

JUSTICE FOR VICTIMS:

Ensuring effective enforcement abroad of court decisions concerning reparations - Memorandum to the Hague Conference on Private International Law, Special Commission Meeting, 7 to 18 June 1999

Amnesty International is deeply concerned that an effort now underway to draft a worldwide treaty concerning the jurisdiction of national courts over civil litigation and the obligation of courts of other states to recognize and enforce decisions in such civil litigation could limit the access to courts of victims seeking reparations for human rights violations. This memorandum is addressed to all governments participating in the treaty negotiations taking place at a Special Commission meeting of the Hague Conference on Private International Law from 7 to 18 June 1999 in The Hague, The Netherlands.

The memorandum outlines below some of the fundamental principles which Amnesty International believes are essential to ensure that victims of violations of human rights, international criminal law or international humanitarian law obtain reparations. This memorandum also identifies some of the serious concerns that the organization has with the current text of the draft Convention on International Jurisdiction and the Effects of Foreign Judgments in Civil and Commercial Matters (with the modifications proposed by the Drafting Committee in WORK.DOC. No. 144 E of 20 November 1998). A copy is attached to the version of this memorandum being distributed to the public. Most of these concerns are shared by others Amnesty International has consulted, including: national and international human rights organizations, including the International Association of Democratic Lawyers, the Centre for Justice and Accountability, the Lawyers Committee for Human Rights and Redress; lawyers who have litigated landmark civil cases against persons responsible for violations of human rights, international criminal law or international humanitarian law; academic experts; government officials; lawyers representing workers in subsidiaries of multinational corporations who have been injured in the workplace by toxic chemicals, radiation or violations of International Labour Organisation conventions and recommendations; and lawyers for environmental organizations. Some of these concerns also apply to the 1968 Brussels and 1988 Lugano Conventions. In addition, Amnesty International indicates how each of these concerns could be addressed in the Convention.

We live at a time when states are taking enormous strides in strengthening international and national *criminal* procedures to repress crimes under international law and transnational crimes. They are breaking down national frontiers through such steps as the establishment of the International Criminal Court, support for the work of the International Criminal Tribunals for the former Yugoslavia and Rwanda, exercising universal criminal jurisdiction in national courts over former heads of state, as in the 24 March 1999 House of Lords judgment concerning former General Augusto Pinochet Ugarte of Chile, and drafting a convention on transnational crime.

Amnesty International believes that it is essential for steps to strengthen international and national *civil* procedures providing reparations to victims for crimes under international law to keep pace with these pioneering efforts so that outdated concepts of national sovereignty do not shield those responsible for the worst possible crimes from international justice. Similar efforts will also be needed to implement awards of reparations by national and international *criminal* courts or recommendations to states concerning reparations under Article 75 of the Rome Statute of the International Criminal Court.

THE BACKGROUND OF THE DRAFT CONVENTION

At the moment, there are basically two international legal regimes governing the jurisdiction of national courts the majority of civil commercial contract cases and tort litigation, which would include suits by victims of violations of human rights, international criminal law or international humanitarian law for reparations, and the recognition of decisions by foreign courts in such cases.

In one regime, which applies primarily in common law states, a national court may exercise civil jurisdiction over an individual who is temporarily in the territory or jurisdiction where the court is located and over a legal entity, such as a corporation, wherever it has certain minimum contacts with the state, such as doing business in the state, even if that business is not related to the litigation. Victims of violations of human rights, international criminal law or international humanitarian law have been able since the landmark case of *Filartiga v. Peña-Irala*, 630 F.2d 876 (2d Cir. 1980), to sue defendants temporarily in a state who tortured them or subjected them to other violations of international law in another country, even if the defendants were not resident in the state where the court is located. As the court stated in that case, "Common law courts of general jurisdiction regularly adjudicate transitory tort claims between individuals over whom they exercise personal jurisdiction, wherever the tort occurred." Victims have also been able to sue corporations doing business in the state which have been involved in human rights violations through subsidiaries in other countries, such as using government troops to clear land for a pipeline who have committed extrajudicial executions or "disappearances" in the process. Only a limited number of states, however, will recognize or enforce decisions by courts which have exercised such jurisdiction.

The second regime is governed by two treaties elaborated by the Hague Conference on Private International Law: the Brussels Convention (open to European Union members) of 27 September 1968, as amended by the 1989 Accession Convention, and the Lugano Convention (open to both European Union and European Free Trade Area members) of 16 September 1988. These conventions are known as *double*

conventions, since they list certain grounds of jurisdiction which, when present, *require* courts to exercise jurisdiction (and foreign courts in Convention states would be required to recognize or enforce decisions of Convention states in such cases) and other grounds, which, if present, *prohibit* courts from exercising jurisdiction (and foreign courts in Convention states would be prohibited from recognizing or enforcing decisions by courts in Convention states in such cases). Under this regime, victims are not able to seek reparations for violations in another country of human rights, international criminal law or international humanitarian law against the individual responsible unless that person is a resident of the state. Similarly, the victim could not sue a legal entity, such as a corporation, when the only contact the entity had with the state was that it did business in the state.

On 5 May 1992, the United States submitted a proposal to the Hague Conference on Private International Law to draft a new convention to replace the Brussels and Lugano Conventions. The United States proposal led to the establishment of a Working Group which in October 1992 recommended the adoption of a *mixed* convention listing, in addition to *required* and *prohibited* grounds of jurisdiction, *permissive* grounds of jurisdiction. In cases where permissive grounds were present, courts in Convention states could exercise jurisdiction and foreign courts in Convention states would be permitted - although not required - to recognize and enforce them. Four Special Commission meetings of the Hague Conference on Private International Law took place to discuss this proposal in 1994, 1996, 1997 and 1998. This memorandum addresses the problems for victims presented in the proposal by the Drafting Committee in WORK.DOC. No. 144 E of 20 November 1998.

AMNESTY INTERNATIONAL'S FUNDAMENTAL PRINCIPLES CONCERNING REPARATIONS

States must provide effective mechanisms for victims to obtain reparations. States must ensure that they provide effective mechanisms permitting victims of violations of human rights, international criminal law or international humanitarian law to recover adequate compensation in accordance with their obligations under international law and standards. These include Article 2 of the International Covenant on Civil and Political Rights, Article 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 25 of the American Convention on Human Rights, Article 7 of the African Charter on Human and Peoples' Rights, the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the United Nations Basic Principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and International Humanitarian Law (Van Boven Principles) and the United Nations Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity (Joinet Principles).

States must cooperate in preventing violations of human rights, international criminal law or international humanitarian law. States must cooperate with each other with a view to halting and preventing violations of human rights, international criminal law or international humanitarian law. The General Assembly spelled out these obligations in its Resolution 3074 (XXVIII) of 3 December 1973, which adopted the Principles of International Co-operation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes and Crimes against Humanity. These obligations are not limited to criminal cases. Therefore, states should help deter such violations by ensuring that mechanisms for redress permit victims - wherever they are located - to enforce judgments, awards and protection orders (such as those requiring the tracing, freezing, seizing and forfeiture of property) obtained in civil or criminal courts in other states, in international criminal courts or other international procedures, such as arbitration.

States must permit suits against anyone found in their territory or jurisdiction who is responsible for violations of human rights, international criminal law or international humanitarian law. States must ensure that victims, whether in their territory or jurisdiction or in another state, may use national criminal or civil procedures to obtain reparations from a person responsible for violations of human rights, international criminal law or international humanitarian law who is in their territory or jurisdiction at the time that person is served or when criminal or civil proceedings are pending, even if that person has just arrived in the territory or jurisdiction. No person responsible for violations of internationally recognized human rights, international criminal law or international humanitarian law has a legitimate expectation of immunity from civil jurisdiction in another state since the courts of that state would be acting on behalf of the entire international community in implementing international, rather than its own national, law.

Victims must be able to sue corporations which are involved in crimes under international law and are acting globally wherever they are present or carrying out activities. It is fully consistent with fundamental principles of justice to permit victims of crimes under international law to sue a corporation or other legal entity which acts globally and is involved in those crimes wherever the corporation is present or carrying out activities, even if the activities in the state where the court is located are not directly related to the crimes. Global corporations must not be able to use national borders to shield themselves or their assets from forfeiture in such cases as when they benefit from forced labour clearing land for pipelines, use government security forces to protect property which do so by carrying out extrajudicial executions or sell arms to armies which use them to commit “disappearances”.

States must not enforce sham or unfair judgments. States must not enforce judgments or protection orders obtained in other states concerning reparations to victims where the proceedings were a sham or failed to satisfy the fundamental right to a fair trial.

Treaties must be consistent with obligations to victims. States must not enter into international treaty obligations which are inconsistent with their obligations to victims of such violations.

SOME OF AMNESTY INTERNATIONAL'S CONCERNS ABOUT THE DRAFT CONVENTION

Temporary presence of international criminal in state. Article 3 (a) would restrict the courts in which a defendant may be sued to the courts of the state party or place where the defendant is habitually resident or, if that cannot be determined, where the person is domiciled. If this provision were retained, to the extent that Articles 6 to 8 and 10 do not apply, it would make it impossible to sue persons responsible for grave violations of human rights, international criminal law or international humanitarian law who were only temporarily in a state's territory or jurisdiction, thus bringing to an end much of the landmark litigation in the United States and other countries in the two decades since *Filartiga v. Peña-Irala*.

Article 3 (a) should be amended to permit victims of violations of human rights, international criminal law or international humanitarian law to sue defendants in the courts of the territory or jurisdiction where the defendants are located, no matter how short the time the defendants have been in the territory or jurisdiction.

Tort actions in states where criminal conduct occurred or injury foreseeably arose. Article 10 (1), which applies to suits in tort, would allow victims of violations of human rights, international criminal law or international humanitarian law to sue a defendant in the courts of a state party in which the conduct of the defendant that caused the injury occurred or in which the injury arose, provided that the defendant could reasonably foresee that the activity giving rise to the claim could result in the injury occurring in the state party. A victim could, in theory, sue a person responsible for a violation of human rights, international criminal law or international humanitarian law in the state where the violation occurred. However, it will often be *impossible* for the victim to obtain justice in that state as the defendant will have been in a position of power and influence, sometimes able to prevent the courts from awarding reparations to victims directly or even to kill, "disappear" or torture the victim or the victim's family. Except when there is a deliberate attempt by a defendant to force a victim to flee to a particular state, such as in Kosovo, it will be rare for a defendant reasonably to foresee that injuries,

such as post-traumatic stress, will occur in a particular foreign state. The bracketed alternative for Article 10 (1) is similarly defective.

Article 10 (1) should be amended to permit victims of violations of human rights, international criminal law or international humanitarian law to sue defendants in tort, not only in the circumstances provided in Article 3 (a) (with the amendment suggested above), but also in any state where the injury arose or occurred, even if it were not foreseeable that the injury would arise or occur in that territory or jurisdiction.

Suits against legal entities involved in crimes under international law.

Article 3 (b) would authorize a legal entity to be sued for any claim before the courts of a state party or of the place where it has been incorporated or formed, where it has its central management or, if that place cannot be determined, the place of its principal activity. It is not clear to what extent the term “legal entity” applies to state bodies or, possibly, even to a state itself. To the extent Articles 9 and 20 do not apply, the general rule in Article 3 (b) would appear to require a victim of human rights, international criminal law or international humanitarian law violations to sue a defendant corporation in the state where it was incorporated or formed where this information was known, even if its central management or principal place of activity were elsewhere. To ensure that victims are able to obtain fair and adequate reparations against a corporation which is complicit in violations of human rights, international criminal law or humanitarian law, such as using slave labour to clear land for a pipeline, hiring soldiers to guard the pipeline who are responsible for extrajudicial executions, “disappearances” or torture of local citizens opposed to the construction of the pipeline or supplying training and weapons to armed forces who use the training and weapons to commit crimes under international law, elementary principles of justice make it essential to give the victims the maximum opportunities to pierce the corporate veil by suing the corporation and its subsidiaries wherever they may be found.

Article 3 (b) should be amended to authorize a suit against a legal entity based on violations of human rights, international criminal law or international humanitarian law wherever that legal entity carries out activities, even if those activities are not related to those violations.

Affiliates doing business in a state where the business is unrelated to crimes.

Article 9 would authorize a victim to bring a claim in the courts of a state party in which a branch, agency or other establishment (or, possibly, an employee or other representative) of the defendant is located or has acted for or on behalf of the defendant in conducting regular commercial activity, including promotional activity directed at that state or the sale of goods or provision of services in that state, but only if the suit is based

on a claim that relates to the activity. Article 9 would not help a victim or his or her family in other cases. For example, it would not be of any assistance where the 40% of a multinational corporation's business was carried out in the state party, but that business was not directly related to the crimes.

Article 9 should be amended to authorize a victim of violations of human rights, international criminal law or international humanitarian law to sue a branch, agency, subsidiary, employee or representative of the legal entity anywhere the legal entity is carrying out activities, even if those activities are not related to the violations.

Prohibited bases of jurisdiction. Article 20 (1) would prevent a victim of a violation of human rights, international criminal law or international humanitarian law to sue the person responsible when general jurisdiction was based solely on one *or more* of the following grounds:

(a) the presence in the territory of the state of property belonging to the defendant (or, possibly, the seizure of property in the state). This provision would prevent a victim who was unable to file a suit in his or her own state where the victim risked extrajudicial execution or "disappearance" from suing a head of state responsible for genocide, crimes against humanity, war crimes or other crimes under international law who had looted the state treasury of hundreds of millions of dollars in the state where those funds were concealed.

(b) the nationality of the victim. This provision would prevent a court from exercising passive personality *civil* jurisdiction with respect to a suit based on crimes under international law, even though many states now permit their courts to exercise passive personality jurisdiction in *criminal* cases. Moreover, international law permits courts to exercise universal criminal jurisdiction over crimes under international law. For example, any state party to the Geneva Conventions may exercise universal criminal jurisdiction over suspects of grave breaches of those Conventions by asking for the suspect to be extradited to it, even if the state has no links whatsoever to the victim. Indeed, in some cases, as provided in Article 5 (1) (c) of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), the state *must* provide its courts with passive personality criminal jurisdiction.

Since civil litigation by victims of violations of human rights, international criminal law or international humanitarian law for reparations is an essential supplement to criminal prosecutions in those states where the criminal court may not award reparations, it necessarily follows that such states have the

obligation to permit victims to obtain reparations when the state is able to exercise universal criminal jurisdiction.

(c) the nationality of the defendant. This provision would prevent a court from exercising active personality *civil* jurisdiction with respect to a suit based on crimes under international law, even though many states now permit their courts to exercise active personality jurisdiction in *criminal* cases. Moreover, international law permits courts to exercise universal criminal jurisdiction over crimes under international law. For example, any state party to the Geneva Conventions may exercise universal criminal jurisdiction over suspects of grave breaches of those Conventions by asking for the suspect to be extradited to it, even if the state has no links whatsoever to the suspect. Indeed, in some cases, as provided in Article 5 (1) (b) of the Convention against Torture, the state *must* provide its courts with active personality criminal jurisdiction. Many states authorize their courts to exercise extraterritorial criminal jurisdiction over crimes under international law (active personality jurisdiction) and there is no reason for preventing their courts from exercising civil jurisdiction over claims by victims for reparations based on those crimes.

(d) the domicile, habitual or temporary residence of the victim within the territory of the state. See comment on (b) above.

(e) the carrying on of commercial or other activities by the defendant within the territory of the state. This provision would prevent a victim of torture in the victim's state of nationality who fled as a refugee to a state party from suing a multinational corporation in the courts of that state party for manufacturing the torture equipment used on the victim when the corporation was doing business in the state party, but that business was not directly related to the manufacture or shipping of the torture equipment.

(f) the service of a writ upon the defendant within the territory. This provision would prevent a victim of genocide, crimes against humanity or war crimes from obtaining *civil* jurisdiction over the person responsible who landed at an airport in a state party - even though the state party would be required under international law to exercise universal *criminal* jurisdiction by arresting the person in a transit lounge and then trying or extraditing the suspect. For the reasons explained below, the bracketed proposed limitation to this provision, although a step in the right direction, would not be sufficient to protect victims of these or other violations of human rights, international criminal law or international humanitarian law.

For the reasons set forth above, it is not necessary to address sub-paragraphs (g) and (h). Article 20 (2) is similarly flawed.

Article 20 should be amended to permit a victim of violations of human rights, international criminal law or international humanitarian law to sue based on any one of the above grounds, even if none of the other grounds are present.

Possible restrictions on the use of provisional measures to seize assets of criminals. Article 14 (1) would authorize the court hearing the case on the merits to take provisional or protective measures. However, it does not expressly authorize the court to take such measures with respect to property located outside the jurisdiction - for example, by requiring the defendant to place such property under the control of the court - or require other states parties to assist the court in tracing, freezing or seizing property pending the outcome of litigation. Indeed, Article 14 (2), which would authorize the courts of a state where the property is located to take provisional or protective measures for that property, suggests that courts would have no extraterritorial jurisdiction to issue protective or provisional measures.

Given the speed with which criminals, particularly those who control the highest levels of state power, can move assets from one state to another, it is essential to ensure that courts in one state can either issue worldwide provisional or protective measures. Alternatively, courts should immediately implement requests by courts of other states for such measures, subject to appropriate guarantees for prompt challenges by the owner or an innocent third party adversely affected by the measures. Such provisions in the Convention would bring national cooperation with respect to *civil* litigation on behalf of victims closer in line with the rapidly developing (but still imperfect) extradition and mutual legal assistance system which now exists for *criminal* cases.

Article 14 (1) should be amended to permit a court to order extraterritorial provisional or protective measures in another state party when the suit is based on violations of human rights, international criminal law or international humanitarian law. If this is not possible, then other states parties must recognize and enforce such orders immediately, subject to appropriate safeguards to protect the rights of the owners or property or innocent third parties.

Forum non conveniens. Article 24, an optional provision which is entirely in brackets, would permit, but not require, the courts of a state party to suspend consideration of a suit by a victim of violations of human rights, international criminal law or international humanitarian law if the court considered that another court in a state party (or, possibly, a non-state party) would be better placed in the case to try it and to promote the ends of justice. The doctrine of *forum non conveniens* has been applied to

restrict the access to courts by victims seeking reparations for violations of human rights, international criminal law or international humanitarian law. Courts might easily conclude that, where the bulk of the material evidence and witnesses are in the state where the crimes occurred, a court in that state would be better placed to try the case, even when it would be *impossible* for the victim to obtain justice in the courts of that state because the defendant controlled the courts or could kill or intimidate witnesses. The proposed conditions which the defendant must agree to implement, although essential, are not sufficient where the courts of the other state are unable to afford the victim justice.

Article 24 should be deleted or it should exclude suits based on violations of human rights, international criminal law or international humanitarian law. If this is not possible, then Article 24 should be amended to provide that a court may not decline to exercise jurisdiction in any suit based on violations of human rights, international criminal law or international humanitarian law if this would result in the victim having to litigate in a forum which could not guarantee a fair trial in accordance with international standards and a trial which was not a sham. The court would have to consider such factors as possible intimidation to victims or witnesses, limits on recovery of reparations and whether the judiciary was impartial.

Recognition and enforcement of decisions in contested cases. Article 27 (1) would permit a court to refuse to recognize or enforce a decision if the other court did not have jurisdiction under the Convention, if proceedings concerning the same subject matter (and, possibly, the same parties) had commenced in the court addressed before the other court which rendered the decision, if the decision is irreconcilable with a decision of a court in the state addressed or in another state or if recognition or enforcement of the decision would be manifestly incompatible with the public policy of the state addressed. Article 27 (3) provides that, without prejudice to a review of the above grounds, the state addressed may not review the merits of the decision by the court of the other state.

For the reasons stated above, the jurisdictional requirements of the draft Convention are too restrictive and must not apply to civil suits by victims seeking reparations for violations of human rights, international criminal law or international humanitarian law. States should not be permitted to decline to exercise jurisdiction over a civil suit by a victim simply because a proceeding concerning the same matter and parties had commenced earlier in another state; if the proceedings were sham or unfair proceedings, then the court addressed should exercise jurisdiction to permit justice to be done. A state should be permitted to refuse to recognize or enforce a decision of a court in another state where that decision would be manifestly incompatible with its public policy, but only if the public policy is consistent with international law and standards.

Article 27 (1) and (3) should be amended to provide that a court may refuse to recognize or enforce a decision in a contested suit based on violations of human rights, international criminal law only where the proceedings were a sham or failed to satisfy international standards for a fair trial.

Recognition and enforcement of decisions by default. The bracketed text in Article 27 (2) would provide that a court is not bound by findings of fact when a decision was given by default. As long as a defendant receives proper notice of the suit and then refused to appear or fled, then the default decision should receive exactly the same recognition or enforcement as a decision in a contested case. In many of the cases involving extrajudicial executions, “disappearances”, torture and other violations which have been filed in United States courts under the Alien Tort Claims Act and the Torture Victims Protection Act, the defendants have fled after being properly served. Article 28 addresses this concern to some extent, but it would be better to amend it to provide that a decision given by default shall be recognized and enforced in the same way as a decision given in a contested case, unless the defendant was not properly served.

Article 27 (2) should be amended to provide that a court may refuse to recognize or enforce a default decision in a suit based on violations of human rights, international criminal law only where the proceedings were a sham or failed to satisfy international standards for a fair trial.

Recognition and enforcement of awards of reparations other than compensatory damages. Article 32bis, which is entirely in brackets, limits the extent to which a state must recognize or enforce non-compensatory damages. Since international standards require that victims receive fair and adequate reparations, which include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, courts should be required to recognize and enforce forms of reparations other than compensatory damages. Given the serious nature of many human rights violations, such as genocide and crimes against humanity, punitive damages may well be appropriate in a particular case.

Article 32bis should be amended to provide that states parties must recognize and enforce any decision awarding reparations which are consistent with international standards.

NEED FOR EFFECTIVE SOLUTIONS TO PROBLEMS FOR VICTIMS IN THE DRAFT CONVENTION

Amnesty International believes that it would be possible to adopt a Convention which addresses the full range of the organization’s concerns, as suggested above. However, it

is recognized that this may prove to be too difficult. If so, then it will be essential to provide that the list of prohibited grounds in Article 20 of the draft Convention does not apply to litigation by victims of violations of human rights, international criminal law or international humanitarian law seeking reparations, whether this litigation is in a civil court or in a criminal court with power to award reparations.

At the same time, it will be essential to ensure that nothing in the system established by the Convention operates to the detriment of victims in such litigation. The definition of such litigation must be as broad as possible to encompass the wide range of types of litigation and creative theories of recovery which are now used, or may be used in the future, to obtain reparations for victims. The definition would need to include any case - civil or criminal - when a victim is seeking reparations for violations of fundamental human rights, international criminal law or international humanitarian law.

It would not be sufficient to define such litigation as any action seeking reparations based on rights recognized in international and regional treaties ratified by states parties to the Convention, since not all states have ratified all the relevant treaties. Moreover, the rights of victims are identified not only in treaties, but in customary law, general principles of law and non-treaty instruments. For example, the most comprehensive definitions of crimes against humanity and war crimes committed in internal armed conflict are found in the Rome Statute of the International Criminal Court, which has not yet entered into force. A restriction of the definition to suits to enforce rights which are now part of *jus cogens* would be too limiting, as the number of peremptory norms is small and many important and well-established rights, including even rights which are non-derogable under certain treaties or are recognized in International Labour Conventions and Recommendations, are not yet considered to be *jus cogens*.

If it proves impossible to accommodate Amnesty International's concerns as stated above within the Convention, then human rights litigation which does not conform to the jurisdictional regime of the Convention should be excluded entirely from the Convention in Article 1. Article 1 would need to be drafted to ensure that human rights litigation, as defined above, which does satisfy the jurisdictional requirements of the Convention benefits from the Convention. Therefore, Article 1 would need to provide that litigation based on violations of human rights, international criminal law or international humanitarian law brought on bases of jurisdiction not provided for by the provisions of the Convention is excluded from the Convention.

OPPORTUNITIES FOR FURTHER DISCUSSION AT THE SPECIAL COMMISSION MEETING

Amnesty International is looking forward to a dialogue with the Hague Conference on Private International Law and the delegates at the Special Commission meeting so that the Convention which is finally adopted is one that is fully consistent with the obligations of states to provide full redress to victims of violations of , international criminal law or and international humanitarian law and one which Amnesty International and other non-governmental organizations can support, rather than oppose.