty

The fact that the (UN) Convention on the Rights of the Child – which, among other things prohibits the imposition and use of capital punishment for a crime committed by anyone below 18 years of age –

has been ratified by all but two states of the international community, demonstrates the international consensus on the prohibition of the imposition and use of the death penalty on those committing the offence when under 18 years old.³

___ Amnesty International calls on the Commission to adopt a resolution on the question of the death penalty in which the Commission should:

. ___ welcome the international consensus which prohibits the imposition and use of the death penalty on persons below eighteen years of age at the time of the crime;

. ___ reiterate its call on retentionist states to establish a moratorium on executions with a view to completely abolishing the death penalty. In the meantime, retentionist states should ensure the application of the Safeguards guaranteeing protection of the rights of those facing the death penalty, set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984, and other relevant international standards.

ENDS.../

For a copy of the report *1999 UN Commission on Human Rights -- Making human rights work: time to strengthen the special procedures*, or to arrange an interview, please call Soraya Bermejo, Press Officer, Tel: +41 22 798 2500 Mobile: +44 468 670 248

³ The only two states which have yet to ratify the Convention on the Rights of the Child are the collapsed state of Somalia and the United States of America.

