



UN HUMAN RIGHTS COUNCIL ELEVENTH SESSION

2-18 JUNE 2009

AMNESTY INTERNATIONAL
STATEMENTS

**AMNESTY
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Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories, who campaign on human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. We research, campaign, advocate and mobilize to end abuses of human rights. Amnesty International is independent of any government, political ideology, economic interest or religion. Our work is largely financed by contributions from our membership and public donations

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INTRODUCTION

Amnesty International made the following statements during the eleventh session of the United Nations Human Rights Council (HRC) which took place from 2 to 19 June 2009. This compilation also includes public statements and press releases issued during the session as well as Amnesty International Executive Secretary General's keynote address at a side event on prisoners of conscience.

All video links in this compilation are drawn from the United Nations Webcast.¹

The statements compiled here correspond to the texts available on the Human Rights Council extranet webpage. Some texts in this compilation include modifications made for the purposes of delivery.

Oral statements on the Universal Periodic Review (UPR) in this compilation reflect the statements as delivered at the Human Rights Council. The full text of each oral statement is posted on the extranet webpage of the UN Human Rights Council.² It can also be found under the relevant country's section on our website.³

At this session, Amnesty International's statement on the adoption of UPR report on Canada could not be delivered as, due to poor time management, the relevant Council's meeting was running late. This statement was included in the official record of proceedings as per HRC President's decision. In addition, Amnesty International was not able to deliver its statement on Cuba. Details on the circumstances that prevented delivery can be found in the public statement on Cuba and in the UPR overview statement.

QUICK REFERENCE

HRC. The Human Rights Council (HRC) was created by the General Assembly in 2006 as the principal human rights political body of the United Nations. The Council is composed of 47 elected member states that must uphold the highest standards in the promotion and protection of human rights.

It meets in regular sessions throughout the year and can meet in special sessions at the request of 16 Council members. The Council can address both thematic and country-based human rights issues and make recommendations to states.

More at <http://www.amnesty.org/en/united-nations/human-rights-council>

Special Procedures. The UN Human Rights Council's Special Procedures are independent human rights experts who examine issues globally, or focus on specific places, or on particular groups such as human rights defenders or migrants.

They are among the most innovative, responsive and flexible tools of the human rights machinery. The Special Procedures can be individuals, such as a Special Rapporteur, Special Representative of the Secretary-General or Independent Expert, or a Working Group.

Interactive dialogues with Special Procedure mandate-holders are held when they present their reports to the Council. Governments, non-governmental organisations and national human rights institutions can participate in those dialogues.

More at <http://www.amnesty.org/en/united-nations/special-procedures>

UPR. The Universal Periodic Review (UPR) is a mechanism of the Human Rights Council under which it reviews, on a regular basis, the fulfilment of the human rights obligations and commitments of all 192 UN Member States. The UPR is an inter-state review process aimed at the improvement of the human rights situation on the ground.

While the UPR is a state-driven process, civil society plays an important role in the review. This includes NGOs addressing the Council directly when it considers for adoption the report of a country review.

More at <http://www.amnesty.org/en/united-nations/universal-periodic-review>

ITEM 2 – REPORT OF THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS

ORAL STATEMENT DURING GENERAL DEBATE ON UPDATE BY THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS, NAVI PILLAY (*ANTI-IMPUNITY INDEX*) – 5 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090605am-eng.rm?start=01:38:26&end=01:40:45>

Delivered by Peter Splinter

Mr. President, Madam High Commissioner,

Amnesty International welcomes the substantive and thought-provoking update that the High Commissioner has given today. Of the three important topics addressed, we will focus our intervention on the condition of civilians in armed conflict.

An element common to all, of the situations addressed by the High Commissioner is the prevalence of impunity for violations of international human rights or humanitarian law or both.

Amnesty International would like to suggest a concrete measure that this Council can take to combat impunity for crimes committed against civilians in situations of armed conflict. This Council should establish an **anti-impunity index as an integral part of the Universal Periodic Review mechanism**. Used systematically, such an index would contribute to encouraging all states to provide victims and their families, as well as investigators and prosecutors, with the necessary legal framework to pursue justice.

This anti-impunity index would measure objective factors that indicate whether states have taken steps essential to combating impunity effectively. The index would call for examination of whether each state has ratified relevant international treaties, including the Rome Statute of the International Criminal Court, the Protocols to the Geneva Conventions, the Convention against Torture and the new Disappearances Convention. It would seek to determine whether it had defined genocide, crimes against humanity, war crimes in international and non-international armed conflict, torture and enforced disappearances as crimes under national law.

The index could also call for information about the number of complaints of such crimes committed in territory subject to the state's jurisdiction or by its nationals or outside its territory and not linked to the state by the nationality of the suspect or the victims or by harm to the state's own national interest, the number of investigations opened, the number of prosecutions commenced, and for each prosecution whether there was an acquittal or a conviction and an award of reparations. The objective criteria provided by such an index

could encourage states to emulate each other's best efforts and to facilitate reasoned discourse about each state's commitment to fighting impunity.

Madam High Commissioner,

Amnesty International has shared our modest suggestion for how this Council could better use the UPR to combat impunity. We would welcome hearing more from you about how the Council can better contribute to efforts to ensure that proper attention is given to combating impunity for violations of international human rights and humanitarian law as one element of UN strategy for protecting civilians in situations of armed conflict?

Thank you, Mr. President, Madam High Commissioner.

ITEM 3 – PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS

QUESTION FOR THE INTERACTIVE DIALOGUE WITH THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS AND THE SPECIAL REPRESENTATIVE ON BUSINESS AND HUMAN RIGHTS⁴ (*CHILDREN; MEXICO; NEED FOR LEGAL FRAMEWORK FOR CORPORATE RESPONSIBILITY*) – 2 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090602pm1-eng.rm?start=00:47:26&end=00:50:42>

Delivered by Patrizia Scannella

Mr. President,

Amnesty International welcomes the focus on children in the report of the Special Rapporteur on the human rights of migrants. Protecting **the rights of children and the right to family unity** must not be forgotten **in drafting migration policies**. Criminalizing irregular entry contravenes existing international standards and exposes irregular migrants, including children, to vulnerability and abuse.

The Mexican government is at the forefront of international efforts to strengthen the protection of migrants. Yet the Special Rapporteur's report on **Mexico** raises critical issues on migrants' rights in Mexico.

We are concerned that irregular migrants including children are routinely held in detention in Mexico prior to deportation. Irregular migrants, especially women and children, are particularly vulnerable to abuses while in transit by both officials and criminal gangs. Measures taken by the government so far are insufficient given the gravity of the situation.

According to cases we have documented, some municipal, state and federal agents commit human rights violations such as beatings, extortion, excessive use of force and arbitrary detention when carrying out verification checks and detention of irregular migrants. Those who commit these abuses are rarely held to account, encouraging a climate of impunity among officials and fear amongst migrants.

Irregular migrants are subject to a range of abuses by criminal gangs, including rape, kidnapping, torture, murder and trafficking on the transit routes north. On occasion, these crimes are committed with the apparent complicity of state officials. Measures to prevent such abuses are often inadequate. Migrants face tremendous obstacles in reporting abuse, accessing legal remedies or finding physical safety. This increases the vulnerability of migrants.

Human rights defenders who provide shelter for irregular migrants and document abuses are also at risk of threats and attacks. Investigations into such incidents have not resulted in the prosecution of those responsible.

Mr. Bustamante, do you plan any follow-up to determine whether there have been any developments in the investigation or prosecution of the cases of abuse of migrants and threats against migrants' defenders cited in your report on Mexico, including those where the involvement of state officials is alleged?

Mr. President,

Amnesty International welcomes the emphasis on the **duty of the state to protect human rights in the context of corporate activity**, as reflected in the report of the Special Representative on transnational corporations and other business enterprises, which lays out a range of challenges and pointers for how the Respect, Protect and Remedy framework could address these challenges. As the Special Representative has noted, states take "a relatively narrow approach to managing the business and human rights agenda. Human rights concerns remain poorly integrated into other policy domains that directly shape business practices. Therefore, a major objective of the Special Representative's renewed mandate is to assist Governments in recognizing those connections and advancing the business and human rights agenda beyond its currently narrow confines."

The failure of many states to uphold their legal obligations under international law to regulate corporate activity and to hold companies to account for human rights abuses is leading to serious human rights violations. We encourage the Special Representative to develop clear guidance to states on how their legal duty in this regard can be given meaningful effect, including through legal requirements in relation to the prevention, sanction and remedy of corporate actions that are inconsistent with human rights. The state's duty to protect must include: a requirement to enact corporate human rights due diligence in national law; appropriate sanction of non-state actors that abuse human rights and provision of effective remedy to victims.

We also believe that some elements of corporate human rights **due diligence measures** should be mandated by national law, to bring together the company responsibility to respect and the state duty to protect, in a manner that would strengthen both elements of the Special Representative's framework. Amnesty International believes that this is imperative to ensure that the framework adequately addresses those corporate actors that will act only when legally compelled to do so. Too frequently our criticism of corporate activity that results in human rights abuses is met with a defence that the company has abided by national laws. While we recognise that there are a growing number of corporate actors that operate in a principled manner, we cannot ignore the many that do not. Weak national legal frameworks can therefore give cover to corporate abuse of human rights.

The state duty to protect requires governments to make some elements of the corporate responsibility to respect mandatory, in order to effectively protect human rights.

We believe that effective remedy requires government action – including legal changes – to ensure greater access by victims of corporate-related human rights abuses to state

institutions and state oversight of non-state judicial mechanisms.

Professor Ruggie, we are interested in your views on the relationship between the state duty to protect, and the two other elements of your framework, namely corporate responsibility to respect, and access for those whose rights are affected negatively by companies to effective remedies, particularly your opinion on how the state duty to protect should include legal provisions that make the corporate responsibility to protect?

Thank you Mr. President.

QUESTION FOR THE INTERACTIVE DIALOGUE WITH THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS AND THE SPECIAL RAPPORTEUR ON FREEDOM OF OPINION AND EXPRESSION (*RUSSIAN FEDERATION, DURBAN REVIEWS CONFERENCE*) – 3 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090603pm1-eng.rm?start=00:38:15&end=00:41:28>

Delivered by Gràinne Kilcullen

Mr. President,

Amnesty International welcomes the report of the Special Rapporteur on the independence of judges and lawyers on his mission to the Russian Federation, which was carried out in May 2008.

In light of the on-going human rights violations in the North Caucasus and elsewhere in the Russian Federation, we attach particular importance to the Special Rapporteur's recommendations to the government on the following:

- Introducing appropriate mechanisms for keeping accurate arrest and detention records by the police and an immediate obligation to notify the court about an arrest;
- Creating a legal obligation of the court to order an impartial and effective investigation into credible allegations of torture;
- Conducting an ongoing analysis of the impact of the 2007 creation of an Investigative Committee under the Prosecutor's Office on the conduct of judicial proceedings and the quality of investigations by an independent entity;
- Conducting independent and impartial investigations into serious human rights violations and making available effective domestic remedies so as to comply with Article 2 Paragraph 3 of the International Covenant on Civil and Political Rights;
- Inviting relevant Special Procedures of this Council to the Russian Federation to analyse the human rights situation, including in the Northern Caucasus.

Since the start of this year, there have been further developments of significant concern in the Russian Federation, which require continued follow up by the Special Rapporteur's successor.

Among these developments was the killing of human rights lawyer **Stanislav Markelov** on 19 January 2009. It will be important that the investigations and any prosecutions related to this crime are closely monitored.

A further development has been the abolition of jury trials in cases of crimes against the state and terrorism-related crimes, some of which carry the death penalty. It will be important to assess the effects of the implementation of this amendment to the Criminal Procedure Code on the right to a fair trial and in doing so to take account of continuing concerns expressed about the independence of the judiciary.

The trial of the former head of the oil company Yukos, **Mikhail Khodorkovskii**, and his associate **Platon Lebedev**, also demands close attention as a high profile test case for the independence of the Russian judicial system.

Mr. Despouy, your mission to the Russian Federation has resulted in important findings and recommendations. What steps do you recommend should be taken by your successor to ensure follow up to your work and on the more recent developments?

Amnesty International welcomes the report and addenda of the Special Rapporteur on freedom of opinion and expression, and urges this Council to welcome them. Mr. La Rue, we note that you have given some attention to the political concept of defamation of religion.

We recall that the **Outcome Document to the Durban Review Conference** reaffirms that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law. It also reaffirms further that all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination as well as all acts of violence or incitement to such acts shall be declared offences punishable by law, in accordance with the international obligations of States and that these prohibitions are consistent with freedom of opinion and expression. Mr. La Rue, what do you think of the approach taken in the Outcome Document as a way of addressing the human rights issues related to the political concept of defamation of religions?

Thank you, Mr. President.

QUESTION FOR THE INTERACTIVE DIALOGUE WITH THE SPECIAL RAPPORTEUR ON
EXTRAJUDICIAL EXECUTIONS⁵ AND THE SPECIAL RAPPORTEUR ON VIOLENCE
AGAINST WOMEN (*IRAN, BRAZIL, AFGHANISTAN, POLITICAL ECONOMY OF
WOMEN'S HUMAN RIGHTS, TAJIKISTAN*) – 3 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090603pm3-eng.rm?start=02:48:12&end=02:51:26>

Delivered by Patrizia Scannella

President,

Amnesty International welcomes the reports of the Special Rapporteur on extrajudicial, summary or arbitrary executions. We regret that the Iranian government has been largely non-responsive to the Special Rapporteur and has failed to facilitate a visit by him. The Special Rapporteur's recommendation in respect of the **execution of juvenile offenders in Iran** is an important initiative, and we urge the Council to seek to engage the Government of Iran accordingly.

Regarding the report on **Brazil**, we have received reports of eight possible summary executions or deaths resulting from excessive use of force by the police, in the state of Rio de Janeiro, over the last six months. This includes the case of an 8-year-old boy who was shot on his way to buy bread. Professor Alston, has the state government been responsive to your recommendation to avoid the use of so-called 'mega' operations?

Last year, Rio de Janeiro state registered 1,137 "acts of resistance" and there were approximately 400 cases of "resistance followed by death" in Sao Paulo. Few, if any, of these killings were investigated. Each one needs to be investigated, and the practice of registering them automatically as acts of resistance needs to be ended.

We continue to receive reports of the expansion of the activities of criminal gangs formed by off-duty law-enforcement agents - in Rio de Janeiro. Similarly, we have received reports of killings by private security guards, who are invariably off-duty police officers, in rural areas. Professor Alston, are you aware of any steps being taken by the authorities to end the practice of private security companies hiring off-duty police officers?

Mr. President,

Amnesty International believes that violence and insecurity in **Afghanistan** is worse than at any period since 2001. Professor Alston, we look forward to you sharing with this Council information about steps that the international and Afghan forces have taken to comply with your recommendations.

Mr. President,

The report of the Special Rapporteur on violence against women on the **political economy of women's human rights** shows that women in all socio-economic groups face inequality - in

the enjoyment of their right to property, to housing, to education, to food and water, and to work - and that this position makes them a target for violence. Amnesty International welcomes the Rapporteur's many recommendations for specific measures by governments and non-state actors to address the underlying socio-economic causes of violence against women.

Professor Ertürk, you have completed your term as mandate-holder with an impressive review of the fruit of work under the mandate. In your 15-year review, you identify empowerment of women as one of the most important new challenges to be faced in the future of the mandate. Could you elaborate on why you see this as a new challenge? How might this challenge be approached effectively? Who are the main actors in making empowerment work for women and girls?

Finally, Professor Ertürk, turning to the report of your mission to **Tajikistan**: what assurances have you been given from the Tajik government that it will implement your recommendations on treating violence against women as a criminal offence?

Thank you Mr. President.

ORAL STATEMENT DURING THE PANEL DISCUSSION ON WOMEN'S EQUALITY BEFORE THE LAW – 4 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090604pm1-eng.rm?start=01:05:05&end=01:06:55>

Delivered by Patrizia Scannella

Madam Chair,

Amnesty International recalls with appreciation the analysis of **women's lack of equality before the law** contained in Dr Fareda Banda's study.⁶

Formal equality under criminal and civil law is important in ensuring respect for women's human rights, but it is not always sufficient. Women's human rights are often restricted through social pressures and prejudices. They also face discrimination in access to justice or lack financial means to secure legal representation.

In her review of 15 years of the Special Rapporteur's mandate, Professor Ertürk notes that efforts to achieve equality for women must include "tackling the root causes of the problem at all levels, from the home to the transnational arena" and that this requires a "shift of focus from a victimization-oriented approach to one of empowerment."⁷ We urge that this approach be adopted in addressing the lack of equality for women.

This requires applying a deeper understanding of how women are denied their rights because of aspects of their identity or social status, including intersections of diverse forms of discrimination.

Furthermore, the following conditions must be ensured:

- There must be an end to unequal power relations between women and men through eliminating prejudices based on stereotypes.
- Women's social and economic rights should be implemented in full and without discrimination.
- They should be able to enjoy their sexual and reproductive rights in law and in practice, including the right to choose their partner, to have access to comprehensive and non-discriminatory sex education and to adequate sexual and reproductive health services.
- Women should be able to enjoy their right to participate in political, legal and other decision-making forums, including in conflict and post-conflict situations.⁸

I thank you, Madam Chair.

ORAL STATEMENT DURING GENERAL DEBATE (*EXECUTION OF JUVENILE OFFENDERS, IRAN, SAUDI ARABIA, NIGERIA, YEMEM*) – 8 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090608am-eng.rm?start=00:37:10&end=00:39:23>

Delivered by Patrizia Scannella

Professor Alston stated in his annual report to the Council that “The **execution of juvenile offenders** is an affront to fundamental principles of humane treatment and a blatant violation of international law.” Amnesty International shares this view and urges this Council to take concrete measures to end the use of the death penalty for crimes committed when the person was below the age of 18 years.

The exclusion of juvenile offenders from the imposition of the death penalty is recognized in four international human rights treaties of worldwide or regional scope. Article 6 (para.5) of the International Covenant on Civil and Political Rights and article 37(a) of the Convention on the Rights of the Child clearly state that the sentence of death should not be imposed for crimes committed by persons below eighteen years of age. The African Charter on the Rights and Welfare of the Child and the American Convention on Human Rights enshrine the same prohibition (articles 5.3 and 4.5 respectively). All UN member states are signatories or parties to one or more of these four human rights treaties.

We recall two consensually adopted resolutions of this Council that remind states of their obligations under international law and urge states to end executions of juvenile offenders, the latest of these two in March this year.⁹ There are growing calls within countries which continue to execute juvenile offenders to end this abhorrent practice, such as the recent national call to action on this issue made by the Centre for Human Rights Defenders in Iran, headed by Nobel Peace Prize Laureate Shirin Ebadi.

Since the Council's March session, Amnesty International has received information of the execution of at least four juveniles.

On 1 May 2009, **Delara Darabi** was executed in Rasht Prison, northern **Iran**. Neither her parents nor her lawyers were notified before her execution, though under Iranian law her lawyer should receive 48 hours' notice. On 20 May 2009 **Ali Jafari** was executed in Shiraz, southern Iran for a crime he allegedly committed when he was 17.

In his October 2008 report on Iran to the General Assembly,¹⁰ the UN Secretary General clarified that the Iranian authorities' contention that *qesas* (murder) cases are excluded from state responsibility is not compatible with international human rights law, which does not make a distinction for *qesas* cases, as convicts are still put to death by the State.

In **Saudi Arabia**, Sultan Bin Sulayman Bin Muslim al-Muwallad, a Saudi Arabian citizen, and 'Issa Bin Muhammad 'Umar Muhammad, a Chadian national, were beheaded on 10 May 2009. The two juveniles were executed, with three other men, having been convicted of offences committed when they were 17 years old.

In Saudi Arabia, at least eight juveniles are at risk of execution. In Iran at least 139 juveniles are on death row. As of October 2008, in **Nigeria** at least 40 juveniles are on death row for crimes committed when they were between 13 and 17 years. Authorities in **Yemen** continue to execute juveniles despite unequivocal prohibition by its own laws of the use of the death penalty against offenders who committed the crimes when they were below 18 years of age.

Mr. President,

This Council must not tolerate this situation further. It's time for this Council to do more than issuing reminders. It must immediately take effective measures to end this flagrant violation of human rights law once and for all. Such measures could include engagement with the governments concerned at a high level and regular updates to the Council on progress achieved.

Thank you.

ITEM 4 – HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION

ORAL STATEMENT DURING THE GENERAL DEBATE (GAMBIA, MYANMAR) – 8 JUNE
2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090608pm1-eng.rm?start=00:28:43&end=00:31:04>

Delivered by Peter Splinter

Mr. President,

The human rights situation in **Gambia** requires the sustained attention of the Council. Recent events in Myanmar call for the renewed attention of this Council.

The human rights situation in Gambia has worsened since the foiled attempted coup plot in March 2006. The government has stifled political and social dissent; the army, the National Intelligence and the police have committed gross and systematic human rights violations. In a report of November 2008, Amnesty International raised the cases of at least 30 people detained without charge or unlawfully imprisoned after unfair trials since March 2006. Many have been tortured or ill-treated and died in custody or shortly after release.

Freedom of expression is severely limited: journalists have been detained and unlawfully arrested; newspapers, including internet-based ones, have been closed down or hacked into. Journalists and opposition members are frequently harassed, threatened and unlawfully killed. Daily Observer journalist **Chief Ebrima Manneh** has been a victim of enforced disappearance for over 2 years. Despite pressure from the ECOWAS Community Court of Justice, the government continues to deny holding him.

In March 2009, we revealed that over 1,000 people in Foni Kansala district, near the President's farm of Kanili were reportedly accused of 'witchcraft.' They were taken to secret detention centres where they were reportedly forced to drink hallucinogenic concoctions and confess to being witches. The drink appears to have led to kidney problems and to at least six deaths from kidney failure. A well known opposition leader, **Halifa Sallah**, who publicly criticised the government's 'witchcraft' accusations, was detained and charged with treason. After significant outside pressure, all charges were dropped and he was released.

Foreigners also have been subject to unlawful arrests, torture and ill-treatment by the security forces. In July 2005 a group of 50 foreigners, including 44 Ghanaians, was reportedly killed by members of the Gambia security forces. A recent report carried out jointly by ECOWAS

and the UN determined that rogue security forces were responsible. The government has not taken any steps to bring the perpetrators to justice.

This Council needs to address the dire human rights situation in Gambia. It should begin by calling for access for Special Procedures and other independent observers to investigate the human rights situation in that country.

The current trial and continued detention of the National League for Democracy leader Daw **Aung San Suu Kyi** returns the spotlight to the more than 2,100 political prisoners in **Myanmar**. The authorities charged her with violating the terms of her house arrest thirteen days before her detention order was to expire on 27 May 2009. Aung San Suu Kyi, who is in poor health, has been detained for 13 of the past 19 years. The Working Group on Arbitrary Detention ruled in March 2009 that her prolonged detention violated both international law and Myanmar's domestic legislation. She and the hundreds of other prisoners of conscience in Myanmar should be immediately and unconditionally released.

Thank you, Mr. President.

ORAL STATEMENT DURING THE INTERACTIVE DIALOGUE WITH THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN SUDAN – 16 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090616pm2-eng.rm?start=01:26:47&end=01:28:17>

*Please also see the corresponding public statement, AI Index: AFR 54/015/2009.*¹¹

Delivered by Patrizia Scannella

Mme Vice-President,

Arbitrary arrests, incommunicado detention, torture and other forms of ill-treatment have increased in **Sudan** over the last year. These violations have targeted civilians from all over Sudan and from Darfur in particular, including journalists, human rights defenders, women and children.

The Special Rapporteur has highlighted in her latest report the numerous gross and systematic violations of civil and political rights that persist in Sudan, and that have been exacerbated by the arrests and detentions that followed the Darfur-based Justice and Equality Movement's attack on Khartoum in May 2008, and around the International Criminal Court's arrest warrant against President Al Bashir in March this year. Amnesty International brings to the attention of this Council the situation of hundreds of disappeared civilians, mainly of Darfuri origin, who remain unaccounted for by the government since the arrests that followed the Justice and Equality Movement's attack on the capital.

Amnesty International also condemns the death sentences that have been delivered to date against a total of 103 alleged Justice and Equality Movement members, including one 17

and one 16-year old. These individuals have spent months in incommunicado detention and have all gone through unfair trials under special courts that are in breach of international and national law. These individuals must be given access to fair trials in normal courts, and there should be no recourse to the death penalty.

The Special Rapporteur is the only existing mechanism that can monitor and report effectively on these and other serious violations to the Council. They would not otherwise come clearly and comprehensively to the Council's attention.

The mandate of the Special Rapporteur on Sudan was established to respond to a situation of gross and systematic violations of human rights in Sudan. We ask this Council to renew her mandate for at least one year at a time and to maintain it for as long as these gross and systematic violations persist.

Mme. Vice-President,

We are deeply disappointed that no open consultations have yet been held on the draft resolution on Sudan, and that this resolution is once again treated as matter of concern to a minority of delegations.

Thank you Mme. Vice-President.

PRESS RELEASE - SUDAN: UN SPECIAL RAPPORTEUR MUST REMAIN – 17 JUNE 2009

Documents before the Human Rights Council for adoption today strongly imply that the Council will end the mandate of the Special Rapporteur on **Sudan**, according to Amnesty International.

Reports received by Amnesty International suggest that the Council may replace the Special Rapporteur on Sudan, Dr Sima Samar, with an independent expert. Such an appointment is, however, unlikely to happen before September, even if a knowledgeable expert could be found.

"The gravity of the situation in Darfur requires that the Special Rapporteur's mandate is kept in place," said Tawanda Hondora, Amnesty International's Deputy Director for Africa.

The mandate of the Special Rapporteur on Sudan was established to respond to a situation of gross and systematic violations of human rights in the country.

"It would be a gross act of negligence by members of the Council to ignore the gravity of the situation in Sudan by terminating the mandate of the Special Rapporteur. The Human Rights Council should place the interests of the civilian population in Sudan above any political consideration. The Special Rapporteur's mandate must be maintained for as long as war crimes and crimes against humanity persist," said Tawanda Hondora.

PUBLIC STATEMENT PRECEDING BRAZILIAN PRESIDENT LULA'S SPEECH AT THE HUMAN RIGHTS COUNCIL (*BRAZIL'S VOTE ON SRI LANKA AND DPRK RESOLUTIONS, NEED FOR STRONGER HUMAN RIGHTS COMMITMENT FROM BRAZIL*) – 12 JUNE 2009

AI Index: AMR 19/010/2009

Brazil Must Show More Commitment to the Protection of Human Rights in the UN Human Rights Council

As President Lula prepares to address the UN Human Rights Council (HRC), Amnesty International urges Brazil to take more principled positions in support of the protection of human rights in the Council.

Brazil's human rights record has improved in important areas since the end of the military regime twenty-four years ago. The changes accelerated following Brazil's adoption of a more open position in relation to the UN human rights monitoring system. The country was among the first to set up a National Human Rights Programme in accordance with the 1993 Vienna Declaration and Programme of Action. It continues to offer a standing invitation to special procedures and has often provided candid responses to human rights treaty bodies and special procedures.

Notable human rights proposals at home accompanied these initiatives. The establishment of programmes to protect some economic and social rights, such as in poverty reduction, combating slave labour and legislation against domestic violence, have brought some advances to parts of the population. Brazil has acknowledged that serious violations such as torture and extrajudicial executions persist across the country; it has recognised this fact in international fora, and made some efforts of limited effect to address them. Of course, beyond the positive discourse, much more remains to be done before all Brazilians enjoy the full panoply of internationally recognised rights.

Brazil's own experience with the UN human rights machinery demonstrates acknowledgement of the value of openness to and support for international human rights monitoring. Therefore it is a matter of perplexity that Brazil could co-sponsor and vote in favour of a draft HRC resolution on human rights in **Sri Lanka** reaffirming "the principle of non-interference in matters which are essentially within the domestic jurisdiction of States"¹² when in 1993 the Vienna World Conference on Human Rights settled that the promotion and protection of human rights is a legitimate concern of the international community.¹³ It is also difficult to understand that Brazil, on the basis of its own assertion of the principle that it should be possible to discuss any issue in the HRC, abstained in a vote on a no-action motion brought to prevent any consideration of amendments proposed to improve human rights protection in the same draft resolution.¹⁴

Brazil's statements of principle in the Human Rights Council in connection with human rights situations in countries, such as the **Democratic People's Republic of Korea** and Sri Lanka, have not been translated into corresponding positions on related HRC resolutions.

While Amnesty International acknowledges the potentially valuable bridging role that Brazil endeavours to play across regions and groups of states in the HRC, this must not come at the cost of taking firm positions in favour of the protection of human rights, particularly in situations of gross and systematic violations. Brazil must not fail itself, and it must not fail the victims of human rights violations.

Amnesty International encourages President Lula to commit Brazil to more vigorous protection of human rights both nationally and internationally, when he addresses the Human Rights Council on 15 June 2009.

ITEM 5 – HUMAN RIGHTS BODIES AND MECHANISMS

ORAL STATEMENT DURING THE GENERAL DEBATE (*INDEPENDENCE OF SPECIAL PROCEDURES, STATE NON-COOPERATION*) – 9 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090609am2-eng.rm?start=00:45:43&end=00:47:45>

Delivered by Patrizia Scannella

Mr. President,

Despite the proclamation in article 3 of the Code of Conduct that “mandate-holders are independent United Nations experts” who shall “act in an independent capacity,” some **states** have attacked this essential principle by **seeking to limit the issues on which mandate-holders may act or comment.**

States are quick to invoke the Code of Conduct to remind the Special Procedures of the standards of behaviour they expect. Yet, Council resolution 5/2 clearly calls on **all states to cooperate** with the Special Procedures, to provide all information in a timely manner, and to respond to communications without undue delay. States often fall short of this standard. For example, the Special Rapporteur on torture has been requesting visits to Egypt for the past 13 years. No less than eight separate mandate-holders have asked to visit Pakistan, whose government did not respond to most of the cases raised by the Special Rapporteurs who presented their reports at the Council session last week. Indeed, a review of the reports of the Special Rapporteur on extra-judicial, summary or arbitrary executions over the past 5 years reveals that Pakistan has consistently failed to provide responses to the vast majority of cases brought to its attention. Notwithstanding its important commitment of issuing a standing invitation to Special Procedures, Spain has yet to facilitate a visit request by the Special Rapporteur on freedom of opinion and expression, which has been outstanding since 2003.

It is reasonable for states to be concerned if a mandate-holder truly acts inconsistently with the terms of the Code of Conduct, but it is also reasonable to expect that if one does, those states will in good faith follow the procedures that this Council itself has adopted to deal with alleged breaches of the Code of Conduct. The Council must ensure that its treatment of and relationship with the Special Procedures is sufficiently mature to respect, protect and capitalize on their independence and expertise. To compromise on either of these principles is to put at risk the credibility of the Special Procedures system, and ultimately the Council.

Thank you Mr. President.

ITEM 6 – UNIVERSAL PERIODIC REVIEW

ORAL STATEMENT ON GERMANY – 9 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090609pm1-eng.rm?start=00:42:51&end=00:44:30>

Delivered by Marianne Lilliebjerg

Mr. President,

Amnesty International welcomes many of the recommendations made by states to **Germany**, and Germany's acceptance of the majority of them.

We welcome the announcement that Germany will ratify the International Convention for the Protection of All Persons from Enforced Disappearance within the next couple of months and acknowledge that the legislative procedure for this has been finalised.¹⁵

Amnesty International appreciates Germany's active contribution to the elaboration of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. We assume this implies a strong commitment to consider ratification in due course, as already announced in the national human rights action plan.¹⁶

We welcome Germany's acceptance of the recommendation to fully respect the provisions of international human rights instruments, including the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁷ Despite Germany's assertion that it has always acted in accordance with these instruments,¹⁸ we are concerned about practices such as the continued reliance on inherently unenforceable diplomatic assurances and the failure to introduce measures to prevent future renditions through its territory, including its air space.

Mr. President,

Amnesty International regrets that Germany declined to accept recommendations to strengthen efforts to prevent ill-treatment by law enforcement officers.¹⁹ We note that concerns raised and recommendations made to the German authorities by the UN Committee against Torture in 2004 are still relevant. We further note that complaints of ill-treatment by the police are often countered with charges against the person who alleged ill-treatment by the police.

Finally, we are disappointed that Germany declined to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.²⁰ We also note that Germany avoided commenting on recommendations not to impede access by

irregular migrants to primary health care, education and judicial authorities²¹ and reiterate our call on the government to immediately repeal the law requiring authorities to report the identity of irregular migrants.

Thank you, Mr. President.

ORAL STATEMENT ON CANADA – *UNDELIVERED CONTRIBUTION*

Note of explanation: Due to poor time management, this statement could not be delivered as the relevant meeting (9 June) was running late. The statement was however reflected in the official report of the session as per HRC President's decision.

Mr. President,

Amnesty International welcomes the adoption by **Canada** of many of the recommendations made by states. These reflect many of our own concerns and recommendations.

We are disappointed, however, that Canada has shown little commitment to take new steps to address serious human rights concerns in the country. Canada appears to consider that its law and practice already conform to most of what has been recommended. Amnesty International expected a more ambitious response from Canada.

Amnesty International also regrets that Canada rejected the majority of recommendations to ratify a number of important international human rights instruments and has gone no further than merely to agree to continue to consider possible ratification of the Optional Protocol to the Convention against Torture and the Convention on the Rights of Persons with Disabilities. Amnesty International is also disappointed that Canada rejected the recommendation made by many states to declare publicly its support for the UN Declaration on the Rights of Indigenous Peoples.

We are dismayed at Canada's refusal to implement a strategy to address a central concern of recent treaty body reviews - the crisis of poverty amidst affluence and the absence of effective domestic remedies for economic, social and cultural rights. Invoking its federal structure as an excuse for inaction in this area contravenes Canada's legal obligations as a federal state.

Mr. President,

Many states called on Canada to adopt a more effective approach to ensuring implementation of its international human rights obligations. This highlights the need for a system that is better coordinated among the country's federal, provincial and territorial levels of government, is more transparent and politically accountable, and includes meaningful consultation with Indigenous peoples' organizations and civil society groups.

Amnesty International welcomes the commitment to table the outcome of the UPR in Parliament and calls on the government to urge provincial and territorial legislatures to do the same. We note that Canada has accepted, in part, other recommendations regarding

implementation, but has offered no indication as to concrete steps to be taken. We urge that the government move quickly to develop a new approach to implementation, including of the recommendations from this UPR. More effective implementation is key to stronger human rights protection in Canada.

Thank you Mr. President.

WRITTEN STATEMENT: NIGERIA: IMPLEMENTATION OF THE OUTCOME OF THE UNIVERSAL PERIODIC REVIEW (UN INDEX: A/HRC/11/NGO/49)

Amnesty International welcomes the Nigerian government's engagement with the UN Universal Periodic Review (UPR) and its stated commitment to cooperate in every aspect of the mandate of the Human Rights Council.

Amnesty International calls on the government to accept and implement as many of the recommendations made during the UPR as possible and as a matter of urgency. We ask in particular for the government attention to the following key recommendations:

Stop violence against women and implement the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in all states²²

Although the Nigerian Constitution provides for equality in law and freedom from discrimination, violence against women remains pervasive, including domestic violence, rape and other forms of sexual violence by both state officials and private individuals.²³ While some states in Nigeria have adopted legislation to protect women from discrimination and violence, almost 24 years after its ratification, CEDAW is yet to be implemented at Federal and State level.

In August 2005, the Federal Government constituted the Committee on the Review of Discriminatory Laws Against Women to review discriminatory legislation. The Committee published its findings in May 2006; however, to date the discriminatory legislation is yet to be repealed or amended.

Amnesty International urges the government to repeal all laws that discriminate against women, to prohibit all forms of violence against women and to fully implement the provisions of CEDAW in both federal and state legislation.

Improve access to justice²⁴

Amnesty International welcomes Nigeria's statements in the UPR Working Group that it is addressing the issue of delays in the criminal justice system.

Amnesty International research reveals that three out of every five inmates in Nigeria have not been convicted of any offence; they await trial for years in appalling conditions.²⁵ Few can afford a lawyer and the government-funded Legal Aid Council is unable to provide assistance for everyone who needs this.

Amnesty International urges the government to improve access to legal aid and to provide adequate resources to the Legal Aid Council to hire more lawyers.

Many prisoners did not have a fair trial. **Patrick Obinna Okoroafor**, for example, continues to be incarcerated in Aba prison, Abia State, despite a High Court judgement on 18 October 2001 which pronounced his death sentence to be illegal, null and void. He was only sixteen when he was sentenced to death by a Robbery and Firearms Tribunal on 30 May 1997. He did not have the right to appeal and said he was tortured in police detention.

Amnesty International urges the government to immediately and unconditionally release Patrick Okoroafor.

In the past years, several government-established commissions have recommended reforms to improve access to justice.

Amnesty International urges the Federal Government to implement the recommendations of past commissions and to improve access to justice for all Nigerians. The Federal Government should also review the Prison Act and the Police Act, and ensure that the right to a fair trial is fully guaranteed.

Prevent and prosecute acts of extrajudicial executions, torture and other ill treatment²⁶

During the review, many states expressed their concerns about torture and extrajudicial executions by the security forces.²⁷ Amnesty International welcomes the government's stated zero-tolerance policy on extrajudicial executions and torture by security forces and looks forward to its prompt implementation. In particular, Amnesty International urges the government to ensure that the relevant provisions of international and regional instruments are reflected in national legislation, to criminalise torture and extrajudicial executions, and to promptly and fully investigate and prosecute persons suspected of having carried out torture or extrajudicial executions.

Over the years, Amnesty International has documented many cases of human rights violations by the security forces in Nigeria. There are consistent reports that the Police Force have executed detainees and people who refuse to pay bribes or during road checks, referring to them as 'criminal suspects'. In other cases, suspected armed robbers are reported to have been shot during arrest. In addition, the Police Force routinely tortures suspects to extract confessions.²⁸

Amnesty International calls on the government to investigate of all cases of human rights violations promptly and impartially and to bring to justice those responsible in accordance with international standards for fair trial.

Adopt a moratorium on executions²⁹

Amnesty International notes the statement by the Minister of Foreign Affairs in the UPR Working Group that Nigeria “continues to exercise a self-imposed moratorium [on the death penalty].” Amnesty International urges the government to formalize this moratorium, as also recommended by Nigeria’s National Study Group on Death penalty (2004) and Presidential Commission on Reform of the Administration of Justice (2007), the African Commission on Human and Peoples’ Rights, and by no less than 10 states in the UPR Working Group.³⁰ This is also in line with resolution 62/149 and resolution 63/168 adopted by the UN General Assembly in 2007 and 2008 respectively calling upon states which maintain the death penalty “to establish a moratorium on executions with the view to abolishing the death penalty”.

Although Section 33(1) of the Constitution allows for judicial executions, there are no Constitutional provisions making the death penalty mandatory for specific crimes. A moratorium on executions requires a commitment by the Nigerian authorities not to carry out executions, regardless of whether death sentences have been passed.

Under international human rights standards, capital punishment may only be imposed after due process of law. However, weaknesses in the Nigerian criminal justice system mean suspects in capital cases and death row prisoners are regularly denied their right to a fair trial and an impartial appeal process. Recent research carried out by Amnesty International and LEDAP indicates that hundreds of death row prisoners in Nigeria may be innocent.³¹ In 2006, at least six death row prisoners were executed without ever having had an opportunity to appeal their death sentence. They had been tried and convicted by Robbery and Firearms Tribunals under the jurisdiction of the military. There continues to be at least 80 prisoners on death row sentenced to death by these tribunals, with no right of appeal. Moreover, there are currently at least 40 juvenile offenders on death row, in violation of international and regional standards and national law which prohibit the imposition of the death penalty on juveniles.

Amnesty International urges the government to support the recommendations to establish a moratorium on the death penalty and to urgently review all cases of death row inmates who were under the age of 18 at the time of commission of the alleged crime, as well as the cases sentenced to death by military tribunals, seriously ill inmates, including mentally ill and elderly inmates, with a view to commuting their death sentences.

Abolish legislation that discriminates on the basis of gender or sexual orientation and reject the ‘same gender marriage (prohibition) bill’³²

Amnesty International is concerned by the government’s statement in the UPR Working Group, that it was not aware of any ‘Lesbian, Gay and Transgender group’ in Nigeria. This is particularly disturbing in light of the draft ‘Same Gender Marriage (Prohibition) Bill’ currently before the House of Representatives.

The use of laws to imprison individuals for consensual same-sex relations in private is a violation of Nigeria’s international human rights obligations. The draft ‘Same Gender

Marriage (Prohibition) Bill' would introduce criminal penalties for marriage ceremonies between persons of the same sex as well as for persons witnessing or helping to formalize such a marriage. The bill singles out one group of people to be deprived of rights that are guaranteed for all people in the 1999 Constitution. Amnesty International believes that provisions of the draft bill violate the right to freedom from discrimination, to private and family life, to freedom of religion or belief, expression and association.³³ This is in contravention of Nigeria's obligations under national law and international standards.³⁴

Amnesty International urges the Federal Government not to sign into law the 'Same Gender Marriage (Prohibition) Bill' and repeal all legislation that discriminates on the basis of gender and sexual orientation.

Ensure the independence of the National Human Rights Commission³⁵

During the review in the UPR Working Group, several states expressed concern that the National Human Rights Commission (NHRC) is not fully independent of the government.

Indeed, the dismissal of the Executive Secretary in March 2009 after the dissolution of the Governing Council in 2007 and the dismissal of her predecessor in 2006, seriously undermines the independence and authority of the NHRC.

Amnesty International calls on the government to take all necessary measures, including through legislation, to ensure full independence of the National Human Rights Commission to promote and protect human rights.

ORAL STATEMENT ON NIGERIA – 11 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090611pm2-eng.rm?start=00:36:13&end=00:37:59>

Delivered by Marianne Lilliebjerg

Mr. President,

Amnesty International welcomes **Nigeria's** engagement with the UPR and its stated commitment to cooperate in every aspect of the mandate of the Human Rights Council.

The organisation also welcomes the announcement, in the Working Group, that Nigeria has ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities, and signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the International Convention on the Protection of All Persons from Forced Disappearance; the Convention on the Prevention and Punishment of the Crime of Genocide; and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. We urge their speedy ratification and implementation.

Amnesty International welcomed the statement in the Working Group by the Minister of Foreign Affairs that Nigeria “continues to exercise a self-imposed moratorium on the death penalty.” We are concerned, however, by recent legislative amendments in several States in Nigeria to extend the scope of the death penalty to include crimes related to kidnapping.

Mr. President,

Amnesty International welcomes the announcement today of Nigeria’s support of most of the UPR recommendations and urge in particular early implementation of recommendations:

- To repeal all laws that discriminate against women, to prohibit all forms of violence against women and to fully implement the provisions of the Convention on the Elimination of All Forms of Discrimination against Women in both federal and state legislation,³⁶
- To repeal all laws that discriminate against women, to prohibit all forms of violence against women and to fully implement the provisions of the Convention on the Elimination of All Forms of Discrimination against Women in both federal and state legislation,³⁷
- To improve access to justice for all Nigerians, including improved access to legal aid,
- To prevent and prosecute acts of extrajudicial execution, torture and other ill treatment by the security forces,³⁸
- To abolish legislation that discriminates on the basis of gender or sexual orientation and to reject the ‘same gender marriage (prohibition) bill’,³⁹
- To take all necessary measures, including through legislation, to ensure full independence of the National Human Rights Commission’s work to protect and promote human rights,⁴⁰ and
- To adopt a formal moratorium on executions.⁴¹ By declaring a formal moratorium on executions, Nigeria would show important leadership on the issue of the death penalty in line with the global trend towards abolition.

Thank you, Mr. President.

PUBLIC STATEMENT ON UPR OF CUBA – 11 JUNE 2009

UN Index: AMR/25/006/2009

Cuba: Regrettable rejection of recommendations to ensure human rights

“It is truly disappointing that **Cuba** rejected so many recommendations that could have improved respect for human rights in Cuba, a great opportunity has been missed,” said Amnesty International on Cuba’s adoption of the Universal Periodic Review (UPR).

The organization welcomes the acceptance by Cuba of some of the recommendations

formulated in the review, in the belief that if implemented, they could contribute to the improvement of the human rights situation in Cuba. In particular, the organization welcomes the recommendations to conduct a study on the need for legislative and administrative adjustments to the domestic implementation of human rights, and to provide human rights training for government, police and judicial officials.

Amnesty International also welcomes the Cuban government's commitment to cooperate with the UN human rights mechanisms. In light of the severe restrictions on the right to freedom of opinion and expression, Amnesty International urges Cuba to facilitate without delay the visit by the Special Rapporteur on freedom of opinion and expression, the request for which has been pending since 2003.

Amnesty International is disappointed, however, by the rejection of a number of key recommendations related to the improvement of civil and political rights. These included ensuring the right to a fair trial and allowing greater freedom of movement for Cuban citizens, including to leave the country.

The organization also regrets it was not able to make these statements orally at the session as pro-Cuban governmental organizations dominated contributions preventing civil society organizations from participating. The manipulation of civil society's contributions to the process seriously undermines the UPR.

Amnesty International regrets that some of the recommendations were rejected on the basis that existing national institutions and legislation offer full protection of human rights and do not require further change. On these grounds, Cuba discarded the need to establish a national human rights institution in accordance with the Paris Principles, refused to ratify the Optional Protocol to the Convention against Torture and rejected the recommendation to provide full access to the International Committee of the Red Cross to prisons and to establish a system of review of its prisons by United Nations and other relevant international observers.

Amnesty International welcomes Cuba's support of a recommendation to refrain from applying the death penalty. However, it is regrettable that the government was unable to accept the recommendation to progressively reduce the number of offences liable to the death penalty and to consider further measures towards its complete abolition.

Amnesty International laments Cuba's outright rejection of recommendations to ensure respect for the rights to freedom of expression, association and assembly. The organization shares the concerns, expressed during the review, about the prosecution of Cuban citizens for peacefully exercising their human rights as guaranteed under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which we note Cuba has signed and indicated its intention to ratify. Amnesty International also regrets that Cuba was unable to agree to release political prisoners and to repeal or amend legislation that criminalizes legitimate activities related to the exercise of freedom of expression, association and assembly, such as Law No. 88 or Article 91 of the Penal Code.

According to information available to Amnesty International, at least 56 prisoners of conscience remain in detention, imprisoned solely for expressing their conscientiously held

beliefs, among them: **Oscar Elías Biscet**, a physician and President of the unofficial Lawton Foundation for Human Rights, arrested on 6 December 2002 and sentenced to 25 years in prison, and journalist **Julio César Gálvez Rodríguez**, arrested on 19 March 2003 and sentenced to 15 years in prison.

Amnesty International takes this opportunity to call on Cuba to immediately and unconditionally release these individuals and others arrested solely for exercising their right to freedom of expression.

Background

The UPR is a mechanism of the UN Human Rights Council under which it reviews, each four years, the fulfilment by all 192 UN Member States of their human rights obligations and commitments.

On 5 February 2009, Cuba was reviewed in the UPR Working Group of the Human Rights Council. During the review, member states made a number of recommendations in relation to the human rights situation in the country. Cuba accepted 60 of the recommendations, rejected several others, and took under consideration a further 17 recommendations. The 11th session of the Council formally adopted the review yesterday, 10 June 2009.

ORAL STATEMENT ON SAUDI ARABIA – 10 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090610pm3-eng.rm?start=00:44:32&end=0:46:28>

Delivered by Marianne Lilliebjerg

Mr. President,

Amnesty International welcomes **Saudi Arabia's** engagement with the UPR and its stated support of a wide range of recommendations.⁴² We regret, however, its decision to reject a range of recommendations, particularly those relating to the death penalty.

The government uses the death penalty against juvenile offenders in defiance of international law.⁴³ The latest reminder of such defiance is the beheading on 10 May 2009 of two men who were children at the time of their alleged crimes.⁴⁴ The death penalty is used extensively in Saudi Arabia for offences with no lethal consequences and applied in a disproportionate manner against foreign nationals. It is invariably imposed and carried out after secret and summary trials in which defendants are not provided with legal assistance.

We call on the government to reconsider recommendations to establish a moratorium on all executions.⁴⁵ It should also commute outstanding death sentences against individuals alleged to have committed crimes while under the age of 18 and urgently prohibit unequivocally the execution of such offenders.

Mr President,

Amnesty International regrets that, during the review, states did not engage Saudi Arabia more substantively on the wide range of human rights violations committed in the name of counter-terrorism.

Thousands of people arrested on counter-terrorism grounds are currently detained under conditions of virtually total secrecy; some are prisoners of conscience.⁴⁶ Most are held without charge or trial and without access to a lawyer or to the courts to challenge the legality of their detention. Many are alleged to have been tortured or otherwise ill-treated in order to extract confessions from them. Hundreds now face secret and summary trials and possible execution.

We call on the government to release all prisoners of conscience unconditionally and without delay. The government must end arbitrary arrest and ensure that anyone held is charged with a recognizable criminal offence, protected from torture and given a prompt and fair trial.

Thank you, Mr. President.

ORAL STATEMENT ON CHINA – 11 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090611am2-eng.rm?start=00:49:23&end=00:51:37>

Delivered by Peter Splinter

Mr. President,

If the Universal Period Review (UPR) is to lead to improved respect for human rights, governments must frankly address their own human rights records and be responsive to other states' recommendations. By rejecting a large number of recommendations covering a broad range of human rights, the Chinese authorities have effectively undermined the value of the UPR for **China**.

The success of the UPR also depends on a frank discussion within each State reviewed, including with civil society. This puts an important responsibility on representatives of civil society to vigorously address human rights shortcomings. They must not be accomplices in government efforts to present a sanitized picture of their national human rights situation. China's manipulation of civil society's contributions to the process seriously undermines the UPR and the credibility of the outcome for China.

Recommendations that did not enjoy the support of China, but which Amnesty International would urge the government to re-consider, include:

- To regularly publish figures on the use of the death penalty and to establish a moratorium on executions and eventually abolish the death penalty.⁴⁷
- To end the use of punitive administrative detention.⁴⁸

- To end the persecution of individuals who exercise their rights to freedom of expression, association and assembly.⁴⁹
- To end the on-going repression of national ethnic minorities, including Tibetans and Uighurs, and the persecution of other religious practitioners.⁵⁰
- To implement the November 2008 recommendations of the Committee against Torture and to ratify the Optional Protocol to the Convention against Torture.⁵¹

Amnesty International is concerned that no state raised the issue of Macao's National Security Law during the dialogue in the UPR Working Group. The vague and broad provisions in the law could be used to imprison individuals merely for exercising their rights to freedom of expression and association in that special administrative region.

Finally, as recommended by eight states during the review, Amnesty International reiterates its call on China to ratify the International Covenant on Civil and Political Rights.

Thank you, Mr. President.

PUBLIC STATEMENT ON UPR OF CHINA – 11 JUNE 2009

AI Index: ASA 17/027/2009

China Undermines Universal Periodic Review

China's rejection in its UPR session in February of a large number of recommendations covering a broad range of human rights has undermined the meaningfulness of its Universal Periodic Review (UPR) Amnesty International said today.

The UPR process was meant to be an opportunity for states to provide frank assessments on how they are promoting and achieving international human rights standards, as well as an opportunity for other states to make recommendations on how best to work towards fulfilment of these standards.

By rejecting so many recommendations China threatens the effectiveness and credibility of the process. Rejected recommendations were not politically motivated as alleged but based on international human rights obligations that China has accepted.

The UPR process also needs the frank participation of other states. Amnesty International urges states to contribute their "well-intentioned criticism," which, Ambassador Li Baodong stated today, would be carefully considered by China.

China's manipulation of civil society's contributions to the process seriously undermines the UPR and the credibility of the outcome for China. The genuine contribution of civil society is crucial to the success of the UPR and the goal of improving protection of human rights.

ORAL STATEMENT ON MEXICO – 11 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090611pm3-eng.rm?start=00:34:33&end=00:36:32>

Delivered by Marianne Lilliebjerg

Mr. President,

Many of the recommendations made to **Mexico** during the review in the UPR Working Group are consistent with those repeatedly expressed by members of Mexican civil society and Amnesty International.

While we recognise Mexico's positive engagement with the UPR and its stated support of 83 recommendations made by other states, we also note that successive Mexican governments have made similar commitments to address long-standing human rights concerns without delivering effective results. Examples of such earlier commitments include pledges to eradicate the use of torture and ill-treatment in the criminal justice system and to end impunity for past human rights violations.

In this statement we focus on the issue of violence against women although we share many other concerns addressed today by other civil society organizations. We welcome the recommendations, made during the review, to end discrimination and violence against women, to strengthen women's access to justice and reparation, to review legislation at state and federal levels, and to end impunity for the perpetrators.⁵²

Although we note some welcome legislative advances, most authorities in the country have not taken measures to effectively implement these legal obligations and, as a consequence, many victims and relatives continue to face obstacles in filing complaints and receiving prompt and effective redress. Many local, state and federal government authorities continue to view violence against women as a low priority which does not engage their responsibilities.

Mr. President,

In recent years, the federal government has had two important opportunities to demonstrate its commitment to prevent and punish violence against women; however, it has failed to do so. In Ciudad Juárez and Chihuahua City there are persistent reports of abductions and murders of women; yet too many perpetrators continue to enjoy impunity. And in San Salvador Atenco, Mexico state, the federal and state governments have failed to hold to account public officials responsible for the torture, including sexual violence, of at least 26 female detainees on 3 and 4 May 2006, despite compelling evidence. These cases must be addressed with urgency.

Thank you Mr. President.

ORAL STATEMENT ON MALAYSIA – 12 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090612am1-eng.rm?start=00:37:18&end=00:39:28>

Delivered by Gràinne Kilcullen

Mr. President,

Amnesty International welcomes many of the recommendations made by states to Malaysia, particularly calls to protect refugees, asylum seekers and migrant workers; to end the practice of whipping for immigration offences; to abolish the death penalty and corporal punishment; and to reform restrictive laws used to suppress peaceful political dissent.

We are disappointed that **Malaysia** did not support many of these key recommendations and urge the government to re-consider them in due course. Malaysia's rejection of recommendations to further the right to peaceful assembly is of particular concern in light of recent arrests of up to 160 people, including lawyers and opposition parliamentarians, for illegal assembly. Although most were subsequently released without charge, the government appears to use arbitrary arrests of its critics as a way of suppressing peaceful dissent.

Mr. President,

We regret that, following consideration, Malaysia decided not to become a party to the 1951 Refugee Convention, as recommended by many states. Despite assurances by Malaysia in the review that it does not criminalize refugees and asylum seekers, Amnesty International is concerned at reports of arrest, detention and deportation of refugees and asylum-seekers, including those issued with UNHCR documentation. Moreover, the government's assurances that conditions in immigration detention centres are adequate must be re-examined in light of reports of the recent deaths of two detainees from Myanmar.

Finally, we regret Malaysia's rejection of a recommendation to ratify the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. As the largest receiving country of migrant workers in Southeast Asia, we urge that Malaysia re-consider this stand.

Thank you, Mr. President.

ORAL STATEMENT DURING GENERAL DEBATE – 12 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090612pm1-eng.rm?start=01:06:34&end=01:08:42>

Delivered by Marianne Lilliebjerg

Mr. President,

The fifth session saw the UPR Working Group getting down to business and conducting most of the 16 reviews in a business-like manner focussing on human rights challenges in each of the countries reviewed and on measures to address these. The discussion in the Working Group demonstrated once again that no state has a perfect human rights record, but that there is room for improvement in the human rights protection in all states. The Working Group reviewed human rights situations that do not often receive the attention of the international community. For example, the reviews of both Vanuatu and Comoros brought to the attention of the Council the devastating impact on human rights by climate change.

There were also challenges to which the Council must seek solutions:

Some outcome reports exceeded the stipulated word limit and as a consequence were not translated into all UN working languages. The Council must devise a format and length of the outcome reports which captures the richness of the dialogue and enough detail of the recommendations to serve as an effective tool for the state under review to enhance the fulfilment of its human rights obligations and commitments.

Some reviews had more states inscribed on the speakers list than the three hour format could accommodate. The Council must strike a balance between allowing a meaningful dialogue with the state under review, the desire of reviewing states to participate, and the requirement of equal treatment of all states.

One state appearing before the Working Group did not present a national report in advance of the review. Amnesty International is pleased that after five rounds of review so far only two states have not managed to present a national report and hopes that this record will be further improved in future rounds.

Mr. President,

These technical challenges, however, pale when compared to the difficulties faced by NGOs at this session to secure a speaking slot prior to the adoption of some review outcomes.

This session has seen deeply worrying **attempts by some states to seek to manipulate NGO participation** by assisting particular organisations that they favour to obtain speaking slots at the expense of others. This development is truly disheartening and does nothing for the credibility of the UPR. In addition, **poor time management** took time away from the meagre 20 minutes allocated to NGO representatives in two outcome discussions and **precluded some NGOs** on the speakers' list **from addressing the Council**.

The **arrangement for** governments and NGOs to inscribe themselves on the **speakers' lists** for both the interactive dialogue in the Working Group and for the discussion of the outcomes in the Council leave much to be desired. We urge the Council to find a satisfactory solution to this. If only Ambassadors were authorized to sign the speakers' list for states, we suspect that other arrangements, including for NGOs, would soon be found to address the bewildering waste of time spent in queues, for literally hours on end, to inscribe on speakers' lists.

This session of the Council has also seen repetition of technical problems related to **lack of translation and late documents**. There are also ongoing challenges with how states are approaching the outcome discussions. It is important that states respond with sufficient clarity regarding support or rejection of recommendations made in the Working Group and that such addenda documents are available well in advance of the adoption of the UPR outcomes.

Thank you, Mr. President.

ITEM 7 - HUMAN RIGHTS SITUATION IN PALESTINE AND OTHER OCCUPIED ARAB TERRITORIES

QUESTION FOR THE INTERACTIVE DIALOGUE ON THE FOLLOW-UP TO SPECIAL
SESSIONS (*GAZA FACT-FINDING MISSION*) – 15 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090615am2-eng.rm?start=00:59:22&end=01:01:07>

Delivered by Peter Splinter

Mr. President,

Israel is undermining the opportunity to establish the truth through its failure to cooperate with the independent international **fact-finding mission headed by Justice Richard J. Goldstone**, which is investigating possible war crimes and other violations of international law committed by all parties during the recent conflict in Gaza and southern Israel.

The victims of the conflict, both in Gaza and in southern Israel, have a right to justice and reparation, and the perpetrators of grave violations of international law on both sides must be held accountable if there is to be any chance for an end to the impunity and ensuing violence that have persisted for so long.

Even though the mandate of the fact finding mission established by the Council was regrettably limited to investigations of alleged violations by Israeli forces and failed to expressly include those committed by Palestinian armed groups, Justice Goldstone has clearly committed to investigating violations by both the Israeli and the Palestinian sides.

The President of this Council likewise expressly acknowledged the need to investigate violations committed by all parties to the conflict.

There is no excuse for Israel not to cooperate with the fact-finding mission, and even though it has regrettably chosen not to do so until now, it is not too late for the Israeli government to change course and do the right thing.

Amnesty International reiterates its call on all member states of the UN, in particular those that are and will be members of this Council, to insist on **Israel's cooperation** with the Goldstone fact-finding mission and to ensure that no party is allowed to undermine the investigation.

Thank you Mr. President.

ITEM 9 – RACISM AND OTHER RELATED FORMS OF INTOLERANCE⁵³

ORAL STATEMENT DURING THE GENERAL DEBATE (*IMPLEMENTATION OF DDPA*) –
17 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090617am1-eng.rm?start=00:00:28&end=00:03:04>

Delivered by: Gràinne Kilcullen

Mr. President,

Racism, racial discrimination, xenophobia and related forms of intolerance undermine the key principle of universality of human rights. Combating them must be a true priority of the international human rights agenda.

Amnesty International welcomes the consensus adoption by the Durban Review Conference of its Outcome Document. It is a significant achievement for the international community. Notwithstanding difficult negotiations and actions that threatened to derail the Conference, states were able to come together to reaffirm the Durban Declaration and Programme of Action (DDPA) and their commitment to prevent, combat and eradicate racism, racial discrimination, xenophobia and related intolerance.

It is now time to turn to action aimed at the implementation of the DDPA and the Outcome Document. The adoption of the Document offers an opportunity for a fresh start in national and international efforts to combat racism. All states should renew their efforts to actually implement the DDPA - starting first and foremost at the national level.

We strongly encourage those governments that withdrew from or did not participate in the Review Conference to join others in demonstrating their commitment to combating racism, racial discrimination, xenophobia and related intolerance.

Amnesty International believes that the availability of objective information on manifestations of racism, racial discrimination, xenophobia and related forms of intolerance throughout the world would contribute to more constructive and effective results-oriented UN measures. In this regard, we encourage development of the High Commissioner's proposal to establish a UN observatory on racism. We urge governments to provide the High Commissioner with the necessary support.

The Outcome Document calls on this Council to take measures to enhance the effectiveness of the follow up mechanisms to the DDPA. Amnesty International urges states to approach this task in an action-oriented fashion, avoiding the mutual recriminations and politicization and political bargaining that have marred so much discussion of racism in the UN political

bodies. This Council should ensure a substantial focus on identifying and encouraging the adoption of best practices.

Thank you Mr. President.

SIDE-EVENT ON PRISONERS OF CONSCIENCE

KEYNOTE ADDRESS BY KATE GILMORE, AMNESTY INTERNATIONAL EXECUTIVE DEPUTY SECRETARY-GENERAL AT SIDE EVENT ON PRISONERS OF CONSCIENCE CO-HOSTED BY CHILE, GERMANY AND AMNESTY INTERNATIONAL – 11 JUNE 2009

Excellencies, distinguished invitees, fellow activists: We thank the German and Chilean Missions for joining with us in drawing attention to the plight of prisoners of conscience.

In November of 1960, two Portuguese students were sentenced to seven years imprisonment for drinking a toast to 'freedom' at a time when the dictatorial Salazar regime was arresting countless student protestors for their political activities.

A London newspaper's report of these events sparked the indignation of a young British lawyer, **Peter Benenson**. Six months after the students' imprisonment, the outraged lawyer launched the term *Prisoners of Conscience* in an article, entitled 'The Forgotten Prisoners' that he published in The Observer (London) to initiate an international Appeal for Amnesty Campaign.

He called on people of good will to unite in action. Recalling that public pressure had brought about the end of the slave trade, Benenson urged us to insist upon the same freedom for our minds as we had won for our bodies. This simple, yet powerful, message -- that people must not be physically restrained solely for peacefully exercising their human rights and that people of good will can and should do something about it -- is the heart and the pulse of Amnesty International's work for human rights.

Peter Benenson's analysis of 48 years ago laid down the founding principles for Amnesty International and the human rights activism for which it is now world renowned - principles that have since inspired human rights movements around the globe. The ingredients of this dynamic and insistent campaign for social justice were already clear to him and his fellow conspirators of hope. In those first days, emphasizing that a true test of freedom is a government's readiness to tolerate peaceful opposition -- as is its duty -- Amnesty International began profiling people jailed for their peaceful expression of political or religious beliefs. Over the decades, the countless cases of similarly unjust deprivation of liberty that Amnesty International has adopted have underscored this essential truth: physically restraining someone for their exercise of freedom of thought, conscience and belief, freedom of expression, freedom of association, freedom of the press or the freedom to dissent is a frank violation of human dignity and a clear and unequivocal indication of a government's gross failure of its fundamental duty to uphold the dignity of the people it serves.

Today, some 48 years later and even as we meet here, leading members of the Syndicate of

Tehran and Suburbs Bus Company (Sherkat-e Vahed) - **Mansour Osanloo** and **Ebrahim Madadi**, are serving five and three year prison sentences, respectively, in connection with their trade union activities.

Azam Farmonov and **Alisher Karamatov**, members of the independent Human Rights Society of Uzbekistan (HRSU) were detained on 29 April 2006 as they defended the rights of local farmers who had accused some district farming officials of malpractice, extortion and corruption. The two men were allegedly tortured, charged with extortion, subjected to an unfair trial in which they had neither a defence lawyer nor any other legal representative. They are now are serving a term of nine years imprisonment.

Dr Binayak Sen however has just been released on bail after two years in an Indian prison as a prisoner of conscience for having criticized the state authorities for enacting special security legislation and after he had also reported about unlawful killings of Adivasi people (Indigenous People).

The definition of a **Prisoner of Conscience** first set out in 1961 prevails: "Any person who is physically restrained (by imprisonment or otherwise) from expressing (in any form of words or symbols) any opinion which he honestly holds and which does not advocate or condone personal violence." **Today** however, we consider prisoners of conscience **also** to be individuals imprisoned for their **ethnic origin, language, gender, sexual orientation or other status**. They may not be imprisoned for their political or social activism, but they are nonetheless deprived of their liberty solely for who they are -- for their real or perceived identity or status -- in violation of a range of human rights, including the right to be free from discrimination.

For example, at the beginning of this year in Senegal, nine men were sentenced to eight year's imprisonment for "indecent conduct and unnatural acts and conspiracy (*association de malfaiteurs*)" solely on the basis of alleged sexual conduct. The men were later released on decision of the Court of Appeal, but we consider them to have been sentenced as prisoners of conscience.

Our focus on the *prison* as a primary site and location for egregious violation of human rights has continued, but our grasp of the nature of physical restraint has evolved and our understanding of the *prison* matured. **Not all prisoners of conscience are detained in jails**, and not every physical restraint takes the form of the bricks and bars of a prison cell.

Some are deprived of their liberty in psychiatric hospitals; others are subjected to house arrest. **Daw Aung San Suu Kyi** is a prisoner of conscience. She is one of **2,156 political prisoners** held in Myanmar and her prolonged detention – emblematic of prisoners of conscience throughout time - violates international law, contravenes Myanmar's own legislation and injures her own and thus our very humanity. Her release and that of the thousands of her compatriots in like circumstances must be immediate and unconditional.

A person's physical deprivation of liberty through enforced domestic confinement can also take other forms. In 1996, for example, Amnesty International reported that **thousands of women** were being restricted to their homes under the Taleban edicts banning women from going to work or leaving home unaccompanied by a close male relative and prohibiting girls from going to school. Women feared physical assault by the Taleban guards if they left home

without a reason acceptable to those guards. Those women so detained or otherwise physically restricted **solely for reason of their gender** were also prisoners of conscience.

Less than a month ago, members of the Tiananmen Mothers, **Ding Zilin** and **Jiang Peikun**, were forbidden to attend a mourning ceremony on the twentieth anniversary of the 1989 violent military crackdown on peaceful demonstrators in Tiananmen Square. Their home phone lines were cut for the duration of the anniversary period, and just earlier this week Ding and her husband, accompanied by plain clothed internal security police, were reportedly forced to leave Beijing without explanation. Although not imprisoned, they were physically restrained from communication with the outside world - they became "virtual" prisoners of conscience.

Brave acts of moral conscience and social responsibility vary enormously in their circumstances, but share a universal entitlement to their exercise without undue restraint or unreasonable state intervention.

In the USA, on 18 August 2006, prisoner of conscience **Kevin Benderman** was released from Fort Lewis Military Corrections Facility having served over 12 months of a 15-month sentence imposed for refusing to fight for the US Army in Iraq. He had been an army mechanic for 10 years when his religious studies of both the Bible and the Qur'an, coupled with his military experiences, led him to develop objections to the war in Iraq for which he was court-martialled.

Prisoner of conscience **Magdalena Garcia Duran**, a Mexican street vendor, was imprisoned on fabricated charges because she had organized other street vendors to protest the change of laws against street trading.

Internationally acclaimed artist **Ai Weiwei** posted on his blog the names of 4,827 children killed in the China's 2008 earthquake, as well as transcripts of conversations he and others had with government officials. His blog is now being shut down because his list and other postings were deemed too sensitive by the internet service provider. Does not the physical **denial of an individual's ability to communicate with the world** amount to virtual imprisonment and render that person a prisoner of conscience of the 21st century?

A person can be physically restrained unjustly by more than a place, a building or an address. **Barbara Mendez**, a young Mexican woman, was arrested from her home after participating in a demonstration. Her deprivation of liberty and unjust restraint did not require a prison – it began with the police. She was dragged by her hair, beaten, forced to strip naked and then raped by policemen in a bus long before she saw the prison to which they were transporting her.

Carlos Reyes was a prisoner of conscience in the 1970s in Chile under Pinochet. Now a photographer living in London, he says Amnesty International should focus not just on people like him. "We are a minority." People whose economic rights are infringed are the majority. "More children die of lack of food or water than people killed by torture or the death penalty." Today our outrage for the prisoner of conscience must extend to **the prisoner of prejudice or the prisoner of poverty.**

Of course, from its genesis Amnesty International was also troubled by the idea that political ideology could be instrumentalized to distort universal human rights claims. From the outset, Amnesty International took to its mantle a stance of political independence and impartiality. In its first annual report it emphasized the global nature of the challenge: "The spread of dictatorship, the tensions resulting from the Cold War and the increasing cleavage between races of different colour have combined to make state persecution of the individual the gravest social problem of the 1960's."

Today, the world's divisions while perhaps not so neat as in the 1960's, are just as troubled. Two weeks ago, Amnesty International released its 48th annual report with a contemporary account of this longstanding aim of elevating respect for universal human rights above the bear pit of partisan political contest. Nearly half a century after our founding, we call on governments of all persuasions to work together to avert the real and present danger that economic recession will be accompanied by greater repression as beleaguered governments – particularly those with an authoritarian bent – clamp down harshly on dissent, criticism and public exposure of corruption and economic mismanagement.

Peter Benenson and his fellow hope-mongers recognized this central and leading part that governments must play in the defence, protection and assurance of human rights. Governments' occasions of betrayal of their human rights duties are made more bitter indeed when so many government leaders have – at one time or another – personally sought and claimed for themselves – and rightly so - the benefits of the protection provided by respect for human rights. Irene Khan – Amnesty International's Secretary General -- is not able to be with us today because she is on route from a meeting with one former prisoner of conscience - **Prime Minister Odinga** of Kenya - to a meeting with another former prisoner of conscience - **President Mugabe** of Zimbabwe.

Among the very first prisoners of conscience profiled by the then Appeal for Amnesty Campaign was **Dr Agostinho Neto**, an Angolan poet and medical doctor whom the then colonial authorities were persecuting for his political activities. Having been flogged in front of his family, Dr Neto was imprisoned without charge or trial. He would later become the first president of an independent Angola.

President Wade of Senegal, **President Bozize** of the Central African Republic, **President Mohamed Nasheed** of the Maldives, **Prime Minister Yehude Simon** of Peru, **former President** of the Republic of Korea, **Kim Dae-jung**, former **Prime Minister** of Nepal, **Krishna Prasad Bhattarai**, former **Deputy Prime Minister** of India, **Lal Kishan Advani**, former and first **President of the Czech Republic**, **Vaclav Havel**, and the current **Prime Minister** of Turkey, **Recep Tayyip Erdogan**, all share more in common than the burden of office - each was taken up by Amnesty International as a prisoner of conscience at one time.

Peter Benenson's deepest hopes for those deprived of liberty did not depend upon political leaders honouring their human rights responsibilities. He vested hope elsewhere. History persuaded him that it is individuals acting on behalf of, and in solidarity with, individuals that makes the difference. In other words, he believed in individuals exercising their own human rights to stand up for the human rights of others.

Individuals at risk of human rights abuse continue to be at the centre of our work because we

know that what matters is that individual human beings are respected and protected in practice -- beyond the texts of national laws and or governments' rhetoric. It is through the voices and vision of other individuals that the message of human rights also moves forward. That is what Amnesty International represents - **a global community of human rights defenders**. This is as relevant as ever in today's globalised world. A teacher, a housewife, a doctor, a journalist, a young person, a lawyer, a factory worker – each in their own way – around the world in over 100 countries acting together and bringing hope to people most at risk – to the prisoner of conscience; the prisoner of violence; the prisoner of poverty.

Since 1961, Amnesty International has campaigned for the immediate and unconditional release of prisoners of conscience. It has worked on behalf of men and women from all regions of the world imprisoned by states from across the political spectrum. In cooperation with other human rights organizations and through national and international action such as letter-writing, petitions, demonstrations, media articles and lobbying at intergovernmental meetings we do make a difference.

In our first Annual Report we celebrated the release of Dr. Augustinho Neto, who by then was free (at least briefly). But we also made clear, “If a prisoner is released or a general amnesty proclaimed after some publicity about conditions in a country, we can only note the coincidence. We cannot say that Amnesty was directly responsible. In the 12 months that Amnesty has been working, however, there have been enough coincidences to make us feel that what we are doing is having some influence.”

In Amnesty International's subsequent 47 years such coincidences have been a recurring story. On 6 March 2006, human rights defender **Mutabar Tadzhibaeva**, chairwoman of an independent non-registered human rights organization Utiuraklar (Fiery Hearts) Club, became a prisoner of conscience under force of a sentence to eight years' imprisonment in Uzbekistan. On 15 May last year she was announced as the winner of the 2008 Martin Ennals (a former Amnesty International Secretary General) award, and on 2 June 2008, she was released. She thanked Amnesty International: “I spent 900 days on a ‘torture island’; 700 of those days I spent in solitary confinement. I endured only because of the support of people who were concerned about my fate. Only this gave me strength. I want to thank them for not forgetting those nearest and dearest to me - that knowledge helped me remain determined...”

Even when a prisoner is not released, our campaigning can improve the conditions of detention or provide moral to the individual detained. Unfortunately, we sometimes have little or no effect on recalcitrant governments. Just a few weeks ago, we learned of the death of **Fathi el-Jahmi**, a prisoner of conscience who had been held continuously since March 2004 in Libya. We had raised concerns that his long period of detention, large parts of it incommunicado, might cause the deterioration of his health, and we had objected strenuously to the reported denial of adequate medical care for him while in custody of the Libyan authorities.

Getting people out of prison is perhaps Amnesty International's best-known action. Frankly, we have a bigger challenge. We cannot only aim to change the life of one individual, one person whose name we know who is incarcerated in a prison with a known location. We must also seek to **change the systems that oppress thousands of individuals**, whose names we will

never know and whose prisons are not defined places, but are the birthrights and the artefacts of bigotry, deprivation and insecurity.

Luis was a journalist in Chile who was tortured by the Pinochet regime. His wife was subjected to enforced disappearance – she being 23 and he 26. Luis was adopted as a prisoner of conscience by Amnesty International. Many years later when he was freed he wrote to us: “When you are there, naked on a metal bed, and they are giving you electric shock torture and your wife is going to die and the child she is carrying is going to die, and the other person next to you is being killed, you wish there was an international community, a bigger humanity, somebody who will say that this has to stop, that this is useless, it corrupts everything, it corrupts life. It should not be possible.”

Recognition that the inherent dignity and equal, inalienable rights of all members of the human family are the foundation of freedom, justice and peace is what this place in which we meet today [the United Nations] is intended to preserve and uphold. For 48 years Amnesty International and other human rights activists have shone the light of public scrutiny on betrayals of the promise of inalienable human rights – including on the state’s detention of the prisoner of conscience. However, Amnesty International did not invent that promise: that distinction belongs to the Member States – to Luis’ international community. Having pledged themselves to achieve universal respect for and observance of human rights and fundamental freedoms, States need now only meet the terms of their promise, more fully and more completely and with more urgency.

CLOSING STATEMENT

ORAL STATEMENT ON THE OVERVIEW OF THE SESSION (MIGRANTS, MATERNAL MORTALITY, INDEPENDENCE OF SPECIAL PROCEDURES, SUDAN, THANKS TO OUTGOING HRC PRESIDENT) – 18 JUNE 2009

Videolink:

<http://webcast.un.org/ramgen/ondemand/conferences/unhrc/eleventh/hrc090618pm1-eng.rm?start=01:34:19&end=01:37:19>

Delivered by Peter Splinter

Mr. President,

This session of the Council has shown mixed results, some clearly positive, others clearly negative. Allow me to address some of them, before passing on to other matters.

The number of people living in poverty and subjected to human rights abuse is likely to grow in the current recessionary economic climate. Pressures to migrate continue to rise, and countries of destination resort to ever-harsher methods to keep migrants out. This is a human rights situation that requires the Council's ongoing attention; the decision to hold a **panel discussion on the rights of migrants in detention** is timely and welcome.

The adoption by consensus of the Council's first resolution on preventable maternal mortality and morbidity and human rights was another welcome development. Maternal mortality is neither inevitable nor excusable. It is very important that this Council is highlighting and contributing to addressing the human rights dimension of this tragedy. We look forward to the OHCHR's thematic study requested by this resolution.

Mr. President,

Amnesty International is disappointed by the resolution on the special procedures system. It is another reflection of the **efforts** by some States **to utilize the Code of Conduct** as the basis **to intimidate the Special Procedures** and to limit the independence of individual Procedures and the system as whole.

We welcome the vigorous discussion of **Sudan**, but consider that this Council has terminated the mandate of the Special Rapporteur on Sudan with insufficient regard to the ongoing gravity of the human rights situation in that country. It is a sad reflection on the state of this Council that many members appear to have placed political considerations above concern for protecting the rights of the civilian population in Sudan. That said, we pay tribute to those countries, particularly from Africa, that rose above the politics to speak out for the victims of human rights violations in Sudan.

Finally Mr. President we must say a few words about your role in this Council, at this session and throughout the past year. We have not always agreed with all of your decisions. I expect

that it would be as troubling for you as for us if we had. However, we have been invariably favourably impressed with the dignity and respect with which you have guided the proceedings of this Council and that you have demanded of all participants in the Council. You have frequently reminded us that the Council's foremost function is the protection of persons whose human rights are violated.

Mr. President,

One human right that has been given vastly insufficient respect in this Council is the right to rest and leisure. Of all, you may have suffered most from the neglect of this right. We hope that with the conclusion of your Presidency, you will find time to rest and relax with your family. We wish you all the best in your future endeavours and look forward to continuing to work with you in the Council in your capacity as Ambassador of Nigeria.

Thank you Mr. President.

ENDNOTES

¹ <http://www.un.org/webcast>

² <http://www2.ohchr.org/english/bodies/hrcouncil/>

³ <http://www.amnesty.org>

⁴ Full title: Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises

⁵ Full title: Special Rapporteur on extrajudicial, summary or arbitrary executions

⁶ http://www.ohchr.org/Documents/Publications/laws_that_discriminate_against_women.pdf

⁷ 15 years of the UN Special Rapporteur on violence against women, its causes and consequences (1994-2009) – a critical review, A/HRC/11/6/Add.5, paragraph 90

⁸ See, in detail, Security Council Resolution 1325, S/RES/1325 (2000)
http://www.un.org/events/res_1325e.pdf

⁹ Resolution A/HRC/7/29 entitled “Rights of the child” operational paragraphs 30 and 31. “ 30. Calls upon all States, in particular those States in which the death penalty has not been abolished: (a) To abolish by law, as soon as possible, the death penalty and life imprisonment without possibility of release for those under the age of 18 years at the time of the commission of the offence;

(b) To comply with their obligations as assumed under relevant provisions of international human rights instruments, including the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights;

(c) To keep in mind the safeguards guaranteeing protection of the rights of those facing the death penalty and the guarantees set out in resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989 adopted by the Economic and Social Council;

31. Also calls upon all States to give greater consideration to restorative justice practices, including mediation, as an alternative to sentencing, or as part of the sentencing process with regard to offenders under the age of 18;” and resolution A/HRC/10/2 Human rights in the administration of justice, in particular juvenile justice “11. Urges States to ensure that, under their legislation and practice, neither capital punishment nor life imprisonment without the possibility of release is imposed for offences committed by persons under 18 years of age [...]”

¹⁰ Report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran, A/63/459, paragraph 41.

¹¹ <http://www.amnesty.org/en/library/info/AFR54/015/2009/en>

¹² HRC resolution S-11/1, second preambular paragraph

¹³ Vienna Declaration and Programme of Action, part I, par. 4.

¹⁴ A/HRC/S-11/2, pars 25, 26, 28 and 33.

¹⁵ A/HRC/11/15, paragraph 81, point 3.

¹⁶ Ibid, paragraph 81, point 5.

¹⁷ Ibid, paragraph 81, points 6 and 7.

¹⁸ A/HRC/11/15/Add.1, point 7.

¹⁹ A/HRC/11/15, paragraph 81, point 23 and A/HRC/11/15/Add.1, point 23.

²⁰ A/HRC/11/15, paragraph 81, points 1 and 2.

²¹ Ibid, paragraph 81, point 38.

²² Recommendations 16 (Norway; Mexico; Ireland); 18 (Italy; Austria; Ukraine; Qatar Norway; Ireland) and 19 (The Netherlands, Bahrain, France, Belarus, Malaysia, Viet Nam, Angola)

²³ Amnesty International, Nigeria: Rape the silent weapon, AFR 44/020/2006 (28 November 2006); Amnesty International, Nigeria: Unheard voices, AFR 44/004/2005 (31 May 2005)

²⁴ Recommendations 21 (Belgium; Mexico; Slovakia) and 25 (United Kingdom, Portugal, France, Germany, Austria)

²⁵ Amnesty International: Nigeria: Prisoners' rights systematically flouted, AFR 44/001/2008 (26 February 2008).

²⁶ Recommendations 14 (Benin, Germany) 15 (Ukraine, The Netherlands, Ireland) and 22 (Slovakia, Denmark, Portugal)

²⁷ These states include Argentina, Benin, Brazil, Italy, Netherlands, New Zealand, Slovakia, Sweden, Turkey, and the United Kingdom.

²⁸ Amnesty International publications: Nigerian police and security forces: Failure to protect and respect human rights AFR 44/006/2008 (16 May 2008); Nigeria: Prisoners' rights systematically flouted, AFR 44/001/2008 (26 February 2008); Nigeria: Rape the silent weapon, AFR 44/020/2006 (28 November 2006); Nigeria: Abia State police kill 16 'armed robbers', AFR 44/019/2006 (18 August 2006); Nigeria: Fears of human rights violations after troops deployed in Bayelsa State, Niger Delta, AFR 44/006/2005 (8 March 2006); Ten years on: injustice and violence haunt the oil Delta, AFR 44/022/2005, (3 November 2005); Nigeria: Police use of lethal force against demonstrators must be investigated, AFR 44/021/2003 (15 July 2003); Nigeria: Security forces: Serving to protect and respect human rights?, AFR 44/023/2002 (19 December 2002).

²⁹ Recommendation 13 (The Netherlands, Brazil, Mexico, Slovakia, Italy, Turkey, Sweden, United Kingdom, New Zealand, Azerbaijan).

³⁰ In November 2008, the African Commission on Human and People's Rights at its 44th Ordinary Session in Abuja, Nigeria, adopted a resolution calling on state parties to the African Charter on Human and Peoples' Rights to observe a moratorium on the death penalty. On 18 December 2008, the United Nations General Assembly adopted, by a large majority, a second resolution calling for a moratorium on the use of the death penalty.

³¹ Amnesty International and LEDAP, Nigeria: Waiting for the hangman, AFR 44/020/2008; Amnesty International, Nigeria: Prisoners' Rights systematically flouted, AFR 44/001/2008

³² Recommendation 12 (Canada, Finland)

³³ Amnesty International, Nigeria: 'Same Gender Marriage (Prohibition) Bill 2008' violates Constitution,

AFR 44/007/2009

³⁴ Nigeria Constitution, Chapter IV, Fundamental Rights ; the Universal Declaration of Human Rights ; the African Charter on Human and Peoples' Rights ; and the International Covenant on Civil and Political Rights

³⁵ Recommendation 4 (New Zealand, Portugal)

³⁶ Recommendations 16 (Norway; Mexico; Ireland); 18 (Italy; Austria; Ukraine; Qatar) Norway; Ireland) and 19 (the Netherlands, Bahrain, France, Belarus, Malaysia, Viet Nam, Angola)

³⁷ Recommendations 16 (Norway; Mexico; Ireland); 18 (Italy; Austria; Ukraine; Qatar; Norway; Ireland) and 19 (the Netherlands, Bahrain, France, Belarus, Malaysia, Viet Nam, Angola)

³⁸ Recommendations 14 (Benin, Germany), 15 (Ukraine, The Netherlands, Ireland) and 22 (Slovakia, Denmark, Portugal)

³⁹ Recommendation 12 (Canada and Finland)

⁴⁰ Recommendation 4 (New Zealand and Portugal)

⁴¹ Recommendation 13 (The Netherlands, Brazil, Mexico, Slovakia, Italy, Turkey, Sweden, United Kingdom, New Zealand, Azerbaijan)

⁴² A/HRC/11/23/Add.1

⁴³ Convention of the Rights of the Child, Article 37, to which Saudi Arabia is a party.

⁴⁴ Sultan bin Sulayman bin Muslim al-Muwallad and 'Issa bin Muhammad 'Umar Muhammad were both 17 years old at the time of the alleged crimes.

⁴⁵ A/HRC/11/23, paragraphs 48 (d), 65 (b) and 71 (b).

⁴⁶ Among the prisoners of conscience are a group of eight reformists, including Dr Saud al-Hashimi, a medical doctor, and Dr 'Abdel Rahman al-Shumayri, a university professor. Since their arrest on 3 February 2007 all eight have been held in solitary confinement. Dr Saud al-Hashimi has been on hunger strike since 1 June 2009 in protest at his detention and is said to have been tortured on 5 and 6 June for refusing to take food. He is said to be in need of medical treatment.

⁴⁷ A/HRC/11/25, paragraphs 27(b), 28(c), 31(b) and (c), 38, 42(b), 56(c), 83(c), 86(b), 95(d) and 96(a).

⁴⁸ A/HRC/11/25, paragraphs 28(d), 43(a), 82(e), 92(c) and (d).

⁴⁹ A/HRC/11/25, paragraphs 27(g), 31(a), 79(a), 82(b) and (c), 84(a), 92 (b) and 97.

⁵⁰ A/HRC/11/25, paragraphs 31(d), 42(d), 43(g) and (h), 82 (f), (g), (h) and (i), 83(e) and 96(b).

⁵¹ A/HRC/11/25, paragraphs 28(g), 38 and 82(a).

⁵² A/HRC/11/27, paragraph 93, sub points 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23.

⁵³ Full title: Item 9: Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Amnesty International
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom

www.amnesty.org

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