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UN Human Rights Council  
Eighth Session, 2-18 June 2008

**Compilation of statements by Amnesty International  
(including joint statements and public statements)**



18 July 2008

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**UN Human Rights Council  
Eighth Session  
2-18 June 2008**

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(including joint statements and public statements)**

The following statements were made during the eighth main session of the Human Rights Council that took place from 2 to 18 June 2008.

**ITEM 1 – ORGANIZATIONAL AND PROCEDURAL MATTERS**

**Appointment of Special Procedures mandate holders and of members of the expert mechanism on the rights of indigenous peoples: Oral statement - 18 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080618pm2-eng.rm?start=00:13:50&end=00:15:28>

**Delivered by *Patrizia Scannella***

Mr. President,

Amnesty International has on several occasions voiced its concerns at the Council's troubling tendency to disregard rules and procedures that it established for itself in resolution 5/1. By rewriting the rules for the selection of Special Procedures, the Council further undermines itself and the credibility of its members.

[On 18 February 2008 at the organizational meeting and again on 26 March we expressed reservations about the disparity between the Special Procedures appointment process agreed in resolution 5/1 and that applied in practice. We will not repeat those still pertinent observations, but note with dismay that the Consultative Group has once again presented a report without a shadow of substantiation for the recommendations made. Paragraph 50 of resolution 5/1 requires that recommendations to the President "shall" be substantiated.]

Today this Council has "clarified" the rules around the so-called "renewal" of Special Procedures mandate-holders who have served the first three years of their six year tenure. We congratulate the Council for its success in solving a problem that did not exist until a few decided to create it. [Throughout the whole of the institution-building negotiations leading to the adoption of resolution 5/1, there was no discussion of re-appointment of mandate-holders after completion of a first three-year term. The practice of the Commission on Human Rights

for the Special Procedures assumed by the Council pursuant to General Assembly resolution 60/251 made no provision for the “renewal” of mandates-holders, even though the Commission worked since 2000 with essentially the very same rule for the tenure of mandate holders as we find in Council resolution 5/1. If the Council had intended to create a requirement for re-appointment after a first three-year term, then that intention would have been expressed clearly, as was done for the members of the Advisory Committee, the Working Group on Communications and the Working Group on Situations.

The requirement that has now been created for the renewal of mandate-holders who have completed three years in office will put the mandate holders at the substantial risk of political pressure by members of the Council, pressure that can only be detrimental to their capacity to carry out their functions in an independent and impartial manner. The requirement for renewal will also act as a disincentive for mandate-holders developing and carrying out anything but short-term plans in their respective areas of work. It will undermine the capacity of mandate-holders to fulfill effectively their mandates given by the Council. ]

While Amnesty International saw no need for the clarification adopted by the Council today, we welcome the sensible safeguards in the new procedure. We note that the Council shall extend the term of office for a second three-year term in the absence of information establishing a consistent pattern of non-compliance with the Code of Conduct. The “consistent pattern” standard should ensure that the renewal of a mandate-holder cannot be blocked on the whim of a state offended when attention is drawn to its alleged human rights violations or non-cooperation. [Mandate-holders can only be challenged on the basis of such a consistent pattern of conduct that is inconsistent with the Code of Conduct. Appropriate action by the Counsel does not necessarily require the non-extension of a mandate-holder’s term in office. Only serious misconduct that imperils the integrity and independence of the system of Special Procedures would warrant the non-renewal of a mandate-holder.] All complaints against mandate-holders must be substantiated by reference to specific articles of the Code of Conduct that have allegedly been breached. Amnesty International also welcomes that the Council has recognized the authoritative role played by the Coordination Committee in the proper administration of the Code of Conduct, thereby offering due process to mandate-holders. We trust the Committee to exercise this responsibility with due seriousness.

Amnesty International calls on all states to reflect very carefully before making use of this new procedure so as to avoid any course of action that could seriously compromise the independence, integrity and stability of the Special Procedures system. This procedure should not be used as a tool to intimidate mandate-holders whose professionalism and outspokenness some states might find inconvenient.

Now that this most recent reworking of the Council’s institution-building package has been concluded, it is time for the Council to end its perpetual institution-building and get on with addressing substantive issues like the violations of human rights that this Council has a mandate to address.

Thank you Mr. President.

**Pawning the Crown Jewels: Members of the UN Human Rights Council Undermine the Special Procedures: Public statement (AI Index: IOR 40/015/2008) - 17 June 2008**

Amnesty International condemns attempts by some states, including members of the United Nations (UN) Human Rights Council, to intimidate its independent human rights experts.

Amnesty International is appalled by efforts by some UN member states to introduce a new measure that would give the Council power to remove from office individual UN human rights experts, collectively known as the Special Procedures, after an initial three-year term.

Meeting at the 8<sup>th</sup> session of the Council in Geneva, a group of states – notably Cuba, Egypt (on behalf of the African Group), India, the Russian Federation, Singapore and Sri Lanka – have tabled a draft decision that calls for reappointment of mandate-holders who have served a first term of three years and allows for any state to object to the reappointment of any mandate-holder. Until now, it has been the custom that mandate-holders serve a maximum period of six years. This custom was carried over into the Council by virtue its resolution 5/1, which provides the institutional foundation for the Council. Since September 2007, Special Procedure mandates and mandate-holders have been reviewed by the Council and continued on this basis. At no stage during year-long negotiations of that part this resolution governing the Special Procedures was the idea to hold a mid-term review of mandate-holders muted. The creation of the ability for the Special Procedures parent body to terminate their tenure at mid stream would be a radical new measure and its application unprecedented.

To justify this change in the rules a few states attacked individual mandate-holders whose mandates were being reviewed by the Council last week – the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture. These states claimed that these mandate-holders had acted beyond the terms of the Council's Code of Conduct for Special Procedures. Such criticisms lack all credibility and appear to serve as a pretext to weaken the Special Procedures – whether through a badly misguided sense of principle or through deliberate aim. Those states are unwilling to follow due process that should be accorded to the mandate-holders facing such allegations of misconduct – they simply want instant dismissal.

The proposed decision has no requirement for objections to refer to any commonly accepted standards of conduct. In the crudest terms, if a state dislikes what a Special Rapporteur does or says, all it has to do is to raise an objection to the continuation of the mandate-holder's tenure. Such unfair practices do not belong in the UN's main human rights body.

Faced with a review at the end of their first term, mandate-holders will be at risk of undue political pressure by states, pressure that can only be detrimental to their capacity to carry out their functions in an independent and impartial manner while in office. It would also act as a disincentive for mandate-holders from developing and carrying out anything but short-term

plans in their respective areas of work. It would seriously undermine the capacity of mandate-holders to fulfil effectively their mandates given by the Council.

The consequences of the proposed decision are far-reaching. Amnesty International urges all states to think very carefully before following a course of action which will seriously compromise the independence, integrity and stability of the Special Procedures system and call into question the credibility of the Human Rights Council.

### **Background**

Kofi Annan described the Special Procedures as the crown jewels of the UN human rights system. Support for this assessment was very widely shared by the UN member states in interventions in the Human Rights Council and other UN fora.

Throughout the whole of the institution-building negotiations leading to the adoption of resolution 5/1, there was no discussion of re-appointment of mandate-holders after completion of an initial three-year term. Where the Council intended to create a requirement for re-appointment, it expressed that intention clearly, as it did for the members of the Advisory Committee, the Working Group on Communications and the Working Group on Situations.

In recent months a few states have sought to rewrite the rules for the appointment of Special Procedures in attempt to remove some mandate-holders, whose professionalism and outspokenness they find inconvenient.

## **ITEM 2 – ANNUAL REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND REPORTS OF THE OHCHR AND THE SECRETARY-GENERAL**

### **Interactive dialogue with the UN High Commissioner for Human Rights : Joint oral statement by 31 NGOs – 2 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080602pm-eng.rm?start=01:29:56&end=01:35:45>

**Delivered by *Isabelle Scherer (International Service for Human Rights)***

Thank you Mr Chairman,

The ISHR delivers this statement on behalf of 23 NGOs<sup>1</sup> with ECOSOC consultative status, this statement has also been endorsed by 8 NGOs<sup>2</sup> that do not enjoy this status.

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<sup>1</sup> Action Canada for Population and Development (ACPD), African Centre for Democracy and Human Rights Studies, Amnesty International (AI), Asian Legal Resource Centre (ALRC), Asian Forum for Human Rights and Development (Forum-Asia), Association for the Prevention of Torture (APT), Baha'i



Dear High Commissioner,

On the occasion of your last address to the Council we would like to commend you for your strong personal commitment to strengthening the international human rights system and to the fundamental principle of universality and interdependence of human rights. Your vision and dedication have brought increased momentum towards achieving our common goal of the full implementation of human rights standards. Your successful efforts to secure additional resources for this ambitious task are remarkable.

Under your leadership, the profile of human rights as one of the fundamental pillars of the United Nations, and of OHCHR as a crucial part of the UN Secretariat have been raised. The integration of a strong human rights component in UN peace missions is one example of this approach. We hope that your successor will be able to build on your efforts to mainstream human rights into other parts of the UN system. We also welcome your personal commitment to improving the geographical representation of the staff of OHCHR, and we note the progress achieved so far.

Your dedication to human rights, justice and the fight against impunity has led to a significant improvement in the protection offered by the human rights system and has directly contributed to the prevention of human rights violations.

Your commitment to consolidate OHCHR's protection and technical cooperation mandates in your offices country work has been of the essence. You have given clear vision and direction to your offices in Geneva and around the world and a common focus on key challenges: impunity, poverty and inequalities, discrimination, armed conflict and violence, democratic deficits and weak institutions.

The establishment and strengthening of national protection systems through the elaboration of focused country engagement strategies have been a significant achievement of your Office. This is essential in bringing the human rights work done in Geneva and New York to the

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International Community, Cairo Institute for Human Rights Studies (CIHRS), Canadian HIV/AIDS Legal Network, Centre on Housing Rights and Evictions (COHRE), CIVICUS: World Alliance for Citizen Participation, Colombian Commission of Jurists (CCJ), Conectas Direitos Humanos, Franciscans International (FI), Friends World Committee For Consultation (QUAKERS) (FWCC), Human Rights Watch (HRW), International Centre for Human Rights and Democratic Development (Rights and Democracy), International Commission of Jurists (ICJ), International Federation of Human Rights Leagues (FIDH), International Service for Human Rights (ISHR), Latin American Committee for the Defence of Women's Rights (CLADEM), Lutheran World Federation (LWF), Pax Romana (International Catholic Movement for Intellectual and Cultural Affairs and International Movement of Catholic Students), The World Organisation against Torture (OMCT)

<sup>2</sup> African Democracy Forum, Bahrain Center for Human Rights, Carter Center, Democracy Coalition Project, East and Horn of Africa Human Rights Defenders Network, Martin Ennals Foundation, Mexican Commission for the Defence and Promotion of Human Rights, Que Me: Action for Democracy in Vietnam

country level and ensuring its effective implementation and redress for victims of human rights violations. In this respect, we encourage a continued focus of your Office on supporting governments, national human rights institutions and civil society in implementing recommendations made by various parts of the UN human rights system towards strengthened human rights protection.

You and your Office have played a critical role throughout the transition from the Commission on Human Rights to the Human Rights Council. Your personal advocacy and support for preserving the independence of the special procedures system, and for the establishment of a strong universal periodic review (UPR) mechanism were crucial during that period. The OHCHR's continued commitment to service all of the human rights mechanisms effectively and professionally is vital to their success.

Madame High Commissioner,

Of particular significance for us is the fruitful cooperation you and your Office has sought with all sectors of civil society, including through the establishment of the dedicated Civil Society Unit within OHCHR. We have greatly appreciated the close collaboration that has been developed between OHCHR and civil society and would like to thank you and your Office for the openness and commitment to working with us.

Finally, and most importantly, you personally and your Office as a whole have demonstrated leadership in upholding the universal character of human rights throughout all activities. We commend your repeated and strong affirmation that human rights apply to everyone, everywhere without any distinction whatsoever, and are thus universal. You leave a legacy of unwavering commitment to the principle of universality of human rights as a fulfillment of human dignity.

"Dignity and justice for all", the theme of the campaign to commemorate the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights (UDHR), reflects your aspirations and the emphasis you have placed on the implementation of human rights. While we regret to see you leave as an untiring advocate for human rights, we are confident that your office and the future High Commissioner will build on your achievements and continue to defend the principle of universality and the need for strong human rights mechanisms, to protect all human rights for all. We also trust that you will continue to contribute to the human rights cause.

Thank you Mr. Chairman.

### **ITEM 3 – THE PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

### **Review, rationalization and improvement of mandates (RRIs)**

#### **RRI of the Special Rapporteur on the independence of judges and lawyers: Written statement (UN index: A/HRC/8/NGO/8)**

Since its establishment in 1994, the mandate of the Special Rapporteur on the independence of judges and lawyers (Special Rapporteur) has contributed substantially and effectively towards the protection and enhancement of the independence of the judiciary and lawyers.

The former Commission on Human Rights (the Commission), in its Resolution 1994/41, mandated the Special Rapporteur to, *inter alia*, inquire into any substantial allegations transmitted to him; to identify and record not only attacks on the independence of the judiciary, lawyers and court officials but also progress achieved in protecting and enhancing their independence and make concrete recommendations including the provision of advisory services or technical assistance. It also mandated the Special Rapporteur to study, for the purpose of making proposals, important and topical questions of principle with a view to protecting and enhancing the independence of the judiciary and lawyers.

In pursuance of this mandate the Special Rapporteur transmits to governments communications including urgent appeals, containing information of concern with respect to threats to the independence of judges and lawyers. These communications may describe cases of threats to alleged violations concerning the independence and impartiality of the judiciary, violations of international standards of fair trial and other factors related to the functioning of the judiciary and legal profession and the rule of law. He also conducts country visits and reports annually about his activities undertaken highlighting particular areas of concern.

In his recent reports to the Human Rights Council and the General Assembly the Special Rapporteur provided important insight into conditions influencing the administration of justice and the independence of judges, prosecutors and lawyers around the world, on standards and practices affecting the rule of law and the functioning of the judicial system as well as other challenges.<sup>3</sup>

He examined major developments in international justice – including in relation to the International Criminal Court, the Iraqi Supreme Criminal Tribunal and the Extraordinary Chambers in Cambodia.<sup>4</sup>

Concerning the rule of law and states of emergency the Special Rapporteur addressed particular conceptual and practical challenges and the impact of states of emergency and other exceptional measures on the administration of justice. He identified various factors and

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<sup>3</sup> See the following Reports of the Special Rapporteur on the independence of judges and lawyers, UN. Docs A/HRC/8/4, A/61/384, and A/HRC/4/25.

<sup>4</sup> See UN Doc. A/HRC/4/25, Report of the Special Rapporteur on the independence of judges and lawyers, 18 January 2007.

shortcomings impeding effective access to justice. Such factors often include a lack of capacity and efficiency in the judiciary and other related institutions, a lack of will to allow and facilitate effective access to justice, a lack of information and awareness on the part of individuals regarding their entitlement to rights and guarantees and the procedures to follow, problems of access by vulnerable groups and special difficulties in an armed-conflict or a post-conflict situation.<sup>5</sup>

In carrying out his mandate the Special Rapporteur - the present and the previous mandate-holders - have gained considerable recognition by states, non-governmental organizations and other actors. Commission resolution 2005/33 on the "independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers", which was introduced by Hungary, was co-sponsored by 58 states and adopted by the Commission without a vote on 19 April 2005.<sup>6</sup>

The overview of the Special Rapporteur's communications with governments and reports from previous country visits show that many states have entered into a dialogue with the Special Rapporteur with the aim of strengthening the protection and enhancing the independence of the judiciary and lawyers in their country. However, as a review of the communications and the Special Rapporteur's reports also shows, serious problems remain acute; many states do not comply with international human rights standards and fail to cooperate with the Special Rapporteur in discharging his mandate.<sup>7</sup>

Over the course of the mandate, the Special Rapporteur, Leandro Despouy, and his predecessor, Param Cumaraswamy, have deepened the understanding of the many challenges faced in protecting and promoting the integrity, independence of judges and lawyers by addressing at both the conceptual and applied levels questions such as: the use of special courts and military tribunals; judicial accountability; persecution and harassment of judges and lawyers; and conditions of appointment and tenure of judges.

Amnesty International believes that the mandate of the Special Rapporteur is an essential part of the architecture of the Human Rights Council in its work to protect and promote all human rights and to ensure that the most serious challenges in that respect are addressed.

Therefore, Amnesty International calls on the Human Rights Council to:

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5 Ibid.

6 The following states sponsored Commission resolution 2005/33: Albania, Andorra, Argentina, Armenia, Austria, Belgium, Bulgaria, Canada, Chile Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany Greece, Guatemala, Honduras Hungary India, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, the Netherlands, Nigeria, Norway, Paraguay, Poland, Portugal, Romania, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sri Lanka, Sweden Switzerland, the Former Yugoslav Republic of Macedonia, Turkey, the United Kingdom, and Uruguay. Australia, Bolivia, Brazil, Ethiopia, Iceland, Madagascar, Nicaragua, and Peru subsequently joined the sponsors.

7 Outstanding visit requests include: Bangladesh, Cambodia, Egypt, Iran, Kenya, Pakistan, Sri Lanka, Tunisia, Turkey, Turkmenistan, USA in relation to Guantanamo, Uzbekistan and Zimbabwe. To the above, it should be added the requests made in 2008 to the governments of Angola, Azerbaijan and Georgia.

- Renew the mandate of the Special Rapporteur on the independence of judges and lawyers;
- Encourage states to give positive consideration to the Special Rapporteur's recommendations;
- Urge states to fully cooperate with the Special Rapporteur including by responding promptly and in full to his urgent appeals, allegation letters, communications and requests for visits, and by implementing his recommendations.

**RRI of the Special Rapporteur on the independence of judges and lawyers: Oral statement - 4 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080604pm-eng.rm?start=01:52:48&end=01:54:50>

**Delivered by *Patrizia Scannella***

Thank you Mr. President.

Since its establishment in 1994, the mandate of the Special Rapporteur on the independence of judges and lawyers (Special Rapporteur) has contributed substantially and effectively towards the protection and enhancement of the independence of the administration of justice.

In carrying out his mandate the Special Rapporteur - the present and the previous mandate-holder –gained considerable recognition by states, NGOs and other actors. The last Commission on Human Rights' resolution on this mandate, adopted without a vote in 2005, was co-sponsored by 58 states.

The overview of the Special Rapporteur's communications with governments and reports from previous country visits show that many states have entered into a dialogue with the Special Rapporteur with the aim of strengthening the protection and enhancing the independence of the administration of justice in their country. However, as a review of the communications and the Special Rapporteur's reports also shows, serious problems remain acute; many states do not comply with international human rights standards and they fail to cooperate with the Special Rapporteur in discharging his mandate.<sup>8</sup>

Over the course of the mandate, the Special Rapporteur, Mr. Leandro Despouy, and his predecessor, Mr. Param Cumaraswamy, have deepened the understanding of the many challenges faced in protecting and promoting the integrity, independence of judges and lawyers. They have done so by addressing at both the conceptual and applied levels questions

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<sup>8</sup> Outstanding visit requests include: Bangladesh, Cambodia, Egypt, Iran, Kenya, Pakistan, Sri Lanka, Tunisia, Turkey, Turkmenistan, USA in relation to Guantanamo and Zimbabwe. To the above, it should be added the requests made in 2008 to the governments of Angola, Azerbaijan and Georgia.

such as: the use of special courts and military tribunals; judicial accountability; persecution and harassment of judges and lawyers; and conditions of appointment and tenure of judges.

Amnesty International believes that the mandate of the Special Rapporteur is an essential part of the architecture of this Council in its work to protect and promote all human rights and to ensure that the most serious challenges in that respect are addressed.

Therefore we call on this Council to:

- Renew the mandate of the Special Rapporteur; and to
- Encourage states to cooperate fully with the mandate, including by giving positive consideration to his recommendations

Thank you, Mr. President.

**RRI of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Joint written statement by The Coalition of International NGOs Against Torture (CINAT)<sup>9</sup> (UN index: A/HRC/8/NGO/18).**

Torture has long been recognized as one of the most heinous violations of human rights. The nature and consequences of the act is such that its prohibition is absolute in all circumstances, including situations of armed conflict and during states of emergency, as reflected in the Universal Declaration of Human Rights and other international and regional instruments. Despite the gradual increase in states parties to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN Convention against Torture) and to its Optional Protocol and to the International Covenant on Civil and Political Rights, non-governmental organizations regularly document cases of torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment) occurring in scores of countries and all regions of the world. The ultimate goal of eradication remains elusive.<sup>10</sup>

When the former Commission on Human Rights established the mandate of Special Rapporteur on torture in 1985, it responded to the need for a mechanism with global reach, empowered to respond effectively to credible allegations of torture and other ill-treatment.<sup>11</sup>

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<sup>9</sup> Amnesty International, Association for the Prevention of Torture (APT), International Commission of Jurists, International Federation of Action by Christians for the Abolition of Torture (FIACAT), The International Rehabilitation Council for Torture Victims (IRCT), The World Organisation against Torture (OMCT), non-governmental organizations in special consultative status.

<sup>10</sup> As at 19 May 2008, a total of 145 member states of the UN have ratified the UN Convention against Torture and 34 states have ratified the Optional Protocol to that treaty. There are 161 states parties to the International Covenant on Civil and Political Rights.

<sup>11</sup> Resolution 1985/33, adopted 13 March 1985, requested the Special Rapporteur to “seek and receive credible and reliable information from governments, as well as specialized agencies, intergovernmental organizations and non-governmental organizations” and “to respond effectively” to such information.

Thus the mandate of the Special Rapporteur was created to complement the (then) newly adopted UN Convention against Torture.<sup>12</sup>

The Special Rapporteur has made a significant contribution to the global campaign for the eradication of torture and ill-treatment. The four mandate-holders have analyzed and developed recommendations on key issues related to acts of torture and ill-treatment perpetrated by the state (and increasingly, non-governmental entities). The topics raised by the current mandate-holder include corporal punishment, counter-terrorism measures, diplomatic assurances, non-refoulement, impunity, effective investigation of torture, guarantees for persons deprived of their liberty, evidence extracted by torture, reparation for victims, and torture equipment. They have also focused on the torture and ill-treatment of children and gender-specific forms of torture.

A critical function performed by the Special Rapporteur is the ability to respond rapidly to credible threats of torture and ill-treatment in order to avoid irreparable harm. Mandate-holders have also issued "allegation letters" to states, where the situation is not life-threatening. The communications are humanitarian and preventive in nature, not accusatory. The Special Rapporteur's latest report to the Human Rights Council records that, during the 12-month period from 16 December 2006, the mandate-holder sent 187 urgent appeals to 59 governments, and 79 allegation letters to 51 states.<sup>13</sup>

The Special Rapporteur has also conducted visits to 38 states and territories since the mandate was first created. These visits have been described by a former mandate-holder as "the most important contribution in the long term...where the mission report and its recommendations become the agreed basis for future national dialogue between the authorities and civil society in how to eradicate torture".<sup>14</sup> The Special Rapporteur's missions complement visits undertaken by the Committee against Torture in response to allegations of systematic torture, and those made by the Sub-Committee for the Prevention of Torture, established under the Optional Protocol to the UN Convention against Torture. The Special Rapporteur may seek permission to visit any state, irrespective of whether or not it is party to an international treaty.<sup>15</sup> The Special Rapporteur's missions combine visits to places of detention, meetings with officials as well as detainees and torture victims, their families and representatives, and civil society. The integrity of the mission is assured by prior agreement of

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<sup>12</sup> The UN Convention against Torture was adopted by the General Assembly on 10 December 1984 through resolution 39/46.

<sup>13</sup> See Summary of information, including individual cases, transmitted to governments and replies received, contained in UN doc. A/HRC/7/3/Add.1, 19 February 2008.

<sup>14</sup> Former Special Rapporteur on torture Sir Nigel Rodley in an interview with Amnesty International, 2007.

<sup>15</sup> The Committee against Torture can seek permission to carry out an on-site visit to a state party in response to allegations submitted under Article 20. The procedure is confidential, including the outcome of the Committee's investigation, until the state party agrees to make the report public. To date, it has visited six states parties in relation to Article 20 complaints. The Sub-Committee for the Prevention of Torture's mandate is based on monitoring of places of detention without the prior consent of the state party. The Sub-Committee's work is confidential.

the state to cooperate in facilitating the Special Rapporteur's visit, in accordance with the terms of reference adopted by the Special Procedures in 1998.<sup>16</sup> The result of the Special Rapporteur's visit is a public report containing recommendations.

The Special Rapporteur has made important contributions to the development of best practices in implementing Special Procedures' mandates. The Special Rapporteur has pioneered a procedure to encourage continuing dialogue and implementation of recommendations following country visits. A separate report on follow-up is issued as an addendum to the main report which is presented to the Human Rights Council. This supports efforts by the states concerned to provide an update on measures towards implementation and any constraints hindering that aim, and for other stake-holders to provide their input.<sup>17</sup> Civil society has benefited immensely from the accessibility and openness of the Special Rapporteur, and his willingness to participate in events around the world aimed at promoting the eradication of torture and ill-treatment, and the role of the mandate. The Special Rapporteur has actively enhanced collaboration among mandate-holders through participating in joint visits, which has provided a more holistic review of multifaceted issues.

Despite the pivotal role that the Special Rapporteur performs, this mechanism is often subjected to attempts by governments to undermine its valuable and necessary work. For example, the Special Rapporteur's public reports document repeated failures by many states to respond at all or in full to urgent and routine communications. Several states have failed to respond positively to requests from the Special Rapporteur to undertake a visit, and some requests have been outstanding for ten years or more.<sup>18</sup> This is despite the call by the General Assembly in a recent resolution that states ensure proper follow-up to the recommendations of the Special Rapporteur and co-operate with him.<sup>19</sup> The Coalition of International NGOs Against Torture (CINAT) believes that the Human Rights Council has a critical role to play in supporting the Special Rapporteur by taking appropriate action to encourage states to co-operate with the mandate-holder, including by facilitating the Special Rapporteur's visit requests promptly and providing satisfactory and timely responses to communications.

In view of the numerous instances of serious violations of the absolute right of all human beings to be free from torture and other ill-treatment, the CINAT believes that the mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, serves a vital and unique function in addressing these violations.

The CINAT calls on the Human Rights Council to:

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<sup>16</sup> The terms and conditions of the mission are specified on the Special Rapporteur's webpage: <http://www2.ohchr.org/english/issues/torture/rapporteur/visits.htm>

<sup>17</sup> The Special Rapporteur's most recent report is contained in UN doc. A/HRC/7/3/Add.2, 18 February 2008.

<sup>18</sup> See the latest Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment contained in UN doc. A/HRC/7/3/Add.1, 15 January 2008.

<sup>19</sup> A/RES/62/148, adopted by the General Assembly on 18 December 2007.



- Renew the mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment;
- Urge states to fully cooperate with the Special Rapporteur, including by responding promptly and in full to his urgent appeals, communications and requests for visits;
- Carefully review the reports of the Special Rapporteur and take action against states which persistently fail to cooperate with the mandate-holder.

**RRI of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Joint oral statement by The Coalition of International NGOs Against Torture (CINAT)<sup>20</sup> – 4 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080604pm-eng.rm?start=02:39:29&end=02:41:21>

**Delivered by *Marina Narvaez* (APT)**

Thank you Mr. President,

The Association for the Prevention of Torture, the APT, presents this statement on behalf of the Coalition of Non-governmental Organizations against Torture, the CINAT, to complement our written submission.

When the former Commission on Human Rights established the mandate of Special Rapporteur on torture in 1985, it responded to the need for a mechanism with global reach, empowered to respond effectively to credible allegations of torture and other ill-treatment.

Since the establishment of the mandate, the Special Rapporteur has made a significant contribution to the global campaign for the eradication of torture and ill-treatment and has played a vital role in addressing these violations.

However, despite the pivotal role that the Special Rapporteur performs, this mechanism is often subjected to attempts by governments to undermine its valuable and necessary work. For example, the Special Rapporteur's public reports document repeated failures by many states to respond to all or in full to urgent and routine communications. Several states have failed to respond positively to requests from the Special Rapporteur to undertake a visit, and some requests have been outstanding for ten years or more.

Mr. President, the CINAT believes that the Human Rights Council has a critical role to play in supporting the mandate of the Special Rapporteur by taking appropriate action to encourage states to co-operate with the mandate-holder.

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<sup>20</sup> Amnesty International, Association for the Prevention of Torture (APT), International Commission of Jurists, International Federation of Action by Christians for the Abolition of Torture (FIACAT), The International Rehabilitation Council for Torture Victims (IRCT), The World Organisation against Torture (OMCT), non-governmental organizations in special consultative status.

Hence, the CINAT calls on the Human Rights Council to:

- Renew the mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment;
- Urge states to fully cooperate with the Special Rapporteur, including by responding promptly and in full to his urgent appeals, communications and requests for visits; and to
- Carefully review the reports of the Special Rapporteur and take action against states which persistently fail to cooperate with the mandate-holder.

Thank you Mr. President.

**RRI of the Special Rapporteur on extrajudicial, summary or arbitrary executions: Oral statement – 5 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080605am-eng.rm?start=01:00:09&end=01:02:15>

**Delivered by *Patrizia Scannella***

The Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions has undertaken important analysis on key issues falling within the mandate. For example, regarding the death penalty, the Special Rapporteur has considered the subjective interpretation by some states of international law that provides for imposition of the death penalty for the “most serious crimes”. He has made recommendations about the use of mandatory death sentences, transparency surrounding the death penalty, and the right to seek pardon and commutation of death sentences. Mandate-holders have looked at violations of the right to life and the application of international law in the context of armed conflict, the use of lethal force, shoot to kill policies, and the use of excessive and indiscriminate force, including in the context of counter-terrorism measures. They have highlighted killings by non-state actors, and presented information and recommendations concerning killings with a gender dimension, the right to life and sexual orientation, and violations as they relate to specific groups.

Mr. President,

Extrajudicial, summary or arbitrary executions are not a thing of the past. The mandate of the Special Rapporteur is needed as much today as it was in 1982, when it was established. It is also imperative that all states cooperate with the Special Rapporteur, in responding fully to communications, facilitating mission requests and taking action on his recommendations.

For this reason, Amnesty International calls on the Human Rights Council:

- to renew the mandate of the Special Rapporteur with all of the elements that it includes today;

- to take steps to ensure that states cooperate fully with the mandate-holder, in order to enable him to fulfil the terms of the mandate more effectively;
- to be alert to warnings from the Special Rapporteur of existing or emerging situations of grave or massive human rights violations and to act on the basis of such warnings.

Amnesty International also recommends that the Council establish a procedure for dealing with persistent or especially problematic non-cooperation with mandate-holders, as proposed by the Special Rapporteur.

[Mr. President,

Mandate-holders need a continuity and security of office that enables them to develop an in-depth understanding of the broad range of issues falling within their mandate. Through the experience of receiving communications over years, of looking at some aspects of the mandate in depth, of undertaking 2/3 yearly missions to countries and territories with different political, legal, social and economic systems, and of inter-acting with the Human Rights Council, the mandate-holders develop the knowledge and expertise to assist states and the Council effectively. Six years offer them the necessary continuity; the essential security of that time in office must not be compromised.]

Thank you, Mr. President.

**RRI of the Special Rapporteur on extrajudicial, summary or arbitrary executions:  
Written statement (UN index: A/HRC/8/NGO/12)**

*"In 2006, the UN Special Rapporteur on arbitrary, summary, and extrajudicial killings, Mr. Philip Alston, visited Nigeria to conduct a fact-finding inquiry, and subsequently released the report of his findings and recommendations. The Special Rapporteur established, amongst other findings, that the Police Service Commission (PSC), the body with oversight responsibility over police conduct, had been inert and had failed to live up to its constitutional responsibilities.*

*A number of civil society organizations, including Access to Justice, subsequently initiated a meeting with the PSC, and at that meeting, drew the PSC's attention to the findings of the Special Rapporteur regarding the weakness of the PSC in fighting police abuse. The civil society groups challenged the PSC to rise up to their responsibilities, and become an effective oversight institution. The PSC has resolved now to strengthen its oversight over police misconduct, and to undertake direct investigation of police misconduct in at least three types of complaints, inter-alia; arbitrary, summary and extrajudicial killings, torture, and sexual violence."*

The citation comes from an interview in 2007 with a representative of a Nigerian non-governmental organization, Access to Justice, and illustrates the value that the mandate of this Special Procedure adds to enhancing civil society's work at the national level.

The impetus for the establishment, in 1982, of the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions (Special Rapporteur) came from a growing concern about the failure of many states to respect established safeguards against abuse of the death penalty, as well as numerous reports of state killings.<sup>21</sup> Resolution 1982/29 expressed deep alarm about "the occurrence of summary or arbitrary executions, including extra-legal executions, that are widely regarded as being politically motivated". The Special Rapporteur was tasked with seeking and receiving information relevant to the mandate from governmental and non-governmental sources. It was not until the mandate was renewed 10 years later in 1992 that the former Commission on Human Rights extended the title to include "extrajudicial" executions, signalling a broad approach to violations of the right to life.<sup>22</sup> Subsequently, the mandate has developed through the adoption of various resolutions by the Commission on Human Rights and the General Assembly.

The first holder of the Special Rapporteur's mandate, Amos Wako, developed working methods aimed at providing an effective response to information received, including using an urgent action procedure to take up cases of imminent deaths with governments, transmitting allegations of cases of summary or arbitrary executions and requesting information from the state concerned, undertaking country missions and presenting an annual report setting out his findings. These working methods have been further developed, and now include providing an in-depth legal analysis of pertinent issues and making recommendations thereon, and systematically following up on the outcome of missions in order to assess implementation.

In his latest report to the Human Rights Council (the Council), the Special Rapporteur records that during the period 1 December 2006 to 15 March 2008, he has sent 127 communications to 46 countries, including 58 urgent appeals and 69 allegation letters.<sup>23</sup> The topics covered in his correspondence are: the death penalty, including as its application relates to minors, deaths in custody, excessive use of force, impunity, attacks or killings, armed conflict and death threats. The Special Rapporteur categorizes the quality of government responses to these communications so that the Council can identify which states are failing to cooperate with him. As in previous reports to both the Council and the General Assembly, the Special

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<sup>21</sup> Resolution 1982/29 creating the mandate was adopted by the Commission on Human Rights resolution at its 38th meeting.

<sup>22</sup> Note that the current Special Rapporteur has emphasized that the mandate is not best understood through efforts to define individually the terms "extrajudicial", "summary" or "arbitrary", or to categorize any given incident accordingly, but rather by focusing on the mandate itself, as it has evolved over the years through resolutions of the Commission on Human Rights and the General Assembly. See UN doc. E/CN.4/2005/7, report of the Special Rapporteur on extrajudicial, summary or arbitrary executions.

<sup>23</sup> See UN Doc. A/HRC/8/3 and addendum 1, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, 2 May 2008.

Rapporteur emphasizes that the proportion of government replies received is “problematically low”.

In addition, the holders of this mandate have undertaken missions to countries in all regions, including jointly with other special procedures, and on occasion at the request of the former Commission on Human Rights and the Council as part of the response of those bodies to serious situations of human rights violations.<sup>24</sup> Regrettably, a number of states – including some which are members of the Council - have persistently failed to give a positive response to the Special Rapporteur’s requests to visit. According to the latest report of the Special Rapporteur, those which have not done so are: Algeria, Bangladesh, El Salvador, Guinea, India, Indonesia, the Islamic Republic of Iran, Israel, Kenya, the Lao People’s Democratic Republic, Nepal, Pakistan, Saudi Arabia, Singapore, Thailand, Trinidad and Tobago, Togo, Uganda, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam and Yemen.<sup>25</sup> The lack of willingness of some states to facilitate visit requests, together with the Council’s failure to encourage those states to do so, has led to the Special Rapporteur describing the situation as a “system close to crisis”.<sup>26</sup>

Both in relation to responses to communications and to facilitating mission requests, the Special Rapporteur has repeatedly called on the Council to establish a procedure for dealing with persistent or especially problematic non-cooperation with mandate-holders, so that these situations are flagged and taken up by the Council. Amnesty International supports that call.

The Special Rapporteur has undertaken important analysis and recommendations on key issues falling within the mandate. For example, regarding the death penalty, and within the framework of the mandate, the Special Rapporteur has considered the subjective interpretation by some states of international law which provides for imposition of the death penalty for the “most serious crimes”. He has considered and made recommendations about the use of mandatory death sentences, transparency surrounding the death penalty, and the right to seek pardon and commutation of death sentences. The holders of this mandate have looked at violations of the right to life and the application of international law in the context of armed conflict, the use of lethal force, shoot to kill policies, and the use of excessive and indiscriminate force, including in the context of counter-terrorism measures. They have highlighted killings perpetrated by non-state actors, and presented information and recommendations concerning killings with a gender dimension, such as “honour killings”, the right to life and sexual orientation, and violations as they relate to specific groups, including children, and refugees.

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<sup>24</sup> The Special Rapporteur was requested to go on mission to the Democratic Republic of Congo by the High Commissioner for Human Rights in response to Security Council action following the massacre in Kisangani on 14 May 2002. See UN Doc. E/CN.4/2003/3/Add.3, Report of the Special Rapporteur, Mission to the Democratic Republic of Congo, 4 November 2002.

<sup>25</sup> Iran has issued a standing invitation to the Special Procedures. See UN.Doc A/HRC/8/3/Corr.1.

<sup>26</sup> See UN Doc. A/61/311, Extrajudicial, Summary or Arbitrary Executions, report presented to the General Assembly, 5 September 2006.

The fact that mandate-holders have been able to serve for two consecutive three-year terms has enabled them to develop an in-depth understanding of a broad range of issues falling within their mandate. Through the experience of receiving communications over a long period, of looking at aspects of the mandate in some depth, and of undertaking 2/3 missions each year to countries and territories with different political, legal, social and economic systems, the mandate-holders are well-placed to identify trends, to formulate concrete recommendations and to measure implementation.

Amnesty International is calling on the Council to renew the mandate of the Special Rapporteur on extrajudicial, summary or arbitrary executions. The organization recommends that the Council encourage states to give positive consideration to the recommendations of the Special Rapporteur and take steps to ensure that member states cooperate fully with the mandate-holder, so that his efforts to fulfil the terms of the mandate are not frustrated.

**RRI of the Special Rapporteur on the human rights of migrants: Written statement (UN index: A/HRC/8/NGO/10)**

The establishment of the mandate of the Special Rapporteur on the human rights of migrants, and its renewal in 2005, were an acknowledgment of the increasing role of migration in an interconnected world and a globalized economy. The increase in regular and irregular migration has been accompanied by a variety of human rights challenges that states need to address. The Special Rapporteur's role is crucial in the protection and advancement of the rights of migrants.

The importance of the mandate of the Special Rapporteur is highlighted by the fact that the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has been ratified by only 37 countries, despite being one of the nine core international human rights treaties. The current lack of a widely ratified specialized international human rights framework for protecting the rights of migrants means that there is every need for other mechanisms to monitor and promote the human rights of all migrants. Amnesty International believes the Special Rapporteur is one such mechanism and that the renewal of the mandate would be an indication that states attach importance to the protection of the rights of migrants.

Issues examined by the Special Rapporteur in recent years include the externalization of migration control policies, the criminalization of labour migration, interception and rescue at sea and smuggling and trafficking and detention; these are at the heart of the human rights issues affecting both migrants as well as sending and receiving states. The Special Rapporteur's reports provide authoritative overview, analysis and recommendations on the rights of migrants and the responsibilities of states towards them.

In its resolution 2000/48, the Commission on Human Rights requested the Special Rapporteur to include in his work schedule a programme of country visits. The acceptance of request for visits by 17 countries is a positive sign, and indicates the willingness of these countries to engage with the Special Rapporteur in a dialogue to enhance the protection of the rights of migrants in their countries. The Special Rapporteur has visited 13 out of those 17 countries,

including Burkina Faso, Italy, Iran and Canada. At the same time, Amnesty International is concerned that, according to the Special Rapporteur's latest annual report - eight countries are yet to accept the Special Rapporteur's visit requests - Bahrain, Canada, Japan, Malaysia, Mauritania, Philippines, Qatar and Spain.<sup>27</sup>

The organization is further concerned that the level of state cooperation in relation to communications by the Special Rapporteur concerning allegations of human rights abuses against migrants is inadequate. The Special Rapporteur's annual report states that, from 1 January to 31 December 2007, the Special Rapporteur sent a total of 25 communications alleging violations of the rights of migrants to 22 member states. Of the communications sent, 14 were in the form of urgent appeals. The following states have yet to respond to those communications: Angola, China, Democratic Republic of Congo, Guatemala, Guinea, Lebanon, Mexico, Mozambique, Saudi Arabia (responded to some communications, but not all), South Africa, Thailand, the United States of America (responded to some communications, but not all) and Yemen.<sup>28</sup>

Migration is likely to increase; the International Labour Organization says that "the number of migrants crossing borders in search of employment and human security is expected to increase rapidly in the coming decades due to the failure of globalization to provide jobs and economic opportunities." States must ensure that trade, economic and political gains are not pursued at the expense of migrants.

In this context of continued and increased global migration, Amnesty International believes that the Special Rapporteur has an important role to play in the promotion and protection of the rights of migrants. As such, Amnesty International calls on the Human Rights Council to:

- Renew the mandate of the Special Rapporteur on the human rights of migrants;
- Encourage states to give positive consideration to the recommendations of the Special Rapporteur;
- Urge states to fully cooperate with the Special Rapporteur on the human rights of migrants including by responding promptly and in full to his urgent appeals, communications and requests for visits.

**RRI of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises: Joint oral statement by Action Aid International, Amnesty International, Human Rights Watch (HRW), International Commission of Jurists (ICJ), International Federation of Human Right Leagues (FIDH) – 5 June 2008**

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<sup>27</sup> See UN Doc. A/HRC/7/12, Report of the Special Rapporteur on the Human Rights of Migrants, 25 February 2008. Although Senegal is among those listed, the Office of the High Commissioner for Human Rights website states that Senegal has agreed to the visit in principle.

<sup>28</sup> See UN Doc. A/HRC/7/12/Add.1, Communications sent to governments and replies received, 4 March 2008.

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080605am-eng.rm?start=02:26:53&end=02:29:08>

**Delivered by *Julian Oram (Action Aid)***

Thank you Mr. President.

We agree with the Special Representative that the “international community is still in the early stages of adapting the human rights regime to provide more effective protection against corporate-related human rights harms”. We urge the Human Rights Council (HRC) to establish a follow-on mandate on business and human rights. A new mandate should build on what so far has been achieved, clearly relate it to the realities faced by those who are directly affected, and help to chart a way forward that will give results for those facing abuses.

While we consider that the broad framework of “protect, respect, and remedy” articulated by the Special Representative is valuable and should be further developed, we would underline the need to ensure that the views and experiences of those affected by business-related abuses substantially inform the effort to develop this framework and to identify appropriate solutions.

We therefore urge the HRC to broaden the focus of a follow-on mandate, so that the future work to elaborate the framework is accompanied by, and takes account of, an examination of situations of corporate abuse.

A more in-depth analysis of specific situations is needed in order to give greater visibility and voice to those whose rights are negatively affected. This will help deepen the understanding of the drivers of corporate abuses as an intrinsic part in an effort to identify solutions.

Broadening the scope of the mandate to include the capacity to reflect more fully on instances of business abuse is vital to ensuring the proposed framework is robust and credible and also that other critical recommendations are identified. This in turn will help ensure the mandate can better aid states, companies, and the UN to effectively prevent abuses involving companies and hold those responsible to account. Real remedies require justice and accountability.

We urge the HRC to ensure -the complex issue of business and its impact on human rights remains a Council priority. While it is important to build on proposed policy-based solutions, this focus should not close doors to other necessary analysis and action at the UN level, including, ultimately, the need for clear global standards adopted by governments.

Some states have suggested the Council should articulate a clear vision of where its work on this topic is headed. We agree in suggesting that the end objective should include the elaboration and further development of international law through the international process to address issues of business and human rights violations.



I thank you.

**RRI of the Special Representative of the Secretary-General on Human Rights and Transnational Corporations and other Business Enterprises: Joint written statement <sup>29</sup> (UN index: A/HRC/8/NGO/5)**

We thank the Special Representative of the Secretary-General on Human Rights and Transnational Corporations and other Business Enterprises (SRSG) for the extensive work done to produce his third report. The report emphasizes three key principles: the state duty to protect, the corporate responsibility to respect, and access to remedies for victims. We appreciate the emphasis given in the report to the state duty to protect human rights in the context of corporate activity, and the recommendation for urgent action by governments to fulfil this duty, particularly in light of escalating reports of business-related human rights abuses. We also welcome his confirmation of the corporate responsibility to respect all human rights, and the corresponding requirement for concrete action by companies to discharge this duty. As work carried out under his mandate (and annexed to his report) confirmed, allegations of abuse by business affect all human rights and all business sectors, and arise in all parts of the world. The SRSG's report also recognizes the inadequacy of existing mechanisms to address business-related abuses and ensure justice for the victims.

We agree with the SRSG that the "international community is still in the early stages of adapting the human rights regime to provide more effective protection to individuals and communities against corporate-related human rights harms". It is therefore imperative that this issue remains on the United Nations (UN) human rights agenda, and we urge the Human Rights Council (HRC) to establish a follow-on mandate on business and human rights that builds on what has been so far achieved, clearly relates it to the realities faced by those who are directly affected, and helps to chart a way forward that will give results for those facing abuses.

While we consider that the broad framework of "protect, respect, and remedy" is valuable and merits further attention by the HRC, we would wish to underline the importance of undertaking complementary work to ensure that the views and experiences of those affected by business-related abuses more fully inform the effort to identify appropriate solutions.

In defining the scope of a follow-on mandate we therefore urge the HRC to broaden the focus beyond the elaboration of the "protect, respect, and remedy" framework, and to include an explicit capacity to examine situations of corporate abuse. A more in-depth analysis of specific situations and cases is needed in order to give greater visibility and voice to those whose rights are negatively affected by business activity and to deepen understanding of the drivers of

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<sup>29</sup> Submitted by ActionAid International, Amnesty International, EarthRights International, International Commission of Jurists, International Federation for Human Rights (FIDH), Human Rights Watch, International Network for Economic, Social and Cultural Rights (ESCR-Net), Friends of the Earth International and Women's Environment and Development Organization (WEDO), Oxfam International and supported by Rights and Accountability in Development (RAID).

corporate human rights abuses. Both elements should underpin the elaboration of the framework and proposed policy responses. For example, the modalities of corporate impunity and its impact on the enjoyment and protection of human rights need greater scrutiny as an integral part of the effort to identify solutions. A cornerstone of human rights is combating impunity. To date the mandate has placed relatively little emphasis on the means of holding companies - including those that operate trans-nationally - to account. But for victims of human rights violations, justice and accountability can be as important as remedial measures.

Broadening the scope of the mandate to include the capacity to reflect more fully on instances of business abuse is, we believe, vital to ensuring the proposed framework is robust and credible and also that other critical recommendations are identified by the mandate. This in turn is critical to ensuring the work of the mandate can better aid states, companies, and the UN to effectively prevent violations involving companies and hold those responsible to account.

Finally, we urge the HRC to ensure that the complex issue of business and its impact on human rights remains a Council priority. While it is important to build on proposed policy-based solutions, this focus should not close doors to other necessary analysis and action at the UN level, including, ultimately, the need for clear global standards adopted by governments.

We thank the HRC for its attention to this matter.

### **Interactive dialogue with special procedures**

#### **Question for the interactive dialogue with Leandro Despouy, Special Rapporteur on the independence of judges and lawyers (Use of military tribunals in Egypt) – 3 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080603am-eng.rm?start=03:02:05&end=03:05:22>

**Delivered by *Peter Splinter***

Mr. Despouy,

You and your predecessor have frequently expressed serious concern at the use of military and other special courts to try civilians. You have endorsed the principle that: “Military courts should, in principle, have no jurisdiction to try civilians. In all circumstances, the State shall ensure that civilians accused of a criminal offence of any nature are tried by civilian courts”.<sup>30</sup>

The trial of civilians before military courts is incompatible with fundamental fair trial standards. It undermines the fundamental principle, enshrined in article 14 of the ICCPR, that persons

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<sup>30</sup> A/61/384, of 12 September 2006 at par. 22.

have a right to a fair trial by a competent, independent and impartial tribunal established by law.

Nevertheless, a number of states continue to use military courts to try civilians. The situation in Egypt is of particular concern to Amnesty International. We welcome attention that you have already given to serious concerns with the independence of the judiciary in Egypt. We encourage similar detailed attention to the abuse of military courts there, possibly building on your 2006 report to the General Assembly.

Under the Egyptian Code of Military Justice, the Emergency Law (Law No. 162 of 1958, as amended) and amendments to the Constitution since March 2007, the President has the authority to refer civilians to trials before military courts. Cases before military courts are investigated by military prosecutors and trials are heard by a single military judge or, in the case of Supreme Military Courts, by three judges. Military court judges are appointed by the deputy head of the armed forces. In April 2007, amendments to the Code of Military Justice introduced a right of appeal by way of cassation before the Supreme Court for Military Appeals, which is composed exclusively of military officers. The decisions of the Supreme Court for Military Appeals are still subject to ratification by the President or someone he designates, who can reduce, alter or suspend the sentence.

The recent use of military courts, on orders of executive authority, has seriously eroded the exercise of judicial independence in Egypt. On 29 January 2007 a Cairo criminal court dismissed all charges of terrorism and money laundering against 17 members of the Muslim Brotherhood and ordered their immediate release. However, the defendants were immediately rearrested by security officials. On 4 February 2007, President Mubarak ordered that the 17 and 23 others be referred for trial to the military court on the same charges, notwithstanding their previous judicial acquittal and the fact that they all were civilians. On 15 April 2008, the military court handed down prison sentences of up to 10 years against 25 defendants. Fifteen other defendants were acquitted and subsequently released.

Mr. Despouy:

What are your views regarding the use of military tribunals, including the recently introduced provisions allowing for appeal, to try civilians in Egypt?

You have an outstanding request to visit Egypt. Will you recommend to your successor to pursue that request with a view to looking into the trial of civilians before military tribunals?

Thank you Mr. President.

**Question for the interactive dialogue with John Ruggie, Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises – 4 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080604am-eng.rm?start=00:32:36&end=00:36:02>

**Delivered by *Ian Seiderman***

Thank you Mr. President, we will address our statement to the Special Representative on business and human rights, Professor Ruggie.

Professor Ruggie,

Amnesty International expresses its appreciation for the submission of your third report to the Human Rights Council and considers that the conceptual and policy framework that you propose has the potential to make an important and substantial contribution to the protection of human rights.

We particularly welcome the emphasis given in the report to the state duty to protect human rights in the context of corporate activity, and the recommendation for urgent action by governments to fulfil this duty. Amnesty International also welcomes your confirmation that the corporate responsibility to respect extends to *all* human rights, and that companies must take real and concrete measures to discharge this duty.

Amnesty International attaches great importance to accountability and access to justice in respect of business activity and human rights. We believe that holding companies that violate human rights accountable is one dimension that has not been fully and adequately addressed in your report. Home States can assist companies in addressing heightened threats (or risks) of human rights violations in conflict zones, as you propose. However, this possibility assumes a company has the will to address such risks and attaches importance to operating consistently with international human rights and humanitarian law. It is at least as important to insist that those companies that willfully exploit – and often as a consequence exacerbate – conflicts are held accountable for violations of human rights and international humanitarian law. In many of the resource-driven conflicts of Africa, for example, companies have contributed to conflict through the supply of arms and other support to parties to the conflict.

Amnesty International concurs with the report on the importance of access to remedies and agrees with your recommendation that states should strengthen judicial capacity to hear complaints and enforce remedies. On the subject of non-judicial mechanisms to address alleged breaches of human rights, Amnesty International welcomes your recommendation that they must be credible and effective. We would add to the criteria you have listed that non-judicial mechanisms should also have sufficient authority, capacity and resources to carry out their functions effectively.

Non-judicial mechanisms can have a role to play. However, “soft mechanisms” such as OECD national contact points and grievance mechanisms voluntarily adopted by companies have inherent limitations.

Professor Ruggie, we look forward to working with you on the continuation of the mandate and would like to address one question: in your analysis of challenges of holding businesses accountable for human rights abuses, what particular gaps did you identify and do you have any views on work that might be done at the international or domestic levels to address these gaps? We would appreciate any recommendation or insight you might be able to offer on that.

Thank you.

### **Open-ended Working Group on an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights**

#### **Adoption of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (IESCR) by the Human Rights Council: Joint written statement by the NGO Coalition for an Optional Protocol to the ICESCR <sup>31</sup> (UN index: A/HRC/8/NGO/39)**

The members of the NGO Coalition for an Optional Protocol to the ICESCR welcome the draft Optional Protocol that has been agreed upon during the last session of the Open-Ended Working Group. While many compromises have been made, we believe that this text is a significant achievement.

We share the view of the High Commissioner on Human Rights that “*The adoption of the optional protocol will truly be a milestone in the history of the universal human rights system. It will mark a high point of the gradual trend towards a greater recognition of the indivisibility and interrelatedness of all human rights*”.

Indeed, the Optional Protocol will finally place economic, social and cultural rights on an equal footing with civil and political rights in terms of international legal protection. It will provide victims of violations of economic, social and cultural rights with an international complaint mechanism, and encourage States to ensure greater protection of these human rights at the national level.

The current draft OP is the result of in-depth discussions during five sessions of the Open-Ended Working Group, on the nature of economic, social and cultural rights, and on the best ways to ensure respect, protection and fulfilment of these rights. The NGO coalition believes the current draft is a significant achievement, which reflects the compromises by all sides. The NGO coalition expresses its appreciation of the work done by the Chairperson of the working group and her tireless efforts to reach a wide consensus on an effective instrument.

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<sup>31</sup> Submitted by Amnesty International (AI), Centre on Housing Rights and Evictions (COHRE), FoodFirst Information and Action Network (FIAN), ActionAid International, International Federation of Human Right Leagues (FIDH) and Baha’i International Community

This new procedural instrument builds on the experience of the existing communications mechanisms established in similar instruments related to other UN human rights treaties. It covers part II and III of the Covenant, and allows communications from individuals or groups of individuals concerning alleged violations of States' obligations under the Covenant. The NGO coalition supported a comprehensive approach and the inclusion of Part I. However, we believe that if communications alleging violations of article 1 only will not be admissible, admissible communications will have to be considered in light of all parts of the Covenant including article 1 as human rights are indivisible and interrelated. The draft OP also provides the Committee on Economic, Social and Cultural Rights with the possibility to decide upon interim measures and to carry out inquiries in situations of grave and systematic violations. It also duly takes into account the importance of international assistance and cooperation in the progressive realisation of ESCR.

We urge the members of the Human Rights Council to mark the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights by adopting the Optional Protocol, thus clearly demonstrating the strength of their commitment to the interdependence and indivisibility of human rights. This unique opportunity of strengthening the universal human rights system should not be missed.

#### **General Debate on the report of the Chairperson of the Working Group: Oral Statement – 4 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080604am-eng.rm?start=02:44:22&end=02:46:22>

**Delivered by *Renata De Souza Foureaux Koppensteiner***

Mr. President,

Amnesty International welcomes the draft Optional Protocol that is presently before this Council for its consideration.

Since its inception, the United Nations has set a universal standard for the protection of human rights. In 1948 Member States adopted the Universal Declaration of Human Rights (UDHR), in which they pledged “to achieve ... universal respect for and observance of human rights”. Amnesty International calls on the Human Rights Council to take a highly significant step towards ensuring access to justice for victims of all human rights violations by adopting the Optional Protocol at this session. This step will serve to rectify the imbalance in international treatment between civil and political rights and economic, social and cultural rights. As the High Commissioner for Human Rights noted yesterday, the time has come to rectify the historic imbalance that has left economic, social and cultural rights “relegated to the backburner of advocacy”.

Among other benefits, the Optional Protocol will:

- Provide an international mechanism to hold states accountable for their international obligations and prompt them to ensure effective remedies at the national level;
- Allow for a more extensive and in-depth framework of enquiry in specific cases and the creation of a body of case-law that can be used as a reference and guide; and
- Contribute to a universal understanding that economic, social and cultural rights are legal rights.

The Open-Ended Working Group transmitted the draft Optional Protocol to this Council following five years of negotiations. We commend Catarina de Albuquerque's able leadership of the Working Group. AI would have preferred a truly comprehensive Optional Protocol that built more closely on the experience of existing communications' mechanisms. Still we consider the agreed text is an honourable compromise that should serve as a catalyst for the development of effective remedies for violations of economic, social and cultural rights in all domestic justice systems.

We urge the Council to adopt the Optional Protocol and transmit it to the General Assembly without a vote.

Thank you Mr. President.

#### **ITEM 4 – HUMAN RIGHTS SITUATION THAT REQUIRE THE COUNCIL'S ATTENTION**

##### **Human rights situation in Myanmar: Written statement (UN index: A/HRC/8/NGO/47)**

The current humanitarian crisis in Myanmar, exacerbated by the government's intransigence, is occurring against a backdrop of grave and longstanding human rights violations. Moreover, those violations have amplified the gravity of the humanitarian crisis

In this context, the failure by the Myanmar government – the State Peace and Development Council (SPDC) - to implement Resolution S-5/1, adopted at the 5th Special Session of the Human Rights Council in October 2007, clearly demonstrates its continued disregard for human rights. Not only has the SPDC refused to release prisoners of conscience and bring to justice those responsible for human rights violations during the September 2007 crackdown, it has also continued its suppression of peaceful political dissent.

Arrests of people who took part in mass protests in August and September 2007 have continued into 2008. In the period November 2007 to January 2008 alone, the SPDC arrested 96 people. At least 700 prisoners of conscience arrested during the crackdown on protests remain detained, as do more than 1,150 other political prisoners held from before the crackdown. Around 70 people remain unaccounted for and it is highly likely that they are victims of enforced disappearance.

By May 2008, at least 40 protesters were sentenced to prison terms after blatantly unfair trials. Now nearly all key political activists are behind bars or in hiding. The detention order of the National League for Democracy (NLD) leader Daw Aung San Suu Kyi was renewed for another year on 27 May, violating both international and domestic law. The 1975 State Protection Law provides for a maximum of five years' detention after which the person must either be charged or released. Daw Aung San Suu Kyi was placed under house arrest in May 2003, and has completed this five-year period. Also on 27 May reports emerged that police arrested around 15 of her supporters demonstrating for her release.

#### **Human rights violations in the wake of Cyclone Nargis**

Resolution S-5/1 called on the SPDC to ensure full, safe and unhindered access of humanitarian assistance to all persons in need. However, after Cyclone Nargis struck Myanmar on 2 and 3 May 2008, the natural disaster has evolved into a humanitarian and human rights catastrophe. Survivors of the cyclone remain at high risk as a direct consequence of the SPDC's three week delay in allowing greater access for international aid workers to provide the necessary relief effort. According to government figures, 77,738 people died, 55,917 are missing and over 19,000 were injured in the cyclone. Other sources have said that the number of deaths is higher. The UN estimates that 2.4 million people were severely affected, and that only 40 percent had been provided with any international assistance nearly four weeks after the cyclone.

Although the SPDC has now made a commitment to the UN Secretary-General to permit all aid efforts, it remains to be seen if this promise will be fulfilled. Even before the disaster, the SPDC had tightened restrictions on international aid agencies, making it difficult for them to operate at the grassroots level. In the run-up to the May 2008 constitutional referendum, health education and counselling projects were halted unless overseen by SPDC officials. Despite the devastation of Cyclone Nargis, the SPDC devoted large resources to holding the referendum on the new constitution on 10 May, except for in the worst affected areas, where the poll was delayed to 24 May.

#### **Human rights violations in the context of the constitutional referendum**

Since the Special Session on Myanmar in October 2007, the SPDC has stepped up restrictions on the rights to freedom of expression, association, and assembly in the context of the constitutional referendum. After promulgating a new law effectively criminalizing public criticism of the referendum in February 2008, the SPDC arrested over 70 "Vote no" activists in April. Moreover, the security forces arrested at least 11 NLD members on 22 May, reportedly for their criticism of the SPDC and their active support for cyclone victims.

In February 2008, the SPDC announced that, pursuant to its seven-step 'Road Map to Democracy', the new constitution had been finalised. The drafting process was characterised by a lack of transparency, accountability and participation. Rather than permitting the Myanmar people to exercise their rights to freedom of expression and assembly, the SPDC intimidated, harassed, and arrested critics of the constitutional process. Amnesty International considers that both the content of the constitution and procedural aspects of its drafting were deeply flawed.

The new constitution undermines international human rights standards and enables impunity for perpetrators of human rights violations. For example, there are no provisions in the constitution to ensure freedom from torture and other ill-treatment, and crucial fair trial safeguards are missing. Other provisions on freedom of expression, association and assembly are restricted by vague provisos, and some provisions are discriminatory; for example, members of religious orders and "destitute" persons are not permitted to vote.



During the run-up to the referendum, the SPDC and its socio-political organization, the Union Solidarity and Development Association, sought to advance the "Vote Yes" campaign, while severely restricting the "Vote No" movement through cash incentives, monopolization and manipulation of the media, harassment, arrests, and violent attacks on individuals.

#### **Human rights violations in eastern Myanmar**

Away from the media and world attention, another human rights emergency continues in eastern Myanmar. For more than two years, the Myanmar army, known as the *tatmadaw*, has waged a military offensive against ethnic Karen civilians in Kayin (Karen) State and Bago (Pegu) Division, involving widespread and systematic violations of international human rights and humanitarian law. These violations constitute crimes against humanity. The current offensive is the largest in a decade, and in spite of the Cyclone Nargis disaster, the SPDC continues to devote resources to this campaign.

An estimated 147,800 people are internally displaced in Kayin State and eastern Bago Division as a result of the counter-insurgency campaign. The *tatmadaw* and its allies have subjected many Karen civilians to unlawful killings; torture and other ill-treatment; enforced disappearances and arbitrary arrests; the imposition of forced labour, including portering; the destruction of villages and homes; and the destruction or confiscation of crops and food-stocks and other forms of collective punishment.

Civilian Karen villagers told Amnesty International of living in fear for their lives, dignity and property. They described violations as directed at civilians, simply on account of their Karen ethnicity or location in Karen majority areas, or retribution for activities by armed opposition groups. In some villages the *tatmadaw* prevented farmers from cultivating their land or purchasing food supplies, announcing a shoot-to-kill policy for those found outside their villages. *Tatmadaw* demands for forced labour and excessive food requisitioning have made it extremely difficult for civilian villagers to survive.

#### **Amnesty International's recommendations to the Human Rights Council**

For over 20 years Amnesty International has reported extensively on a wide range of persistent and grave human rights violations in Myanmar, including killings, torture, forced labour, food requisitioning, and forcible relocation of civilians in the context of the army's counter-insurgency activities against ethnic-based armed opposition groups. Although the Commission on Human Rights and then the Human Rights Council have adopted comprehensive annual resolutions on Myanmar since 1992, the government has ignored or rejected their recommendations.

The human rights situation in Myanmar continues to demand urgent attention by the UN, including both the Human Rights and Security Councils, and by individual member states, including Myanmar's donors and neighbours.

*Amnesty International urges the Council to comprehensively address the serious human rights situation in all of the country, including the ongoing crisis in Kayin State and Bago Division and in the-Cyclone affected Irrawaddy Delta.*

*Amnesty International calls on the Council to urge the SPDC to:*

- *End violations of international human rights and humanitarian law by government forces and its aligned militias in the Kayin State and Bago Division. This includes halting immediately the targeting of civilians, indiscriminate attacks, extrajudicial executions and other unlawful killings,*

*enforced disappearances, torture other ill-treatment, destruction of houses and crops, and forced labour;*

- *lift restrictions on the distribution of aid and ensure that aid is distributed to all people affected by the cyclone, without reference to their ethnicity or political affiliation;*
- *immediately and unconditionally release all those arrested for peacefully exercising their right to freedom of expression and assembly;*
- *ensure that all reports of human rights violations, including killings, torture and other ill-treatment of detainees, unlawful arrests, and enforced disappearances are fully and promptly investigated by an independent and impartial body and that those responsible for the violations are brought to justice;*
- *comply fully with Human Rights Council Resolutions S-5/1 and 6/33, including by allowing full, unrestricted and regular access to the country by the Special Rapporteur on the Situation of Human Rights in Myanmar in conformity with the Terms of Reference for Fact-finding Missions by Special Procedures.*

### **Follow-up to the fifth Special Session (Myanmar): Oral statement – 6 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080606pm2-eng.rm?start=01:23:51&end=01:26:00>

**Delivered by Pollyanna Truscott**

Mr. President, Mr Ojea Quintana,

The current humanitarian crisis in Myanmar is occurring against a backdrop of longstanding human rights violations and Myanmar has largely ignored or rejected the recommendations of the Human Rights Council since its Special Session in 2007.

More than 1,850 political prisoners are detained and nearly all key political activists are behind bars or in hiding<sup>32</sup>.

The 27 May Order to renew the detention of the National League for Democracy leader violates both international and domestic law.

Despite pledges to the UN to allow international assistance to survivors of Cyclone Nargis, government officials have continued to block or divert aid and displaced survivors have been forcibly evicted from government and unofficial resettlement sites<sup>33</sup>.

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<sup>32</sup> See Myanmar: Imprisoned for giving water to monks (Amnesty International web feature, 31 March 2008: <http://www.amnesty.org/en/news-and-updates/news/imprisoned-giving-water-monks-20080331>; and Myanmar: No Return to “Normal” (Amnesty International Briefing, 9 November 2007, AI Index: 16/037/2007)

Myanmar's constitutional drafting process was characterized by a lack of transparency, accountability and participation, and the resulting constitution flouts international human rights standards.

Meanwhile, for more than two years, the Myanmar army has waged a military offensive in Kayin State and Bago Division against ethnic Karen civilians involving widespread and systematic violations of international human rights and humanitarian law. These violations constitute crimes against humanity.

Mr. President, Mr. Quintana,

Myanmar's failure to implement the UN's human rights recommendations clearly demonstrates an urgent need for the Council to contribute to stronger UN action.

Amnesty International therefore urges the Council to support your efforts Mr. Quintana to comprehensively address the serious human rights situation in all of the country, including the ongoing crimes against humanity in Kayin State and Bago Division and the government's failure to ensure and provide Cyclone survivors with food, shelter, and medical care.

We also call on this Council to urge the Security Council to press the government to cooperate fully with the UN including in the implementation of the resolution of the Human Rights Council and the recommendations of the Special Rapporteur on the situation of human rights in Myanmar.

Thank you Mr. President, Mr. Quintana.

**Human rights situations that require the Council' attention: Oral statement (secret detentions, Guantánamo Bay, China (Tibet), Zimbabwe) – 6 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080606pm3-eng.rm?start=01:20:13&end=01:23:36>

**Delivered by *Peter Splinter***

Mr. President,

Amnesty International is very concerned that many grave human rights situations continue to escape the attention of this Council.

Since the attacks on 11 September 2001, the US government has carried out a determined assault on the rule of law. It has authorized interrogation methods that violate the absolute

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<sup>33</sup> Human rights concerns a month after Cyclone Nargis (Amnesty International Briefing, 5 June 2008, AI Index: ASA 16/013/2008).

prohibition of torture and other cruel, inhuman or degrading treatment. It has subjected detainees to secret detention, inter-state transfers without due process, enforced disappearances, and indefinite detention without charge or trial.

The CIA's program of secret detention is one part of this assault; the detention facility at Guantánamo Bay is another. Detainees there have been subjected to torture or other ill-treatment with high-level authorisation. They are still denied their right to challenge the lawfulness of their detention in habeas corpus petitions. Some face the possibility of execution following trial by military commissions that do not meet international fair trial standards. Acquitted detainees face possible return to indefinite detention.

This Council must demand the closure of the Guantánamo detention facility. Detainees must be tried in accordance with international standards or released. The secret detention program must be terminated immediately. Torture and ill treatment must be stopped.

Despite the harsh government crackdown since large scale unrest erupted in Tibetan areas of China on March 10 2008, protests, mostly peaceful, have continued unabated. Protest, crackdown, and arrests now follow each other in a relentless cycle, as individuals are arrested for protesting the detention of others before them. Security forces continue to use excessive force, occasionally lethal, to put down peaceful protests. Many detained persons remain unaccounted for. Others have been sentenced after unfair trials.

Amnesty International fears that Tibetans in detention in the wake of the protests face beatings or other abuses. This Council must call on the Chinese authorities to show restraint in responding to protest, disclose the names, whereabouts and legal status of all detainees, and release anyone detained solely for peaceful protest.

In Zimbabwe, Amnesty International has documented unlawful killings, torture, ill-treatment, harassment and intimidation of mainly MDC supporters and human rights defenders following elections on 29 March 2008. By late May, dozens of people had been killed and at least 1600 people<sup>34</sup> injured in politically-related violence. Most human rights abuses have been perpetrated by supporters of the ZANU-PF party and "war veterans". We have also received reports of human rights violations perpetrated directly by soldiers and the police. These acts appear to have been committed with impunity.

Amnesty International is also concerned at the suspension of humanitarian operations by the government on 4 June and fears this will lead to increased food insecurity for millions of people.

The Human Rights Council must now end its conspiracy of silence and show the people of Zimbabwe that the United Nations is not indifferent to their suffering.

Thank you Mr. President.

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34 As reported by doctors providing medical care to victims on 15 May 2008.

## ITEM 6 – CONSIDERATION OF UPR REPORTS

### UPR of Tunisia: Joint statement with FIDH – 9 June 2008

#### Video links:

<rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080609pm1-eng.rm?start=00:01:32&end=00:04:48> (jn English)

and

<rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080609pm1-orig.rm?start=00:01:32&end=00:04:48> (Original language: French and English)

#### Delivered by *Julie Gromellon* (FIDH)

**Note:** Below is the transcription of the statement as delivered, including the point of order raised by the delegation of Egypt.

JG on behalf of AI and FIDH:

Merci Monsieur le Président,

Amnesty international, la Fédération Internationale des ligues des droits de l'Homme (FIDH) et ses organisations membres, saluent l'engagement pris par la Tunisie de ratifier le protocole facultatif à la CEDAW. Nous prenons bonne note de l'engagement d'accueillir les rapporteurs spéciaux, que nous estimons être une obligation incombant aux membres de ce Conseil ; et nous nous félicitons de l'invitation faite au Rapporteur spécial sur la promotion et la protection des droits de l'Homme dans la lutte contre le terrorisme. Nous regrettons cependant que le Rapporteur spécial sur la torture n'ait toujours pas été invité.

Nos organisations regrettent également que les recommandations de l'examen ne tiennent pas suffisamment compte du besoin de mieux protéger les libertés d'association et d'expression, ainsi que des atteintes systématiques aux activités des organisations indépendantes de défense des droits humains. Nous aurions aimé que les autorités tunisiennes prennent des engagements dans ce sens, tels que recommandés par les experts sur la liberté d'expression et sur les défenseurs des droits de l'Homme, ainsi que tout récemment par le Comité des droits de l'Homme, recommandations mentionnées par plusieurs Etats membres du groupe de travail de l'EPU.

Il était en effet important que l'examen tienne d'avantage compte des ces droits au regard des blocages persistants des locaux des associations, de la multiplication des procédures judiciaires et des intimidations de la police politique auxquels doivent faire face au quotidien les défenseurs des droits humains en Tunisie.

Notre regret est tout aussi important qu'une semaine à peine après la revue de la Tunisie par le groupe de travail, une mission internationale de la FIDH était interdite d'accès au territoire tunisien. Tout dernièrement, le président de la section d'Amnesty en Tunisie était convoqué au Ministère de l'intérieur simplement pour avoir fait part des violations constatées en Tunisie dans le rapport annuel.

Amnesty international, la FIDH et ses organisations membres demandent instamment au gouvernement tunisien de mettre en œuvre ...

Point of order made by the delegation of Egypt.

President of the Council:

I see the distinguished representative of Egypt, you have the floor Sir.

Egypt:

Mr. President It's very hard to believe or to accept that events that happened after the revision of Tunisia are part of the report on Tunisia. I don't know why nobody seems to take the statements of this Council and follow them. We are hearing events; I am not commenting on the events whether they happened or did not happen, and I hope everybody understands that here we are setting the norms for this Council. Today is the first day in the UN history to do such an action. We are hearing stories. I'm not saying that they are true or not true, about what happened after the adoption of Tunisia's report. This is not part of the outcome. Thank you.

President of the Council:

Merci. [To JG:]You may continue please.

JG on behalf of AI and FIDH:

Merci, je passe au point suivant.

Amnesty, la FIDH et ses organisations membres demandent instamment au gouvernement tunisien de mettre en œuvre dans les plus brefs délais les recommandations volontaires acceptées dans le cadre de l'EPU, mais également celles qui lui ont été adressées par les organes des traités.

Enfin, Monsieur le Président, nous soulignons que certaines déclarations faites par plusieurs Etats membres du groupe de travail étaient empreintes de complaisance, en totale contradiction avec le constat dressé par l'ensemble des Procédures spéciales et organes de surveillance de l'application des traités, et se sont ainsi manifestement éloignées du principe selon lequel l'évaluation devait être basée sur un constat « objectif ».

Je vous remercie Monsieur le Président.

**UPR of Morocco: Oral statement– 9 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080609pm2-eng.rm?start=01:11:34&end=01:15:54>

**Delivered by Marianne Lilliebjerg**

**Note:** Below is the transcription of the statement as delivered, including the point of order raised by the delegation of Egypt.

ML on behalf of AI:

Mr. President,

Amnesty International welcomes the recommendations made by several states to Morocco, including to implement the recommendations of the Equity and Reconciliation Commission (*Instance Équité et Réconciliation*, IER), to ensure respect for the human rights of migrants, to harmonize domestic law with international standards, and to ratify international human rights treaties.

Amnesty International would like to focus on these recommendations made during the review, as well as on issues that could have been approached in a more direct manner.

One key concern is the apparent lack of accountability of the security forces for alleged abuses, including torture and excessive use of force in cases of persons suspected of terrorist offences, of Sahrawi persons advocating against Moroccan rule in Western Sahara, and for the killing or arrest and detention of migrants attempting to reach European shores. In some cases, investigations were opened, but their outcome is still pending. In other cases, mostly those that are politically sensitive, no investigation seems to have taken place.

During the review concerns about freedom of the press and prosecution against journalists were expressed by several states, however, the wider restrictions on the right to freedom of expression, association and assembly were not addressed. Sahrawi human rights activists continue to be arrested for their advocacy of the right to self-determination for the people of Western Sahara.

Mr. President, ...

Point of order made by the delegation of Egypt.

President of the Council:

Point of order raised by the distinguished delegate of Egypt

Egypt:

Mr. President, we have it recorded on the webcast, at least 4 times today that the President made a ruling and at least 3 times the president said it is the last time he will make such a ruling I wonder if we give every speaker 2 chances and then the next speaker will have 2 chances as well and the third speaker will have 2 chances as well. I don't know when are we

going to invoke and implement this?[President says to be careful] Yes Sir, I'm careful Sir. Because we had certain assurances from the President on Friday evening that anybody talking out of the subject will be stopped by the President, thank you.

President:

Well, since this seems to be a question directed to the President precisely, let me recall that at the beginning of the statement, the NGO made an analysis of the UPR report, and if my memory is not completely faulted, the speaker also mentioned that she would address some issues that were in the report and others that were in the report and that organisation has a certain view on the respective issues. I think this fully qualifies with general comments on the outcome. Having said that I will give back the floor to the NGO, you have the floor.

ML on behalf of AI:

Thank you, Mr. President.

The lack of investigations into abuses by the security forces contribute to unfair trials. In this regard, the recommendations of the Equity and Reconciliation Commission to reform the state security organs and the justice system and to strengthen human rights legislation must be urgently implemented. The fact that the death penalty has not yet been abolished, and the Rome Statute of the International Criminal Court not yet ratified, as recommended by the IER, puts into question the political will of the Moroccan authorities to implement these reforms. Amnesty International urges the government to take swift action on these issues.

Thank you, Mr. President.

**UPR of Finland: Joint statement by Friends World Committee for Consultation (Quakers) and Amnesty International - 9 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080609pm3-eng.rm?start=00:11:51&end=00:12:52>

**Delivered by Rachel Brett (Quaker UN Office)**

Thank you Mr. President.

Amnesty International and Friends World Committee for Consultation (Quakers) welcome the serious and open way in which Finland approached its participation in the Universal Periodic Review.

However, we note that Finland was one of the first States to be reviewed. In consequence not all the questions raised and comments made were phrased as 'recommendations' and, therefore, did not get reflected as such in the report of the Working Group, for example, the



issue of the excessive length of alternative civilian service in comparison to the military service addressed in paragraph 36 of the report of the Working Group. We hope that Finland will, nevertheless, treat this issue as though a specific recommendation had been made and give effect to that recommendation.

Thank you, Mr. President

### **UPR of Indonesia: Oral statement– 10 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080610am1-eng.rm?start=00:15:46&end=00:17:49>

**Delivered by *Marianne Lilliebjerg***

Mr. President,

Amnesty International welcomes the call on the government, made during the review, “to support and protect” the work of human rights defenders in Indonesia.

Human rights defenders in the province of Papua operate in a climate of fear and their activities are restricted by the heavy presence of security personnel. In June 2007, security forces arrested more than 20 people in Ambon, Maluku province. The incident occurred when dancers performing in front of the President, raised the flag of an independent Maluku. The dancers were subsequently arrested and allegedly beaten and threatened by the police. Most of them were charged with ‘rebellion’ and on 4 April 2008, one of the protesters was sentenced to life imprisonment. If it is confirmed that the dancers did not use or advocate violence, Amnesty International will consider them prisoners of conscience.

Amnesty International calls on the government to guarantee the rights of expression and assembly in Papua and Maluku provinces, and to ensure that the police and the military are aware of the legitimate role of human rights defenders and their responsibility to protect them.

Mr. President,

Amnesty International welcomes Indonesia’s commitment reaffirmed during the review to combat impunity. However we note that despite the creation in 2000 of a human rights court to deal with gross human rights violations, the government has consistently failed to bring to justice those responsible for such violations. The government must ensure that full and independent investigations are carried out into all reports of extrajudicial executions, torture and other ill-treatment, excessive use of force, and the harassment of human rights defenders; and that those responsible are brought to justice; and the victims receive effective reparations.

I thank you Mr. President.

### **UPR of the United Kingdom: Oral statement– 10 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080610am2-eng.rm?start=00:16:24&end=00:18:34>

**Delivered by *Marianne Lilliebjerg***

Mr. President,

Amnesty International welcomes many of the recommendations made by states to the United Kingdom, including the call to review all counter-terrorism legislation to ensure that it complies with the highest human rights standards; to reduce, rather than extend still further, the maximum period of pre-charge detention for terrorism suspects; and to recognize that all persons arrested or detained by UK armed forces, wherever and whenever that may be, should be entitled to the full protection of the human rights instruments to which the UK is a party.

Given the prominence of the issue of counter-terrorism in the interactive dialogue, it is surprising that recommendations did not more specifically refer to the UK's reliance on so-called 'diplomatic assurances' to facilitate the return of individuals to states where they face a risk of grave human rights violations, including torture and other ill-treatment. Amnesty International believes that the use of such assurances undermines the absolute prohibition of torture and has urged the UK and others not to rely on such assurances.

Amnesty International would also like to take this opportunity to call on the UK to carry out effective, independent and impartial investigations into incidents where the actions of the police and other state agents may have led to the violation of the right to life or of the right to be free from torture and other ill-treatment. Amnesty International is particularly concerned at the longstanding failure to instigate a genuinely independent investigation into the killing of human rights lawyer Patrick Finucane in Northern Ireland in 1989. Amnesty International urges the government to commit to repealing the Inquiries Act 2005 and to creating, in its place, a genuinely independent mechanism for judicial inquiries into serious allegations of human rights violations.

Thank you Mr. President.

**UPR of India: Oral statement– 10 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080610am3-eng.rm?start=00:30:40&end=00:33:00>

**Delivered by *Marianne Lilliebjerg***

Mr. President,

During the review, the Indian delegation highlighted a range of measures to protect human rights. Amnesty International would like to take this opportunity to comment on the implementation on some of these measures.

Amnesty International questions the statement by the government that the National Human Rights Commission of India is as powerful and independent as India's Supreme Court. Amnesty International has long had concerns about the Commission's independence and authority and these were compounded by the amendments in 2006 to the Protection of Human Rights Act, which authorizes the Chairperson of the Commission to delegate powers and functions to the Secretary General of the Commission, who is a government appointee.

Amnesty International calls on the government to uphold its commitment to establish a national human rights institute in line with the Paris Principles including by giving the National Human Rights Commission more authority, a broader mandate and adequate resources.

Mr. President,

Amnesty International welcomes India's statement during the interactive dialogue that it would deal expeditiously with any violations by the armed forces. However, the Armed Forces Special Powers Act continues to grant de facto impunity to members of the armed forces by stipulating in Section 7 that prosecution of officers must be sanctioned by Central Government.

Justice for victims of violations facilitated by the Act is further undermined by the inability of the National Human Rights Commission to conduct its own investigations into alleged human rights violations by the armed forces. Section 19 of the Act allows the Commission only to seek a report from the government rather than conduct its own investigation.

Amnesty International calls on the government to commit to ending impunity for human rights violations by the police and to remove all legislative provisions which might prevent accountability for such violations.

Thank you.

### **UPR of Brazil: Oral statement– 10 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080610am4-eng.rm?start=00:25:41&end=00:27:36>

**Delivered by *Marianne Lilliebjerg***

Mr. President,

The report submitted by Brazil as well as its presentation in the UPR Working Group focused on a general description of existing government programs and policies rather than analysis of

the effectiveness of such measures to address human rights violations. During the review, a number of states raised key human rights concerns, which Amnesty International shares, including the continuing impunity for crimes committed under the former dictatorship, violence and extrajudicial killings committed by the police, torture and other ill-treatment, violence against women, and harsh prison conditions. Again, Brazil responded by describing initiatives undertaken or planned by the government, including the adoption of a national action plan to fight torture, the creation of a national committee and the establishment of a national day on torture. The recent report presented by the Special Rapporteur on extrajudicial, summary or arbitrary executions, following his recent visit to the country, further highlights the extent of the problem faced in this area.

Mr. President,

During the review, states recommended that Brazil evaluate with rigour initiatives and activities designed to address serious violations of human rights, including violence and killings by the police, torture, and violence against women, prison conditions, and efforts to protect human rights defenders. Amnesty International welcomes these and the statement by Brazil that it supports all the recommendations made in the Working Group and calls on Brazil to give full and early effect to these.

Thank you Mr. President.

#### **UPR of the Philippines: Joint statement with Human Rights Watch (HRW) – 10 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080610pm1-eng.rm?start=00:34:19&end=00:39:20>

#### **Delivered by Sébastien Gillioz (HRW)**

Thank you Mr. President,

Amnesty International and Human Rights Watch welcome the UPR outcome report of the Philippines that includes important recommendations made by several states during the review to eliminate extrajudicial killings, enforced disappearances, and torture and other ill-treatment, and to carry out investigations into such violations and to punish those responsible. We encourage the Philippine government to act immediately on these recommendations, which echo those of the Special Rapporteur on extrajudicial, summary or arbitrary executions.

We welcome the Philippine government's stated commitment to reduce incidents of extrajudicial executions and enforced disappearances and to bring the perpetrators to justice, including through enhanced coordination between its prosecution services and other agencies. We believe that in doing so the government must address the pervasive impunity for such violations.

The challenge for the Philippine government contained in the outcome report continues to be the effective implementation of its initiatives and programmes. These include reform of the witness protection programme and the prosecution and suitable punishment of persons found to be responsible for political killings and other serious rights violations, particularly those from the security sector, as stated in its report for the UPR.

Amnesty International and Human Rights Watch encourage the Philippine government to implement its institutional reforms necessary for preventing a resurgence of political killings. In doing so, our organizations encourage the government to:

- o Vigorously investigate and prosecute members of the military implicated in extrajudicial killings or enforced disappearances. This can be done by suspending soldiers implicated in relevant cases from active duty and directing the military to transfer cases of military personnel implicated in the extrajudicial killing of civilians to civilian prosecutorial authorities.
- o Create a specialist unit in the Witness Protection Programme to provide social and financial support for witnesses and families of alleged victims of political killings and enforced disappearances for as long as they are at risk

Finally, Mr. President, our organizations welcome the signature by the President of the Philippines of the Optional Protocol to the Convention against Torture shortly after the UPR in April, and we encourage early ratification of it as well as of the Convention against Enforced Disappearances, as the government has pledged to do.

Thank you.

### **UPR of Algeria: Oral statement– 10 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080610pm2-eng.rm?start=00:34:10&end=00:37:11>

**Delivered by Anita Goh**

**Note:** Below is the transcription of the statement as delivered, including the point of order raised by the delegation of Egypt.

AG on behalf of AI:

Thank you Mr. President,

Amnesty International welcomes Algeria's responsiveness to recommendations made by states during the review to implement measures to protect detainees from torture and other ill-treatment; to strengthen efforts to protect women's rights; to ensure the rights of detainees, including access to a lawyer; and to cooperate with the Special Procedures.

We believe that in acting on these recommendations, account should be taken of the serious concern about a persistent pattern of secret detention and torture by the DRS.<sup>35</sup> Detainees appear to be routinely held in military barracks and are not allowed access to independent medical assistance or a lawyer of their own choosing, or to communicate with relatives. Human rights lawyers, including Amine Sidhoum, who have exposed systematic human rights violations in terrorism-related cases, have faced prosecution on groundless charges.

The Algerian authorities ...

Point of order made by the delegation of Egypt.

President of the Council:

We have a point of order raised by the delegation of Egypt

Egypt:

Mr. President, on behalf of the African Group I have to raise the group's serious concern about using the opportunity of the adoption of the report, of the outcome, to finger point at States and to mention specific cases in which there are many other fora to discuss them. We are discussing the outcome report Mr. President and guided by your intervention yesterday, I think this is what we should do, there are many other fora to raise any other issues, but not this one, thank you.

President of the Council:

Thank you, would you proceed please.

AG on behalf of AI:

Thank you.

We share the concern expressed during the working group about enforced disappearances and believe that the Algerian authorities need also to take account of numerous reports of individuals who have disappeared while held in secret detention centres operated by the DRS.

Mr. President,

Amnesty International shares the concerns expressed during the review about discrimination against women in the Family Code and about continuing reports of violence against women, including in the family. Hundreds of women were raped by members of armed groups during the internal conflict, and many continue to suffer trauma as result. Yet there have been hardly any rape prosecutions of members of armed groups.

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<sup>35</sup> Département du Renseignement et de la Sécurité, DRS), an intelligence agency which specializes in interrogating individuals who are believed to have information about terrorist activities

We believes that to give full effect to its commitments, Algeria should take immediate steps to ensure that officers of the DRS no longer exercise judicial police functions; launch full, independent and impartial investigations into all reports of enforced disappearance, torture, violence against women, and secret detention; and bring to justice those responsible; repeal laws that discriminate against women; and criminalize acts of domestic violence.

I thank you Mr. President.

### **UPR of Poland: Oral statement– 10 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080610pm3-eng.rm?start=00:19:03&end=00:21:14>

**Delivered by *Matteo de Bellis***

Thank you Mr. President.

Mr. President,

Amnesty International welcomes the focus, in the UPR Working Group, by many delegations on identity-based violence and discrimination. As raised by states during the review, we shares a deep concern at the climate of fear that increasingly threatens the basic human rights of lesbian, gay, bisexual and transgender people in Poland.

We urge the authorities to endorse and act upon the recommendations in the outcome report to take effective measures to combat discrimination, in particular by adopting legislation to combat discrimination on any ground, including sexual orientation and gender identity. Additionally, and in line with these recommendations, the authorities should refrain from making public statements which could be interpreted as encouraging discrimination. Rather, they must ensure that thorough and impartial investigations into all allegations of attacks and threats against such individuals and that those responsible are brought to justice.

Mr. President,

The alleged involvement of authorities in Poland in the US-led programme of secret detentions and rendition was raised during the interactive dialogue. Regrettably no specific recommendations to the Polish government were included in the outcome report. Amnesty International believes there is strong evidence to suggest that Poland may have hosted US-controlled detention facilities on its territory in which individuals were secretly detained, outside the rule of law. Such views are supported by the Committee against Torture, the European Parliament, and the Council of Europe.

During the review, Poland argued that the allegations had been dealt with, including through a private meeting, on 21 December 2005, between the Polish Special Services Committee, the Minister Coordinator of Special Services and the heads of the intelligence service. The outcome of this meeting was not made public. We are concerned that this does not constitute the independent and impartial investigation needed and urge the Polish authorities to act on this promptly.

Thank you Mr. President.

### **UPR of South Africa: Oral statement– 11 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080611am2-eng.rm?start=00:36:02&end=00:38:13>

**Delivered by *Marianne Lilliebjerg***

Mr. President,

Amnesty International welcomes the recommendation in the outcome report to ensure that the rights of asylum-seekers and migrants are respected in line with South Africa's obligations under the International Convention on the Elimination of Racial Discrimination (CERD). Despite assurances by South Africa that measures are being taken to address this issue, the recent wave of xenophobic violence in May 2008 towards victims identified by the perpetrators according to their perceived ethnic origin or status as "foreigners" or asylum-seekers demonstrate a need for much better state policies. Amnesty International urges South Africa to ensure that those who have been subjected to this violence and displacement are given effective protection and access to legal remedies and humanitarian assistance. A full, independent and impartial judicial inquiry must be conducted into the violence, including by law enforcement officials.

The elimination of discriminatory barriers to access health services for people living with HIV and AIDS continues to be a key challenge in South Africa. Amnesty International urges the government to act on the recommendations to address inequities, created by poverty and gender-based violence, in the access to prevention, treatment, care, and support for those at risk of, or living with HIV and AIDS, - with particular attention to women in rural areas.

Mr. President,

In closing, Amnesty International wishes to express its disappointment at the limited participation from capital in the review in April, and that the state report was available to the Working Group only the day before the review. This made an effective dialogue with member states difficult. It also seems that the report was prepared without broad national consultations.



Amnesty International encourages South Africa to overcome these shortcomings in its engagement with the UPR by now fully endorsing the recommendations in the outcome report and implementing them in the context of broad national consultations.

I thank you Mr. President.

### **UPR of the Czech Republic: Oral statement– 11 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080611am3-eng.rm?start=00:15:27&end=00:17:45>

**Delivered by *Matteo de Bellis***

Mr. President,

Amnesty International welcomes the focus in the review of the Czech Republic on the issue of discrimination against ethnic minorities and other marginalized groups. In particular, we support suggestions to ensure that Roma should not be discriminated against in the area of employment, healthcare, education, housing and access to justice.

Roma continue to suffer discrimination at the hands of both public officials and private individuals. Discriminatory practices in public and private rental markets mean that Roma can frequently not obtain housing, even when they are able to present financial guarantees. As a result they often live in segregated sub-standard housing. Ostensibly neutral requirements, such as a certain level of education disproportionately affect Roma whose level of education is often lower than that of ethnic Czechs. Segregation in the education system is widespread and Romani children are frequently, and without justification, placed in special schools for children with mental disabilities.

Incidents of violence against Roma are reported to have been perpetrated by youths with extreme racist views, some of whom had previously been convicted for similar offences, but received only light or suspended sentences.

Amnesty International is also concerned that Roma women have been subjected to sterilization procedures without their full and informed consent. This concern was also raised by the Committee on the Elimination of Racial Discrimination in 2006, which noted that the state had not taken sufficient action to abide by its positive obligation to impede the illegal performance of such operations by doctors. Amnesty International urges the Czech Government to take concrete action to stop the practice of forced sterilization of women and to enact relevant legislation providing for adequate compensation.

In conclusion, Amnesty International urges the Czech Republic to give prompt effect to the recommendations addressing discrimination against ethnic minorities and other marginalized groups.

Thank you, Mr. President.

**UPR of Ghana: Oral statement– 11 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080611pm3-eng.rm?start=00:22:07&end=00:24:18>

**Delivered by *Marianne Lilliebjerg***

Mr. President,

Amnesty International welcomes recommendations made by several states regarding the use of the death penalty in Ghana, including to establish a moratorium on executions and to remove the death penalty from domestic law. However, despite a de facto moratorium on executions being in place in the country, Ghana is currently not able to act on the recommendations, as explained by His Excellency the Ambassador of Ghana. Amnesty International welcomes that no executions have been carried out for the past 15 years, but we are concerned that death sentences continue to be handed down, including as recently as earlier this week, and that over 100 prisoners remain on death row.

Amnesty International hopes that, in due course, the government will give full effect to the recommendations made in the review and abolish death penalty.

Mr. President,

During the review, Ghana was encouraged to complete the reform of the judicial system and Amnesty International would like to build on this recommendation by highlighting the need to urgently address the issue of prison conditions, including the problem of acute overcrowding. In doing so, Amnesty International calls on the government to establish an effective system of records of all inmates, and to ensure that national and international organizations are granted access to prisons upon their request.

Further on the need for judicial reform, Amnesty International is concerned at reports suggesting that the police fail to bring suspects before a judge within 48 hours of arrest, as guaranteed in Ghana's Constitution. In implementing reform of the judicial system, Amnesty International urges the government to ensure that anyone held is charged with a recognizable criminal offence or released; and that the cases of those awaiting trial are regularly reviewed to ensure their right to a fair trial.

Thank you Mr. President.

**UPR of Switzerland: Joint statement by the Swiss Coalition of NGOs<sup>36</sup> - 12 June 2008**

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<sup>36</sup> The Coalition is composed of the following 32 organisations: ACOR SOS Racisme, Action des chrétiens pour l'abolition de la torture (ACAT), Action de Carême, Alliance sud, Amnesty International Section suisse, Association pour la prévention de la torture (APT), Association de soutien à une

**Video links:**

<rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080612am3-eng.rm?start=00:24:04&end=00:26:40> (in English)

and

<rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080612am3-orig.rm?start=00:24:04&end=00:26:40> (in French)

**Delivered by *Daniel Bolomey***

Merci Monsieur le Président.

Au nom de la coalition suisse des 32 organisations non-gouvernementales ayant participé au processus d'examen de la Suisse dans le cadre de l'Examen Périodique Universel, je salue l'opportunité qui lui est donnée de s'exprimer et je remercie la délégation suisse pour avoir organisé une consultation ouverte à la société civile.

La coalition se félicite que 20 recommandations sur les 31 proposées aient reçu l'approbation de la Suisse et que celle-ci ait pris un engagement volontaire pour deux recommandations.

Pourtant, notre coalition aurait préféré un engagement de principe ferme en faveur de la mise en place d'une Institution suisse des droits humains, conformes aux Principes de Paris, plutôt qu'un report de la question. En effet, certains problèmes, qui ont été soulevés lors de l'examen, de respect des droits humains en Suisse et de mise en oeuvre cohérente des recommandations des organes de traités pourraient être progressivement réglés avec une telle institution.

Plus problématique à notre sens est le refus de la Suisse de considérer certaines recommandations importantes du Conseil.

L'une concerne la prise en compte des droits économiques, sociaux et culturels comme des droits humains fondamentaux et non pas comme la Suisse l'a signifiée de « dispositions s'adressant en premier lieu aux autorités législatives qui sont tenues de les considérer comme lignes directrices de leurs activités ». Les droits humains contenus dans la DUDH ne sont pas des lignes directrices, mais des droits. Cette position, conforme à l'approche à la carte prônée

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Institution nationale des droits humains, ATD Quart-Monde, Déclaration de Berne, Caritas, Réseau des droits de l'enfant, Coalition Post-Beijing, Centre de conseils et d'appui pour les jeunes en matière de droits de l'homme (CODAP), Collectif de soutien aux sans-papiers, Egalité Handicap, Femmes Juristes Suisse, Foodfirst International Action Network (FIAN Suisse), [humanrights.ch/Mers](http://humanrights.ch/Mers), Fédération internationale des droits de l'homme (FIDH), PLANeS – Fondation suisse pour la santé sexuelle et reproductive, Pink Cross, Ecole Instrument de Paix, Société des Peuples menacés, Stop Suicide, Swissaid, Fondation suisse du Service social international, Ligue suisse des droits de l'homme, Organisation suisse des lesbiennes (LOS), Office suisse d'aide aux réfugiés (OSAR), Terre des Hommes – aide à l'enfance, Centre d'Information pour les femmes d'Afrique d'Asie, d'Amérique Latine et d'Europe de l'Est (FIZ), Organisation mondiale contre la torture (OMCT).

par la Suisse à l'égard du Protocole facultatif sur le Pacte 1 porte le risque d'une approche à deux vitesses des droits garantis par la Déclaration et d'une relativisation de l'indivisibilité des droits humains.

Notre coalition déplore la non-ouverture de la discussion par la Suisse sur l'éventualité de la signature de la Convention sur les droits de tous les travailleurs migrants et de leur famille. La coalition estime qu'il ne suffit pas de dire qu'une convention n'est pas conforme à notre ordre juridique interne pour ne pas examiner la pertinence de sa signature.

Enfin, pour terminer, le refus d'envisager une législation fédérale contre les discriminations est une chance manquée de mettre en place un instrument central pour travailler de manière préventive sur des questions comme les discriminations à caractère racial ou religieux ou comme les discriminations persistantes à l'égard des femmes, celles fondées sur l'orientation sexuelle ou concernant les handicapés.

Je vous remercie Monsieur le Président.

#### **UPR of the South Korea: Oral statement– 12 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080612am4-eng.rm?start=00:26:03&end=00:28:07>

**Delivered by *Marianne Lilliebjerg***

Mr. President,

Amnesty International welcomes the call on the government, made during the review of the Republic of Korea (South Korea), to pass the special bill to abolish the death penalty into law in the new National Assembly. We also welcome recommendations to abolish the National Security Law or to amend it to bring it in line with international standards, and to ratify the Optional Protocol to the Convention against Torture and the Convention for the Protection of All Persons from Enforced Disappearances.

Several recommendations focus on the need to ensure increased protection for the rights of migrant workers in South Korea, a serious human rights concern shared by Amnesty International. Since November 2003, the government has implemented a series of crack-downs leading to the arrest, detention and deportation of irregular migrant workers. Migrant workers face discrimination in the workplace and abuse by employers and state officials. Women migrant workers are particularly vulnerable to exploitation, such as sexual harassment and violence.

Amnesty International also deeply regrets in May 2008 the deportation of the president and vice-president of the Migrants' Trade Union, despite an ongoing investigation by the National Human Rights Commission into their arrests, including allegations of abuse.

Mr. President,

Amnesty International strongly encourages the government to implement the recommendations to accede to the Migrant Workers Convention; to withdraw the reservation on article 22 of the ICCPR; to protect female migrant workers against discriminatory practices; and to ensure access of all migrant workers to the justice system. Finally, on the occasion of South Korea's re-election to the Council, we call on the government to follow through on its election pledge to ratify the four ILO Fundamental Conventions related to the right to freedom of association, to organize, and on abolition of forced labour.

Thank you, Mr. President.

### **UPR of Pakistan: Oral statement- 12 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080612pm1-eng.rm?start=00:36:32&end=00:38:41>

**Delivered by *Peter Splinter***

Mr. President,

Amnesty International welcomes the substantive exchange that took place in the examination of Pakistan and the positive commitments made by the government. We note the broad range of recommendations and look forward to studying the responses included in Ambassador Khan's remarks today.

We encourage the government to pursue its work on a proposal to commute the death penalty to life imprisonment by establishing a moratorium on all executions as a step towards abolition of the death penalty.

We are encouraged by Pakistan's announced intention to accede to the Disappearances Convention, by the government's commitment to the rule of law, and by its undertaking to investigate and remedy any alleged human rights violations in pursuit of the "war on terror". We recall that hundreds of persons remain subjected to enforced disappearance.

We urge the government to immediately resolve all acts of enforced disappearance; to ensure the immediate release of all persons held in secret detention or their transfer to official places of detention open to independent monitoring; and we urge it to bring to justice officials found responsible.

We encourage the Government to ratify the ICCPR and the Convention against Torture and to implement them in domestic law.

Amnesty International believes that the full restoration of the judges removed during emergency rule is necessary for the independence of the judiciary. A transparent procedure

should be established for the appointment and removal of judges that ensures they have security of tenure and are free from conflicts of interest, undue influence and intimidation.

Mr. President,

Pakistan rejected some recommendations on the grounds that they are not universally recognized human rights. Many of these recommendations deal with issues addressed in UN human rights instruments ratified by Pakistan. Their rejection is all the more perplexing as Pakistan delegation spoke about some of the issues covered by these recommendations in the review. Amnesty International encourages Pakistan to reconsider the recommendations covered by paragraph 108 of the Working Group report and to respond to their substance rather than their form.

Thank you Mr. President.

### **UPR of Sri Lanka: Joint statement with Human Rights Watch (HRW) - 13 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080613am1-eng.rm?start=00:27:21&end=00:29:28>

**Delivered by Yolanda Foster**

Mr. President,

Amnesty International and Human Rights Watch welcome the recommendations to Sri Lanka, in particular, to investigate and prosecute all allegations of extrajudicial, summary or arbitrary killings, and bring the perpetrators to justice. Their prompt and effective implementation is of crucial importance.

The rate at which such killings continue is alarming. On 22 May, five persons were shot dead in the Batticaloa area. In May, the Special Rapporteur on extrajudicial, summary or arbitrary executions informed this Council that the Government appeared to rely on paramilitary groups to maintain control in the East and that there was evidence these groups were responsible for extrajudicial executions.<sup>37</sup>

We welcome the recommendation to cooperate actively with the Special Procedures. Given the pattern of disappearances and the increase in disappearances in May, noted by the Working Group on Enforced or Involuntary Disappearances, we urge the government to set an early date for the visit requested by the Working Group.

Against the backdrop of longstanding and steady deterioration of the human rights situation in Sri Lanka, we are deeply disappointed that Sri Lanka does not support the recommendation

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<sup>37</sup> Report of Special Rapporteur on extrajudicial, summary or arbitrary executions, Phillip Alston, A/HRC 8/3/Add.3, point 48.

made by at least 12 states to establish an international human rights monitoring mechanism under UN auspices. The urgent deployment of such a mechanism, in both government and LTTE controlled areas, is essential to protect human rights because effective domestic mechanisms to monitor and investigate abuses by all sides are ineffective.

In December 2007, the status of the national Human Rights Commission (HRCSL) was downgraded by the International Coordination Committee to non compliant with the Paris Principles<sup>38</sup> because of concerns in the appointment of its commissioners and because it had expressed its inability to investigate disappearances.

The government of Sri Lanka must end the current climate of impunity for human rights violations. None of those responsible for the most serious atrocities in the past two years, such as the killing of five students in Trincomalee or the 17 aid workers in Muttur have been prosecuted.

We therefore welcome the government's voluntary commitment to continue a constructive dialogue with the High Commissioner to strengthen national mechanisms in all aspects.

Thank you, Mr. President.

### **UPR of Tonga: Oral statement- 13 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080613am3-eng.rm?start=00:25:29&end=00:27:21>

**Delivered by *Marianne Lilliebjerg***

Mr. President,

Amnesty International appreciates the positive participation by the Kingdom of Tonga in the UPR process. Through it, Tonga has potentially contributed substantially not only to the improvement of its own human rights situation, but also to making the UPR a truly universal mechanism. As the current Chair of the Pacific Islands Forum Secretariat, Tonga's leadership role as the first Pacific Island Nation to participate in this process should be an inspiration for other Pacific Island countries that are coming up for review in the future.

Amnesty International encourages Tonga to implement the recommendations of the Working Group, particularly in relation to accession to the core UN human rights treaties (International Covenant on Civil and Political Rights, International Covenant on Economic, Social and

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<sup>38</sup> Principles relating to the status and functioning of national institutions for protection and promotion of human rights, adopted by the General Assembly in resolution 48/134 on 20 December 1993.

Cultural Rights and the Convention on the Elimination of all forms of Discrimination Against Women) and to its reporting obligations under the treaties to which Tonga is already a party.

Amnesty International also encourages Tonga to continue to engage actively with civil society organizations in human rights work, including capacity-building, training initiatives and general discussion of proposed legislative reforms. We acknowledge the challenges that Tonga faced in preparing the national report for the UPR, and we hope that the experience acquired this time will allow for a more robust and comprehensive process of consultation when Tonga prepares its next UPR report as well as its reports to the UN human rights treaty bodies. To make best use of the outcome of the UPR it will be important that Tonga ensures that the review's outcome is widely disseminated to all stakeholders in the country. That will ensure greater understanding of the process, the importance of human rights and measures that can be taken to improve the human rights situation in Tonga.

Thank you Mr. President.

#### **UPR General debate: Oral statement- 13 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080613pm3-eng.rm?start=01:03:56&end=01:06:58>

**Delivered by *Peter Splinter***

Mr. President,

The Universal Periodic Review is off to a good start. Notwithstanding some notable shortcomings, the serious engagement and valuable contributions of many participants and stakeholders provide grounds for optimism. The future success of this elaborate process demands a long-term vision, sustained focus and good will of all governments. Of course, other stakeholders also have an important role to play. The key objective of the UPR – “the improvement of the human rights situation on the ground” – must stay uppermost in everyone’s mind at all times.

The greatest potential value of the UPR is as a catalyst to a national process of self-examination and improvement. The UPR must be firmly anchored at the national level including in consultation with civil society throughout the process.

Amnesty International encourages all states to hold inclusive broad national consultations. It is equally important that states continue to consult about the implementation of the review's outcome.

States under review bear an important responsibility for the quality of both their review and the outcome. Written reports must be presented sufficiently early to be useful. States that have been reviewed must clearly identify those recommendations from the review that they support well before the adoption of the report.



As an important expression of their serious commitment to the UPR, nearly all states reviewed sent a high-level delegation to represent them. This commitment to the UPR must be maintained by states coming up for review.

Resolution 5/1 stipulates that both the state's written presentation and the summaries prepared by the Office of the High Commissioner shall be ready six weeks prior to the review in all official UN languages. Starting with the December session, we hope that every effort will be made to ensure that the documentary basis for the review is available well in advance of the actual review.

In the first two rounds, the interactive dialogues addressed key human rights challenges with mixed measures of seriousness and dignity. Occasionally, there was a large measure of superficial praise and attention to peripheral issues that did a disservice both to the state under review and the UPR process. The UPR was developed as an answer to perceived double standards; double standards must not be allowed to infect the UPR.

Bearing in mind that the UPR is only one element of a larger national process, Amnesty International encourages states to keep the Council informed, at regular intervals, of progress in implementing the review outcomes.

Mr. President,

We have all learned from our experience in the first two rounds of review. Much can be improved, but what we have seen to date gives us grounds for optimism that, with commitment from all, the UPR can live up to expectations. The true test, however, will be whether it leads to improvements on the ground in the countries reviewed.

Thank you Mr. President.

## **DISCUSSION ON HUMAN RIGHTS OF WOMEN (RESOLUTION 6/30)**

### **Panel I: Violence against women: setting of priorities: Joint oral statement with Human Rights Watch**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080605am2-eng.rm?start=01:50:09&end=01:52:03>

**Delivered by *Marianne Mollmann* (HRW)**

Thank you Mr. President,

I speak of behalf of Human Rights Watch and Amnesty International.

Mr. President,

It has been said many times and by many that the international normative framework for protecting women against violence is now firmly in place. However, the statistics of violence against women reveal a worldwide human rights catastrophe. At least once out of every three women has been beaten, coerced into sex, or otherwise abused in her lifetime according to a study based on 50 surveys from around the world. We have to ask ourselves and each other why it is that despite the adoption, over the past decade and more, of global and regional declarations, treaties and standards to promote and protect women's human rights, little has changed in many women's lives. Too many women are still the victims of violence committed by family members and intimate partners (such as for example through domestic violence, marital rape, female genital mutilation) or by the state or its agents (for example through rape by various parties to armed conflict, through forced sterilisation, through torture in custody, or by violence by offices against refugee and migrant women).

We would like to ask three questions of the distinguished panel:

First, in order to address the lack of implementation, on the ground, of existing commitments to protect women from violence, how can the Council make the most effective use, in the UPR and elsewhere, of information from UN Country Teams and agencies?

Second, what can the Council do to ensure that both reporting and reviewing states use the UPR more effectively to stop violence against women?

And finally, what role do you believe the Council can play in overcoming demonstrated obstacles to the adjudication and prosecution of sexual violence?

Thank you Mr. President.

**Panel II on the issue of maternal mortality and the human rights of women: Oral statement – 5 June 2008**

**Video link:** <rtsp://webcast.un.org/ondemand/conferences/unhrc/eighth/hrc080605pm-eng.rm?start=00:50:47&end=00:52:39>

**Delivered by *Pollyanna Truscott***

Thank you Mr. President.

Amnesty International welcomes this extremely important discussion, in the Human Rights Council, on the unacceptably high levels of preventable maternal mortality and morbidity.

Amnesty International believes that a human rights-centred approach is key to making real reductions in maternal deaths and injuries. Our research, and that of others, has shown this approach requires, inter alia:

- That underlying human rights violations are eliminated, such as early marriage and sexual violence;
- That women and girls have access to accurate and comprehensive information about sexual and reproductive health and rights;
- That reproductive health services are available, accessible, acceptable and of adequate quality;
- That all states monitor the incidence of maternal mortality, ensuring data is disaggregated by race, ethnicity, socio-economic status, rural, or urban;
- That women, including the most marginalized, are able to participate fully in the design and implementation of maternal health policies and programs aimed at reducing maternal mortality and morbidity.

Mr. President, Amnesty International has two questions for the panel.

Firstly, should States investigate the circumstances surrounding individual maternal deaths in order to more accurately identify and address the factors that lead to preventable maternal mortality?

Secondly, would the Universal Periodic Review mechanism be an effective way of addressing the issue of maternal mortality, and if so, how can UN information, technical assistance or capacity-building best contribute to this process?

I thank you.

**UPR oral statements 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 page of the UN Human Rights Council<sup>39</sup>. It can also be found under the country's section on our website<sup>40</sup>.**

**All video links of oral statements have been extracted from the United Nations Webcast<sup>41</sup>.**

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

40 <http://www.amnesty.org>

41 <http://www.un.org/webcast>