



# **A SECURE FUTURE BUILT ON HUMAN RIGHTS FOR ALL**

RECOMMENDATIONS TO STATES  
IN ADVANCE OF THE FIFTH SUMMIT  
OF THE AMERICAS, APRIL 2009

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# A SECURE FUTURE BUILT ON HUMAN RIGHTS FOR ALL

## RECOMMENDATIONS TO STATES IN ADVANCE OF THE FIFTH SUMMIT OF THE AMERICAS

Heads of state and government of all countries in the Americas, except for Cuba, will gather for the Fifth Summit of the Americas in Trinidad and Tobago in April 2009. The Summit, whose overarching theme is *Securing our Citizens Future*, will focus on three principal areas: promoting human prosperity, energy security and environmental sustainability. Each of these important challenges has implications for the enjoyment of human rights. If human rights are not paramount in states' approach, economic growth will not become more equitable, energy development will continue to disrupt the economies and ways of life of Indigenous, Afro-descendant and *campesino* (subsistence farmer) communities, and environmental sustainability will not be realized.

Amnesty International is calling on governments to ensure that universal human rights obligations, as laid out in United Nations (UN) and Organization of American States (OAS) human rights instruments, are at the centre of the commitments they make in the Summit's Declaration of Commitment. It is also calling on each individual government to use the occasion of the Summit to announce the practical steps they will take to increase their support for the Inter-American human rights system.

Amnesty International has followed the negotiations that have resulted in the Summit's Draft Declaration of Commitment (Draft Declaration).<sup>1</sup> This addresses a number of issues in addition to the three key areas listed above, including public security and democratic governance and refers to human rights principles, treaties and institutions throughout its various provisions. However, Amnesty International is concerned that it does not reflect a clear and firm commitment to the central importance of human rights in addressing the serious problems under discussion. Governments' human rights obligations must be given more prominence in the Draft Declaration and be backed up by concrete commitments. Amnesty International urges governments to ensure that the Draft Declaration is amended to incorporate the following recommendations before its final adoption at the Summit.

## A TIME OF GLOBAL ECONOMIC CRISIS

The Summit comes at a time of considerable economic turmoil throughout the Americas and around the world. This makes the need for a strong focus on human rights all the greater. Faced with a deepening financial crisis, many governments have taken steps to shore up their economies. Some have introduced economic stimulus programmes involving hundreds of billions of dollars. Action has been taken to attempt to stabilize financial markets and to provide significant support to banking sectors. There is, however, a very real and growing concern that the rights of the most marginalized and disempowered members of society may be overlooked as governments debate and adopt new economic measures. The Summit offers

governments in the Americas an opportunity to ensure that their response to the current worldwide economic crisis is guided by a clear commitment to respect and fulfill their obligations regarding economic, social, cultural, civil and political rights and that particular attention is given to protecting the most vulnerable sectors of society from the impact of the crisis.

The sense of urgency shown by rich countries in tackling the financial meltdown stands in stark contrast to their foot-dragging and broken promises over aid, poverty alleviation, human rights and climate change. It is too soon to predict exactly how badly the poorest countries and poorest sectors of the population will fare in the financial crisis and resultant economic downturn. But it is clear that reduced demand for exports to developed countries and lower foreign investment will mean less growth and government revenue for already fragile social protection and services in developing countries. For millions of the Americas' poorest citizens, it is literally a matter of life and death. In many countries, social safety nets have been dismantled or scaled back under pressure from international financial institutions, leaving the vulnerable unprotected. Worse could follow if rich countries decide to cut aid and trade as part of their response to the financial crisis.

Not only are economic and social rights – including the rights to adequate housing and health care and education – coming under increased pressure, there is also a risk of other human rights violations. As economies shrink, migrants and refugees could face increased discrimination or be returned to untenable situations. If social tensions increase, some governments may choose to clamp down on dissent and impose repressive public security policies. Already fragile states could be further weakened by the current crisis and slide back into instability and violence.

**Amnesty International urges that the Declaration of Commitment:**

- Include an explicit commitment that governments individually and collectively will ensure that all measures taken in response to the current global economic crisis are fully consistent with international and Inter-American human rights obligations.

## PROSPERITY AND HUMAN RIGHTS

Poverty is an affront to human dignity and the world's worst human rights crisis. It exists in all countries of the world, developed or developing, and is likely to worsen with economic recession and, over time, with climate change. It is not solely a question of a lack of resources, but is a consequence of the decisions and choices of those in power.

The Draft Declaration notes that deep and persistent inequalities continue to exist in the Americas, especially in education, income levels, health and nutritional status, exposure to violence and crime, and access to basic services. Provisions in this section of the Draft Declaration commit governments to action on a wide range of issues, including working conditions, economic growth, the protection of women and children from economic exploitation, food security, access to basic health services, the spread of HIV/AIDS, access to education, the technological gap and respect for cultural diversity.

However, preventable maternal mortality and the deprivation suffered by those living in slums

– two clear examples of breaches of human rights obligations – are not adequately addressed by the Draft Declaration.

Worldwide, one woman dies every minute of complications related to pregnancy and childbirth. This is a human rights tragedy. In developing countries, complications related to pregnancy are the single largest cause of death among girls aged between 15 and 19 and women.<sup>2</sup> In both developed and developing countries. Women and girls living in poverty are significantly more likely to suffer preventable death or injury in pregnancy or childbirth, and discrimination based on gender, race, ethnicity, Indigenous status, religion or other grounds increases the risk of preventable maternal mortality and morbidity.

At present the Draft Declaration simply notes that there has been “significant progress in reducing... maternal mortality” in the Americas. Although according to reports the region has seen some advances in reducing maternal mortality, this may be misleading. Many women who die of pregnancy-related causes live in remote rural areas; many others die following unsafe abortions. Such deaths tend not to be reported. The level of access to adequate sexual and reproductive information and services and maternal health care in general are still alarmingly low among poor women and those living in rural areas in the region. There are also significant social and cultural barriers that limit women’s access to maternal care. These tend to affect women living in poverty, Indigenous women and women living in rural areas disproportionately.<sup>3</sup>

Of equal concern is the lack of any mention in the Draft Declaration of the increasingly pressing issue of housing rights and urban inequalities which remain a persistent problem in the region, both in developed and developing countries. According to UN Human Settlements Agency (UN-HABITAT), the Americas region has the most unequal cities in the world. In Latin America and the Caribbean, 27 per cent of the urban population was living in what the UN classifies as slum conditions in 2005.<sup>4</sup>

If poverty is the world’s worst human rights crisis, slums are its most visible manifestation. Slums are home to multiple human rights violations. People living in slums face obvious deprivation of resources and assets. They also face high levels of insecurity because of the constant threat of violence from police and criminal gangs, and the fear of forcible eviction with little or no warning. Not only are people living in slums clearly being denied the right to adequate housing, they are also deprived of other basic services such as safe water, sanitation, health care and education. Access to justice is routinely denied them because of discrimination and the criminalization of poverty. In addition, people living in slums are routinely denied a voice in the processes and decisions that impact on their lives. For example, they are not consulted or allowed to participate in decision-making processes about upgrading their homes or alternative housing when a forced eviction is planned.

Amnesty International is concerned that provisions of the Draft Declaration dealing with trade, investment and economic growth fail to incorporate a human rights approach. The Draft Declaration asserts that open trade policies are central to the economic growth needed to raise living standards. Amnesty International has repeatedly highlighted the fact that trade policies, investment projects and business ventures throughout the Americas have failed to take account of human rights and have caused or contributed to serious human rights violations. There are some sectors of society that have been at particular risk of these

violations, such as Indigenous Peoples, women and migrant workers. Agreements and policies on trade and investment should be consistent with states' human rights obligations.

**Amnesty International urges that the Declaration of Commitment:**

- Recognize that measures to improve human prosperity must be consistent with and advance the enjoyment of all human rights; and commit to developing relevant strategies, with active participation from the people affected, in a manner that guarantees access to human rights protection and accountability for human rights abuses.
- Commit to reducing rates of maternal mortality by ensuring that user fees and other costs are not a barrier to primary and other essential health care and that emergency obstetric care is available to all women.
- Undertake to prohibit, prevent and end forced evictions, ensure that people living in slums have equal access to public services such as health care, education, water, sanitation and policing, and ensure the active participation of people living in slums in developing and implementing solutions to ensure adequate housing.
- Commit to consider proactively the likely impact of trade and investment policies and take appropriate action to correct any negative effects.

## ENERGY SECURITY AND HUMAN RIGHTS

Energy policies impact on human rights in many different ways. Because energy is often expensive, or its availability inconsistent and unpredictable, access to energy is frequently very difficult for people living in poverty. Energy projects often have a negative impact on the environment, including deforestation, damage to waterways, and pollution from gases and toxic chemicals which in turn can impair enjoyment of the rights to adequate health care and housing and livelihood. Production of new energy sources, such as biofuels, can have a negative impact on the availability of and access to food sources. Indigenous Peoples and others living in rural areas may find themselves forced off their land to make way for dams, pipelines, mines or biofuel plantations. These and other human rights concerns cannot be ignored. All significant energy projects in the Americas must be subject to rigorous human rights impact assessments before they are approved.

Throughout the Americas, Indigenous Peoples, Afro-descendants and subsistence farmers are particularly vulnerable to serious human rights violations associated with energy projects, including oil exploration and production, natural gas pipelines, and hydroelectric developments that dam rivers and flood traditional lands. Such projects often go forward in violation of Indigenous Peoples' land and resource rights and without any effort to obtain the free, prior and informed consent of the people affected. The Draft Declaration reaffirms commitments governments have made in other international conferences, including the World Summits on Sustainable Development in 1992 and 2002, and the Declaration of Santa Cruz de la Sierra in 1996 and its 2006 follow-up Declaration.<sup>5</sup> These Declarations have included strong provisions regarding the rights of Indigenous Peoples. This Declaration agreed at this Summit should explicitly include similar commitments.

National and international financial institutions have obligations to ensure that their involvement in energy projects does not cause or contribute to human rights violations.

Funding bodies like the Inter-American Bank and the World Bank, national export credit agencies and other financial bodies all play a role in financing and supporting major energy projects. They must ensure that their involvement upholds human rights obligations.

The operations of companies investing in energy projects can easily lead to serious human rights violations. Yet laws addressing the human rights obligations of companies are generally weak or nonexistent. Companies and governments have resisted calls for law reform, arguing for approaches that encourage companies to voluntarily improve their human rights performance. The Draft Declaration endorses that view, calling on governments to “continue to support the development and implementation of voluntary corporate social responsibility best practices in the energy sector.”<sup>6</sup>

Voluntary approaches are insufficient. There is a need for stronger national and international legal and policy frameworks to hold corporations to account for their negative impact on human rights. This must include greater home state scrutiny, stronger regulation of companies’ operations abroad, and greater international co-operation among states to ensure accountability. In addition, individuals and peoples whose rights are harmed by companies must be able to pursue remedies and receive redress including, when appropriate, in the corporation’s home state.

**Amnesty International urges that the Declaration of Commitment:**

- Include a commitment to conduct independent human rights impact assessments in advance of significant energy projects and to address concerns arising from such assessments in a transparent manner before projects are approved.
- Recognize the close relationship of Indigenous Peoples, with their lands, understood as the fundamental basis for their culture, spiritual life, wholeness, economic survival, and preservation for and transmission to future generations; and undertake to ensure that energy development does not adversely affect Indigenous Peoples’ rights, including the right of free, prior and informed consent.
- Require funding bodies, such as the Inter-American Bank, the International Finance Corporation, the World Bank and national export credit agencies, to assess significant energy projects using a human rights framework and address deficiencies before authorizing funding.
- Commit to adopting laws and policies that will (a) prevent corporate human rights harms through effective regulation, (b) hold corporations and business entities accountable for negative impacts on human rights, and (c) ensure victims of corporate-related human rights violations have access to justice.

## PROMOTING ENVIRONMENTAL SUSTAINABILITY THROUGH A HUMAN RIGHTS FRAMEWORK

In the Draft Declaration, governments make a commitment to take action to address climate change. Climate change poses a grave risk to enjoyment of many human rights, including the rights to food, water, adequate health care and housing, culture, livelihood and life. In short, concrete action by governments to prevent irreversible climate change is essential for the protection of human rights.

Action taken to address climate change should conform to governments' international human rights obligations.

Marginalized groups, including Indigenous Peoples, rural communities and people living in poverty, could be particularly vulnerable, not only to the impact of climate change itself, but also to the effects of climate change mitigation and adaptation measures. Forest conservation and biofuel programmes, for example, should be assessed in advance for their likely human rights impact. If it is anticipated that specific climate change policies could lead to human rights violations, they may need to be altered or rejected.

The Draft Declaration calls for a "comprehensive review of the potential impacts of climate change for all the nations of the Americas" and the formulation of "national Plans of Action for the management and adaptation to these impacts, with special attention to the needs of people likely to be displaced or to lose their livelihoods."<sup>7</sup> Any such review and plans of action should give particular attention to the impact of climate change on human rights.

**Amnesty International urges that the Declaration of Commitment:**

- Include a strong human rights focus in the comprehensive review of the potential impact of climate change on all nations of the Americas and call on states to take concrete measures to address these consequences and prevent irreversible climate change.

## CHARTING THE HUMAN RIGHTS PATH TO PUBLIC SECURITY

The approach taken by many governments in the Americas towards the protection of public security has both directly and indirectly led to serious human rights violations, including extrajudicial executions, torture, enforced disappearances, arbitrary detention and unfair trials. These issues have come into sharp focus over the past seven years because of widespread human rights violations associated with the US government response to the 11 September 2001 terrorist attacks. But the concerns are by no means limited to the US government nor confined to the steps governments take to counter threats of terrorism.

Governments throughout the hemisphere argue that the measures they adopt are necessary to combat terrorism, confront guerrilla groups, or respond to the violence of gangs and organized crime. Amnesty International has highlighted, however, that efforts to bolster public security, regardless of the nature of the threats faced by a government, must comply with international law. Committing or tolerating human rights violations in the name of security ultimately breeds greater insecurity.

The Summit is being held at a time of considerable change with respect to these concerns. In the USA, President Barack Obama has indicated that he will address many of the serious human rights violations that have occurred as part of the so-called "war on terror". He has committed to close the notorious detention facility at Guantánamo Bay and has repudiated the use of torture by US officials. These changes must become a catalyst for other governments to ensure that public security will not be pursued at the expense of human rights.

The Draft Declaration notes that efforts to prevent and combat terrorism must respect



“international human rights law, international humanitarian law and international refugee law.”<sup>8</sup> Similarly, a proposed paragraph dealing with “the global drug problem” acknowledges that those efforts must be within “the framework for respect for human rights.”<sup>9</sup> However, a proposed paragraph dealing with “transnational organized crime” has no explicit recognition of human rights obligations. There must be consistent recognition that public security laws and policies should comply fully with human rights obligations. Governments should adopt concrete measures at national and regional level that strengthen the protection of human rights in their public security laws and practices, including by ensuring full accountability for past violations.

One serious threat to public security and human rights protection in the Americas and around the world is the unregulated trade in small arms and light weapons. Joining with organizations from all parts of the Americas and the rest of the world, Amnesty International has called on governments to develop a global and effective treaty that would regulate this deadly trade, with provisions prohibiting transfers of weapons or munitions, military equipment or assistance, where there is a substantial risk that these are likely to be used for serious violations of international human rights or international humanitarian law, or to aggravate poverty, undermine sustainable development or contribute to pervasive armed violence. There has been significant progress towards that goal. The UN Open-Ended Working Group on an Arms Trade Treaty must continue to work towards a global and effective treaty that fully respects international human rights and international humanitarian law.

**Amnesty International urges that the Declaration of Commitment:**

- Call on governments to review all public security laws and policies identify the reforms needed to ensure full compliance with obligations under international human rights and humanitarian law.
- Require governments to bring to justice individuals who are accused of committing human rights violations as part of public security operations.
- Ensure that the UN Open-Ended Working Group on an Arms Trade Treaty makes significant progress towards the negotiation of a global and effective Arms Trade Treaty that fully respects international human rights and humanitarian law.

## STRENGTHENED DEMOCRATIC GOVERNANCE

The Draft Declaration notes that all “aspirations and goals for the Americas depend on strong democracies, good governance, the rule of law and respect for human rights and fundamental freedoms.”<sup>10</sup> However, throughout the Americas ensuring respect for human rights continues to be a major challenge. The struggle to protect women from violence and discrimination still has far to go. Racism continues to be a glaring problem in all countries in the Americas. Lesbian, gay, bisexual and transgender individuals are subjected to harassment, violence and other forms of discrimination in much of the Americas, and such discrimination continues to be institutionalized in law or condoned in practice by many states. Deepening poverty continues to fuel human rights violations and national laws and institutions for the protection of rights are often either nonexistent or inadequate. In far too many countries human rights violators are not held to account for their crimes. Throughout the hemisphere, individuals at the forefront of efforts to promote human rights protection, human rights defenders, continue

to face violence, threats and derision.

Governments must make a commitment to meaningful action to promote and ensure respect for human rights in the Americas. None of the OAS human rights treaties has been adopted by all countries in the region and the overall level of ratification remains low. Only two regional treaties – the American Convention on Human Rights and the Convention dealing with violence against women – have been ratified by more than half of the OAS membership.

The overarching American Convention on Human Rights has not been ratified by nine of the member states and a 10<sup>th</sup> has renounced its previous ratification. These same countries are among the 13 who do not recognize the jurisdiction of the Inter-American Court of Human Rights.<sup>11</sup>

Canada and the USA have not ratified any of the seven key Inter-American human rights treaties and protocols, including those dealing with economic, social and cultural rights; the death penalty; torture; enforced disappearances; disabilities; and the Inter-American Convention on the Prevention and Eradication of Violence against Women, the only treaty in the world that deals specifically with violence against women.

A number of important new human rights instruments are under development within the OAS. The Draft Declaration lends support to efforts under way to conclude a Social Charter,<sup>12</sup> a convention against racism<sup>13</sup> and a declaration dealing with rights of Indigenous Peoples.<sup>14</sup> It does not, however, refer to the initiative regarding a declaration on the human rights of detainees and prisoners.

Many states in the Americas have also been slow to support a number of UN human rights instruments, notably the Rome Statute of the International Criminal Court, which 13 states in the region have as yet failed to ratify,<sup>15</sup> and the UN Declaration on the Rights of Indigenous Peoples which was opposed by Canada and the USA and on which Colombia abstained.

In December 2008, the UN adopted the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. This allows individuals to lodge complaints at the international level of violations of the rights enshrined in the Covenant. The Optional Protocol will be open for signatures soon and this Summit should make a strong call to governments to ratify it.

There is much that governments can do to improve the Inter-American human rights system. A proposal in the Draft Declaration to create a Legal Assistance Fund for the Inter-American human rights system is welcome and should be supported.<sup>16</sup> The Draft Declaration also contains a commitment to strengthen the mechanism for ensuring implementation of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.<sup>17</sup> However, there is no reference to the Working Group to Examine the Periodic Reports of the States Parties to the Protocol of San Salvador. In addition, the role of civil society in both of these bodies should be strengthened. There is also a pressing need for governments to put in place concrete strategies to promote the work of human rights defenders and ensure their safety.

The Draft Declaration includes an important commitment to integrate a gender perspective in

national and regional laws and policies.<sup>18</sup> Amnesty International has highlighted the alarming levels of violence and discrimination faced by women in the region. The Draft Declaration should acknowledge the specific threats to the lives and safety of women throughout the Americas.

**Amnesty International urges that the Declaration of Commitment:**

- Call on governments to ratify all Inter-American human rights treaties and set a goal of universal ratification by the time of the next Summit of the Americas.
- Call on governments to ratify all core UN human rights treaties and the International Labour Organization's Convention 169, and to implement the UN Declaration on the Rights of Indigenous Peoples.
- Recognize that Indigenous women in the Americas face heightened levels of violence and discrimination and include a commitment to work with Indigenous women's organizations to develop national strategies to promote and respect the rights of Indigenous women.
- Call on governments to review, and repeal or amend, all legislation which could result in the discrimination, prosecution and punishment of people solely for their sexual orientation or gender identity, including laws that explicitly criminalize consensual sexual conduct between adults of the same sex, discriminatory age-of-consent legislation, and public order provisions and laws banning the "promotion" of homosexuality.
- Undertake to strengthen the effective participation of civil society in the mechanism to follow up on implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women; and the Working Group to Examine the Periodic Reports of the States Parties to the Protocol of San Salvador.
- Call on governments to ratify the Rome Statute of the International Criminal Court and enact implementing legislation.
- Urge governments to recognize the jurisdiction of the Inter-American Court of Human Rights and adopt laws and policies to ensure full compliance with decisions of the Court.
- Commit to commence negotiations towards an Inter-American Declaration on the Rights, Duties and Care of Persons under any form of Detention or Imprisonment.
- Call on governments to adopt national action plans to promote the work of human rights defenders, backed up by concrete strategies to ensure their protection.

## ENDNOTES

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<sup>1</sup> This paper is based on the Draft Declaration of Commitment (OEA/Ser.E GRIC/DC-V/doc.1/08 rev.7).

<sup>2</sup> UNICEF, *Early Marriage: Child Spouses*, Innocenti Digest: No. 7, 2001, p11. Available at <http://unicef-icdc.org/publications/pdf/digest7e.pdf>. Visited on 18/03/2009

<sup>3</sup> Banco Interamericano de Desarrollo (BID), Departamento de Investigación, Documento de trabajo #632; "El estado de la salud sexual y reproductiva en América Latina y el Caribe : una visión Global", Carmen Elisa Flórez, Victoria Eugenia Soto

<sup>4</sup> UN Habitat, *State of the World's Cities 2008-2009*.

<sup>5</sup> Draft Declaration, paragraph 39.

<sup>6</sup> Draft Declaration, paragraph 36*ter*.

<sup>7</sup> Draft Declaration, paragraph 47.

<sup>8</sup> Draft Declaration, paragraph 48.

<sup>9</sup> Draft Declaration, paragraph 49*bis*.

<sup>10</sup> Draft Declaration, paragraph 51.

<sup>11</sup> Antigua and Barbuda, Bahamas, Belize, Canada, Guyana, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and the United States have not yet ratified. Trinidad and Tobago was a party to the Convention but withdrew its ratification in 1998. Three countries – Dominica, Grenada and Jamaica – have ratified the Convention but have not recognized the jurisdiction of the Inter-American Court of Human Rights.

<sup>12</sup> Draft Declaration, paragraph 54.

<sup>13</sup> Draft Declaration, paragraph 55.

<sup>14</sup> Draft Declaration, paragraph 55*bis*.

<sup>15</sup> Bahamas, Chile, Cuba, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Nicaragua, Saint Lucia, Saint Vincent and the Grenadines, Suriname and the USA.

<sup>16</sup> Draft Declaration, paragraph 53.

<sup>17</sup> Draft Declaration, paragraph 56*bis*.

<sup>18</sup> Draft Declaration, paragraphs 56 and 56*bis*.



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