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@VIOLATIONS OF HUMAN RIGHTS IN ARMED CONFLICT:

PROPOSALS FOR ACTION

STATEMENT BY AMNESTY INTERNATIONAL

Armed conflict has long been associated with human rights violations. Today the extent and intensity of conflicts in the world threatens to engulf the system for the promotion and protection of human rights and the standards of international humanitarian law which the international community has worked so hard to build up since the Second World War.

Since the beginning of 1993 Amnesty International has made public statements or issued appeals about reported human rights violations in connection with armed conflicts in over 15 countries in Africa, the Americas, Asia, Europe and the Pacific. The violations in question included extrajudicial executions, "disappearances", torture including rape, hostage-taking, detention on the sole ground of ethnic origin, arbitrary arrest, restrictions on government critics, the use of the death penalty, and failure to provide adequate protection for refugees. Many of the atrocities were similar to those described so eloquently in the Report on the Protection of War Victims prepared by the International Committee of the Red Cross for this conference.

Most of these violations had been committed by the official state apparatus, but Amnesty International also called attention to abuses by opposition groups in a number of countries. Several other statements were issued on human rights violations in connection with conflicts which had recently ended. If human rights violations in situations of political disturbance are added to the list, the number of countries becomes even greater.

The international system for the protection of human rights depends on the willingness of governments to fulfil their obligations to respect and ensure the rights recognized by the international community. In armed conflict those obligations are too often thrust aside as the aims of the conflict come to take precedence over other considerations. Human rights are violated, and the authors of these violations, anxious to escape prosecution for their criminal acts, set out to undermine the institutions which should act as a safeguard, such as an independent judiciary and a free press. These institutions become another casualty of the conflict.

Over the years the United Nations and other intergovernmental organizations have created detailed human rights standards and elaborate machinery for their observance. But in an armed conflict, governments often fail to cooperate with UN human rights procedures and ignore the recommendations of intergovernmental bodies, and all parties too often fail to observe the provisions of international humanitarian law.

When conflicts are ending, addressing human rights issues is sometimes seen as being incompatible with brokering a peace agreement. But unless the parties come to terms with past human rights violations and ensure respect for human rights in the future, peace settlements are unlikely to be either just or long-lasting.

The international system for human rights protection relies on violations becoming quickly known so that remedial action can be taken. But in armed conflicts as in repressive situations, human rights victims and their relatives are often frightened into silence, and local human rights defenders are subjected to murder, death threats and other forms of intimidation.

A war mentality sets in, where loyalty to one side or another dulls the public perception of the need to respect human rights. Those who question any official action are branded as traitors, and important sectors of public opinion are willing to accept the perpetration of gross violations of human rights as normal acts of war. The conflict becomes both a pretext and a disguise for human rights violations as these are passed off as the result of armed conflict or as the work of the opposing party. Opposition groups likewise use the atmosphere of armed conflict as a rationale or a disguise for similar abhorrent acts committed by them.

The international system for human rights protection depends, most importantly, on the capacity of the international community to apply pressure for human rights observance. Under-resourced as it is, the UN machinery can only operate effectively if other states are prepared to demand such cooperation and to insist that recommendations be followed. But geopolitical considerations linked to the fighting can make other nations more reluctant than usual to press for human rights observance.

In its report, published in May 1992, the national Commission of Inquiry set up after the fall of President Hisssein Habré of Chad, whose government had been intermittently involved in external armed conflict, concluded that despite the efforts of international humanitarian organizations to make known the atrocities being committed, other governments regarded Hisssein Habré as a strong ally and therefore "turned a blind eye to the terrible crimes committed by him, thus allowing the continuation of a despotic and bloody regime."

The Chadian Commission estimated that over 40,000 people had been executed by the Habré government or died in prison, leaving over 30,000 widows and over 80,000 orphans. Similar judgments on the failure of the international community to uphold human rights could be passed on many other situations elsewhere.

A further dire result of armed conflict and human rights violations is large numbers of refugees. As we see in so many situations today, people will brave the most difficult hardships to flee to other countries when their lives or freedom are threatened. In some cases parties to a conflict may deliberately set out to generate refugees. Regrettably, potential asylum countries are increasingly unwilling to open their doors to those in need of protection - or to speak out and take steps to avert the measures from which asylum seekers flee.

In the face of these problems, what should be done? Among the measures needed are the following:

1. All parties engaged in a conflict should pledge to observe the standards of human rights and international humanitarian law. Governments and world opinion should continuously press them to observe these standards. Other states should ensure that UN bodies deal quickly with gross human rights violations in specific countries. States should ask the International Fact-Finding Commission to investigate situations of gross human rights violations as provided for under Additional Protocol I to the Geneva Conventions.

2. The obligation to observe internationally agreed standards of fundamental human rights in all situations including armed conflict should be reaffirmed. International norms for the protection of victims of non-international armed conflict should be strengthened. The core rights which can never be derogated from, which are common to both human rights law and international humanitarian law, must be made truly inviolable.

3. All parties should allow unhindered access to international human rights monitors, including representatives of UN bodies and international non-governmental organizations. They should do nothing to impede the efforts of national organizations in monitoring and pressing for the observance of human rights. International non-governmental fact-finding organizations should be encouraged to monitor, report on and press for the observance of humanitarian principles in armed conflicts.

4. Procedures to ensure human rights protection should be included in peace agreements. Human rights monitoring and protection programs should be established and dispatched to areas of conflict, and attached to intergovernmental peacekeeping operations. The idea that human rights and peacekeeping are in any way incompatible should be rejected. At the national level, measures to be taken at such times include investigating the human rights violations which have been committed, bringing those responsible to justice, and building up the legal and institutional means to prevent future violations.

5. Human rights also need to be respected by the personnel engaged in peacekeeping operations. The training and instructions given to them should be in accordance with international human rights standards, including standards on the use of force in crowd control.

6. The UN Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities should be asked to consider on a regular basis the prevention of human rights violations in situations of armed conflict. Governments should take action at the coming session of the UN General Assembly to ensure that the UN human rights program receives adequate funding from the regular UN budget.

7. The idea of establishing a UN High Commissioner for Human Rights, which was considered by the World Conference on Human Rights in June, should be adopted quickly by the UN General Assembly. As gross human rights violations in armed conflict are reported, the High Commissioner should act at the appropriate political levels to stop them.

8. A permanent international criminal court should be established to try individuals responsible for gross violations of human rights and international humanitarian law, including war crimes and crimes against humanity. The creation of the *ad hoc* international war crimes tribunal for the former Yugoslavia should be seen as a step towards the establishment of such a permanent court.

9. Governments must fulfil their obligations to offer protection to those who flee from zones of armed conflict in fear for their lives. They should not obstruct the right of such persons to seek asylum.