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UN Commission on Human Rights wrap up

(Geneva) This year's session of the United Nations Commission on Human Rights (the Commission) has been heralded as the toughest ever -- the first session to be held since the World Conference against Racism in Durban and the terrorist attacks of 11 Sept. In addition, this year's Commission was plagued by drastic cuts to session times against a dramatic backdrop of escalating violence in the Middle East.

The Commission failed in its principal duty to protect victims of appalling human rights violations in countries like China, Indonesia, Iran, the Russian Federation, Saudi Arabia, Togo and Zimbabwe; and failed to deliver an appropriate response to protect human rights in the fight against terrorism. Meanwhile, Israel's non-cooperation with the Commission's decision for the High Commissioner of Human Rights to undertake a visiting mission to the Occupied Territories has undermined the Commission's credibility and competency. Nevertheless, it managed to produce some positive results. The Commission took positive steps in recommending a Protocol to the Convention Against Torture, requested an open-ended Working Group to prepare a draft of a new legally binding instrument on enforced or involuntary "disappearances", called again for a moratorium on executions and appointed a new Special Rapporteur on the Right to Health.

UN Secretary-General Kofi Annan and UN High Commissioner for Human Rights Mary Robinson earlier called on the Commission to ensure that counter-terrorist measures were not used as a pretext for suppression. Mexico had proposed a resolution calling for counter-terrorist measures to be compatible with international human rights and humanitarian law and for the UN High Commissioner for Human Rights to monitor and analyse counter-terrorist laws and measures and make recommendations to governments and UN bodies, including in their implementation of Security Council resolutions on counter-terrorism. Although the proposed resolution had received broad support, Mexico reluctantly withdrew its proposal on the final day of the Commission in the face of concerted pressure from the United States, a wrecking amendment from Algeria and other governments, and weakness on the part of the European Union. While the Mexican initiative could have helped to protect Muslim minorities and other vulnerable groups, it was derailed by governments such as Algeria, Egypt, India, Pakistan and Saudi Arabia which have used counter-terrorist measures to suppress dissent. At the same time, the US also strongly resisted the proposed resolution, apparently on grounds that it could tie the hands of the Security Council and lead to criticism of US Government policies. The European Union - particularly Spain, France and the UK - failed to maintain a united position under this concerted pressure. Amnesty International, along with other NGOs, calls on the High Commissioner for Human Rights to produce an analytical report

on the effects of anti-terrorism measures on human rights. This is too important an issue to let die at the Commission - the High Commissioner has the authority to act on her own and she should.

Following the cancellation of evening and night sessions for budgetary reasons, drastic time cuts to the 58th session resulted in severe cuts in speaking time for NGOs as well as for UN Special Rapporteurs who are mandated by the Commission to present and introduce their yearly reports. Most of the Special Rapporteurs refused to attempt to present their reports within the meagre five minutes they had been allotted. Meanwhile the number of speeches by State Dignitaries increased this year with some speaking for as long as 25 minutes. It is arguable that this year's Commission became a forum for defending government's records rather than examining them. If the Commission is to live up to its role as the UN's primary human rights body it must consider human rights on their merits rather than protect the narrow self-interests of the governments that make up the Commission.

In the first resolution adopted at the 58th session of the Commission, the UN High Commissioner for Human Rights was mandated to lead a visiting mission to the Occupied Territories and to submit its findings and recommendations to the current session of the Commission. However, by the end of the session the Government of Israel had still not granted permission for the mission to enter the Occupied Territories. Amnesty International is dismayed by the Israeli Government's refusal to cooperate with the visit of High Commissioner for Human Rights and continues to believe that in-depth investigations into the human rights situation in the Occupied Territories is urgently required. In a resolution sponsored by the Organisation of the Islamic Conference and passed on the final day of the session, the Commission deplored the denial by Israel of the visit and endorsed the High Commissioner's proposal for a comprehensive investigation into the breaches of human rights and international humanitarian law.

In addition to the Middle East crisis, this year's Commission was characterized by acute politicization as borne out in the voting on both country situations and themes. A North/South divide was reflected by the polarized voting at this year's session particularly on country situations.

This year's Commission saw an unprecedented use of motions of "no action". Amnesty International deplores the use of the no-action motion as it prevents Commission from debating the subject matter of a resolution. This year, calls for "no action" were used before voting on resolutions on Zimbabwe, Cuba and the Draft Optional Protocol to the Convention Against Torture. In the past, this procedural rule "taboo" was exclusively used by China to prevent any scrutiny of its human rights record. Nigeria's call for a "no-action" motion on the EU-sponsored resolution on human rights in Zimbabwe, broke China's exclusive domination of the motion and has opened the door for future misuse.

Voting items off the agenda of the Commission which relate to open, grave and flagrant violations of human rights will only contribute to the perpetuation of impunity which is the root cause for the ongoing violation of human rights in Zimbabwe and a threat to regional stability. Amnesty International, with many other organizations, has impartially documented and reported numerous cases of killings, acts of torture, arbitrary arrests and discrimination on grounds of political opinion in Zimbabwe over the past years, including the period of the parliamentary elections in 2000 and the recent presidential elections in March 2002.

At the heart of the African sponsored resolution on the situation of human rights in Equatorial Guinea, was the aim to terminate the mandate of the Special Representative and a shift of focus from monitoring human rights to providing technical assistance. Fortunately, the resolution on Sudan, that was branded "outdated" and "unsubstantiated" by the African group passed by one vote -- Uganda's -- and the extension of the Special Rapporteur was extended for a further year.

Last year the Commission failed to press the government of Togo to invite two Special Rapporteurs to visit the country, pursuant to the recommendations of the Togo Commission of Inquiry. Amnesty International was dismayed that this year, Togo who sits as Member of the Commission, was dropped from consideration under the confidential 1503 procedure. The Commission's failure to investigate allegations of numerous extra-judicial executions in Togo in 1998 remains deplorable.

Torture continues to be one of the world's most horrifying, widespread and largely unaddressed human rights concerns perpetrated in more than 150 countries. A key achievement of the Commission was its decision to recommend a Draft Optional Protocol to the Convention Against Torture which would allow for a system of regular country visits intended to prevent torture in places of detention, such as police stations, prisons and psychiatric institutions. The initiative for this resolution was led by Costa Rica and Switzerland, supported by a joint appeal launched by ten international NGOs including Amnesty International. The resolution was adopted despite strong opposition from the United States, Australia, Egypt, China, Cuba and Saudi Arabia who argued against the proposal under the pretext that important international conventions should be adopted by consensus.

Amnesty International welcomes the Commission's decision to call again for a world-wide moratorium on all executions and for the death penalty not to be imposed on anyone who committed the crime when younger than eighteen years or who is suffering from any form of mental disorder. For the first time the Commission also recommended that the death penalty not be imposed for non-violent acts such as sexual relations between consenting adults.

The Commission continued to ignore gross and persistent abuses in countries such as China and Saudi Arabia, both members of the Commission, who rank among the countries with the highest numbers of reported executions.

AI was disappointed that the Commission failed to adopt resolutions on Chechnya and Iran this year despite being provided with ample evidence of continuing human rights violations. The defeat of the Iran resolution spells the end of the mandate of the Special Rapporteur on Iran. The draft resolution on the human rights situation in Chechnya would have deplored the lack of cooperation by the Russian Federation with the special mechanisms of the Commission, while affirming the right of Russia to defend its territorial integrity and welcoming positive developments in the region. The resolution was narrowly defeated 15 in favour, 16 against and 22 abstentions.

Despite ample evidence of grave human rights violations, including unlawful killings and torture, the Commission chose once again to ignore the situation in Indonesia. The Commission adopted a Chairperson statement on East Timor, but made no reference to the continuing serious human rights violations committed by the Indonesian security forces, most notably in the provinces of Aceh and Papua. "It is sad that the UN's highest human rights body will not take a stand against a government which permits its security forces to engage in acts of such brutality."

The Commission also adopted a Chairperson statement on the human rights situation in Colombia which supports the extension of the mandate of the Office of the High Commissioner for Human Rights in Bogota and urges the Colombian Government to further develop their cooperation with the Office.

Amnesty International welcomes those 38 countries who have extended open invitations to all thematic mechanisms of the Commission to visit their country, in the true spirit of effective of cooperation with the Commission's human rights experts. Their example should be followed by all members and observers.

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